

**City of Albany  
Board of Zoning Appeals  
Application**

This application must be filed with the Department of Development and Planning, Land Use Division at 200 Henry Johnson Boulevard, Albany, New York 12206, (518-445-0754). Applications are not considered to be complete until all supplemental documents and fees are received. (See attached instructions.) Planning Office staff shall determine the completeness of applications before scheduling the case before the Board of Zoning Appeals. Notice of public hearing shall be mailed to the applicant, adjacent property owners, and other interested parties. **The applicant or his/her representative shall appear at the public hearing to substantiate the application.**

REGARDING THE PREMISES AT 8 Rapp Road

APPLICANT Michael Biernacki, Biernacki Property Management, Inc.

ADDRESS 32 Smith Lane CITY Voorheesville STATE NY ZIP 12186

PHONE (518) 470-9598 FAX NUMBER mj\_biernacki\_builders@yahoo.com

AUTHORIZED AGENT Joseph J. Bianchine, P.E.

AFFILIATION ABD Engineers & Surveyors

ADDRESS 411 Union Street CITY Schenectady STATE NY ZIP 12305

PHONE (518) 377-0315 FAX NUMBER (518) 377-0379

PROPERTY OWNER Michael Biernacki, Biernacki Property Management, Inc.

ADDRESS 32 Smith Lane CITY Voorheesville STATE NY ZIP 12186

PHONE (518) 470-9598 FAX NUMBER mj\_biernacki\_builders@yahoo.com

OTHER TO BE NOTIFIED N/A

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE NY ZIP \_\_\_\_\_

PHONE \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

REQUEST:  SPECIAL USE PERMIT

INTERPRETATION

USE VARIANCE

PARKING LOT PERMIT

AREA VARIANCE

OTHER

ZONING CLASSIFICATION R-3A TAX LOT ID NUMBER 52.06-2-44

EXISTING USE / # OF UNITS Vacant lot with a foundation

PROPOSED USE / # OF UNITS Office building

OCCUPANCY STATUS (FULLY OCCUPIED / PARTIALLY OCCUPIED / VACANT) \_\_\_\_\_

REQUESTED PUBLIC HEARING DATE: February 13, 2013

PROJECT TIME FRAME: Finish December 2013 TOTAL PROJECT COST: \$372,000

Is the property within 500 feet of a municipal boundary, State or County property, road, park or facility, or other recreation area? Yes  No  If yes, the submission will require review by the Albany County Planning Board.

Does any state officer or any officer or employee of the City of Albany or County of Albany have any affiliation with or interest in the applicant or this application? Yes  No  If yes, set forth the name, address, and nature and extent of the affiliation or interest of an officer / employee.

I, the undersigned owner, hereby authorize the applicant to bring the application herein before the Board of Zoning Appeals of the City of Albany.

SIGNED  DATE January 16, 2013

I, the undersigned applicant, hereby state that the information and facts set forth in this application are true to the best of my knowledge and belief.

SIGNED  DATE January 16, 2013

## **USE VARIANCE STANDARDS**

Applications for use variances must be based on alleviating a clearly demonstrable hardship, as opposed to a special privilege of convenience sought by the owner. Furthermore, the hardship must be specific to the land or building, NOT personal circumstance, and must not generally apply to land/buildings throughout the neighborhood.

- ~ When considering a request for a use variance, the Board shall require a showing by the applicant that applicable zoning the regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

[1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as **demonstrated by competent financial evidence**.

[2] The alleged hardship relating to the property in question is **unique**, and does not apply to a substantial portion of the district or the neighborhood.

[3] The requested use variance, if granted, will not alter the **essential character of the neighborhood**.

[4] The alleged hardship has not been self-created.

### **[1] DESCRIPTION OF HARDSHIP**

(Describe the features or conditions of the property that restrict reasonable use/return of the property under current zoning regulations)

The property is at the intersection of Rapp Road and the South Frontage Road of Washington Avenue Extension. This location makes it unsuitable for residential use because of traffic and noise.

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Please answer the following questions to show that the current property owner is being deprived of all economic use or benefit from the property in question under the applicable zoning regulations. The deprivation must be established by **competent financial evidence**. Please attach supporting documents (i.e. mortgage documents, tax bills, rental agreements, etc).

Estimated cost of the proposed improvements/alterations to the property that necessitates the variance(s)? \$ 300,000  
How was this estimate determined? MJ Biernacki Builders, LLC.

