

III. A - ZONING AND LAND USE

A-1 Comment:

Also, they describe the new building as fitting seamlessly integrating seamlessly with the self-storage building that's there currently. It looks like it will all be one piece, and I realize that back in -- I know the resolution was passed in 2013. I don't know if that's when the original project was submitted, but, originally, the applicant was looking for a much larger project back in 2012 or 2013, and the board turned them down, and now they're coming back to build that extra piece of the project that was actually, in my understanding, the board rejected. So this definitely seems like segmentation.

(Board Member Yergin, Public Hearing, April 1, 2021)

A-1 Response:

Procedural history of self-storage applications at the Project Site

In or about 2009, the Applicant filed an application with the Planning Board seeking to construct an approximately 88,000-square foot, 578-unit self-storage facility along with a 6,400-square foot cabinet-making shop with a total of 29 parking spaces on-site.¹ The proposed action required site plan approval and a floodplain development permit from the Planning Board, several area variances from the Zoning Board of Appeals ("ZBA"), a determination that the project was consistent with the Local Waterfront Revitalization Program by the Village Harbor Coastal Zone Management Commission ("HCZMC") and approval from the Architectural Review Board. The Planning Board initially declared is intent to serve as Lead Agent under SEQRA, however the ZBA objected and ultimately assumed Lead Agency status on March 4, 2010. The ZBA issued a positive declaration under SEQRA for the project, citing concerns relating to traffic, flooding and proposed building size. At that time, due to the significant costs associated with pursuing the project that had been declared to have the potential to have one or more significant adverse environmental impacts, the Applicant

¹ See June 20, 2018 submission to the ZBA for a comprehensive procedural history of prior self-storage proposals on the Site.

withdrew its application. The ZBA did not “turn the application down” or reject the proposal.

On approximately October 10, 2012, the Applicant submitted a new application for site plan approval seeking to redevelop the Property and construct the current self-storage facility that exists on the Premises today. This application proposed a 40,620-square foot self-storage facility, as opposed to the 88,000 self-storage facility proposed in 2009. Under the 2012 proposal, many of the then existing uses at the facility were proposed to remain. The Planning Board assumed Lead Agency Status on November 14, 2012 and on January 30, 2013, the Planning Board issued a negative declaration finding that the project would not have the potential for one or more adverse environmental impacts.

On approximately October 3, 2013, the ZBA granted the Applicant several variances for the now existing self-storage facility on the Property. Following receipt of these variances, the Applicant proceeded to obtain a consistency determination from the HCZMC, site plan approval and a flood development permit from the Planning Board and approval from the Architectural Review Board. The Applicant then constructed the existing 40,492-square foot self-storage building, completed towards the end of 2015, that exists on the Site today.

The Amended Proposal (the “Project”)

On May 10, 2018, the Applicant submitted a site plan application to the Planning Board proposing to expand its existing 40,492-square foot self-storage facility by constructing a new 56,328 square foot addition (the “Proposed Action”), for a total size of approximately 96,820-square feet. As noted above, the original application submitted in approximately 2009 proposed a smaller 88,000-square foot building. Additional approvals required for this proposal include several area variances from the Zoning Board of Appeals (“ZBA”), a determination that the Project was consistent with the Local Waterfront Revitalization Program by the Village Harbor Coastal Zone Management Commission (“HCZMC”) and approval from the Architectural Review Board.

The ZBA assumed Lead Agency status and on June 6, 2019, the ZBA issued a positive declaration determining that the Project had the potential for one or more significant adverse environmental impacts. As required by SEQRA, the Applicant prepared a Draft Environmental Impact Statement and spent seven months reviewing the DEIS with the Lead Agency.²

The Applicant has amended the Project in order to be responsive to the comments on the DEIS by the ZBA. This Project proposes an additional 160 additional storage units required to meet local customer demand and incorporate 700 square feet of storage- associated retail space along the Waverly Avenue frontage in the existing self-storage building. Notably, the amended proposal now currently before the ZBA seeks to incorporate a number of new uses and proposes reconfiguration of the Project Site, which were not proposed in either 2009, 2012 or initially with the 2018 original application. The Applicant proposes these Project amendments to address comments received from members of the ZBA during the DEIS process and to meet community workplace demands in response to the global pandemic.

