

**Town of North Greenbush
Zoning Board of Appeals
2 Douglas Street, Wynantskill NY 12198**

**Application for a Variance, Special Permit,
and/or Appeal**

Zoning Board Fees as per Chapter 197 Section I

General Information

Applicant Number	<u>17-21</u>
Date Application Received	<u>8/19/17</u>
Hearing Scheduled Date	<u>8/19/17</u>
Application Fee	<u>1000.00</u>
Approved Date	Conditions (y/n) _____
Denial Date	Withdrawn Date _____
Zoning Chairperson	_____

Applicant:
Name: BT Albany LLC
Company: c/o Goldman Attorneys PLLC
Address: 210 Washington Avenue Extension
Albany, New York 12203
Phone: (518) 431-0941

Property Owner:
Name: BT Albany LLC
Company: _____
Address: 200 Witmer Road, Suite 200
Horsham, Pennsylvania 19044
Phone: (215) 938-7700

Applicant is: Owner _____ Builder _____ Lessee _____ Architect/Engineer _____ Agent X Other _____
 If Other, Explain: Attorney for BT Albany LLC

Lot Information

Street Address of Lot: 100-103 Van Rensselaer Square

Parcel ID Number: 145.-7-1.122 Zoning District: C

Irregular Shape of Lot (Y or N) _____ Corner Lot (Y or N) Yes

Existing: Lot Area _____ Frontage _____ Depth _____
 Set Backs: Front _____ Rear _____ Left _____ Right _____
 Proposed : Lot Area _____ Frontage _____ Depth _____
 Setbacks: Front _____ Rear _____ Left _____ Right _____

Type of Water Service: Municipal Type of Sanitary Disposal Municipal

Describe Existing Use: Retail Shopping Center

Type of Request: x Area Variance _____ Use Variance _____
 _____ Special Permit _____ Code Interpretation _____
 for signage

Briefly describe the proposal:
Area variance for signage for shopping center and pylons (SEE EXHIBIT "A").

Abutters- Adjacent Property Owners

List the name and address for each adjacent property owners. Use additional paper if needed.

Name:	Address:	Property Use:
Front _____	<u>Eastwyck Circle</u>	<u>Senior Apartments</u>
Rear _____	_____	<u>Vacant Land</u>
Left _____	_____	<u>Vacant Land</u>
Right _____	<u>8 Douglas Avenue</u>	<u>Residence</u>

See Exhibit "A"

Required Submittals

- A plot plan showing all property lines, dimensions, adjacent streets, existing structures, setback distances, and location of proposed changes.
- Part 1 of the State Environmental Quality Review (SEQR) Short Environmental Form
- Appropriate fee, as determined by the Code of the Town of North Greenbush, and as Calculated by the Building Department

**NOTE: Additional submittals may be required by the Zoning Board of Appeals.
Failure to submit all required documents may result in a delay
in the processing or denial of the application.**

Have there been any other variances issued for this property? (Y or N) Yes

If yes, explain:

Other similar sign variances. Application 17-14 and Application 17-15.

For any Area Variance Request, please complete the following:

Proposed use/construction: Signage Package for Retail Shopping Center (SEE EXHIBIT "B")
(Single family home, commercial building, addition, deck, pool, accessory building, sign, fence, etc)

	REQUIRED	PROPOSED
Lot Size:		
Width at set back:		
Front Setback:		
Rear Setback:		
Left Side Setback:		
Right Side Setback:		
Maximum Lot Coverage:		
Maximum Height:		

For Multi-family Residential / Non- Residential Area Variances, please complete the following:

	REQUIRED	PROPOSED
Number of Parking Spaces:		
Buffer:		
Units per Acre:		

Area Variance Continued

1. Explain how no undesirable change will be produced in the character of the neighborhood; nor a detriment to nearby properties created by granting the area variance.

SEE EXHIBIT "B"

2. Explain why the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an Area Variance.

3. Describe whether the requested Area Variance is substantial.

4. Explain how the proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood or district.

5. Explain whether difficulty is self-created. (Consideration is relevant, but should not necessarily preclude the granting of the Area Variance.)