When was the property purchased? 2012  
Purchase price for the property: \$72,000  
What is the present value of the property? \$72,000  
Source of Valuation Sale

Original amount of mortgage(s): N/A  
Mortgage Holder(s): N/A  
Interest Rate(s): N/A  
Term of Mortgage(s): N/A

Is your property currently for sale?  
Yes      No  (If No, please continue with question k)

1. How long has the property been for sale? Previously 2 years.
2. How has it been advertised? Yes.
3. How many offers have been made for the property and for how much?  
Unknown.
4. Is the property listed with a realtor? Yes  No  
If Yes, please name the realtor: Prudential Blake

Have you previously tried to sell your property?  
Yes      No  (If No, please continue with question l)

1. How much were you asking for the property? \_\_\_\_\_
2. How long was the property for sale? \_\_\_\_\_
3. How was it advertised? \_\_\_\_\_
4. How many offers were made for the property and for how much?  
\_\_\_\_\_
5. Was the property listed with a realtor? Yes      No  
If Yes, please name the realtor: \_\_\_\_\_

Explain how you would be negatively affected in an economic or financial way if you did not obtain the variances requested. Please do not comment on your personal financial situation. Your answer must address economic circumstances related to the property and its present inability to provide you with a reasonable financial return under the present zoning regulations.

A house, duplex or apartments as allowed by zoning are not financially feasible because the cost to build a house, duplex or apartment will be higher than the market price that could be obtained to sell or rent the house, duplex or apartments.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**STATEMENT OF INCOME AND EXPENSE**

**ANNUAL INCOME:**

Use	Unit Size (sq.ft; # of bedrooms)	Monthly Rent	Annual Rent
Duplex	2 units @ \$800	\$1,600	\$19,200

Total Annual Income	\$19,200
Less (8%) Vacancy	\$1,536
Adjusted Gross Income	\$17,664

**ANNUAL EXPENSES:**

**Fixed Expenses:**

Taxes	\$7,000
Insurance	\$2,500
Average Annual Interest (on mortgage, over next five years)	\$18,000

**Operating Expenses:**

Heat	\$1,500
Electric	\$2,000
Sewer/Water	\$1,000
Advertising	\$500
Other:	

**Maintenance Expenses:**

Repairs (attach list)	0
General Building Maintenance	\$500
Other:	0

Total Annual Expenses \$33,000

Profit or (Loss) (\$15,336)

**TOTAL INVESTMENT:**

Down Payment	0
Capital Improvements (attach list)	\$300,000
Principal paid (original mortgage less current principal balance)	\$72,000

Total Investment \$372,000

**RATE OF RETURN:**

(Profit of Loss divided by Total Investment) -4.12%

**[2] UNIQUENESS**

(Please describe how the alleged hardship is unique to the property in question and does not apply to a substantial portion of the district or neighborhood)

The property is unique because it is located at the corner of Rapp Road and the South Frontage Road of Washington Avenue Extension and does not shield the adjacent neighborhood from the traffic noise and visibility of the south frontage road and Washington Avenue Extension.

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**[3] CHARACTER OF NEIGHBORHOOD**

(Please describe how the proposed use would be compatible with the existing neighborhood and would not negatively impact traffic patterns, general safety, architectural character, property values, and the atmosphere of the area)

The office building would be designed to look like a house similar in character to the other houses in the Historic District. The building and landscaping would help shield and protect the adjoining neighborhood from noise from Washington Avenue Extension and from views. Traffic to and from the office building for MJ Biernacki Builders, LLC. would be similar to the uses allowed in the R-3A Zone.

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**[4] SELF-CREATED**

Were you aware of the requirements of the City of Albany Zoning Ordinance at the time of purchase of the property? Yes  No

Did you obtain a copy of the Certificate of Occupancy or Letter of Zoning Compliance prior to your purchase of the property? Yes No N/A

Did you use the services of an attorney? Yes No

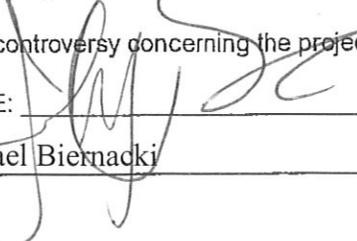
SHORT ENVIRONMENTAL ASSESSMENT FORM

INSTRUCTIONS:

In order to answer the questions in this short EAF it is assumed that the preparer will use currently available information concerning the project and the likely impacts of the action. It is not expected that additional studies research or other investigations will be undertaken.

