

**USE VARIANCE APPLICATION**

**Part 1. Application Notes**

An application for Use Variance is a request for relief from the permitted use regulations of Section 375-3, Use Regulations, of the USDO for a specific property. An application may be submitted after denial of a proposed use by the Chief Planning Official.

1. The Board of Zoning Appeals (BZA) reviews the application at a public hearing and makes its decision based on the standards in Section 375-5(E)(21)(c)(ii). The decision must grant the minimum variance necessary to address the unnecessary hardship proven by the applicant.
2. Applicants have the burden to provide evidence that the applicable regulations have caused unnecessary hardship and demonstrate that it is not self-imposed for a use variance to be approved.
3. The applicant must be able to show unnecessary hardship for each and every permitted use for the zone district where the property is located.
4. The decision of the BZA is final and another application for the same or essentially the same approval cannot be submitted within one year from the date of the decision.

*Note: A pre-application meeting is available upon request prior to submitting this application.*

**Part 2. Property Information**

Project Address: <b>875 New Scotland Ave</b>	Tax ID Number(s): <b>75.5-1-2</b>
Date of Property Acquisition: <b>3/14/2011</b>	Purchase Price: <b>\$450,000.00</b>
Current or Most Recent Use(s): Convenience store with self service gasoline	Proposed Use(s): <b>No change in use.</b>

Description of any existing structures at the property:  
**Existing Stewart's Shops convenience store with self service gasoline.**

**Part 3. Permissible Uses**

Zoning District: <b>Mixed-Use, Neighborhood Edge</b>	
List of All Permitted Uses within the Zone District:	<b>See attached.</b>
List of All Conditional Uses within the Zone District:	<b>See attached.</b>
Legally Nonconforming Uses:	<b>See attached.</b>

**Part 3. Variance Criteria and Hardship Evidence**

Describe all attempts by the property owner to utilize, market or advertise the property for the aforementioned permitted and conditional uses:  
**Please see attached narrative dated November 12th, 2021.**

Describe why the property owner cannot derive a reasonable financial return from any of the aforementioned permitted and conditional uses, or any other legally nonconforming use of the property:

Please see attached narrative dated November 12th, 2021.

Describe the hardship(s) relating to the physical characteristics or topographical features of the property that result(s) in the property owner's inability to obtain a reasonable return:

Please see attached narrative dated November 12th, 2021.

Describe why the aforementioned hardship(s) are unique to the property in question and do not apply to other properties within the zoning district within which the property is located:

Please see attached narrative dated November 12th, 2021.

Indicate why the aforementioned hardship(s) could not be reasonably foreseen prior to the owner's purchase of the property:

Please see attached narrative dated November 12th, 2021.

Indicate any and all alternatives sought apart from seeking this variance:

Please see attached narrative dated November 12th, 2021.

Indicate why the variance sought is the minimum necessary to relieve the aforementioned hardship(s):

Please see attached narrative dated November 12th, 2021.

Indicate how the proposed use of the property is compatible with and will not adversely affect the character of the surrounding area:

Please see attached narrative dated November 12th, 2021.

