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March 23, 2023

**VIA HAND DELIVERY**

Chair Robin Kramer  
and Members of the Zoning Board of Appeals  
Village of Mamaroneck  
169 Mt. Pleasant Avenue  
Mamaroneck, NY 10543

Re: East Coast North Properties, LLC  
Application for Area Variances  
Premises: 416 Waverly Avenue, Village of Mamaroneck, New York  
Parcel ID: Section 8; Block 111; Lots 29-42

Dear Chair Kramer and Members of the Zoning Board of Appeals:

This letter and enclosed amended area variance application materials are respectfully submitted on behalf of East Coast North Properties, LLC (the "Applicant"), owner of the above captioned Premises, in furtherance of the proposed addition to the existing self-storage building.<sup>1</sup> We are requesting this matter be placed on the April 13<sup>th</sup> Zoning Board of Appeals ("ZBA") agenda for consideration of the requested area variances.

**I. Existing Conditions at the Premises**

The Premises is located in the heart of the Village's Industrial Area,<sup>2</sup> to the southeast of the intersection of Waverly Avenue and Fenimore Road. The property is classified in the M-1 Manufacturing Zoning District where storage uses, business and professional offices and manufacturing and assembling uses are principally permitted.<sup>3</sup> The Premises is within the AE Flood Zone with a Base Flood Elevation ("BFE") varying from  $\pm 26.00 - 27.00$ .

There are currently 5 buildings located on the Premises. The existing self-storage building located along Waverly Avenue was constructed in approximately 2015 and is proposed to remain. When the existing self-storage building was approved, several area variances were granted by the ZBA (see **Exhibit H**), and a consistency determination from the Harbor & Coastal Zone Management

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<sup>1</sup> The area variance application was initially submitted to the ZBA on June 20, 2018.

<sup>2</sup> As defined in the 2012 Comprehensive Plan, p.29.

<sup>3</sup> Section 342-32(A)(1) of the Village of Mamaroneck Zoning Code ("Zoning Code").



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Commission ("HCZMC"), site plan approval from the Planning Board, approval from the Board of Architectural Review and a flood development permit were issued for the building.

A 3-story Barn and a 2-story building over covered parking are located near the rear of the property line, along with an open contractor equipment storage area. At the corner of Fenimore Road and Waverly Avenue, there is a 2-story stucco building. A 2-story concrete block structure used as the Murphy Brothers Construction ("MBC") office is located in the center of the site. These 4 aging industrial buildings are located below the BFE and are prone to flooding because they do not comply with the applicable standards in the Village's Floodplain Development Code ("Flood Code") for buildings in an AE flood zone.

The site is currently served by various curb cuts and driveways along both Waverly Avenue and Fenimore Road. The existing parking spaces available for onsite uses are currently divided into several sections, lack organized flow and are frequently occupied by construction equipment and vehicles.

## **II. The Re-Designed Addition to the Existing Self-Storage Building**

As the ZBA is aware, the Applicant has re-envisioned the development previously proposed in the June 20, 2018 area variance application as part of the State Environmental Quality Review Act ("SEQRA") process. The amended Project now proposes a building addition that has been reduced in terms of size, massing and scale.

Under the amended Project, all of the existing buildings onsite, except the self-storage building, will be razed, resulting in the reduction of 18,589 square feet of existing floor area from what was originally proposed. The new building addition will consist of 44,314 square feet of gross floor area, which represents a total net increase of 25,725 square feet on the Premises once the floor areas of the existing industrial buildings to be demolished are deducted.

The proposed addition will consist of 34,270 square feet for the self-storage addition, 2,157 square feet for the MBC office, 5,879 square feet for a new woodworking shop and 2,008 square feet of incubator professional office space consisting of five 10-foot by 12-foot workstations and other office amenities, all of which uses are principally permitted uses in the M-1 District as mentioned above.

The addition is now proposed to be broken into 5 separate segments, each of which are distinctly articulated and clad in differing façade materials to resemble independent buildings. The southernmost section of the building addition will be integrated with the existing self-storage building and will correspond to the 4-foot height of that building. Moving north, the building will step down to 3 stories and then will step down further to 2 stories where a terrace, landscaped rain garden and lawn will integrate the Premises into the Fenimore Road streetscape. The





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streetscape is proposed to be further enhanced by replacing the MBC office building located at the Waverly Avenue/Fenimore Road intersection with a publicly accessible pocket park containing decorative seasonal landscaping and benches around a circular walkway.

Access to the Project Site will be provided from the existing two-way driveway on Waverly Avenue located adjacent to the existing self-storage building. The second existing driveway on Waverly Avenue will be eliminated. An exit, right-turn-only driveway will be maintained on Fenimore Road. The parking lot will be reconfigured to provide 26 full-size parking stalls and 3 new off-street loading spaces.

The Project will slightly decrease the impervious coverage onsite by 4.8%. New stormwater management improvements are proposed including the rain garden along Fenimore Road. The building addition would be served by existing utility connections. New exterior site lighting and landscaping around the entire Waverly Avenue and Fenimore Road frontages is also proposed.

The first finished floor of the addition will be constructed 2 feet above the BFE, at elevation 29.00, and will fully comply with the Village and FEMA construction standards applicable to commercial buildings in the AE Flood Zone. The new building addition is designed to include wet floodproofing to maximize flood storage onsite and a 31,091 cubic foot increase in flood storage is proposed. Additionally, flood gates and vents will be incorporated into the building design and will launch automatically without the need for electricity.

The Project will also incorporate a Community Solar System as part of NYSEERDA's Community Solar Program, consisting of the installation of roof-mounted photovoltaic solar arrays. This system will provide clean energy to local residents.