As demonstrated in the amended site drawings enclosed herein, prepared by KTM Architect, dated June 28, 2021, the Applicant proposes the complete demolition of all structures on the site except the existing self-storage use. The proposed expansion to the existing self-storage building will contain the proposed 56,328-square foot addition of self-storage space, as well as the following uses:

- Approximately 5,879-square foot woodworking shop;
- Approximately 2,157 square feet of space for the Murphy Brothers Contracting offices; and
- Approximately 2,008 square feet of community office workspace.

As demonstrated by the proposed configuration of buildings and uses, this amended proposal presents a substantially different Project than the 2009 and

² The Applicant submitted the DEIS on October 29, 2020.

2012 proposals, as well as the original 2018 Project previously reviewed by the ZBA.

Segmentation

Segmentation is defined as “the division of the environmental review of an action such that various activities or stages are addressed under [the SEQRA regulations] as though they were independent, unrelated activities, needing individual determinations of significance.” 6 N.Y.C.R.R. § 617.2(ah).

The State Environmental Quality Review Act (“SEQRA”) and its regulations do not prohibit segmentation of environmental review. Instead, New York State Department of Environmental Conservation (“NYS DEC”) SEQRA regulations recognize that “[a]ctions commonly consist of a set of activities or steps,” and “[c]onsidering only a part or segment of an action is contrary to the intent of SEQR[A].” 6 N.Y.C.R.R. § 617.3(g).

In determining whether a proposed action may have a significant effect on the environment, an agency must consider reasonably related long-term, short-term, direct, indirect and cumulative effects, including other simultaneous or subsequent actions that are: (1) included in any long-range plan of which the action under consideration is a part; (2) likely to be undertaken as a result thereof; or (3) dependent thereon. 6 N.Y.C.R.R. § 617.7(c)(2).

The issue of segmentation often arises when a project sponsor divides a project into smaller parts to avoid triggering the submission of an EIS. NYS DEC SEQRA Handbook, 4th Edition, pg. 53 (2020) (“SEQRA Handbook”). Essentially, in attempting segmentation, a project sponsor’s goal is to avoid comprehensive review of a large project and instead convince the reviewing agency to focus on an individual phase of a development.

In this instance, there has been no avoidance whatsoever of the EIS process. In fact, for the last 3 years, the ZBA has taken a hard look and conducted a comprehensive environmental review of the existing self-storage use, in

conjunction with the proposed expansion and redevelopment. There is no attempt to thwart environmental review or avoid a discussion of environmental impacts.

Further, as previously discussed herein, the amended Project, is markedly different than the 2009 application for a self-storage building, both in scale and use. As opposed to the sole self-storage building contemplated in 2009 and 2012, the Applicant is proposing to incorporate community workspace, a woodworking shop and the Murphy Brothers Contracting office in the new addition, along with approximately 56,328 square feet of additional self-storage space. The proposed community workspace is being provided in response to the objectives of the proposed MAKER zone discussed by ZBA members during the DEIS process, as well the change in workplace demands driven by the global pandemic. The Project currently before the ZBA, as amended, could not possibly have been contemplated in the 2009 or 2012 review process. Indeed, the MAKER zone was not even proposed when the 2009 and 2012 applications were filed.

The ZBA's comments on the DEIS question whether segmentation has occurred improperly in this instance given the existing self-storage facility and the prior application review history. The SEQRA Handbook specifically finds that a segmented review is justified and warranted when a future phase of a project may not occur.³ In this instance and as noted herein, the 2009 application was withdrawn by the Applicant. Years later, a new and smaller project was submitted to the Village with no anticipation or proposed future phase. That project was approved and constructed, and the self-storage facility opened for business in 2015. Due to the success of that business, an expansion not contemplated or planned as part of the prior application was proposed in 2018, three years later. The SEQRA Handbook states that "if substantial changes to the project are proposed later, such changes shall be evaluated, and a new determination of significance made."⁴ That is exactly what happened in this matter and a new

³ SEQRA Handbook, 4th Edition, pg. 54 (2020).

⁴ SEQRA Handbook, 4th Edition, pg. 55 (2020)

determination of significance was made in the pending application and the Applicant is in the midst of an EIS review.