ENVIRONMENTAL ASSESSMENT      8 Rapp Road

- |     |  |   |  |
|-----|--|---|--|
| 1.  | Will the project result in a large physical change to the project site or physically alter more than 10 acres of land?.....  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 2.  | Will there be a major change to any unique or unusual landform found on this site?.....  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 3.  | Will project alter or have a large effect on an existing body of water?.....   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 4.  | Will project have a potentially large impact on groundwater quality?   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 5.  | Will project significantly affect drainage flow or air quality?.....   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 6.  | Will project affect any threatened or endangered plant or animal species...  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 7.  | Will project result in a major adverse impact on air quality?.....   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 8.  | Will project have a major effect on visual character of the community or scenic views or vistas known to be or important to the community?...  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 9.  | Will project adversely impact any site or structure of historic, prehistoric or paleontological importance or any site designated as a critical environmental area by a local agency?.....   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| 10. | Will project have a major effect on existing or future recreational opportunities?   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 11. | Will project result in major traffic problems or cause a major impact on existing transportation systems?.....   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 12. | Will project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbances as a result of the project's operation?.....   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 13. | Will project have any impact on public health or safety?.....  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 14. | Will project affect the existing community by directly causing a growth? in permanent population of more than 5% over a one-year period <u>or</u> have a major negative effect on the character of the community or neighborhood?..... | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| 15. | Is there any public controversy concerning the project?.....   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |

PREPARER'S SIGNATURE:  TITLE: Joseph J. Bianchine, P.E., Engineer

REPRESENTING: Michael Biernacki DATE: January 15, 2013



GERALD D. JENNINGS  
MAYOR

CITY OF ALBANY  
DIVISION OF BUILDING & REGULATOR COMPLIANCE  
CITY HALL – ROOM 303  
ALBANY, NEW YORK 12207  
PHONE (518) 434-5165 FAX (518) 434-6015  
[WWW.ALBANYNY.ORG](http://WWW.ALBANYNY.ORG)

JEFFERY V. JAMISON  
COMMISSIONER

January 22, 2013

Michael Biernacki  
32 Smith Lane  
Voorheesville, NY 12186

**Re: 8 Rapp Road**  
**Application Number: 66276**

Dear Sir:

On **January 16, 2013**, you made an Application for work at the above referenced property involving:  
**Construction of a two story, 2,850+/- square foot office building.**

The property is located in an area which is zoned **R-3A**.

This Application has been examined for compliance with the applicable provisions of the Zoning Ordinance of the City of Albany.

That review revealed that the proposed work will not comply with the following provisions of the Zoning Ordinance: **REQUIRES A USE VARIANCE. 375-67A Principal Permitted Uses. Proposed office building is not a listed permitted use in an R-3A zoning district.**

Therefore, your Application of 1/16/13 is hereby **DENIED** pursuant to Sections 375-59 and 375-9(d) of the Zoning Ordinance.

These objections may be addressed by filing revised plans reflecting conditions which comply with the requirements of the Zoning Ordinance. In the alternative, this Denial may be appealed to the Board of Zoning Appeals on forms available from the Office of Planning and Neighborhood Development, 200 Henry Johnson Blvd. *This appeal must be filed completely with the Office of Planning and Neighborhood development within thirty (30) days of the date of this letter. **Should this cause of Denial be resolved by successful Appeal, a full set of construction documents prepared by a NYS licensed architect or engineer may be required to be submitted to this office prior to a Building Permit being issued.***

For the Commissioner,

  
Vincent DiBiase  
Deputy Chief Inspector

cc: Planning Office



GERALD D. JENNINGS  
MAYOR

CITY OF ALBANY  
DIVISION OF BUILDING & REGULATORY COMPLIANCE  
CITY HALL – ROOM 303  
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January 22, 2013

Michael Biernacki  
32 Smith Lane  
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**Application Number: 66276**

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This property is located in an area which is zoned **R-3A**.

This Application has been examined for compliance with the applicable provisions of the Zoning Ordinance of the City of Albany, NY.

That review has revealed that the proposed work will require

- Common Council Approval (375-186)
- Parking Lot Permit (375-174)
- Site Plan Approval (375-33)
- Special Use Permit (375-27)
- Approval by Historic Resources Commission (42-83)

Therefore, your application of 1/16/13 cannot be granted at this time until the approvals indicated above have been granted and all zoning issues are resolved.