### **III. Procedural History**

The Project has been undergoing environmental review with the ZBA for nearly 5 years, the record of which is incorporated by reference herein. The Applicant filed an area variance application for the Project with the ZBA on May 10, 2018. After ten months of ZBA review, an amended Zoning Compliance Determination was issued by the Village Building Department on March 29, 2019 to correct minor inconsistencies and errors in the prior determination. See Exhibit G. As part of the SEQRA process, the ZBA, acting as Lead Agency, adopted a Positive Declaration on June 6, 2019. The Positive Declaration asserted that the Project may have the potential for a significant adverse environmental impact on the environment and as such, required the Applicant to prepare a Draft Environmental Impact Statement ("DEIS").



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On January 5, 2023, the ZBA adopted the Final Environmental Impact Statement (“FEIS”) and most recently, on February 2, 2023, the ZBA adopted the SEQRA Findings Statement. See Exhibits D, E & F.

On March 6, 2023, the Village Building Inspector issued an amended Zoning Compliance Determination indicating the area variances needed for the re-envisioned Project. See Exhibit C.

#### **IV. Requested Area Variance Relief**

Given that the amended Project is smaller in scale and size than the previously proposed addition, the Project is more zoning compliant than originally proposed. Notwithstanding, as demonstrated by the March 6, 2023 amended Zoning Compliance Determination, the Project will require the following 4 area variances<sup>4</sup>:

|                                   | <b>Zoning Code Requirement</b> | <b>Existing</b>        | <b>Proposed</b>  | <b>Variance</b> |
|-----------------------------------|--------------------------------|------------------------|------------------|-----------------|
| Maximum Building Height (Stories) | 3 stories                      | 4 stories <sup>5</sup> | 4 stories        | 1-story         |
| Maximum Floor Area Ratio (“FAR”)  | 1.0                            | 1.34 <sup>6</sup>      | 1.92             | 0.58            |
| Maximum Building Coverage         | 50%<br>22,078 sf               | 45%<br>20,081 sf       | 52%<br>23,094 sf | 2%<br>1,016 sf  |
| Minimum Off-Street Parking Spaces | 124 spaces                     | 52 spaces <sup>7</sup> | 26 spaces        | 61 spaces       |

#### **V. The Five Factors Balance in Favor of Granting the Area Variances**

In considering the granting of the requested area variances, New York State Village Law Section 7-712-b(3)(b) and Zoning Code Section 381-77(B)(2)(a) provide that a Zoning Board of Appeals shall consider the benefit to the applicant if the variances are granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

In weighing the aforementioned balancing test the Board shall consider: “(i) 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; (ii) whether the benefit

<sup>4</sup> The area variances required were also included on page 5 of the SEQRA Findings Statement.

<sup>5</sup> A 1-story area variance was previously granted in 2013 for the existing self-storage building. See Exhibit H- Oct. 3, 2013 Zoning Board of Appeals Resolution (“2013 ZBA Resolution”).

<sup>6</sup> A 0.34 FAR variance was previously granted in 2013 for the existing self-storage building. See Exhibit H- 2013 ZBA Resolution.

<sup>7</sup> A 37-space variance was previously granted in 2013 for the existing self-storage building (allowing 52 spaces where 89 spaces were required). See Exhibit H- 2013 ZBA Resolution.





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sought by the applicant can be achieved by some method, feasible to the applicant to pursue, other than the area variance; (iii) whether the requested area variance is substantial; (iv) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (v) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.”

***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.***

The granting of the requested area variances will produce neither an undesirable change in the character of the neighborhood nor a detriment to nearby properties. Although variances are being requested herein, the Project reflects the development in the surrounding area and will actually improve the character of the Industrial Area.

#### Visual & Streetscape Impacts

The Project will not have a negative impact on the aesthetic character of the surrounding area. In fact, the Applicant is proposing a dramatic improvement over the existing visual conditions on the property, particularly along the streetscapes. As previously discussed herein, the existing older industrial buildings on the Premises are nonconforming and contractor equipment and vehicle storage comprises a large portion of the existing parking area. See Existing Site Conditions Photos on Sheet A-202 of the enclosed Site Drawings, prepared by KTM Architect PLLC, dated December 14, 2017 and revised through March 23, 2023 (“Site Drawings”). All 4 of the aging industrial buildings will be razed and all outdoor vehicle and contractor storage will be removed.

As previously discussed herein, in response to concerns raised during the DEIS process regarding visual impacts of the Project, the Applicant significantly modified the size, scale, mass and design of the Project. The re-envisioned façade divides the proposed addition into 5 separate segments, each distinctly articulated and clad in different façade materials to resemble independent buildings. As depicted on the enclosed renderings of the Project (**Exhibit J**), the addition will utilize varied colors, materials and structural elements to disguise the self-storage use as a commercial or office building. Features such as windows, cornices and moldings break-up the vertical mass of the proposed addition and design elements such as the brick base and mansard roof add detail to the building’s architecture. Awnings and decorative goose neck light fixtures are also proposed for additional visual variety. As discussed further in the SEQRA Findings Statement,<sup>8</sup> the ZBA concluded that these amendments reduced the visual impact and apparent mass of the building.

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<sup>8</sup> See Exhibit F- SEQRA Findings Statement, adopted by the ZBA on February 2, 2023 (“SEQRA Findings Statement”), p.16 & 18.

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The streetscape will be enhanced by replacing the existing MBC office building at the corner of Waverly Avenue and Fenimore Road with a publicly accessible pocket park containing street trees, decorative seasonal landscaping and benches around a circular walkway. See Exhibit J- Renderings. New plantings will be provided on all unoccupied areas of the Project Site, the existing planting beds along Waverly Avenue will be expanded and 2 new planting beds will be added along Fenimore Road. See Exhibit J- Renderings. The proposed rain garden along the Fenimore Road façade will include plants like Daylilies, Green Gem Boxwoods and Evergreen Azalea's to attract pollinators.

This redesigned Project reduces both the visual mass of the building and the footprint of the addition by approximately 1,044 square feet, resulting in a reduction to the overall proposed FAR of the site from 2.26 to 1.92.<sup>9</sup> The redesign also resulted in a reduction in the height of portions of the new addition. As depicted on Sheet A-201 of the Site Drawings and the enclosed renderings (**Exhibit J**), the southernmost section of the addition will be integrated with the existing 4-story self-storage building and will correspond to that height. However, moving north the building will fully comply with all height restrictions as it steps down to 3 stories and then again to 2 stories where a terrace, rain garden and lawn integrate into the Fenimore Road streetscape.