### Part 4. Submittal Requirement Checklist

	Required Document	Hard Copies	Electronic Copies	Electronic Submission (.pdf) (Required Document Name)
<b>A. Required for All Use Variance Applications</b>				
<input type="checkbox"/>	Master Application	0	1	Master Application
<input type="checkbox"/>	Use Variance Application	0	1	UV
<input type="checkbox"/>	Rejection Letter from Chief Planning or Building Official	0	1	Rejection Letter
<input type="checkbox"/>	Property Deed	0	1	Deed
<input type="checkbox"/>	Color photographs of the property in context with surrounding properties	0	1	Photos
<input type="checkbox"/>	Financial evidence and pro-forma analysis, demonstrating lack of a reasonable return and indicating the current annual financial return (income or personal benefit) derived from property in question	0	1	Financial Evidence
<input type="checkbox"/>	Environmental Assessment Form as required by SEQR	0	1	Short or Full EAF
<input type="checkbox"/>	Application fee as established in the Albany Fee Schedule - \$400 – Payable to <i>The City of Albany Treasurer</i>			
<b>B. Voluntary or Upon Request</b>				
<input type="checkbox"/>	Floor Plans ( if new construction or an addition), drawn to scale	0	1	Floor Plan [YYYY]-[MM]-[DD]
<input type="checkbox"/>	Survey (A boundary and topographical survey, sealed by an Engineer or Surveyor)	1	1	Survey [YYYY]-[MM]-[DD]
<input type="checkbox"/>	Site plan on 24" x 36" sheet and drafted at a scale that best conveys the development (1"=50', 1"=100', or 1"=200')	1	1	Site Plan [YYYY] [DD] [MM]
<input type="checkbox"/>	Any additional information determined to be necessary by the Chief Planning Official	1	1	[Document Name]
Electronic document submissions shall be sent via email to <a href="mailto:bza@albanyny.gov">bza@albanyny.gov</a> , USB Flash Drive, or by another medium approved by the City of Albany Planning Staff. CD and DVD submissions are <u>not</u> accepted.				

**(B) PERMITTED USE TABLE**

Table 375-3-1: Permitted Use Table																			
P=Permitted Use   C=Conditional Use   A=Accessory Use   T=Temporary Use   V=Vacant Property Use																			
Proposed Zoning District	Residential						Mixed-Use								Special Purpose			Use-Specific Standard in Section 375-3	
	R-1L	R-1M	R-2	R-T	R-M	R-V	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI	MU-FW	MU-FC	MU-FS	MU-FM	I-1		I-2
District Standards 375-2	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)
LAND USE CATEGORY	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)
<b>RESIDENTIAL USES</b>																			
<b>Household Living</b>																			
Dwelling, Single-Family Detached	P	P	P		P	P	P									P			(C)(2)(a)(1)
Dwelling, Two-Family Detached			P		P	P	P									P			(C)(2)(a)(2)
Dwelling, Townhouse			C	P	P	P	P	P	P	P	P	P	P	P	P	P			(C)(2)(a)(3)
Dwelling, Live-Work					C	C	P	P	P	P	P	P	P	P	P	P	P	P	(C)(2)(a)(4)
Dwelling, Multi-Family					P	P	P	P	P	P	P	P	P	P	P	C			(C)(2)(a)(5)
<b>Group Living</b>																			
Assisted Living Facility or Nursing Home					C	P	C	P	P	P	P	P	P	P	P	C			(C)(2)(b)(1)
Community Residential Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			(C)(2)(b)(2)
Dormitory						P		C	C	P	C	P	C	P	C	C			(C)(2)(b)(3)
Group Living, Other					C	C	C	C	C	C	C	C	C	C	C	C			(C)(2)(b)(4)
Rooming House									C	C	C	C	C	C	C				(C)(2)(b)(5)
<b>CIVIC &amp; INSTITUTIONAL USES</b>																			
Cemetery																		C	(a)
Club							P	P	P	P	P	P	P	P	P	P	P		(C)(3)(b)
Community Center				V	P	P	P	P	P	P	P	P	P	P	P	P	P		(C)(3)(c)
Cultural Facility		V	V	V	C	C	P	P	P	P	P	P	P	P	P	P	P	P	(C)(3)(d)
Day Care Center			V	V	C	C	P	P	P	P	P	P	P	P	P	P	P	A	(C)(3)(e)
Higher Education Institution					C	C	C	C	P	P	P	P	P	P	P	P	P		(C)(3)(f)
Hospital					C	C	C	C	C	P	P	P	C	C	C	C	C		(C)(3)(g)
Natural Area or Preserve																		P	(C)(3)(h)
Park or Playground	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(C)(3)(i)
Police or Fire Station			V	V	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(C)(3)(j)
Public Utility or Services, Major																	C	P	(C)(3)(k)
Public Utility or Services, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(C)(3)(l)