Application for the required review(s) may be made on forms available from the Office of Planning & Neighborhood Development, 200 Henry Johnson Blvd. *Applications for the required review(s) must be filed completely with the Office of Planning and Neighborhood development within thirty (30) days of the date of this letter. Upon successful approval(s) required above, a full set of construction documents prepared by a NYS licensed architect or engineer may be required to be submitted to this office prior to a Building Permit being issued.*

For the Commissioner,

Vincent DiBiase  
Deputy Chief Inspector

cc: Planning Office

## **NARRATIVE DESCRIPTION**

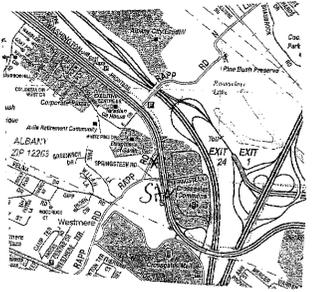
### **8 Rapp Road**

#### **Biernacki Property Management, Inc.**

Biernacki Property Management, Inc. owns 8 Rapp Road, a 0.38± acre parcel (16,493 SF) in an R-3A Multi-family Residential (Low Density) Zone. The site is vacant except for a concrete block foundation that was constructed several years ago with water and sewer laterals to it.

Since it is not financially feasible to build either a single-family home, a duplex or an apartment house on the site, the Owner/Applicant would like to construct a two-story 2,850 SF office building on the site for use as the offices of Biernacki Property Management, Inc. and Biernacki Builders, LLC. plus added space to be leased out for office use.

The building will be designed to be similar to the single-family residential homes along Rapp Road that are in the Historic District. Since the building would be on the corner of Rapp Road and the south frontage road of Washington Avenue Extension it would, (together with new landscaping) serve as a buffer and shield for the neighborhood from the noise from traffic and also from the view of South Frontage Road and Washington Avenue Extension.