As the ZBA previously concluded, the Project's potential to adversely impact visual resources will be minimized by architectural design features, screening of the rooftop mechanical equipment and solar panels and landscaping of the parking lot and streetscape.<sup>10</sup> When considering the merits of this application for area variances, the ZBA cannot make decisions inconsistent with its prior determinations. "[A] decision of an administrative agency which neither adheres to its own prior precedent nor indicates its reason for reaching a different result on essentially the same facts is arbitrary and capricious." Knight v. Amelkin, 503 N.E.2d 106, 106 (N.Y. 986).

The Project will not obstruct viewpoints in the surrounding neighborhood or adversely impact the visual character of nearby properties. During the DEIS process, the ZBA analyzed 6 viewpoints identified in the Scoping Document and determined that while views of the Project will be plainly visible from some locations, the addition is a continuation of the existing building, which has established the visual character of the site.<sup>11</sup> Looking at the Premises from the northwest corner of the intersection of Fenimore Road and Hoyt Avenue, there is currently a view of the existing "barn" building that is actually wider than the proposed addition.<sup>12</sup> The new building addition is not visible from the northwest corner of the intersection of Waverly and Ogden Road or from the Highview Street Historic District.<sup>13</sup>

The existing Mamaroneck Self-Storage facility on the Premises, opened in 2015, has established the visual character of the property and is one of the only recent physical improvements in the

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<sup>9</sup> See Exhibit F- SEQRA Findings Statement, p.16

<sup>10</sup> See Exhibit F- SEQRA Findings Statement, p.19.

<sup>11</sup> See Exhibit F- SEQRA Findings Statement, p.17.

<sup>12</sup> See Exhibit F- SEQRA Findings Statement, p.17.

<sup>13</sup> See Exhibit F- SEQRA Findings Statement, p.17-18.





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Industrial Area. While the existing self-storage building and the proposed addition will be one of the taller buildings in the immediate area, it will fully comply with the maximum permitted height requirement as measured in feet. Indeed, while a 1-story height variance is requested for 1 of the 5 segments of the proposed addition, that 45-foot-tall segment fully complies with the Zoning Code's maximum permitted height in feet.

Aside from fully complying with the maximum height in feet permitted for this zone, the portion of the addition that will be 4-stories tall mirrors the height of the existing self-storage building on site, which was granted a 1-story height variance in 2013. See Sheet A-201 of the Site Drawings & **Exhibit J**-Renderings. Notably, as depicted on Sheets A-203 & A-204 of the enclosed Site Plans, there are 3 large multifamily and condominium buildings within 0.5 miles of the Premises<sup>14</sup> that are 4 or more stories tall in height. The Mason, a multifamily apartment complex consisting of three 4-story apartment buildings is located approximately 600 feet from the Premises at 270 Waverly Avenue. Similarly, there are 4 multifamily and condominium buildings and a nursing home<sup>15</sup> within 0.5 miles of the Premises that have an FAR in excess of that permitted under the Zoning Code, 3 of which have an FAR larger than the Project's proposed 1.92.<sup>16</sup> See Sheets A-203 & A-204 of the Site Plans. As such, the proposed height in stories, building coverage and FAR will not negatively impact the character of the surrounding area.

It is understood that "[g]enerally, when an applicant is seeking variances to conform to that which is prevalent in the neighborhood, absent other overriding considerations, a denial of relief is likely to be found arbitrary."<sup>17</sup> As demonstrated by the renderings of the proposed building in the neighborhood (**Exhibit J**), the aerial and street view images on Sheet A-202 of the Site Plans, the Project will not create a negative aesthetic environmental impact to the nearby area.

The Project is appropriately located in the geographic center of the Industrial Area, backs up to an existing railroad and is compatible with the existing uses and development in the neighborhood. The Premises is already fully developed, and the proposed addition is thoughtfully designed to create the appearance of 5 separate buildings, reducing the mass of the building and significantly improving the existing aesthetic conditions on the Premises.

In addition to improving the existing physical appearance onsite and having minimal impact to the surrounding area, the Project achieves several of the Village's goals and initiatives related to the visual character of industrial and office uses. The Village's 2012 Comprehensive Plan, 2019 Comprehensive Plan Update and Waverly Avenue Design Study contain objectives to improve the

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<sup>14</sup> The Mason (270 Waverly Avenue), Soundview Condominium (149 Fenimore Road), and Sweetwater/Stanley Avenue Condominium (225 Stanley Avenue).

<sup>15</sup> Sarah Neuman Nursing Home (845 Palmer Avenue), The Mason (270 Waverly Avenue), Soundview Condominium (149 Fenimore Road), and Sweetwater/Stanley Avenue Condominium (225 Stanley Avenue).

<sup>16</sup> Soundview Condominium, Sweetwater/Stanley Avenue Condominium and The Mason.

<sup>17</sup> Daneri v. ZBA of Town of Southold, 2010 WL 4155289 (N.Y. Sup. 2010).



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aesthetic quality of the Industrial Area.<sup>18</sup> As demonstrated in the street view images on Sheet A-202 of the Site Plans, the area consists of a mix of utilitarian industrial buildings, storage yards and remnant residences with little investment in the aesthetic quality of the area.