Section 375-3: Use Regulations  
Section 375-3(B): Permitted Use Table

**Table 375-3-1: Permitted Use Table**

**P=Permitted Use | C=Conditional Use | A=Accessory Use | T=Temporary Use | V=Vacant Property Use**

Proposed Zoning District	Residential						Mixed-Use										Special Purpose			Use-Specific Standard in Section 375-3
	R-1L	R-1M	R-2	R-T	R-M	R-V	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI	MU-FW	MU-FC	MU-FS	MU-FM	I-1	I-2	LC	
District Standards 375-2	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
LAND USE CATEGORY	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
Religious Institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C		(C)(3)(m)
School	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C				(C)(3)(n)
Stadium or Arena									C	C	C	A	C	C	C	A	C	C		(C)(3)(o)
Towers	A	A	A	A	A	A	A	A	A	C	A	A	A	A	A	A	C	C		(C)(3)(p)
<b>COMMERCIAL USES</b>																				
<b>Agriculture &amp; Animal-Related</b>																				
Agriculture, Urban	C	C	P	P	A	A	A	A	A	A	A	P	A	A	A	A	A			(C)(4)(a)(1)
Plant Nursery										C		A					P	P	C	(C)(4)(a)(2)
Veterinarian or Kennel										P	A	A	P	P	P		P	P		(C)(4)(a)(3)
<b>Food &amp; Beverage Service</b>																				
Bar or Tavern								C	P	P	P	C	P	P	P	C	V	V		(C)(4)(b)(1)
Restaurant							C	P	P	P	P	P	P	P	P	P				(C)(4)(b)(2)
<b>Guest Accommodations</b>																				
Bed and Breakfast	C	C	C	C	P	C	C	P	P	P	P	P	P	P	P	P				(C)(4)(c)(1)
Hotel					V	V	V	C	P	P	P	C	P	P	P	P	V	V		(C)(4)(c)(2)
<b>Office &amp; Services</b>																				
Funeral Home or Crematorium							V	C	C	P	C	V	V	V	V	V				(C)(4)(d)(1)
Office							P	P	P	P	P	P	P	P	P	P	P	A		(C)(4)(d)(2)
Personal or Business Service							C	P	P	P	P	P	P	P	P	P	P	P		(C)(4)(d)(3)
Trade School								C	P	P	P	P	P	P	P	P	P	P		(C)(4)(d)(4)
<b>Recreation &amp; Entertainment</b>																				
Adult Entertainment																		P		(C)(4)(e)(1)
Indoor Recreation or Entertainment							C	P	P	P	P	P	P	P	P	P	V	V		(C)(4)(e)(2)
Outdoor Recreation or Entertainment										P	C	P	C	C	C	C	C	C	C	(C)(4)(e)(3)
<b>Retail</b>																				
Adult Retail										C							C	P		(C)(4)(f)(1)
Convenience Retail								P	P	P	P	P	P	P	P	P	P			(C)(4)(f)(2)
General Retail							C	P	P	P	P	P	P	P	P	P	A	A		(C)(4)(f)(3)
Controlled Substance Dispensary										C		C	C	C			P	P		(C)(4)(f)(4)
Pawn Shop										C							P			(C)(4)(f)(5)