The pending application has been reviewed by the ZBA for over 3 years. The ZBA, as Lead Agency, is undertaking a thorough, comprehensive and full environmental review of both the existing and proposed development of the Project Site, as an “overall” project. The Applicant is in the midst of an Environmental Impact Statement review. The Village is not considering a part or a segment of the Project. Portions of the “overall” Project are not being excluded in the environmental review. The “whole action” is being reviewed by the ZBA, a statement made by various ZBA members on numerous occasions. This EIS is noting the procedural history, taking the hard look at the whole action and the review is not being any less protective of the environmental. Segmentation has not occurred, and to the extent the ZBA determines otherwise, the segmented review of the overall Project is justified and acceptable given the unique facts herein and SEQRA regulations.

A-2 Comment:

*Also, when they talk about that as it is in line with the Maker zone. My understanding of the Maker zone is to increase night life and pedestrian traffic and, actually, to move away from big warehouses and self-storage, so I think that's an inaccurate statement. I know that it is a permitted use as right now in the code but I don't believe that is in line with what the Maker zone had said.
(Board Member Yergin, Public Hearing, April 1, 2021)*

A-2 Response:

The MAKER zone is a planning concept formulated in approximately 2017 for the approximately 70-acre area that is currently primarily zoned M-1 – Manufacturing (Figure III. A-1). As of this date, the MAKER zone has not been adopted, and is therefore, not applicable to the Proposed Action.

Nevertheless, the Applicant has reviewed the MAKER zone concept, and as noted in the DEIS, believes that the Proposed Action is consistent with the goals of that initiative.

As articulated by the Industrial Area Committee in February of 2018⁵, the primary goal for the area is to *“Revitalize the manufacturing district in Mamaroneck and enhance the sustainability of the area:*

- *Preserve existing uses.*
- *Create incentives to grow the MAKER economy.*
- *Promote redevelopment that is environmentally sensitive.*
- *Establish buffers to abutting neighborhoods that are eco-friendly.*
- *Provide/encourage new recreational activities.”*

The MAKER zone is an acronym for:

- M – Manufacturing
- A – Artisanal Foods and Arts
- K – Krafts and Design Business
- E – Environmental Buffers
- R – Recreation

As set forth in the RFP issued by the Village in 2017 for the creation of the MAKER zone, the mission statement for the MAKER zone is:

“A coordinated effort to preserve existing uses and incentivize the growth of the “maker” economy in Mamaroneck as an economic engine for jobs, tax revenue, environmentally-sensitive redevelopment, neighborhood and eco-friendly buffering, flood mitigation, and new recreational activities all aimed at the revitalization and sustainability of the manufacturing district in Mamaroneck.”

As depicted on Figure III.A-1, the MAKER zone is comprised of two overlay areas, a Retail Overlay and a Mixed-Use Overlay, within which the Site is located. Buffer and park areas are envisioned along the perimeter of the area. The following uses are encouraged in these areas:

Retail Overlay

- Indoor recreational facilities

⁵ Industrial Area Committee/Chazen Companies PowerPoint Presentation, February 15, 2017.

- Micro-alcohol establishments
- Theaters
- Higher education uses
- Art and film studios and dance and music instruction
- Boutique hotels

Mixed-Use Overlay

- All uses outlined above plus mixed-use with retail on the ground floor and office or manufacturing above.
- Live-work units.

As thoroughly documented in the Chapter IV.A of the DEIS, the area where the MAKER zone is proposed, locally known as “The Flats” is overwhelmingly dominated by light industrial, automotive, warehouse and similar land uses. This land use pattern has evolved from a more heavily industrialized character, to what exists there today. The uses proposed for the MAKER zone are clearly aspirational, and do not reflect existing land use characteristics of the area. While those aspirational uses may in time be drawn to the district, the current pattern of land use will likely remain prevalent for the foreseeable future.

The FEIS Plan has been developed to more closely align with the goals of the MAKER zone, while continuing to make an economically viable use of the Site today. The FEIS Plan will remove all of the pre-existing non-conforming structures on the Site that related more to the prior lumber yard operation. The development will support an existing business, and result in an expansion of the area's economy and tax base, in a manner that is extremely environmentally sensitive (through the development of a “net-zero” building), while improving and enhancing the public streetscape along both Waverly Avenue and Fenimore Road, and by creating a new publicly accessible vest-pocket park at the northwest corner of the Site. All of the Site's public frontages allow for improved and unrestricted pedestrian circulation. Importantly, the FEIS Plan will result in an increase in flood storage on-site, thereby benefitting the flood conditions of the surrounding area.