The Project will improve the visual character of the Industrial Area by conforming to the goals of the Waverly Avenue Design Study through enhancing the overall physical appearance of the property and improving the streetscape.<sup>19</sup> As previously discussed herein, the Applicant proposes to replace damaged sidewalks, limit the number of driveways on Waverly Avenue, organize vehicles in a planned parking lot and improve the public streetscapes.<sup>20</sup> The Project will add new street trees, planting beds, a rain garden and a publicly accessible pocket park containing decorative seasonal landscaping and benches around a circular walkway Waverly Avenue/Fenimore Road intersection. See Sheet SY-102 & **Exhibit J**- Renderings. This proposed landscaping will be a dramatic improvement along the Fenimore Road and Waverly Avenue streetscapes. The Applicant also proposes to install lighting at the rear of the proposed building to illuminate Railroad Way during evening hours to enhance public safety.<sup>21</sup>

Given the central location in the Industrial Area and demonstrated industrial pattern of land use in the immediate vicinity of the Premises, the additional 1-story, proposed parking area, FAR and building coverage proposed will not have a significant impact on the visual character of the neighborhood.

#### Traffic & Parking Impacts

As previously reviewed and concluded during the SEQRA EIS process, and as evidenced by the current operation of the existing self-storage facility, the Project will not have adverse impacts to the traffic or public parking in the surrounding neighborhood.<sup>22</sup> While an area variance for off-street parking is requested herein, there is no practical demand for the amount of parking required by the Zoning Code.<sup>23</sup> Indeed, the SEQRA Findings Statement concludes that the Village's off-street parking requirements for the proposed uses significantly overestimates the actual number of spaces required for the self-storage and industrial uses.<sup>24</sup> Providing this excess parking would further increase impervious coverage onsite and only result in unused paved area.

Section 342-56 of the Zoning Code requires the following off-street parking spaces for the Project's proposed uses:

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<sup>18</sup> See Exhibit F- SEQRA Findings Statement, p.6-8; 16 & 18.

<sup>19</sup> See Exhibit F- SEQRA Findings Statement, p.16.

<sup>20</sup> See Exhibit F- SEQRA Findings Statement, p.18.

<sup>21</sup> See Exhibit F- SEQRA Findings Statement, p.7.

<sup>22</sup> See Exhibit F- SEQRA Findings Statement, p.21.

<sup>23</sup> See Exhibit F- SEQRA Findings Statement, p.20-21.

<sup>24</sup> See Exhibit F- SEQRA Findings Statement, p.20-21.





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| Use                      | Zoning Code Parking Requirement   | Parking Spaces Required for the Project            |
|--------------------------|---|--|
| Storage                  | 1 space/ 750 square feet of gross floor area (GFA) but not less than 1 space for every 2 employees. | 101<br>(74,762 sf self-storage use)                |
| Manufacturing            | 1 space/ 750 square feet of gross floor area (GFA) but not less than 1 space for every 2 employees. | 8<br>(5,879 sf woodworking use)                    |
| Retail/ Service Business | 1/350 sf of GFA   | 7<br>(2,157 sf Murphy Brothers Contracting Office) |
| Office                   | 1/250 sf of GFA   | 8<br>(2,008 sf Incubator office space)             |
|                          | <b>TOTAL PARKING SPACES REQUIRED FOR THE PROJECT</b>  | <b>124</b>   |

As demonstrated by the table below, based on the Institute of Transportation Engineers' ("ITE") publication "Parking Generation", 5<sup>th</sup> Edition the anticipated demand is approximately just 15% of the parking the Village Zoning Code requires.<sup>25</sup>

| Use   | ITE Anticipated Demand | Proposed Parking Spaces |
|---|------------------------|-------------------------|
| Storage (inclusive of both the existing storage building and the proposed addition, plus a max of 4 employees onsite) | 6                      | -                       |
| Manufacturing (Woodworking)   | 3                      | -                       |
| Retail/ Service Business (Murphy Bros. Offices with 4 employees and no expected visits from the public)               | 4                      | -                       |
| Office (Incubator Offices)  | 6                      | -                       |
| <b>TOTAL PARKING SPACES REQUIRED FOR THE PROJECT</b>  | <b>19</b>              | <b>26</b>               |

As the enclosed Traffic and Parking Study, prepared by DTS Provident Design Engineering, LLP, last revised February 4, 2022 (**Exhibit I**) concludes, the proposed 26 off-street parking spaces will adequately serve the proposed uses. In addition, the 3 loading spaces will serve patrons of the self-storage facility and on-street parking is also available along Waverly Avenue in front of the existing storage building.<sup>26</sup>

<sup>25</sup> See Exhibit I- Traffic & Parking Study, p.16-17.

<sup>26</sup> See Exhibit I- Traffic & Parking Study, p.18.

The Project will streamline traffic and parking conditions onsite by improving the availability and configuration of parking areas.<sup>27</sup> The existing parking spaces available for onsite uses are currently divided into several sections, disorganized and frequently occupied by construction equipment and vehicles.<sup>28</sup> While the Applicant is proposing to decrease the number of parking spaces onsite, from 52 existing spaces to 26 proposed spaces, it is important to note that 5 businesses capable of utilizing the Premises will no longer be operating at the property. Currently, there are 19 parking spaces designated for 5 contractor businesses. Those 5 businesses will be replaced by the self-storage building addition, thus reducing the overall practical demand for parking.<sup>29</sup>

The existing self-storage facility currently has 1-2 employees onsite at any one time. The additional storage units proposed could increase this to a maximum of 4 employees onsite. As evidenced by current operation of the storage facility onsite, the low intensity of the use of the storage facility and the minimal number of daily visitors for that use will require a peak demand of approximately 6 parking spaces.<sup>30</sup> The MBC office has 4 employees onsite at any one time and, based on their current operation, does not anticipate any visits from the public.<sup>31</sup> The woodworking shop is expected to generate an insignificant demand for parking and the incubator space is estimated to require a peak demand of approximately 6 spaces.<sup>32</sup> Therefore, the 26 parking spaces proposed will be more than adequate for the anticipated parking demand.<sup>33</sup>

Section 342-56(B) of the Zoning Code permits Shared Parking where different land uses would have their peak parking demands at different times during the day/week and thus can utilize or share the same parking space during different periods.<sup>34</sup> The Traffic Study concluded that the proposed off-street parking will be sufficient and notes that peak time for all uses (self-storage, the woodworking shop, the incubator office space, and Murphy Brothers Contracting Office), will not occur at the same time.<sup>35</sup> The peak time of the self-storage use occurs during the mid to late morning, while Murphy Brothers Contracting Office and Incubator Office space will have peak use during the early morning.<sup>36</sup> The woodworking shop is expected to generate an insignificant number of visits.<sup>37</sup> These uses will practically demand a conservative total of approximately 19

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<sup>27</sup> See Exhibit I- Traffic & Parking Study, p.14 & 17-18.

