



MEMORANDUM

To: Village of New Hempstead Planning Board

From: Jonathan T. Lockman, AICP, Principal Environmental Planner

Re: Binyomin Amona, dba BAMA Enterprises, Two Lots, each with a Two-Family Home
619 Union Road
SBL# 50.05-1-18

Date: January 23, 2025

cc: Amanda Bettello, Deputy Village Clerk
Bruce Minsky, Esq., Planning Board Attorney
Glenn McCreedy, PE, Planning Board Engineer
Josip Medic, PE, Applicant Engineer
Binyamin Amona, Owner

Received and reviewed for this memorandum:

Submitted January 9, 2025

- Letter, re: Clarification and Revised Subdivision Plan, From BAMA Enterprises to Mr. Lockman, dated January 6, 2025.
- Site Plan for 619 Union Road, 1 sheet, stamped by Josip Medic, PE, dated January 7, 2025, with latest revision dated of December 26, 2024, with sheets as follows:
 - Sheet 1 of 8, Site Plan
 - Sheet 2 of 8, Demolition Plan
 - Sheet 3 of 8, Grading Plan
 - Sheet 4 of 8, Drainage Plan
 - Sheet 5 of 8, Utility Plan 1
 - Sheet 6 of 8, Utility Plan 2
 - Sheet 7 of 8, Soil Erosion and Sediment Control Plan
 - Sheet 8 of 8, Detail Sheet

Submitted January 3, 2025 (prior to January 6, 2025, CDC Meeting):

- Sketch Plat, Preliminary Plat, and Final Plan Application Forms Package, for Binyamin Amona, dated December 27, 2024.
- Narrative/Transmittal Letter, from BAMA Enterprises Corp, signed by Binyamin Amona, dated December 31, 2024.
- Stormwater Management Report, stamped by Josip Medic, PE, dated June 2024, with latest revision dated June 2024 (appears same as version submitted in September 2024).
- SEAF Part 1 Form, signed by Binyamin Amona, dated September 4, 2024.
- Traffic Letter "for 4 Home Subdivision BAMA Enterprises," by Harry Baker & Associates, dated September 12, 2024 (appears same as version submitted in November 2024).
- Veolia Willingness to Serve Letter, from Frank McGlynn to Binyomin Amona, dated May 8, 2023.

- Site Plan for 619 Union Road, 1 sheet, stamped by Josip Medic, PE, dated December 26, 2024, with latest revision dated of December 26, 2024, with sheets as follows:
 - Sheet 1 of 8, Site Plan
 - Sheet 2 of 8, Demolition Plan
 - Sheet 3 of 8, Grading Plan
 - Sheet 4 of 8, Drainage Plan
 - Sheet 5 of 8, Utility Plan 1
 - Sheet 6 of 8, Utility Plan 2
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Project Summary

The existing lot at 619 Union Road contains 1.07 acres (46,798.35 square feet), and it has approximately 130 feet of frontage on Union Road. An existing two-family house is located at the rear of the subject lot. Per the latest submission, Binyamin Amona dba BAMA Enterprises (“the Owner”) is applying to create a two-lot subdivision of the subject lot, with a new lot 2 to contain the existing two-family house, and a new lot 1 to be developed with a new two-family house.

Per the newest site plan provided, the front lot, lot 1, would be roughly rectangular, with 100.66 feet of frontage on Union Road, and depth of approximately 200 feet. The rear lot 2 is drawn as a flag lot. The “flagpole” is drawn with a width of 30 feet and a length of approximately 196 feet. The main body of the lot is roughly square, with a width of 130 feet and a depth of approximately 162 feet.

The subject parcel is at 619 Union Road, on the west side of the road across from the Union Road Townhomes project, in the 2R-15 zoning district. This is our fifth review of a proposal for this project.