For Use Variance Applications, please complete the following:

Describe the request use: SEE EXHIBIT "B"

1. Explain why the application cannot realize a reasonable return without the Use Variance, as demonstrated by the content financial evidence.

2. Explain how the alleged hardship relating to the property is unique, and does not apply to a substantial portion of the neighborhood.

3. Describe why granting the requested use variance will not alter the essential character of the neighborhood.

Explain whether the alleged hardships have been self- created.

Describe in Detail your request:

Explain why granting the request is consistent with the public health, safety, and general welfare of the community, including the public or commercial inconvenience of the applicant.

For **Home Occupation Request**, please see Town of North Greenbush Code Sections 197-3 and 197-24

For **Earthwork Permit**, Please see Town of North Greenbush Code Section 197-30

For **Telecommunication Tower Permit**, Please see Town of North Greenbush Code Section 197- 107

Appeal Criteria

Explain the nature of the requested appeal, including Town Code Section, Building Department decision, and your objections.

Certification and Authorization

I certify that the information contained in this application is true to the best of my knowledge and I authorize the Town of North Greenbush to process this application as provided by law.

	Applicant:	Property owner:
Name:	Paul J. Goldman, Esq.	Agent, Attorney-in-Fact
Signature:	_____	_____
Date:	July 27, 2017	_____

<u>FEES as per Town Code Chapter 197:</u>	
<i>Special Permits for a residential single parcel: \$50.00</i>	<i>Special Permit for non-residential parcel: \$150.00</i>
<i>Area Variance for a single residential parcel: \$80.00</i>	<i>Area Variance for a non- residential parcel: \$250.00</i>
<i>Use Variance for a single residential parcel: \$200.00</i>	<i>Use Variance for a non-residential parcel: \$500.00</i>

617.20

Short Environmental Assessment FormInstructions for Completing

Please refer to this link for step by step assistance: <http://www.dec.ny.gov/permits/90156.html>

Part 1- Project information. The applicant or project sponsor is reliable for the completion of part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attached additional pages as necessary to supplement any item.

Part 1- Project and Sponsor Information

Name of Action or Project:

Signage Package Van Rensselaer Square Shopping Center

Project Location (Describe, and attach a location map):

Routes 4 and 43, Van Rensselaer Square

Brief Description of Proposed Action:

Signage for balance of Shopping Center and Pylons

Name of Applicant or Sponsor:

BT Albany LLC

Telephone:

E-Mail:

Address:

c/o Goldman Attorneys PLLC, 210 Washington Avenue Extension

City/PO:

Albany

State:

New York

Zip Code:

12203

1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to part 2. If no, continue to question 2.

YES NO

X

2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If yes, list agency(s) name and permit or approval:

YES NO

X

3. a. Total acreage of the site of the proposed action? 35 Acres

b. Total acreage to be physically disturbed? 0 Acres

c. Total acreage (Project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ Acres

4. Check all land uses that occur on, adjoining and near the proposed action.

 Urban Rural Industrial Commercial Residential (suburban) Forest Agriculture Aquatic Other (Specify): _____ Parkland

5. Is the proposed action,

YES NO

a. A permitted use under the Zoning regulations? b. Consistent with the adopted comprehensive plan?	YES X	NO X
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	YES X	NO X
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If yes, identify:	YES	NO X
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation service(s) available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	YES X X	NO X X
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies:	YES	NO X
10. Will the proposed action connect to an existing public/private water supply? If no, describe method for providing wastewater treatment:	YES	NO X
11. Will the proposed action connect to existing wastewater utilities? If no, describe method for providing wastewater treatment:	YES	NO X
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic places? b. Is the proposed action located in an archeological sensitive area?	YES	NO X X
13. a. does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other water bodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or water body? If yes, identify the wetland or water body and extent of alterations in square feet or acres:	YES	NO X X
14. Identify the typical habit types that occur on, or are likely to be found on the project site. Check all that apply:	YES	NO X
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	YES	NO X
16. Is this project site located in the 100 year flood plan?	YES	NO X
17. Will the proposed action create storm weather discharge, either from point or non- point sources? If yes, a. Will storm water discharge flow to adjacent properties?	YES	NO X

b. Will storm water discharges be directed to establish conveyance systems (runoff and storm drains)?
 If yes, briefly describe _____

X

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?