<sup>28</sup> See Exhibit I- Traffic & Parking Study, p.14.

<sup>29</sup> See Exhibit I- Traffic & Parking Study, p.14 & 17-18.

<sup>30</sup> See Exhibit I- Traffic & Parking Study, p.14 & 17-18.

<sup>31</sup> See Exhibit I- Traffic & Parking Study, p.17.

<sup>32</sup> See Exhibit I- Traffic & Parking Study, p.19.

<sup>33</sup> See Exhibit I- Traffic & Parking Study, p.19-20.

<sup>34</sup> See Exhibit F- SEQRA Findings Statement, p.20.

<sup>35</sup> See Exhibit I- Traffic & Parking Study, p.19-20.

<sup>36</sup> See Exhibit I- Traffic & Parking Study, p.19.

<sup>37</sup> See Exhibit I- Traffic & Parking Study, p.19.





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parking spaces and the Project will exceed the anticipated demand for parking by providing 26 parking spaces, plus the 3 loading spaces for self-storage customers.<sup>38</sup>

Additionally, as demonstrated by the enclosed Traffic and Parking Study, the estimated new trips generated by the Project would be nominal and have no noticeable impact on the roadway network.<sup>39</sup> Compared to the existing conditions where the Premises is configured for 5 active contractor uses, the Project would result in approximately 3 new trips during peak morning hours and 5 new trips during peak evening hours. Indeed, the self-storage, woodworking and office uses will not have a significant impact on traffic operations in the area.<sup>40</sup> As noted in the SEQRA Findings Statement, given this relatively low volume of trips generated, and as determined in the SEQRA Findings Statement, the Project will not result in a significant degradation to the traffic conditions in the surrounding area.<sup>41</sup>

Moreover, the Project will improve the safety of traffic and vehicle circulation onsite.<sup>42</sup> The Project will eliminate an existing driveway on Waverly Avenue, closest to the Fenimore Road intersection.<sup>43</sup> This modification is expected to improve safety within the site and along Waverly Avenue and Fenimore Road because vehicles will no longer back out of the barn driveway onto Fenimore Road.<sup>44</sup>

We respectfully submit that when viewing the neighborhood in totality, the requested variances will not produce undesirable changes in or have a detrimental impact on the surrounding area. Accordingly, and for the reasons previously stated herein, the requested area variances are consistent with, and will provide significant benefits to, the surrounding area.

***Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.***

As the ZBA is aware, this Project has undergone nearly five years of thorough and intense review as part of the State Environmental Quality Review Act ("SEQRA") process. As evidenced by the adopted SEQRA Findings Statement, FEIS, and DEIS, the ZBA extensively reviewed the potential for the Project to impact natural resources, hazardous materials, public health, flooding, flood zone impacts.<sup>45</sup> Ultimately, the ZBA concluded that any potential impacts will be minimized and mitigated through implementation of mitigation measures, stormwater management controls,

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<sup>38</sup> See Exhibit I- Traffic & Parking Study, p.19-20.

<sup>39</sup> See Exhibit I- Traffic & Parking Study, p.19-20

<sup>40</sup> See Exhibit I- Traffic & Parking Study, p.3-4.

<sup>41</sup> See Exhibit F- SEQRA Findings Statement, p.20-21.

<sup>42</sup> See Exhibit I- Traffic & Parking Study, p.6-7 & 19.

<sup>43</sup> See Exhibit I- Traffic & Parking Study, p.6-7.

<sup>44</sup> See Exhibit I- Traffic & Parking Study, p.7 & 19.

<sup>45</sup> See Exhibit F- SEQRA Findings Statement.



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and monitoring, the Project avoids or minimizes adverse environmental impacts to the maximum extent practical.<sup>46</sup>

The Project will not adversely impact public health or create environmental contamination.<sup>47</sup> The implementation of the Erosion and Sediment Control Plan, prepared by Hudson Engineering & Consulting P.C., dated February 8, 2018 and revised through March 23, 2023 ("Civil Engineering Plans"), will reduce or eliminate any potential impact to soil erosion and groundwater resources resulting from demolition of the existing buildings and the cut and fill necessary to construct the addition.<sup>48</sup>

While the Premises was previously impacted by spill incidents that were administratively closed by the New York State Department of Environmental Conservation ("NYSDEC") in 2004, a foundation Excavation Work Plan has been prepared in accordance with DEC regulations pertaining to environmentally impacted site.<sup>49</sup> All work outlined in the Excavation Work Plan will be conducted in accordance with a Village-approved work scope.<sup>50</sup> Further, during remediation work, a Project Site-Specific Health and Safety Plan (HASP), the earthwork contractor's HASP, OSHA HAZWOPER training certifications and documentation, a Quality Assurance Project Plan (QAPP) and a Community Air Monitoring Plan (CAMP) will be implemented.<sup>51</sup>

If dewatering is required, the pumped groundwater will be treated prior to being discharged or collected and properly disposed of.<sup>52</sup> A Sub-Slab Depressurization System (SSDS) and/or vapor barrier will be installed under the concrete slab of the building to mitigate the potential for vapor intrusion from chlorinated VOCs that were present in groundwater at concentrations that exceed the NYSDEC Ambient Water Quality Standards.<sup>53</sup>

Also, the Project will reduce impervious surface onsite and improve stormwater management by incorporating a rain garden along Fenimore Road. The Stormwater Pollution Prevention Plan ("SWPPP"), prepared by Hudson Engineering & Consulting P.C., February 8, 2018, and revised through August 20, 2020, details the erosion and sedimentation control plan that be implemented during construction to reduce or eliminate any potential impact to soil erosion. Following construction, erosion will be prevented by re-establishing vegetation and new landscaping and

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<sup>46</sup> See Exhibit F- SEQRA Findings Statement, p.29.