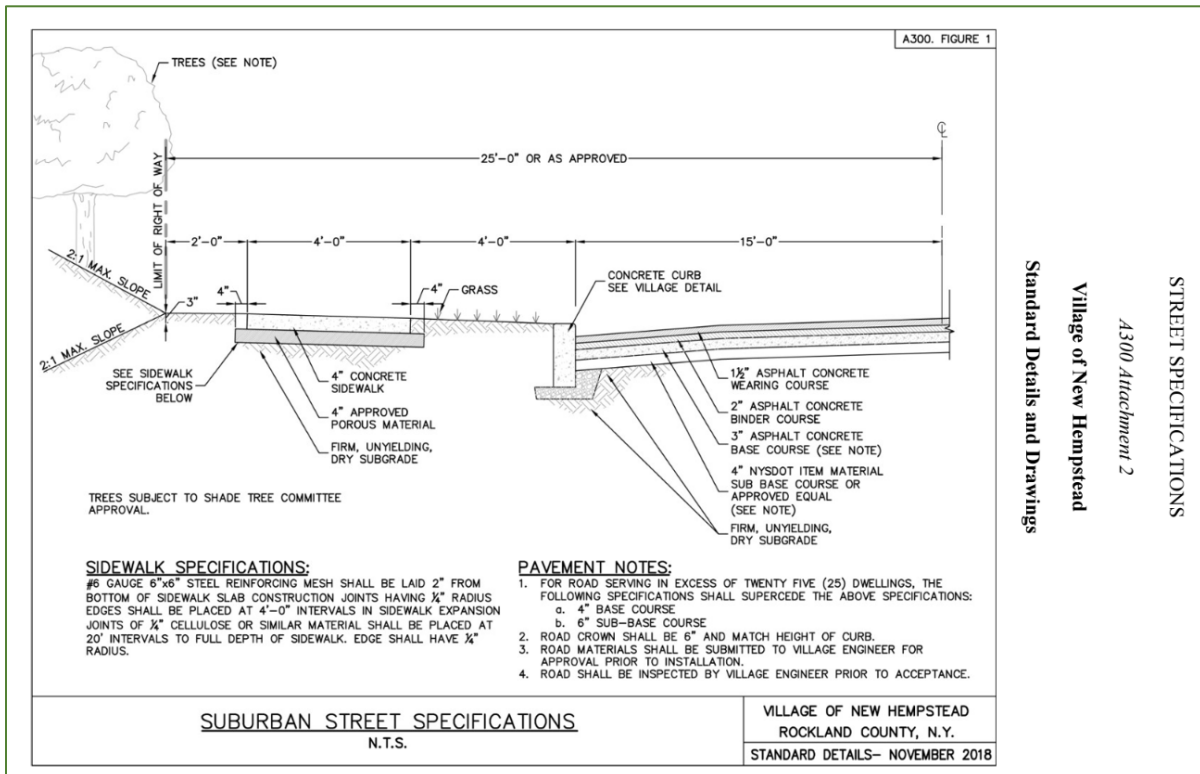
Comments on Compliance with Zoning and Subdivision Standards

1. **Only 30 feet of street frontage is provided for the rear lot.** Per the Table of Dimensional Requirements in §290 Attachment 2, in the 2R-15 District, one hundred twenty-five (125) feet of Frontage on a street meeting Village Standards is required for the rear lot.

New lots in this district are required to have 125 feet of frontage on either an existing street, or a new street created to Village standards. Rather than providing a new street for Lot 2 to gain frontage, only a 12-foot driveway is shown. The minimum standards for a Village Street in 2R-15 are as follows, per §255-32.H Streets and §A300 Street Specifications: See §A.300 figure 1 and §255-31.H for Village Road standards for requirements.

- a. A 50’ foot Right of Way containing a frontage street is required for lot 2 is required. Instead, a flag lot is provided, that is not allowed by the zoning or subdivision code chapters. See §A.300 figure 1, Suburban Street Specification.
- b. Thirty (30) feet of travel way is required, curb to curb, as a minimum pavement width of a street giving frontage to a lot. Only 12 feet of driveway width is shown. The driveway is set 2 feet from the side property line.
- c. A cul-de-sac with a 100-foot diameter pavement, within a 120-foot diameter right-of-way is required at the end of any dead-end street. No cul-de-sac is provided. See 255-31.E and H.

See below for an illustration of the required street standards from the Village Code.



A street conforming to Village standards should be designed for this project. If a Village Street with a cul-de-sac is created, per footnote 2 of 290 Attachment 2:4, the Table of Dimensional Requirements, the minimum lot frontage on a cul-de-sac may be reduced, but the granting of such a waiver would be at the Planning Board's discretion.

For a street with fifty-foot right-of way and 120-foot diameter cul-de-sac to be created, and then to maintain a minimum of 20,000 square feet for each lot and 125 feet of street frontage, contiguous land owned by the applicant will need to be used. As land is available to the applicant that could and should be included with the application, we would recommend that the Planning Board require the applicant to include his adjacent lot, and design a conforming layout, as described below in comment 2.