Section 375-3 Use Regulations  
Section 375-3(B) Permitted Use Table

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District Standards 375-2	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
LAND USE CATEGORY	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
Specialty Retail							P	P	P	P	P	P	P	P	P	P	A			(C)(4)(f)(6)
Supermarket									P	P	P	C	P	P	P	P	P			(C)(4)(f)(7)
<b>Vehicles &amp; Equipment</b>																				
Automobile Wash										P	A	A		C			C	P		(C)(4)(g)(1)
Dispatch Service or Freight Truck Terminal										C		A	C				P	P		(C)(4)(g)(2)
Heavy Vehicle and Equipment Sales, Rental, and Servicing													C				P	P		(C)(4)(g)(3)
Light Vehicle Sales, Rental, and Servicing										P	C	A	C	P	C		P	P		(C)(4)(g)(4)
Parking Lot	A	A	A	A	A	A	A	A	A	A	C	A	A	A	A	A	P	P	A	(C)(4)(g)(5)
Parking Structure	A	A	A	A	A	A		C	A	A	P	P	P	P	P	P	P	P	A	(C)(4)(g)(6)
Transit Facility										C	P	A	A	A	A	A	P	P		(C)(4)(g)(7)
Vehicle Fueling Station								C	C	P		A	C	C	C	C	P	P		(C)(4)(g)(8)
<b>INDUSTRIAL USES</b>																				
<b>Commercial Services</b>																				
Heavy Commercial Services										C		C	P				P	P		(C)(5)(a)(1)
Self-Storage Facility									C	P	C	C	C	C	C	C	P	P		(C)(5)(a)(2)
Storage and Wholesale Distribution										C		C	P				P	P		(C)(5)(a)(3)
<b>Manufacturing, Production, &amp; Extraction</b>																				
Artisan Manufacturing								C	P	P	P	P	P	P	P	P	P	P		(C)(5)(b)(1)
Heavy Manufacturing																		P		(C)(5)(b)(2)
Light Manufacturing										C			P				P	P		(C)(5)(b)(3)
Marijuana Manufacturing Facility													P				P	P		(C)(5)(b)(4)
<b>Waste &amp; Salvage</b>																				
Recycling Drop-Off Center					A	A	A	A	C	C	A	A	A	A	A	A	P	P		(C)(5)(c)(1)
Landfill																		C		(C)(5)(c)(2)
Vehicle Towing, Wrecking, or Junkyard																		C		(C)(5)(c)(3)
Waste/Recycling Processing Facility																	C	P		(C)(5)(c)(4)

Section 375-3: Use Regulations  
Section 375-3(B): Permitted Use Table

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District Standards 375-2	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
LAND USE CATEGORY	(C)(1)(d)	(C)(2)(d)	(C)(3)(d)	(C)(4)(d)	(C)(5)(d)	(C)(6)(d)	(D)(1)(d)	(D)(2)(d)	(D)(3)(d)	(D)(4)(d)	(D)(5)(d)	(D)(6)(d)	(D)(7)(d)	(D)(8)(d)	(D)(9)(d)	(D)(10)(d)	(E)(1)(d)	(E)(2)(d)	(E)(3)(d)	
<b>ACCESSORY USES</b>																				
Accessory Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		(C)(6)(a)
Alternative Energy Generation Equipment or Facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(b)
Cabaret							A	A	A	A	A	A	A	A	A	A	A	A		(C)(6)(c)
Composting of Household Waste Generated on Site	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				(C)(6)(d)
Customary Accessory Uses and Related Structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(e)
Day Care Home	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(f)
Delivery Service							A	A	A	A	A	A	A	A	A	A	A	A		(C)(6)(g)
Drive-In or Drive-Through Facility									C	A	A	A	A	A	A		A	A		(C)(6)(h)
Electric Vehicle Charging Station					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(i)
Home Occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				(C)(6)(k)
Rain Barrel	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				(C)(6)(m)
Sidewalk or Outdoor Cafe							A	A	A	A	A	A	A	A	A	A	A			(C)(6)(n)
Storage Shed	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(o)
Swimming Pool	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				(C)(6)(p)
Telecommunication Antenna or Satellite Dish as an Accessory Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(o)
Trash Storage, Outdoor	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	(C)(6)(p)
<b>TEMPORARY USES</b>																				
Farmers' Market					T	T	T	T	T	T	T	T	T	T	T	T			(C)(7)(a)	
Mobile Vendor									T	T	T	T	T	T	T	T	T	T	(C)(7)(b)	
Portable Storage Container	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(C)(7)(c)	
Temporary Construction Office or Yard	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(C)(7)(d)	
Temporary Real Estate Sales/Leasing Office	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	(C)(7)(e)	
Temporary/Seasonal Sales/Activity	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		(C)(7)(f)	



November 12, 2021

Richard Berkley, Chair  
Board of Zoning Appeals  
City of Albany  
24 Eagle St., City Hall  
Albany, NY 12207

Re: Stewart's Shop – 875 New Scotland Ave., Albany, NY 12209  
Request for change in hours of operation

Dear Chairman Berkley:

With respect to our store located at 875 New Scotland Ave., we are requesting that the hours of operation be changed from 6 am - 10 pm to 5 am - 11 pm. This proposed change is in response to customer feedback which would allow us to better meet the needs of the Albany community. Specifically, customers have been asking for the store to open earlier in the morning to accommodate their work hours, including contractors, government employees and health-care related personnel. As a local and employee-owned business, we value our customer suggestions and strive to respond to them whenever possible.