<sup>47</sup> See Exhibit F- SEQRA Findings Statement, p.12-13.

<sup>48</sup> See Exhibit F- SEQRA Findings Statement, p.24-26.

<sup>49</sup> See Exhibit F- SEQRA Findings Statement, p.12 & 25-26.

<sup>50</sup> See Exhibit F- SEQRA Findings Statement, p.25.

<sup>51</sup> See Exhibit F- SEQRA Findings Statement, p.26.

<sup>52</sup> See Exhibit F- SEQRA Findings Statement, p.13.

<sup>53</sup> See Exhibit F- SEQRA Findings Statement, p.13.





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through the installation of the permanent stormwater management devices and facilities as depicted on the enclosed Civil Engineering Plans.<sup>54</sup>

Additionally, the Project will not adversely impact flooding conditions or the flood zone and will fully comply with the Village's Flood Code. The Project's reduction in onsite impervious surface, as well as improved stormwater management methods will improve flooding conditions and actually increase the storage of flood water onsite.<sup>55</sup> The existing flood-prone industrial buildings that do not comply with the floodplain development standards in the Flood Code will be replaced with an addition that has been designed to include wet floodproofing in order to maximize flood storage onsite. For example, flood gates and vents will be incorporated into the building design and will launch automatically without the need for electricity.<sup>56</sup> As previously discussed herein, the Project's first finished floor will be located 2 feet above BFE to minimize the damage and loss of property due to flooding. See Sheet A-201 of the Site Plans. These design concepts further the policies in the Village's Local Waterfront Revitalization Plan ("LWRP") which identifies flood mitigation as critically important.<sup>57</sup> Neighboring properties will therefore not be adversely impacted but would likely experience positive effects from the Project.

Therefore, it is respectfully submitted that, as the ZBA has previously concluded in the SEQRA Findings Statement, the proposed area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

***Whether the requested area variance[s] [are] substantial.***

Upon consideration of the facts and circumstances in this situation, the requested area variances are not substantial. The substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirements of the Zoning Code. Indeed, the overall effect of granting the relief is the appropriate inquiry.<sup>58</sup>

The ZBA must therefore consider the surrounding Industrial Area and nearby lots when determining whether the Application is substantial.<sup>59</sup>

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<sup>54</sup> See Exhibit F- SEQRA Findings Statement, p.24-25.

<sup>55</sup> See Exhibit F- SEQRA Findings Statement, p.6-7.

<sup>56</sup> See Exhibit F- SEQRA Findings Statement, p.14.

<sup>57</sup> See Exhibit F- SEQRA Findings Statement, p.6-7.

<sup>58</sup> See Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dep't 2008) (although variances were substantial the ZBA properly determined area variances will not have a substantial impact on the community); see also Schaller v. New Paltz Zoning Bd. of Appeals, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3d Dep't 2013) (upholding ZBA determination that an area variance was not substantial when compared to the nearby buildings).

<sup>59</sup> See, e.g., Crystal Pond Homes, Inc. v. Prior, 305 A.D.2d 595 (2d Dep't 2003) (Court overturned lot area application for 12,750 square foot lot where 21,780 was required where there were many substandard lots).



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With regard to the height area variance, the Applicant is proposing an addition to the existing 4-story self-storage building that is not taller than what is permitted for buildings as measured in terms of height in feet. In fact, only 1 of the 5 building segments proposed will mirror the 4-story height of the existing self-storage building. See Sheet A-201 of the Site Plans. Indeed, the other 4 building segments will be less than 4 stories and step down in height to the Fenimore Road streetscape. Effectively, the proposed number of stories is similar to a loaf of bread that is cut into 4 slices instead of 3. The height-compliant building has 4 internal stories as opposed to 3- but it is still the same 45-foot building.

Additionally, as depicted on Sheets A-203 & 204 of the enclosed Site Plans and previously discussed herein, there are 4 large multifamily and condominium buildings within 0.5 miles of the Premises<sup>60</sup> that are 4 stories or greater in height. As such, the proposed height in stories cannot be considered substantial when viewing the totality of the area.

While a 61-space parking area variance is requested, the ZBA found that “given the relatively low volume of trips generated, no significant degradations in Levels of Service or traffic operating conditions would result from the [Project].”<sup>61</sup> As previously discussed herein, even though the estimated demand for all the uses proposed onsite is approximately 19 total spaces, the Applicant is proposing to provide 26 spaces onsite, in addition to the 3 loading spaces for self-storage patrons. As such, when viewing the practical demand for parking generated by the proposed uses, the requested parking space variance is not substantial.

Similarly, the FAR and 2% building coverage variances requested are also not substantial when viewed in the context of the surrounding area. The enclosed aerial and street views on Sheet A-202 of the Site Plans demonstrate that the Project is appropriately located in the heart of the Industrial Area and is consistent with both the existing self-storage building onsite and character of the neighborhood. The addition will not be the only building in the area with an FAR that exceeds what is permitted under the Zoning Code. Indeed, as previously discussed herein and depicted on Sheets A-203 & A-204 of the Site Plans, there are 4 buildings<sup>62</sup> within 0.5 miles of the Premises that have an FAR that exceeds what is permitted under the Zoning Code. In fact, 3 of

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in the area); *Gonzalez v. ZBA of Putnam Valley*, 3 A.D.3d 496 (2d Dep’t 2004) (denial overturned where record showed substandard lots next to subject lot and other nearby nonconforming structures similar to that sought by the applicant).

<sup>60</sup> The Mason (270 Waverly Avenue), Soundview Condominium (149 Fenimore Road), and Sweetwater/Stanley Avenue Condominium (225 Stanley Avenue).

