

October 13, 2021

VIA HAND

Zoning Board of Appeals
Village of Mamaroneck
169 Mt. Pleasant Avenue
Mamaroneck, New York 10543

Re: ***1258 E. Boston Post Road – Special Permit
Section 4, Block 65D, Lot 306B***

Dear Chair Kramer and Members of the Board:

We represent Integrity Automotive Group, LLC D/B/A Toyota City (the “Applicant”) in connection with the property located at 1258 E. Boston Post Road (the “Subject Property”). The Applicant currently has a Site Plan Application pending before the Planning Board with regard to the Subject Property. There have been multiple rounds of comments from the Board and revisions made by the Applicant and the Planning Board has provided a recommendation that we Submit for a Special Permit with the Zoning Board while the Site Plan Application is pending. Therefore, submitted herewith an application for Special Permit approval for a motor vehicle sales use at the Subject Property. We have also included the latest responses to comments from the Village Engineering Consultant, Kellard Sessions.

Specifically, attached are the following:

- Exhibit 1 - Board of Appeals Special Permit Application
- Exhibit 2 - Consent Form
- Exhibit 3 - Certification/Affidavit
- Exhibit 4 - Letter with Response to Comments of Planning Board from Meeting on 9/22/21 and Kallard Sessions Comments dated 9/17/21 prepared by ALP Engineering & Landscape Architecture, PLLC dated 10/14/2021
- Stormwater Pollution Prevention Plan/Stormwater Management Report- 10/7/21
- Project Drawings prepared by Crozier, Gedney Architects, P.C. and ALP Engineering, last revised October 7, 2021
 - T-100: Proposed Site/Lighting Plan
 - C-101: Layout/ Landscape Plan
 - C-102: Grading and Utilities Plan
 - C-103: Erosion and Sediment Control Plan
 - C-111: Construction Details
 - C-112: Construction Details
 - C-113: Construction Details
 - C-114: Construction Details

Executive Summary

The Subject Property is located in the C-1: General Commercial District and is currently a vacant lot. The site has at times previously been used for vehicle storage by prior owners of Toyota City. The Applicant proposes to improve the current property by constructing a new motor vehicle sales showroom and offices with associated vehicle parking and storage areas, which is a Special Permit use in the C-1 district. At the Application involves the construction of a facility less than 4,000 SF it is a Type II Action an exempt from review under SEQR pursuant to GNYCRR 617.5(c)(9).

Specifically, the proposed use meets all of the criteria set forth in §342-71 of the village code set forth below:

- A. That the location and size of the use, the nature and intensity of the operations and traffic involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to the type, arrangement and capacity of streets giving access to it and the houses of operation are such that the proposed use will be in harmony with the appropriate and orderly development of the district in which it is located.*

The proposed motor vehicle sales showroom and offices will cover a total of 780 sq/ft of the property and the remainder of the property will be utilized for vehicle storage and customer parking with 38 total parking stalls. The property has already been previously used for vehicle storage. The Applicant is in the process of retaining a traffic consultant to work with the New York State Department of Transportation to obtain a highway work permit. The Applicant will be submitting a Commercial Driveway/Access Permit application to the New York State Department of Transportation for the proposed improvements within the State right-of-way.

- B. That the location, nature and height of buildings, walls and fences and the nature and extent of the landscaping and screening on the site, as existing or proposed, are such that the use will not hinder or discourage the appropriate development and use the adjacent land and buildings.*

The Applicant is proposing planting areas around the rear of the property to create a buffer between the nearby residential properties along Sunnyside Avenue. Excess remaining asphalt will be removed and converted to lawn or planting beds. The existing chain link fence will remain as it serves as a safety measure to limit access to the Subject Property. The existing fence and gate along the eastern side of the property adjacent to Sunnyside Avenue as well as the existing stone masonry retaining wall will remain.

- C. The operations in connection with the proposed use will not be objectionable by reason of noise, fumes, smoke, dust, vibration, glare, intensity or flashing of lights.*

The use will not generate any objectionable nuisances as all activity will be contained to the property and the nature of motor vehicle sales does not produce any objectionable byproducts. "Unlike a variance, a special permit or special exception allows an owner to use the

subject property in a manner expressly permitted by law (*see, Matter of North Shore Steak House v Board of Appeals*, 30 NY2d 238; *Matter of C.B.H. Props. v Rose*, 205 AD2d 686). Such a classification is tantamount to a legislative finding that, if the special exception conditions are *502 met, such use is in harmony with the general zoning plan and will not adversely affect the neighborhood and the surrounding areas (*see, Matter of Lee Realty Co. v Village of Spring Val.*, 61 NY2d 892; *Matter of North Shore Steak House v Board of Appeals, supra*; *Matter of C.B.H. Props. v Rose, supra*). " *Matter of Matter of Framike Realty Corp. v Hinck*, No. 94-09424, 220 A.D.2d 501, 501-02, 632 N.Y.S.2d 177, 1995 WL 595427 (N.Y.A.D. 2 Dept., Oct. 10, 1995). There are other car dealerships within the immediate vicinity of the property, therefore, the use will be in keeping with existing developing patterns.

D. That the parking areas to be provided will be of adequate capacity for the particular use, properly located and suitably screened from adjoining residential uses and that the entrance and exit drives shall be laid out so as to achieve maximum safety.