It is important to bear in mind that uses that create “create night life and increase pedestrian traffic” such as restaurants, retail uses, theaters, etc., are essentially prohibited in the M-1 zoning district with the exception of a limited area within 150’ of Fenimore Road, so currently, there is no night life, or places for the general public to walk to. As noted above, if the MAKER zone is adopted, that may begin to change, but likely incrementally, and over a prolonged period of time.

Finally, it is anticipated that the new uses at the Site, including the woodworking shop that will be used as an educational resource and the incubator office space, will enliven the Site, certainly more than the prior proposals and the existing operation of the Site.

A-3 Comment:

*And then in the end, I appreciate the additional renderings that were added from the very first draft of the DEIS and I have to say that I feel that that is an enormous impact on visually on the neighborhood, that there is no other kind of warehouse that takes over a property like that, that it is the combination of the mass and the height. It has an enormous [inaudible] on the lot and in my mind, I realize there's industrial purposes and they're not super attractive purposes in the industrial area, yet none of them are of that size. When they get to be this size, in my mind, it's turning it into an urban type of feeling in the community. It's taking away from the sense of a Village that has an area where there's some contractors and there's car repair and there is some warehousing to a certain extent but it's of a smaller nature. When I see this kind of size of a structure, it definitely seems to be -- tending to be an urban environment rather than a village environment.
(Board Member Yergin, Public Hearing, April 1, 2021)*

A-3 Response:

Comment noted. It should also be noted that the three buildings of The Mason, located just north of the site are of a similar size and scale as the FEIS Plan. A number of the industrial buildings in the area have much larger footprints, and very large square footages (the adjacent Artic Glacier Ice building, the KRB building, Marvel Industries among others) although they are not as tall. The

character of the area is not distinguishable between “urban” and “village” but rather as industrial.

A-4 Comment:

Given more substantively, I want to clarify one thing that came up and they talked about this being an addition and this is a new thing and the other thing was approved before. Let's just go back a little bit. First application made on this property which I'm aware, obviously there may have been others, concerned a permit to build a building about the size of the existing building plus what they have proposed. The board issued a positive declaration which was issued in an ENB, the Environmental Notice Bulletin at the time, and went not to what it had gotten to. At that point shortly thereafter the application was withdrawn or abandoned and in lay of it, they cut the project significantly. I think about 50 percent, I'm not gonna just mention square footage, but about half. And that's where they went and that was not paused at. Now they're back to take the second half, and to me, that's probably what we would call segmentation about as clear as you can be.

(Board Member Neufeld, Public Hearing, April 1, 2021)

A-4 Response:

See response to comment A-1 above. As noted previously herein, the proposal currently before the ZBA is markedly different than the 2009 and 2012 proposals, both in scale and use.

A-5 Comment:

Not only is it just not a question of segmenting but to suggest that it is not impacting the first building is silly because even if it hadn't been a segmentation of the application initially, the buildings are being integrated into one. There's structural changes on both, and they're all going to be integrated. The new site, the whole area, the parking, et cetera. So I think it's not fair to characterize it nor have I ever heard this characterized as an addition. It is a structural change of the area. It is basically going back to, and I don't know if the planners have looked at this, the original application which was probably about what, you mentioned it earlier, about five years ago, something like that.

(Board Member Neufeld, Public Hearing, April 1, 2021)

A-5 Response:

The building proposed in the FEIS Plan will be structurally integrated with and physically connected to the existing self-storage building. The spaces within the building will share common utility and mechanical equipment. By any definition, the Proposed Action is an addition to the existing self-storage building.

As explained more fully in Response A-1, the Proposed Action envisioned in the FEIS Plan could not have been contemplated in 2009, and regardless of whether one believes the Proposed Action represents “segmentation” the Proposed Action is undergoing the most thorough environmental review available to the Lead Agency, allowing for the Proposed Action to be judged on its merits.

A-6 Comment:

So they filled up the first and now they're going to bootstrap. I think that's the segmentation concern.

(Board Member Neufeld, Public Hearing, April 1, 2021)

A-6 Response:

See response to comment A-1 above.

A-7 Comment:

And one last thing and that is what is going to be left there? Because I was always baffled. I had thought they were going to be removing a lot of the extra buildings as part of the first building, but I was incorrect on that or it wasn't complied with or I was just probably incorrect, but what's going to be left here? And how does that impact the property? Because this is by, anyone's standard, if you take this amount of land and you look at that amount of structural improvement, I would be hard-pressed to find anything close to it in Mamaroneck or adjacent communities, so it's obviously a very serious concern.