<sup>61</sup> See Exhibit F- SEQRA Findings Statement, p. 21.

<sup>62</sup> Sarah Neuman Nursing Home (845 Palmer Avenue), The Mason (270 Waverly Avenue), Soundview Condominium (149 Fenimore Road), and Sweetwater/Stanley Avenue Condominium (225 Stanley Avenue).





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those buildings have an FAR larger than the Project's proposed 1.92.<sup>63</sup> As such, the FAR and building coverage proposed are not substantial when viewing the totality of the surrounding area.

Courts in this jurisdiction have held that where the record reveals that lots in the neighborhood of the subject parcel do not comply with the lot area zoning requirements, a Zoning Board's denial of a requested lot area variance will not be upheld. *See Sautner v. Amster*, 284 A.D.2d 540 (2d Dep't 2001)(denial of lot area variance was improper where it was based on claim that variances would create undesirable change in character of community or would cause significant impact on rest of neighborhood, where large number of lots in neighborhood were the same size as proposed lots); *Easy Home Program v. Trotta*, 276 A.D.2d 553 (2d Dep't 2000)(denial of lot area variance is improper where 11 lots in the immediate neighborhood of the subject parcel do not comply with the lot area zoning requirements). As more fully discussed herein, there are several buildings in the surrounding area that do not appear to conform to the height, FAR and building coverage requirements mandated by the Zoning Code and therefore the area variances proposed cannot be viewed as substantial when considering the totality of the circumstances.

The re-envisioned façade now proposed includes 5 separate segments, each designed to resemble independent buildings to reduce the substantiality of the mass and building footprint. As such, there will be no adverse impact to neighboring properties from the Project because the proposal conforms with the existing character of the area. It is respectfully submitted that the FAR variance and the 2% building coverage variance are not substantial in the context of the surrounding neighborhood.

When viewing the totality of this Application, the ZBA should also consider the benefits that this Application will have on the surrounding Industrial Area. As noted above, the site improvements will be fully compliant with all applicable floodplain development standards. Additionally, the Project will add landscaping and streetscape improvements, including a rain garden, lawn and pocket park at the intersection of Waverly Avenue and Fenimore Road, enhancing the visual character and streetscape of the Industrial Area. The Project will significantly improve the overall physical appearance of the property by replacing 4 aging industrial buildings, outdoor contractor equipment and storage areas with an addition designed to resemble 5 independent buildings with distinct façade materials. Also, the Project will replace aged structures with "green" construction and building technology that incorporates environmentally sustainable features and will contribute to pedestrian and streetscape improvements.<sup>64</sup> As an additional community benefit, the Project includes a rooftop community solar installation to further the Village's goal of

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<sup>63</sup> The Mason (270 Waverly Avenue), Soundview Condominium (149 Fenimore Road), and Sweetwater/Stamley Avenue Condominium (225 Stanley Avenue).

<sup>64</sup> See Exhibit F- SEQRA Findings Statement, p.7.



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incorporating “the use of energy efficient products and practices that conserve energy and thus avoid greenhouse gas emissions.”<sup>65</sup>

As previously discussed herein, the Project will also benefit the community by achieving several of the Village’s goals and initiatives for encouraging industrial and office uses within the appropriate established zones and encouraging commercial and industrial businesses that are compatible with existing Village uses and development goals.<sup>66</sup> The Project is compatible with the existing surrounding industrial land uses and low-environmental impact development goals for the Industrial Area. As a self-storage use, the ZBA concluded that the Project will not generate detectable odors or fumes, produce pollution or consume energy, as it is a net-zero project.<sup>67</sup> The installation of the roof-mounted photovoltaic solar arrays to provide clean energy to local residents addresses the recommendation in the Comprehensive Plan which calls for “improving utilities and power services to the entire Industrial Area.”<sup>68</sup> Also, the Project will fully comply with the streetscape conditions and urban design concerns addressed in the Waverly Avenue Design Study.<sup>69</sup>

Therefore, it is respectfully submitted that the Applicant’s request for relief herein is not substantial as none of the variances will have a significant overall effect on the surrounding area or neighborhood. In fact, the Project provides numerous benefits to the surrounding neighborhood and Village community. To the extent that the ZBA finds otherwise, we respectfully remind that the mere fact that a variance may be deemed “substantial,” or fails to meet one of the other five factors, does not preclude application of the *overall* balancing test and does not necessitate denial of the area variance application.<sup>70</sup>

***Whether the benefit sought by the applicant can be achieved by some method, feasible to the applicant to pursue, other than the area variance.***

New York State Village Law Section 7-712-b(3)(b)(2) requires the Board to consider “whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.” The range of appropriate alternatives is limited by two standards: First, the alternative must still provide the benefit sought by the applicant and, second,

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<sup>65</sup> See 2012 Village of Mamaroneck Comprehensive Plan, p.76.

<sup>66</sup> See Exhibit F- SEQRA Findings Statement, p.6.

<sup>67</sup> See Exhibit F- SEQRA Findings Statement, p.6.

<sup>68</sup> See Exhibit F- SEQRA Findings Statement, p.7.

<sup>69</sup> See Exhibit F- SEQRA Findings Statement, p.18.

<sup>70</sup> Church of Jesus Christ of Latter Day Saints v. ZBA of Town/Village of Harrison, 296 A.D.2d 460 (2d Dep’t 2002) (determination that a request that was determined “substantial” did not excuse Zoning Board of Appeals from applying the overall balancing test).





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it must be feasible for the applicant to pursue. A ZBA may not deny a variance and attempt to relegate an applicant to an alternative design that is a “profound departure” from, or substantially more costly than, the design proposed in the variance. Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. ZBA of Town/Village of Harrison, 296 A.D.2d 460 (2d Dep’t 2002). See also, Baker v. Brownlie, 248 A.D.2d 527 (2d Dep’t 1998) and Salkin, New York Zoning Law & Practice § 29:36 Administrative Relief from Zoning Regulations: Variances.