As background, our store in question was granted a Use Variance to operate back in 1984, which included setting the hours of operation at 7 am - 10 pm. In 1988, we applied for a modification of the 1984 Use Variance, which was approved in part and changed the hours of operation to 6 am - 10 pm (copy attached herein). For reference, the hours of operation allowed in this MU-NE zone are currently 6 am - 11 pm. As stated above, our primary objective is to open one hour earlier for our customers.

It is our understanding that the mechanism to modify an existing Use Variance is for the Board to administratively review our application for approval. For the Board's information, per caselaw on this issue, a modification to a Use Variance does not require the same standard as the original Use Variance approval. Specifically, the demonstration of hardship is not required when requesting a modification of a Use Variance, and a "common sense" approach for such changes should be utilized by the ZBA (Miller v. ZBA of Saratoga Springs, 671 NYS2d 954). Such an approach was used by your BZA when this store's hours of operation were changed back in 1988.

Our application is submitted herein for your review. If you need any further documentation, please contact me. Thank you for your consideration in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Tyler Fronte", written in a cursive style.

Tyler Fronte  
Phone 518-581-1201 x 4440

P.O. Box 435 Saratoga Springs, NY 12866



NOTIFICATION OF LOCAL ACTION

DECISION OF THE CITY OF ALBANY BOARD OF ZONING APPEALS

ADDRESS OF SUBJECT PROPERTY: 875 New Scotland Avenue

IN THE MATTER OF: Extension of the hours of operation from 7 a.m. to 10 p.m. to 6 a.m. to 11 p.m.

APPLICANT: Stewart's Ice Cream - Walter Warren

ADDRESS: P.O. Box 435, Saratoga Springs, New York 12866

CASE NUMBER: # 4-88,495

DATE APPLICATION RECEIVED: 4 / 15 / 88

DATE OF HEARING: 5 / 19 / 88

DATE OF DECISION: 5 / 23 / 88

The above referenced application is hereby:

- Approved
- Approved subject to the conditions listed below
- Disapproved for the following reasons

Vote:	
For	6
Against	0
Abstain	0

FINDINGS:

On 2/11/85 the Board of Zoning Appeals granted a variance to convert the site of a former gas station to a Stewart's shop. As a condition of original approval the Board limited the hours of operation to 7 a.m. to 10 p.m. The applicants are now requesting that the hours be expanded to 6 a.m. to 11 p.m.

The Board concludes that allowing the store to open for business at 6:00 a.m. would not negatively impact on the neighborhood or change the neighborhood's basic character while at the same time it would provide expanded hours of service to its early morning customers.

The Board unanimously concurs however that the best interests of the neighborhood would be protected and served by continuing to require that the store close at 10:00 a.m.

CONDITIONS:

That the hours of operations be expanded to allow the store to open at 6:00 a.m. but continue to close at 10:00 p.m.

ADVISORY NOTE:

~~The dead and dying pine trees that were required to be planted on the north side of the site be replaced within thirty (30) days of the date of this decision.~~

I, Joseph Dolan representing the Board of Zoning Appeals of the City of Albany, hereby certify that the foregoing is a true copy of a decision of the Board of Zoning and Appeals made at a meeting thereof duly called and held on the 23rd day of May, 19 88.