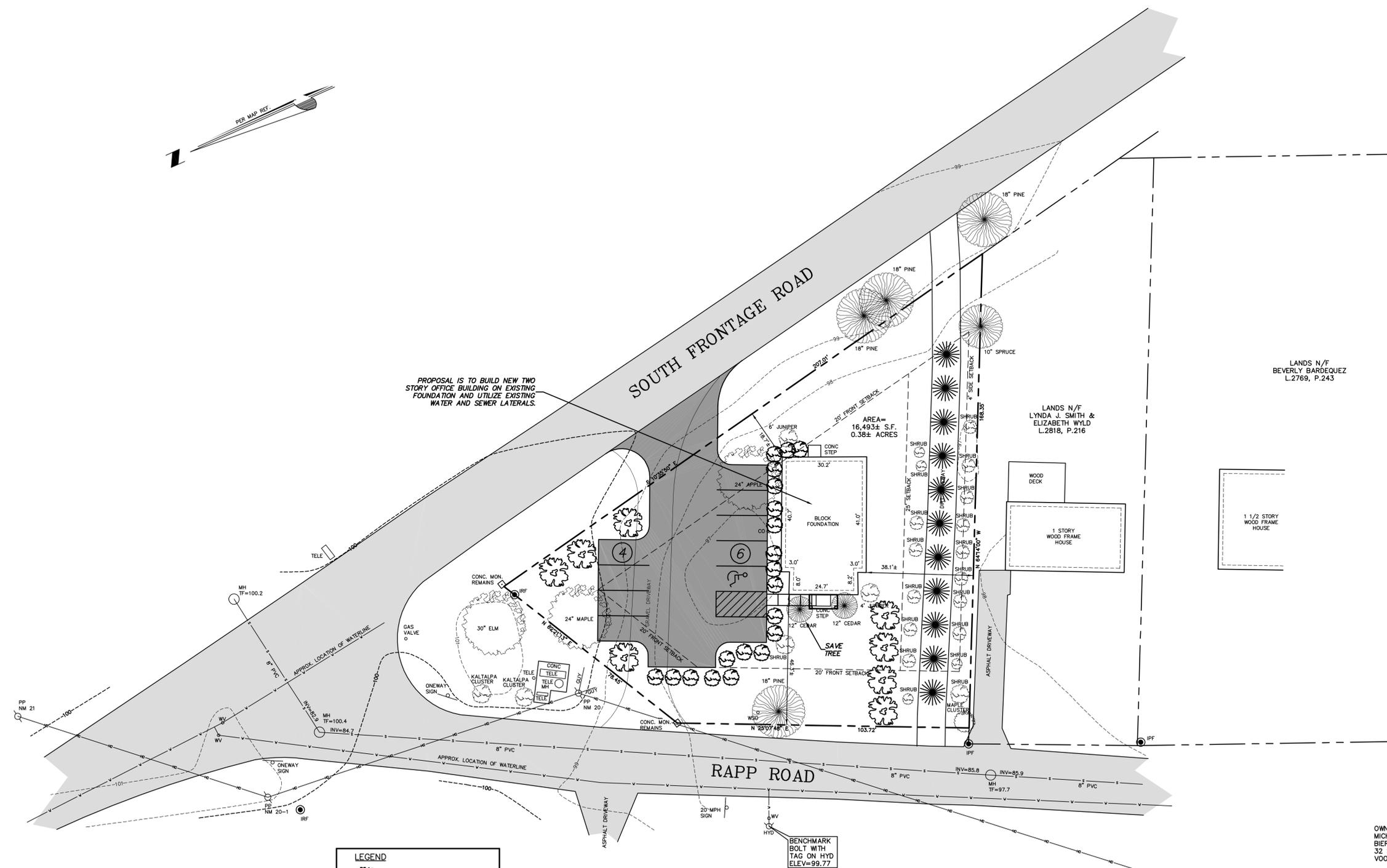
SITE LOCATION MAP

NOTES:

1. BASE MAPPING PREPARED BY ABD ENGINEERS & SURVEYORS FROM A DECEMBER 2012 FIELD SURVEY.
2. THE PLANS SHOW SOME KNOWN SUBSURFACE STRUCTURES, ABOVE-GROUND STRUCTURES AND/OR UTILITIES BELIEVED TO EXIST IN THE WORKING AREA, EXACT LOCATION OF WHICH MAY VARY FROM THE LOCATIONS INDICATED. IN PARTICULAR, THE CONTRACTOR IS WARNED THAT THE EXACT OR EVEN APPROXIMATE LOCATION OF SUCH PIPE LINES, SUBSURFACE STRUCTURES AND/OR UTILITIES IN THE AREA MAY BE SHOWN OR MAY NOT BE SHOWN, AND IT SHALL BE HIS RESPONSIBILITY TO PROCEED WITH GREAT CARE IN EXECUTING ANY WORK. 48 HOURS BEFORE YOU DIG, DRILL OR BLAST, CALL U.F.P.O. 1-800-962-7962.

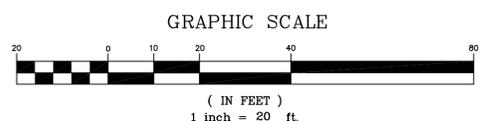


PROPOSAL IS TO BUILD NEW TWO STORY OFFICE BUILDING ON EXISTING FOUNDATION AND UTILIZE EXISTING WATER AND SEWER LATERALS.



REQUIRED:	
ZONING:	R-3A MULTIFAMILY LOW DENSITY RESIDENTIAL
SETBACKS:	
FRONT:	20' MAX.
SIDE:	4' MIN.
REAR:	25' MIN.
BLDG. HEIGHT:	35' (2.5 STORIES) MAX.
LOT FRONTAGE:	40' MIN.
LOT DEPTH:	100' MIN.
LOT COVERAGE:	50% MAX.
LOT AREA:	4,000 SF MIN.

LEGEND	
	PROPOSED DECIDUOUS TREE
	PROPOSED EVERGREEN TREE
	PROPOSED SHRUB
	EXISTING SHRUB
	EXISTING EVERGREEN TREE
	EXISTING DECIDUOUS TREE



MAP REFERENCE:  
MAPPING FROM DEPARTMENT OF TRANSPORTATION MAP NO. 21, PARCELS 85, 86, AND 87 OF WASHINGTON AVENUE EXTENSION, DATED MAY 8, 1967.