The Applicant has thoroughly reviewed alternatives and significantly amended the Project in response to comments from the ZBA during the DEIS process.<sup>71</sup> While the building addition presented in the DEIS Plan was somewhat monolithic, the proposed re-envisioned addition is now broken into 5 distinct segments differing in façade materials to resemble independent buildings. This treatment significantly reduced the building footprint addition by approximately 1,044 square feet, resulting in a reduction to the overall proposed FAR of the site from 2.26 to 1.92.

The height of the building addition has also been reduced in response to comments from the ZBA so only 1 of the 5 building segments will mirror the existing 4-story self-storage building. The remaining building segments will step down to 3 stories and then 2 stories along the Fenimore Road streetscape.

The variances are required for the Applicant to make sustainable, flood resilient and economically viable use of the Premises. During the SEQRA process, the DEIS considered several alternatives to the Project including the redevelopment of the site with a zoning compliant storage facility, an addition with a smaller square footage, an addition with one less story and adaptive reuse of the existing buildings onsite as storage buildings.<sup>72</sup> The ZBA concluded that the amount of excavation, traffic generation, demand for water and the generation of wastewater would only negligibly (if at all) be reduced under these alternative scenarios and no tangible benefit would be realized.<sup>73</sup> Importantly, under each of those studied alternatives, the objectives of the Applicant would not be met and the Village’s objectives to improve the Industrial Area would not be furthered.<sup>74</sup>

The proposed addition has been designed in a manner that promotes meaningful development of the Premises while maintaining consistency with the surrounding area. Any alternative would constitute a profound departure from the current Project. For these reasons and those detailed

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<sup>71</sup> See Exhibit F- SEQRA Findings Statement, p.27-28.

<sup>72</sup> See Exhibit F- SEQRA Findings Statement, p.27-28.

<sup>73</sup> See Exhibit F- SEQRA Findings Statement, p.28.

<sup>74</sup> See Exhibit F- SEQRA Findings Statement, p.27-28.



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herein and in the DEIS and SEQRA Findings Statement, it is respectfully submitted that there are no other feasible alternatives to construct the proposed building addition.

***Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.***

While the Applicant is proposing an addition to the existing building, the variances are necessary to construct an economically-viable self-storage facility that continues to serve local businesses and residents, incorporates community office space and produces additional ratables. As further detailed in the DEIS and as the ZBA concluded in the SEQRA Finding Statements, the completed Project along with the current self-storage building will generate approximately \$81,605 annually in property taxes while continuing to place a low demand on municipal services.<sup>75</sup> As the ZBA previously concluded, the Project is anticipated to result in a net tax benefit to the Village while continuing to serve the demonstrated demand for self-storage space in the community.<sup>76</sup>

Further, this area of the Village is improved with multiple structures that are non-conforming with required bulk regulations thus creating a pattern of non-conforming land use. The area variances requested herein are not self-created.

To the extent that the ZBA may believe that the need for the variances is self-created, we respectfully remind the ZBA that this factor is not dispositive pursuant to New York Village Law § 7-712-b(3)(5). See Daneri v. Zoning Bd. Of Appeals of Town of Southold, 98 A.D.3d 508, 510 (2d Dep't 2012) (self-created nature of difficulty is not preclusive of the ability to obtain an area variance).

## **VI. Conclusion & Materials Enclosed**

For the reasons set forth above, and as will be further discussed at the public hearing on this matter, the Applicant requests that the ZBA grant the aforementioned variances to provide relief from the Village of Mamaroneck Zoning Code to allow the proposed addition to the existing self-storage building. It is respectfully submitted that the benefit to the Applicant and the surrounding industrial area if the area variances are granted clearly outweighs any possible detriment to the health, safety, and welfare of the neighborhood or community by such grant.

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<sup>75</sup> See Exhibit F- SEQRA Findings Statement, p.21.

<sup>76</sup> See Exhibit F- SEQRA Findings Statement, p.21-23.





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In support of this application, enclosed please find a check in the amount of \$1,500, representing the continued escrow fee, and six (6) hard copies and 1 electronic version of the following documents:

- Exhibit A: Amended Zoning Board of Appeals Application;
- Exhibit B: Amended Building Permit and Floodplain Development Permit Applications;
- Exhibit C: Amended Zoning Compliance Determination, dated March 6, 2023;
- Exhibit D: January 5, 2023 ZBA Resolution deeming FEIS complete;
- Exhibit E: February 2, 2023 ZBA Resolution adopting the SEQRA Findings Statement;
- Exhibit F: SEQRA Findings Statement, adopted by the ZBA on February 2, 2023;
- Exhibit G: March 29, 2019 Zoning Compliance Determination;
- Exhibit H: October 3, 2013 ZBA Resolution (App. No. 9A-2013);
- Exhibit I: Traffic and Parking Study & Trash/Recycling Generation Analysis, prepared by DTS Provident Design Engineering, LLP, revised through February 4, 2022; and
- Exhibit J: Renderings of the Project in the context of the surrounding area depicting day and nighttime conditions, prepared by KTM Architect PLLC.

Also enclosed are six (6) full size copies and one electronic version of the following:

- Site Drawings prepared by KTM Architect PLLC, dated December 14, 2017 and revised through March 23, 2023; and
- Civil Engineering plans prepared by Hudson Engineering & Consulting P.C., dated February 8, 2018 and revised through March 23, 2023.



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The Applicant looks forward to appearing before the ZBA on April 13<sup>th</sup> for a public hearing on the area variance application. Should the Board or Village Staff have any questions or comments in the interim, please do not hesitate to contact me. Thank you for your time and consideration in this matter.

Very truly yours,

*Anthony B. Gioffre III*

Anthony B. Gioffre III

Enclosures

cc: Ashley Ley, AICP, AKRF, Inc.  
Lori Lee Dickson, Esq., Attorney for the Zoning Board of Appeals  
Cleary Consulting, LLC  
Hudson Engineering & Consulting, P.C.  
KTM Architect  
Kristen Motel, Esq.  
Client