YES NO

If yes, explain purpose and size: _____

X

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?

YES NO

If yes, describe: _____

X

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?

YES NO

If yes, describe: _____

X

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/ Sponsor name: Paul J. Goldman, Attorney in Fact

Date: _____

Signature: _____

Part 2- Impact Assessment. The Leaf Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "have my responses been reasonable considering the scale and context of the proposed action?"

	No. or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the Proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing: a. public / private water supplies b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)?		
10. Will the proposed action result in an increase in the potential for erosion, flooding, or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

Kc:/zba/zba application

Part 3- Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significance adverse environmental impact, please complete part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short- term, long-term and cumulative impacts.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

EXHIBIT A

SIGNAGE/AREA VARIANCE APPLICATION OF BET ALBANY LLC

- **Description of Proposal.** The Applicant hereby submits this application to the ZBA for an area variance for the approval of an overall signage package for the Van Rensselaer Square Shopping Center in the Town of North Greenbush. Since the subject is a modern grocery anchored shopping center with additional ancillary retail tenants, the signage at the Shopping Center is critical of the retail tenants and overall success of the Shopping Center. As the ZBA is well aware the subject shopping center is set back from the intersection of Route 4 and 43. Further, the subject property is located on a site that it is substantially elevated from that that intersection such that the signage is critical since the elevation affects the visibility of the Shopping Center. Several of the tenants have applied for their own signage being Five Below (ZBA Application 17-14) and Shop Rite (ZBA Application 17-15) and these area variance applications were approved with conditions by the ZBA at the June 14, 2017 meeting of the ZBA

The Applicant is submitting this application to the ZBA for the following: (a) an overall signage package for the retail tenants at the Shopping Center based on a Requested Tenant Size set forth in Exhibit "1" to this Exhibit A as compared to the Tenant Space Façade at the Shopping Center and the provisions of Town of North Greenbush Zoning Ordinance §197-37(E) (1) relating to the maximum size of the wall signs; (b) approval of the Pylons for the Shopping Center in accordance with Exhibit "2" to this Exhibit "A" and the provisions of Town of North Greenbush Zoning Ordinance §197-37(G) ; and (c) the monument sign at the right in/right out entrance off of Bloomingrove Drive.

- **Listing of Abutters - Continued:**

9 Douglas Lane	Residence
567 Bloomingrove Ave.	Residence
4 Douglas Ave.	Residence
564 Bloomingrove Ave.	
499 Northgreenbush Rd.	Business

EXHIBIT "1"

REQUESTED SIGNAGE FOR THE SHOPPING CENTER

<u>Tenant</u>	<u>Tenant Space Façade (SF)</u>	<u>Requested Tenant Signage (SF)</u> <u>(** Building Only)</u>
<u>Phase 1 Building</u>		
Home Goods	3812	200
TJMaxx	3712	200
Michaels	3599	200
<u>Phase 2 Building</u>		
Ulta	2270	200
Petco	2774	200
Five Below	1885	Approved ZBA App. # 17-14
Shoe Carnival	2240	200
Realty USA	1410	150
Hanzo Hibachi	1500	100
Tenant	618	100
Great Clips	433	100
GNC	433	100
Metro Mattress	1018	100
<u>OutParcel Building</u>		
Tenant	800	150
Tenant	833	150
Tenant	800	150
Chilis Building		200

** These values do not include Signage Panel areas shown on separate Pylon Sign Plan.

EXHIBIT "2"

ELEVATION FOR PYLON SIGNS AT THE SHOPPING CENTER

EXHIBIT "3"

ELEVATION FOR MONUMENT SIGN

EXHIBIT "B"

BASIS FOR AREA VARIANCE

- **Explain how no undesirable change will be produced in the character of the neighborhood; nor a detriment to nearby properties created by the area variance.**