Date: 5/23/88

Signature: [Signature]

-----  
This is not a building permit. All building permits must be approved and issued by the Building Department prior to the start of any construction.  
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Unless otherwise specified by the Board, this decision shall expire and become null and void if the applicant fails to obtain any necessary zoning, building or other permits or comply with the conditions of such decision within six (6) months of the date of authorization.  
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#231



**Albany County Clerk  
32 North Russell Rd.  
Albany, NY 12206-1324**

**Return to:**  
BOX 41

**Instrument            Deed**

**Document Number:** 10849554    **Book:** 3001    **Page:** 387

**Grantor**

WARREN, LEE E  
WARREN, WALTER C

**Grantee**

STEWARTS SHOPS CORP

**Number of Pages:** 4

**Amount**            \$450000.00

**Recorded Date/Time** 03/21/2011 at 9:37 AM

**Receipt Number**    633057

Transfer Tax Receipt  
Albany County Clerk Received:  
Trans Tax # 3536  
.....\$1800.00

**Note:    \*\* DO NOT REMOVE - THIS PAGE IS PART OF THE DOCUMENT \*\***

**THIS PAGE CONSTITUTES THE CLERK'S ENDORSEMENT, REQUIRED BY SECTION 316-a(5) &  
319 OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK.**

*Thomas G. Clingan*  
Thomas G. Clingan, County Clerk

FULL COVENANT AND WARRANTY DEED - INDIVIDUAL OR CORPORATION

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

This Indenture, made the 23<sup>rd</sup> day of February, 2011

RR bx 41

Between

LEE E. WARREN, RESIDING AT 3045 JEANNE DR.,  
SCHENECTADY, NY 12303 AND WALTER C.  
WARREN, RESIDING AT 216 CHANNEL RUN,  
WASHINGTON, NC 27889

party of the first part, and

STEWART'S SHOPS CORP, WITH OFFICES AT PO  
BOX 435, SARATOGA SPRINGS, NY 12866

party of the second part,

Albany County Clerk  
Deed Books (Record Room)  
Book 3001 Page 388



Witnesseth, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

See Attached Schedule "A"

BEING the same premises conveyed to Lee E. Warren and Walter C. Warren from Lee E. Warren and Walter C. Warren by Deed dated January 18, 2006 and recorded in the Albany County Clerk's Office on October 20, 2006 in Book 2862 of Deeds at Page 949.

SUBJECT to any and all enforceable building conditions, easements, restrictions, or covenants of record affecting the above described premises, and also subject to any state of facts that an accurate survey would show.

Together with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above-described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

And the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

And the party of the first part...

USE ACKNOWLEDGEMENT FORM BELOW WITHIN NEW YORK STATE ONLY:

State of New York, County of Schenectady } ss.:

On <sup>March</sup> 9, 2011, before me, the undersigned, personally appeared

Lee E Warren

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

**THOMAS L. HERKENHAM**  
Notary Public, State of New York  
No. 02HE6026618  
Qualified in Rensselaer County  
Commission Expires June 4, 2011  
*(signature and office of individual taking acknowledgment)*

ACKNOWLEDGEMENT FORM FOR USE WITHIN NEW YORK STATE ONLY:  
(New York Subscribing Witness Acknowledgment Certificate)

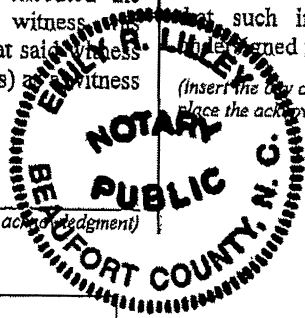
State of New York, County of \_\_\_\_\_ } ss.:

On February \_\_\_\_\_, 2011, before me, the undersigned, personally appeared

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number, if any, thereof); that he/she/they know(s) to be the individual(s) described in and who executed the foregoing instrument; that said subscribing witness was present and saw said execute the same; and that said witness at the same time subscribed his/her/their name(s) as witness thereto.