- The **owner of record of the subject lot is BAMA Enterprises.** According to the Affidavit of Ownership form provided previously, **Binyomin Amona owns 100% of BAMA Enterprises.** As shown on the applicant's drawings, the **owner of record for lot 50.05-1-19, the adjacent lot to the south is Binyamin Amona** as an individual, rather than Amona doing business as BAMA Enterprises. We have received testimony previously that Binyamin Amona is no longer the owner of lot 19, but records show the sale was not subject to the transfer tax, so for tax purposes the ownership is still considered the same for both lots. We believe that **both owners must be included in the application (Amona and BAMA) and both lots 50.05-1-18 and 50.05-1-19 must be included on all drawings.** See §255-11.B.(2) which requires that a sketch plat application "include all contiguous holdings of the owner, including land in the same ownership, with an indication of the portion which is proposed to be subdivided..." The Village Attorney has found in

the record that the sale to Amona of lot 19 was not taxable and no transfer tax was paid, indicating that for tax purposes, ownership is the same, even with the different names on the deeds for lots 18 and 19.

3. **Future plans for development of the adjacent lot to the south owned by Binyomin Amona should be included in the application.** See §255-47.J which states “Whenever the sketch plat covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than 200 feet to the inch, a sketch of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street system and an indication of the probable future street and drainage system of the remaining portion of the tract.” See also §255-27 which authorizes the Planning Board to consider staged construction.
4. **The minimum lot width is not met by either of the two proposed lots.** The existing lot is 130 feet wide, which exceeds the minimum requirement of 125 feet, so the site is in compliance today with respect to this standard. With the proposed subdivision, the front lot would only be 100 feet wide, and the rear lot would only be 30 feet wide. Note that the definition of lot width in §290-3 states that it is “The distance measured along a line drawn parallel to the front lot line at a distance equal to the minimum front yard requirement.” **ZBA variances for lot width would be required.**

However, if a conforming Village Street were laid out leading to the rear lot, the south line of lot 1 would become a second front lot for the lot (rather than a side line), and the lot width could comply, as it would be measured east-west along the new street frontage. The rear lot would have 130 feet of width, exceeding the 125-foot minimum width requirement.

5. The sketch plat must **show any trees on the property over 8 inches in diameter and over 4 feet in height** as per Village Code §255-47.B. Please add any trees that meet these criteria.
6. The required maximum impervious surface coverage is 0.30 for each lot. This would yield an allowable maximum coverage of 6,031 sf for lot 1 and 8,008 sf for lot 2. Only 4,985 sf of coverage is proposed for lot 1, and 7,455 sf of coverage is proposed for lot 2. It appears that maximum impervious surface coverage standard is met.
7. **A separate driveway is shown on the plan to access the building on Lot 1 directly from Union Road. This is in violation of Subdivision Chapter §255-44.D,** which states: “Access from collector streets. Lots shall not, in general, derive access from a collector street but shall front on a minor interior street.”
8. **The Subdivision Chapter §255.C.(1) requires that a proposed subdivision must contain lots that meet dimensional standards of the Zoning Chapter, and this application does not comply.** Section §255.C.(1) states that “Lot area and dimensions shall comply with at least the minimum standards of Chapter 290, Zoning, for the district in which they are located.”
9. **Furthermore, the application does not meet the Subdivision Chapter section §255-44 which requires that the lot arrangement complies with the Zoning Chapter 290.** This section states: “Lot arrangement. The lot arrangement shall be such that there will be no foreseeable difficulty, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with Chapter 290, Zoning, Chapter 154, Freshwater Wetlands, the County Health Department regulations and other applicable regulations.”

10. **The ZBA can only grant variances on dimensional standards of the Zoning Code chapter.** See §290-90. The ZBA is not authorized to grant relief from standards found in any other Code Chapters, other than the Zoning Code Chapter. **In this case, the ZBA may be petitioned to grant relief only from the lot width requirements which come from the Zoning Chapter.**

Relief from those standards found in Chapter 255 Subdivision, which are not met by this application, can only be requested from the Planning Board, per §255-6. Subdivision Chapter 255-6 states: “Where the Planning Board finds that, because of the special circumstances of a particular case, extraordinary hardship may result from strict compliance with these regulations, it may modify the regulations so that substantial justice may be done and the public interest secured; provided, however, that any such modification will be consistent with the spirit and intent of these regulations and all Village laws.”