The instant application for an area variance is for an overall signage package for the Van Rensselaer Square Shopping Center shopping center as set forth on Exhibit "1" (the "Shopping Center"). As the ZBA is well aware, or or about January 11, 2006, the Shopping Center received final site approval. The Shopping Center was not constructed as a result of the recession which occurred in 2007 to 2010. On or about January 9, 2017, the final site plan approval was amended by approval of the Planning Board in Decision No. 16-24. It is respectfully submitted that the signage allowed by the Town of North Greenbush Code §197-37 does not provide the signage required by modern retail shopping tenants. The Shopping Center wants to have its signage competitive with the immediate large scale retail competition on the Route 4 corridor. The building improvements are set back from Route 4 and Route 43 so that the signage package requested in this application should not create any detriment to the immediately nearby properties. As part of the initial site plan approval for the Shopping Center, the predecessor to the Applicant agree to not build on the adjoining 16 acre parcel immediately to the east which provides additional buffering of the building improvements and the signs that are the subject of this area variance request. The Pylons were part of the previously approved final site plan. In addition, the form of the monument sign is attached as Exhibit "3".

- **Explain why the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an Area Variance.**

It is respectfully submitted that the signage allowed by the Town of North Greenbush Code § 197-37 does not provide the signage required by modern retail shopping tenants. The Shopping Center is set back from Route 4 and 43 such that the signage allowed by the Town Code is not sufficient to capture the attention of potential retail customers. The fact that the signage allowed by Town Code is not sufficient for the current requirements of the retail tenants is confirmed by the fact that this Board approved area variances for other tenants of the Shopping Center pursuant to Application # 17-14 and Application # 17-15.

- **Describe whether the requested Area Variance is substantial.**

The additional signage reflected in the instant application is not substantial since the Applicant is seeking additional flexibility in the amount of the allowed signage per Town Code. As part of the amended site plan for the Shopping Center that was approved in January 2017, the overall size of the Shopping Center was reduced from approximately 252,000 SF to 203,000 SF. Therefore, the aggregate amount of the signage requested for the entire Shopping Center was reduced. The reduction in the aggregate signage from the approximately 51,000 SF reduction in the building improvements coupled with the reduction of the 51,000 SF reduction in the size of the building improvements makes the requested area variances not substantial.

- **Explain how the proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood or district.**

The signage package sought by the Applicant is consistent with the retail uses set forth on the final site plan approval for the Shopping Center that was approved by the Town in January 2017. Since the overall size of the Shopping Center was reduced, the additional signage sought by the Applicant will not have a material impact on the physical and/or environmental conditions of the neighborhood and/or district. The requested signage will only have a visual impact which is not considered to be material to the neighborhood and immediate area.

- **Explain whether the difficulty is self-created (Consideration is relevant, but should not necessarily preclude the granting of the Area Variance).**

It is respectfully asserted that the request for the area variance associated with the Signage Package was not self-created but is a result of a combination of: (a) the distance of the building improvements from Routes 4 and 43 as compared to other retail premises in the Town which have their building improvements set closer to the highways so that the stores and signage are more visible from the highway; and (b) the elevation difference between the roads and the Shopping Center

- **Explain why granting the request is consistent with public health, safety and general welfare of the community including the public or commercial inconvenience of the applicant.**

The signage package requested by the Applicant is part of an approved site plan which was modified to reduce the overall square footage of the Shopping Center by approximately 51,000 SF. The retail use of the Shopping Center is a permitted use under the Town Zoning Code. At the time of the amended site plan approval, the Planning Board noted that the Monument Sign at Bloomingrove Road would need a possible review by the ZBA

APPEAL CRITERIA

Explain the nature of the requested appeal, including Town Code Section, Building Department decision and your objections.

Town Zoning Ordinance §197-37(E)(1) limits the total area of a wall sign to 60 feet. The permitted size under the Town Ordinance is not sufficient for a modern shopping center similar to the Shopping Center as evidenced by the applications made by Five Below and Shop Rite. Exhibit "1" hereto has the requested size of the wall signs for the Shopping Center with the exception of Five Below and Shop Rite. It is respectfully asserted that the permitted size per the Town Ordinance of 60 feet is not sufficiently visible from the far reaches of the parking lot or Route 4 and 43 so that there is insufficient identification of the retail stores.