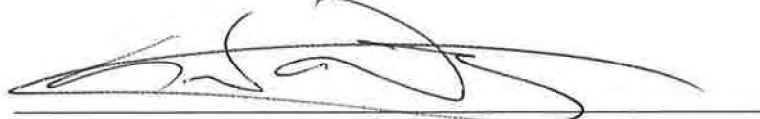
As mentioned above, there will be 38 total parking stalls for parking storage. The Applicant is proposing an improvement over existing conditions with regard to the grading, ingress and egress to the property. The Subject Property will be properly screened with landscaping so as to provide an esthetic improvement into the neighboring residential property. The Applicant intends on preserving the current curb cut on Sunnyside Avenue only for emergency use. The Applicant will have a gated entrance that will remain closed and locked at all times.

E. That, where they are applicable, the standards and requirements establish or approved by the Village Engineer have been satisfactorily met as evidenced by his certification and that all necessary approvals of any other governmental agency or board have been or will be obtained by the applicant.

The Applicant fully intends on meeting all necessary standards and obtaining all approvals with regard to the proposed Application.

Very Truly Yours,

HARFENIST KRAUT & PERLSTEIN LLP

A handwritten signature in black ink, appearing to read 'Leo K. Napior', written over a horizontal line.

Leo K. Napior

VILLAGE OF



MAMARONECK

OFFICE OF
THE
BUILDING
INSPECTOR

Village Hall
Mamaroneck, N.Y. 10543

TELEPHONE
(914) 777-7731

Address Reply to:
Building Department
169 Mt. Pleasant Avenue

ZONING BOARD

APPLICATION

PART 1

CHECKLIST FOR INITIAL ZONING BOARD OF APPEALS SUBMISSION

- ☒ Applicable fee - *Previously Submitted*
- ☒ 1 Electronic Copy of All documents submitted

Applicant must submit sixteen (16) copies of the following:

- ☒ Completed Application
- N/A ☐ All Certificates of Occupancy or Temporary Certificate of Occupancy for the property, or Letter from the Building Department in lieu thereof
- N/A ☐ Violations on the property and proof that they have been corrected
- ☒ *Photographs* of the property (3" X 5" or larger) that depict the location and potential impacts of your application
- ☒ *Accurate survey*** of the current status of the property which has been prepared and certified by a licensed surveyor *within the past twelve (12) months* of the application date, shall be submitted with each application.

****ALL SURVEYS SUBMITTED FOR A VARIANCE REQUEST *MUST SHOW THE SETBACKS FOR ALL STRUCTURES ON THE LOT TO THE PROPERTY LINE***

Please Note: Where a survey certified within the past 12 months is not available and the application does not involve any change to the exterior of the property, the ZBA will accept a certification by the owner that to his/her knowledge the existing survey accurately depicts the current status of the property

- ☒ *Certified drawings*, prepared by a registered architect or professional engineer, and other supporting documents
- ☒ *Written consent of the owner*, if you are not the owner of the property
- ☒ *Certification*, as required by NYS General Municipal Law
- N/A ☐ State Environmental Quality Review (SEQRA) *Short or Long Environmental Assessment Form*
- N/A ☐ *Copy of the Determination* being Appealed
- ☒ NOTE: See Instructions regarding submittal of Supplemental Materials or New Plans (Item VII in the Rules of the Zoning Board of Appeals of the Village of Mamaroneck and Instructions for Bringing an Appeal


Applicant's Signature

10/14/21
Date

Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)

1. This is an Application for the following: check one (1) or more as applicable

- ☐ **Area Variance** - This is to use land in a manner not allowed because of dimensional or topographical requirements in the Zoning Code
- ☐ **Use Variance**- This is to allow land to be used in a manner or for a purpose which is prohibited or not allowed by the Zoning code.
- ☒ **Special permit**
- ☐ **Sign Variance**
- ☐ **Fence Variance**
- ☐ **Appeal or Interpretation (Specify Code Section)**
- ☐ **Other:** Specify: _____

2. The Date and Description of the determination that is being appealed (a copy of the determination must be attached)

3. What is the present zoning of the property? C-1

4. This Application must be made in the name of the person or entity that has a *possessory interest in the property such as a tenant, purchaser or owner*. If you are the owner, on *what date did you acquire title?* _____ If you are not the owner, list the name and address of the owner and describe your relationship to the property and the date said relationship commenced: _____

John DeCrescenzo, et al, Tenant 2020

IF you have acquired title to the property within the past two years, provide the name of the prior owner:

NOTE:

If the Applicant or Property Owner is a:

Corporation: Attach a separate Rider listing all the corporation's officers, shareholders and their percentage of share ownership.

Partnership: attach a separate Rider listing the type of partnership and identify the partners and their partnership interests.

LLC: attach a separate Rider listing the LLCs members

**Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)**

5. If someone else is authorized to act as your representative or to appeal with you on your behalf before the Board, his or her name, address and telephone number must be provided:

Name:	<u>Leo Napior- Harfenist Kraut and Perlstein, LLP</u>
Address:	<u>2975 Westchester Avenue</u>
Telephone:	<u>914-701-0800</u>
Email:	<u>lnapior@hkplaw.com</u>

6. Has a prior variance, special permit, or interpretation Application ever been submitted for this property?



Yes



No

If YES, you must attach copies of the prior variance or resolution and describe them:

Prior Tenants had sought a use variance to use both the subject property and adjacent residential lot for vehicle storage

7. List **all permits** you must obtain in order to complete the subject project of this Application (include all permits or approvals necessary from any federal, state, county, or local agency or department):

Site plan, buildiq permit, highway work permit.

**Village of Mamaroneck,
New York Zoning Board of Appeals (Effective 2007)**

12. Under State law, the Board of Appeals must consider the following factors in making a decision on your request for an area variance:

- 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

- 2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;

- 3) whether the requested area variance is substantial;

- 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

- 5) whether the alleged difficulty was self-created...