(Board Member Neufeld, Public Hearing, April 1, 2021)

A-7 Response:

The FEIS Plan calls for demolishing all of the existing buildings on the Site (with the exception of the existing self-storage building). In total 15,604 square feet of existing older, non-conforming buildings will be razed. The new building extension is 43,940 square feet, resulting in a net increase of 25,361 square feet of gross floor area.

A-8 Comment:

The DEIS, this is actually in the executive summary but it's also repeated in the chapter on land use zoning and community plans, it talks about as demonstrated by the continued operation of the existing self-storage that is more fully documented, it generates no impact there for the self-storage. It's entirely compatible with the existing surrounding uses. And I disagree. I do not think that the fact that it is consistent with the existing building means that it will not have an impact or make it appropriate. In fact, one of the concerns I had, which again is also repeated later, is that this future zoning will be the maker zone which is discussed here. The maker zone seeks to have more foot traffic and other traffic. This use, which keeping the traffic down will, in fact, have a significant impact on the future of the area and the development of the maker zone because it's not adding any -- it's taking up an enormous site without adding any people to the area, and, therefore, it will not support the surrounding community. (Chairwoman Kramer, Public Hearing, May 6, 2021)

A-8 Response

See response to comment A-2 above. Throughout the DEIS and FEIS, the Applicant has endeavored to demonstrate how the Proposed Action does meet many of the planning goals of the MAKER zone. However, the MAKER zone has not been adopted, and it would be inappropriate, and in fact illegal for the Lead Agency to render a decision based on the Project's compliance with zoning that has not been adopted.

The FEIS Plan now includes uses that will increase foot traffic, and the revised design of the building addition is smaller and far more compatible with a pedestrian scale, even though pedestrian activity along Waverly Avenue is limited.

A-9 Comment:

I notice and this is probably a technical that I noticed. I think it's interesting that in the existing zoning compliance when they're showing, they talk about the existing and they never provide the existing FAR, which is interesting. Yes, you can calculate it, but it isn't provided. Really should be provided. I wonder is that so we don't realize how big it is.

(Chairwoman Kramer, Public Hearing, May 6, 2021)

A-9 Response:

The existing FAR/GFA are both included on the plan set filed along with the DEIS (Sheet SY-101, Site Plan and Zoning). Table III.A-1 indicates the FAR/GFA highlighted in red for the FEIS Plan.

Table III.A-1 FEIS Plan Zoning Compliance				
Zoning Criteria	Required/ Permitted	Existing	Proposed	Variance Required
Minimum Lot Area (SqFt)	10,000	44,156	44,156	--
Minimum Lot Width	50	134	134	--
Building Coverage				
Area (SqFt)	22,078	20,081	23,096	1,018
Percentage	50%	45%	52%	2%
Floor Area Ratio (FAR)	1.0	1.34	1.91	0.91
Maximum Gross Floor Area	44,156	59,081	84,432	40,276
Impervious Surface Coverage				
Area (SqFt)	N/A	41,653	40,383	--
Percentage	N/A	94.3%	91.5	--
Maximum Building Height				
Stories	3	4	4	1 story
Feet	45'	45'	45'	
Minimum Yard Requirements				
Front (Waverly)	Note 1	0'	0'	--
Front (Fenimore)	10'	0.4'	10'	--
Rear (Southeast)	None	2'	2'	--
Rear (Southwest)	None	3'	3'	--
Off-Street Parking	137	52	26	111
Off-Street Loading	8	0	3	5

A-10 Comment:

Yes. I'll just ditto one of your comments. I think it was excellent. I think to say it's compatible because now there is one there, I think this is an enormous out of character construction and it involves very significant variances and I think those underscore the need to be attentive here. As I understand it, the FAR, they want to go from 1 to 2.43. They want a variance of 63,000 feet and also various parking variances.

(Board Member Neufeld, Public Hearing, May 6, 2021)

A-10 Response:

The commentary in the DEIS indicated the proposed building addition is consistent with the existing self-storage building, for which the ZBA previously granted variances. The FEIS Plan requires the area variances noted in Table III.A-1.

A-11 Comment:

One thing that's unclear regarding the variances, particularly the parking ones and some of the setbacks. I think they have to indicate what buildings and what improvements there are going to be serviced by those from the existing to the proposed for the other buildings. I'd like to see so we have breakdown in a chart of how that goes because we often run into a situation where parking is given and then there's an argument over whose they are. You have a lot of different buildings here and a lot of different uses.