OWNER/APPLICANT:  
MICHAEL BIERNACKI  
BIERNACKI PROPERTY MANAGEMENT, INC  
32 SMITH LANE  
VOORHEESVILLE, NY 12186

TAX MAP #: 52.06-2-44

NO.	REVISION	DATE



JOSEPH J. BIANCHINE, P.E.  
N.Y.S. LICENSE NO. 50226

**SITE PLAN**  
**BIERNACKI OFFICE BUILDING**  
**8 RAPP ROAD**

CITY OF ALBANY      COUNTY OF ALBANY  
STATE OF NEW YORK

**ABD ENGINEERS & SURVEYORS**  
411 Union Street Schenectady, N.Y. 12305  
518-377-0315 Fax: 518-377-0379

DATE:	SCALE:	DWG.	SHEET OF
JANUARY 15, 2013	1" = 20'	4322A-S	1 1



2 Front Elevation  
1/8" = 1'-0"



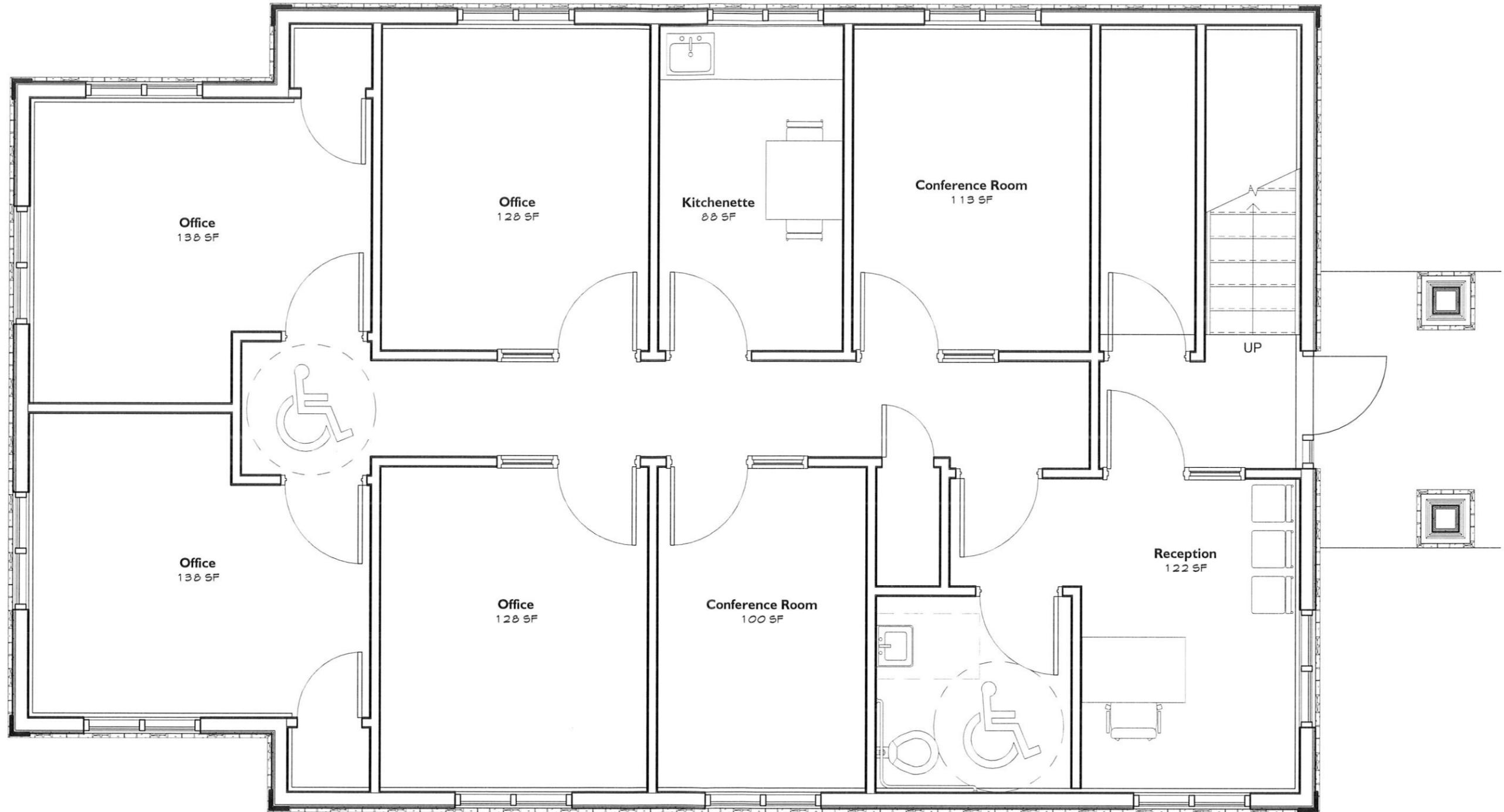
1 Left Elevation  
1/8" = 1'-0"



4 Rear Elevation  
1/8" = 1'-0"



3 Right Elevation  
1/8" = 1'-0"



1 First Floor Plan  
1/4" = 1'-0"



Syvertsen Rigosu  
Architects, PLLC  
Six Chelsea Place  
Clifton Park, NY 12065  
Tel 518.348.1151  
Fax 518.348.2125

8 Rupp Rd. ■

MJB  
8.9.12