*(signature and office of individual taking acknowledgment)*



USE ACKNOWLEDGEMENT FORM BELOW WITHIN NEW YORK STATE ONLY:

State of New York, County of \_\_\_\_\_ } ss.:

On February \_\_\_\_\_ 2011, before me, the undersigned, personally appeared

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

*(signature and office of individual taking acknowledgment)*

ACKNOWLEDGEMENT FORM FOR USE OUTSIDE NEW YORK STATE ONLY:  
(Out of State or Foreign General Acknowledgment Certificate)

State of North Carolina County of Beaufort } ss.:

(Complete Venue with State, Country, Province or Municipality)

On February 23, 2011 before me, the undersigned, personally appeared

Walter C. Warren

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and

(Insert the city or other political subdivision and the state or county or other place the acknowledgment was taken)

*(signature and office of individual taking acknowledgment)*

*Emil R. Lillie*

Warranty Deed  
WITH FULL COVENANTS

Lee E. Warren and Walter C. Warren

TO

DISTRICT  
SECTION  
BLOCK  
LOT  
COUNTY OR TOWN Albany

RECORDED AT REQUEST OF  
Kelleher Herkenham LLC

RETURN BY MAIL TO

SCHEDULE A

All that piece or parcel of land situate, lying and being in the City of Albany, County of Albany and State of New York, being lands conveyed to Lee E. Warren and Walter C. Warren in a deed dated January 18, 2006 and filed in the Albany County Clerk's Office in Liber 2862 of Deeds at page 950 and being bounded and described as follows:

Beginning at a point marked by a capped iron pin at the intersection of the northwest bounds of New Scotland Avenue with the northeast bounds of Hemlock Lane, said point being approximately 75 feet northwest of the centerline of said New Scotland Avenue and 30.00 feet northeast of the centerline of said Hemlock Lane, and being the south corner of lands of Lee E. Warren and Walter C. Warren and the parcel herein described; running thence along said east bounds of Hemlock Lane as shown on a subdivision map entitled "Subdivision Map of Hemlock Estates", dated April 7, 1975 by Hershberg & Hershberg and filed in the Albany County Clerk's Office on August 23, 1976 as Map number 5229

N 37° 30' 30" W 110.00' to a point marked by a capped iron pin at the south corner of Lot #4 Teacup Circle as shown on said subdivision map, being lands now or formerly of Fay A. Weinstein; running thence along the southeast bounds of said Lot #4 Teacup Circle and said lands now or formerly of Weinstein

N 30° 27' 30" E 92.47' to a point at the south corner of Lot #6 Teacup Circle as shown on said subdivision map, being lands now or formerly of John E. Jeffers and Kimberly M. Jeffers; running thence along the southeast bounds of said Lot #6 Teacup Circle and said lands now or formerly of Jeffers

N 30° 27' 30" E 91.00' to a point at the south corner of Lot #8 Teacup Circle as shown on said subdivision map, being lands now or formerly of Suzanne Romeo; running thence along the southeast bounds of said Lot #8 Teacup Circle and said lands now or formerly of Romeo

N 30° 27' 30" E 103.39' to a point marked by an iron pipe on the southwest bounds of lands of the City of Albany; running thence along said southwest bounds of lands of the City of Albany the following two courses:

S 87° 04' 10" E 38.52' to a point marked by a capped iron pin; and

S 63° 19' 19" E 91.00' to a point marked by a railroad spike set in a macadam parking area on the aforementioned northwest bounds of New Scotland Avenue; running thence along said northwest bounds of New Scotland Avenue, as established by New York State Department of Public Works appropriation in 1951 and shown on Map no. 24OR-1 (Parcel no. 261) for the "Catskill Thruway, Albany County", dated June 5, 1951, the following two courses:

S 27° 55' 25" W 138.03' to a point marked by a railroad spike set in a macadam parking area; and

S 38° 11' 59" W 216.00' to the point and place of beginning. Containing 0.911 acre of land.

Subject to a 12' wide access easement granted to Sarah J. Warren by Walter L. Warren in a deed dated March 24, 1953 filed in the Albany County Clerk's Office in Liber 1350 of Deeds at page 297 and now used by William H. Bayer for ingress and egress between New Scotland Avenue and his lands at 873 New Scotland Avenue, northwest of the herein-described parcel of land.