(Board Member Neufeld, Public Hearing, May 6, 2021)

A-11 Response:

All of the existing buildings on the Site (with the exception of the existing self-storage building) will be demolished under the FEIS Plan. The new 26 space off-street parking lot will serve the 4 uses on the Site (the self-storage facility, Murphy Brothers office, the woodworking space and the incubator office space).

It is likely that during the site plan review phase of the project, specific parking spaces would be assigned to the various uses.

A-12 Comment:

One thing I also would like to see addressed in the FDIS is the impact on future development and variances. We are bound principles of our precedent. We have our own administrative -- I think we have to also then say if this were to go forward, what would the impact on it be by virtue of the fact that someone could come in next door and say, by the way me too. And you can't say to them, well, you weren't here first so you're out of luck. You really do need to address what it this is doing. I think the chair said this. This is changing something dramatically and I think we have to look at them. It's not just the this that it's going to change. You then have to apply this to our future assessments. I'd like to see that looked at carefully.

(Board Member Neufeld, Public Hearing, May 6, 2021)

A-12 Response:

“Precedent” is not an environmental factor to be considered when making a determination of significance. Speculation of unrelated projects that may be proposed at a future date is not a relevant consideration in the review of this FEIS.

The Zoning Board is not bound by Precedent in the determination of an area variance request, unless all of the circumstances involving the requested variance are identical to a previous decision. The Zoning Board must apply the statutory criteria set forth in §7-712-b of Village Law. Specifically:

“[T]he zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (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, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.”

The five factors must be applied to the specific characteristics of the property and the requested variance, which are rarely, if ever identical. Further, zoning boards may consider new applications and new information when reviewing applications before them, and so long as the board provides a rational explanation for reaching a different result, the Court will not overturn the decision. Hurley v. Zoning Bd. of Appeals of Village of Amityville, 69 A.D.3d 940, 893 N.Y.S.2d 277 (2d Dep't 2010).

A-13 Comment:

*This is a segmented project and I know we're considering the whole development because originally this was proposed and it was POS decked years ago, 5 years ago I guess. And then what occurred is they cut the project in half and it was no longer a POS deck. Now, they're going to the same result.
(Board Member Neufeld, Public Hearing, May 6, 2021)*

A-13 Response:

See response to comment A-1 above. As noted previously herein, the proposal currently before the ZBA is markedly different than the 2009 and 2012 proposals, both in scale and use.

A-14 Comment:

*And also, as I said earlier, how the different variances will apply to the different buildings and the different improvements.
(Board Member Neufeld, Public Hearing, May 6, 2021)*

A-14 Response:

All of the existing buildings on the Site (with the exception of the existing self-storage building) will be demolished under the FEIS Plan. table III.A-1 documents the required variances.

A-15 Comment:

*I think I'm interested in the following question being addressed in the FDIS and that this is such a significant variance in an area that would really have almost, if this were to proceed, it would almost create a legislative change in the sense that the variances and the other approvals would actually do what a legislature would do. These are not adjustments, they're not tweaking, these are significant. I'd like to know whether or not there were discussion, requests, or petitions made to the trustees to change the design because the magnitude involved here, generally in my looking at this, would be, hey, this is not a variance, this is not I need a few feet or I need a small variance. This is extraordinarily significant. I'd like to know what other options in terms of accomplishing this were achieved because if you're going to say that it really fits into the community in this, well, it doesn't. It doesn't from a purely legal standpoint or we wouldn't be here.
(Board Member Neufeld, Public Hearing, May 6, 2021)*

A-15 Response:

Village Law Section 7-712-B(3) does not make a distinction or create a threshold that if a variance(s) is of a certain degree or magnitude, it should be summarily dismissed or be approved only through a legislative change. Rather, Section 7-712-B(3) requires a zoning board to apply a balancing analysis that incorporates several factors in determining whether to grant such variance(s), one of which is the substantiality of the variance. Such analysis shall be conducted herein by the ZBA.

In fact, in considering whether a variance is substantial, the Zoning Board of Appeals shall examine the totality of the circumstances within an application. 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 (3rd Dep't 2013) (upholding ZBA determination that an area variance was not substantial when compared to the nearby buildings).