The violations of subdivision standards by this application that are not eligible for ZBA variance consideration are as follows:

- a. The minimum standards for a Village Street required per §255-32.H and §A300 Street Specifications.
- b. Compliance with Section §255-11.B.(2) which requires that a sketch plat application “Include all contiguous holdings of the owner, including land in the same ownership, with an indication of the portion which is proposed to be subdivided...”
- c. Inclusion of Future plans for development of the adjacent lot to the south owned by Binyomin Amona per section §255-47.J.
- d. Required showing of trees over 8 inches in diameter and over 4 feet in height as per Village Code §255-47.B.
- e. A separate driveway is shown on the plan to access the building on Lot 1 directly from Union Road, in violation of Subdivision Chapter §255-44.D.
- f. The application does not comply with Subdivision Chapter §255.C.(1), which requires that a proposed subdivision must contain lots that meet dimensional standards of the Zoning Chapter 290.

The Planning Board should discuss it would consider varying the above-listed subdivision standards. a through f. To grant a variance, the Planning Board should find that the applicant has “an extraordinary hardship” and that the variance would “secure the public interest” and be characterized as “substantial justice.” If such a finding cannot be made, the Board should consider denying the application unless it is modified to comply with Chapter 255. We reiterate that the Planning Board is the only authority having jurisdiction over the granting of variances to the Subdivision Chapter standards per section 255-6, and not the Zoning Board of Adjustment.

SEQRA/GML/Procedural Comments

11. Once the application is in front of the Planning Board, the Board should notify its intent to serve as lead agency to all involved agencies. **We recommend that the Planning Board classify this action as unlisted and establish a coordinated review.** In such a coordinated review, should the applicant choose to continue with a design that requires a ZBA variance for lot width and frontage, the ZBA will be prohibited by law from making a final decision until the Planning Board as lead agency makes a negative declaration and concludes the SEQRA process. A traffic letter from Harry

Baker Associates was submitted, dated September 12, 2024. Traffic impact from these proposed units does not appear to be significant.

12. It appears that a GML review for this action will not be required, as according to the Rockland County GIS system, it is not within 500 feet of any County facility.

Please let me know if you have any questions or comments regarding this review.

Items Previously Reviewed

Reviewed for our previous memorandum dated December 23, 2024:

- CDC/TAC Application Form, for Binyamin Amona, dated December 20, 2024.
- Narrative Summary, from BAMA Enterprises Corp, signed by Binyamin Amona, dated December 19, 2024.
- Stormwater Management Report, stamped by Josip Medic, PE, dated June 2024, with latest revision dated June 2024 (appears same as version submitted in September 2024).
- Traffic Letter “for 4 Home Subdivision BAMA Enterprises,” by Harry Baker & Associates, dated September 12, 2024 (appears same as version submitted in November 2024).
- Site Plan for 619 Union Road, 1 sheet, stamped by Josip Medic, PE, dated December 18, 2024, with latest revision dated of November 20, 2024, with sheets as follows:

Reviewed for our previous memorandum dated November 26, 2024:

- “Engineering Letter Response” to NPV comments of November 14, 2024, unsigned, dated November 20, 2024.
- Subdivision/Site Plan Set for 619 Union Road, 8 sheets, stamped by Josip Medic, PE, dated May 16, 2024, with latest revision dated of November 20, 2024, with sheets as follows:
 - 1, Site Plan
 - 2, Demolition Plan
 - 3, Grading Plan
 - 4, Drainage Plan
 - 5, Utility Plan 1
 - 6, Utility Plan 2
 - 7, Soil Erosion and Sediment Control Plan
 - 8, Detail Sheet

Reviewed for our previous memorandum dated November 14, 2024:

- Application Package for Sketch Plat and Preliminary Plat Approval for BAMA Enterprises, signed by Binyamin Amona, dated September 9, 2024.
- Traffic Letter, by Harry Baker, to Ben Amona, dated September 12, 2024.
- Project Narrative and Transmittal Letter, (Identical to previous letter submitted which was reviewed on September 24, 2024), from BAMA Enterprises, unsigned, undated.
- Subdivision/Site Plan Set for 619 Union Road, 8 sheets, (Identical to previous set submitted which was reviewed on September 24, 2024) stamped by Josip Medic, PE, dated July 15, 2024, with latest revision dated of 6/27/2024.

Reviewed for our previous memorandum dated September 24, 2024:

- Application Package for Sketch Plat and Preliminary Plat Approval for BAMA Enterprises, signed by Binyamin Amona, dated July 16, 2024.
- Project Narrative and Transmittal Letter, from BAMA Enterprises unsigned, undated.
- Stormwater Management Report, stamped by Josip Medic, PE, dated June 2024.
- Subdivision/Site Plan Set for 619 Union Road, 8 sheets, stamped by Josip Medic, PE, dated July 15, 2024, with latest revision dated of 6/27/2024.