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

A-16 Comment:

I'm disappointed, overall, in the magnitude and I'm disappointed in the fact this was segmented because it's almost a bootstrap operation. Hopefully, if they can address these issues, and we can get that flooding report, then maybe we can include that in the FDIS and get some clearer understanding on this because one of the concerns I have is that whatever we do hear has to then be able to be utilized in terms of decision making by others. And if we're going to mitigate this, this is probably the place and the FDIS to try and do it. It doesn't remove the individual agencies from their options but I think we should try to do it that way. (Board Member Neufeld, Public Hearing, May 6, 2021)

A-16 Response:

See response to comment A-1 above. As noted previously herein, the proposal currently before the ZBA is markedly different than the 2009 and 2012 proposals, both in scale and use.

A-17 Comment:

First of all I really strongly agree with you, Robin, that you hit the nail on the head that I feel like this flies in the face of the whole maker space concept, everything we're doing with vision zero, and pedestrian traffic, and I just want to make two quick related points to that. (Board Member Roberts, Public Hearing, May 6, 2021)

A-17 Response:

See response to Comment A-2.

A-18 Comment:

I think the first is that from the pedestrian perspective, even if it's well lit, you're essentially creating a huge dead block right in the middle of actually where we have some really interesting new developments, so it's a dead zone, and I don't think that's what we want to come accomplish here.

(Board Member Roberts, Public Hearing, May 6, 2021)

A-18 Response:

The FEIS Plan involves streetscape landscaping improvements along both Waverly Avenue and Fenimore Road. In the Applicant's opinion, the experience of walking along the public sidewalk will be notably enhanced compared to the exiting condition. Additionally, within the Site itself, all of the existing older non-conforming buildings will be demolished and replaced with the newly configured building addition which has been reduced in scale, and broken into 5 separate segments, each of which are distinctly articulated and clad in differing façade materials to resemble independent buildings. This treatment significantly reduces the mass of the building, while restoring a human scale to the Site. As the building steps down from four to three to two stories, it incorporates a terrace, broad landscaped rain garden and lawn to integrate into the Fenimore Road streetscape. The streetscape is proposed to be further enhanced by replacing the Murphy Brothers office building located at the Waverly Avenue/Fenimore Road intersection, with a publicly accessible vest-pocket park containing decorative seasonal landscaping and benches arrayed around a circular walkway.

A-19 Comment:

I want to add those two quick points. I don't care as much about the appearance of the building because, again, I feel like for me what's paramount is it's just going completely against the grain of everything we're trying to do here as a community so.

(Board Member Roberts, Public Hearing, May 6, 2021)

A-19 Response:

Comment noted. See response to Comment A-2.

A-20 Comment:

I'm also very concerned that it definitely is a segmented project. The two buildings are going to connect exactly together. Clearly, when you built the first building, you must've had an intent you were going to come back with a second building because it seems like a simple thing to put them together that you've designed it that way.

(Board Member Yergin, Public Hearing, May 6, 2021)

A-20 Response:

See response to comment A-1 above. As noted previously herein, the proposal currently before the ZBA is markedly different than the 2009 and 2012 proposals, both in scale and use.

A-21 Comment:

Also, I'm going to add my comments that I do think that it's a large impersonable building, basically lifeless building. I don't know why we would give such huge variances for something that is just a big structure to hold things and/or that will increase the profit of the owner without giving back to the community. It's not as though we're building a theater that we don't, okay so it's a little larger, and there's some new spirit, it's a new kind of industry that we're looking for, and it's something that we're going to interact with, and a lot of people are going to get jobs with. We're giving -- we would be giving variances to build a massive structure to hold things and that's going to stay quiet, going to stay dark, and not employ a lot of people.

(Board Member Yergin, Public Hearing, May 6, 2021)

A-21 Response:

The FEIS Plan reflects a complete redesign of the building, as well as its use. The new building extension would consist of 43,940 square feet of gross floor area, or a net increase of 25,361 square feet once the floor areas of the existing industrial buildings are deducted. Where the building addition presented in DEIS Plan was

somewhat monolithic, the building proposed in the FEIS Plan has been completely redesigned and is now broken into 5 separate segments, each of which are distinctly articulated and clad in differing façade materials to resemble independent buildings. This treatment significantly reduces the mass of the building, while restoring a human scale to the Site. This approach would reduce the building footprint by 2,071 square feet and the gross floor area by 14,254 square feet. The F.A.R would be reduced from 2.43 to 2.11.

The height of the building addition has also been reduced. The southernmost section of the building addition will be integrated with the existing self-storage building, and as such will correspond to the height of the existing building. However, moving north, the building will step down to three stories and then two stories where a terrace, broad landscaped rain garden and lawn gradually integrates the Site into the Fenimore Road streetscape. The streetscape is proposed to be further enhanced by replacing the Murphy Brothers office building located at the Waverly Avenue/Fenimore Road intersection, with a publicly accessible vest-pocket park containing decorative seasonal landscaping and benches arrayed around a circular walkway.

A-22 Comment:

I would not be inclined to give such large variances for -- with so little in return for the village. And, yes, I do think that we'd be setting a precedence and I could blocks and blocks of self-storage areas in the area and that would just be a sad thing for our village.

(Board Member Yergin, Public Hearing, May 6, 2021)

A-22 Response:

See response to Comment A-12.

A-23 Comment:

You know, I agree with just about everybody single comment that was made tonight. I share all those concerns. I see it as concerns localized to this specific project but then also the concerns as mentioned by probably all of you of just the domino effect that this project goes through and then what's next. It creates

a precedent that would be difficult to control. There's the unknown about this project but there's also the unknown of the consequences of other projects down the road because we have approved a project of this enormous.

(Board Member Heaney, Public Hearing, May 6, 2021)

A-23 Response:

“Precedent” is not an environmental factor to be considered when making a determination of significance. Speculation of unrelated projects that may be proposed at a future date is not a relevant consideration in the review of this FEIS.

Further, zoning boards may consider new applications and new information when reviewing applications before them, and so long as the board provides a rational explanation for reaching a different result, the Court will not overturn the decision. Hurley v. Zoning Bd. of Appeals of Village of Amityville, 69 A.D.3d 940, 893 N.Y.S.2d 277 (2d Dep't 2010).

Please see response to comment A-1 above. As noted previously herein, the Project currently before the ZBA is markedly different than the 2009 and 2012 proposals, both in scale and use.

A-24 Comment:

I have one final comment that I forgot to make which is the segmentation but since it's been mentioned. To me, there's no question that this was segmentation and be given that they originally came to the board with the full project, which was this entire project, then they withdrew that full project, and came back with essentially half the project, and now are coming because we want the -- the board voted to do what required an environmental impact statement and the applicant at that point withdrew the full variance and came back with half the variance and now it's coming back for the half that it didn't get the first time. So, I do think that was segmentation that -- I do think it was segmentation.

(Chairwomen Kramer, Public Hearing, May 6, 2021)

A-24 Response:

See response to comment A-1 above. As noted previously herein, the proposal currently before the ZBA is markedly different than the 2009 and 2012 proposals, both in scale and use.

A-25 Comment:

5. The DEIS states that the proposed project is seeking the following area variances:

- 1. Building Coverage: 25,834 square feet is proposed where a maximum of 22,078 is permitted (3,756 SF variance)*
- 2. FAR: 2.43 is proposed where a maximum of 1 is permitted (1.43 FAR variance)*
- 3. Gross floor area: 107,087 square feet is proposed where a maximum of 44,146 square feet is permitted (62,932 square foot variance)*
- 4. Building height: 4 stories is proposed where a maximum of 3 stories is permitted (1 story variance)*
- 5. Front yard (Fenimore): 30 inches are provided where 10 feet is required (7-foot 8-inch variance)*
- 6. Off-street parking: 25 spaces are provided where 137 spaces are required (112 space variance)*
- 7. Off-street loading: 4 spaces provided where 8 spaces are required (4 space variance).*

(AKRF Memorandum, April 30, 2021)

A-25 Response:

Table III.A-1 presents the variances required for the FEIS Plan.

Table III.A-1 FEIS Plan Zoning Compliance				
Zoning Criteria	Required/ Permitted	Existing	Proposed	Variance Required
Minimum Lot Area (SqFt)	10,000	44,156	44,156	--
Minimum Lot Width	50	134	134	--
Building Coverage				
Area (SqFt)	22,078	20,081 red	23,096	1,018
Percentage	50%	45%	52%	2%
Floor Area Ratio (FAR)	1.0	1.34	1.91	0.91

Maximum Gross Floor Area	44,156	59,081	84,432	40,276
Impervious Surface Coverage				
Area (SqFt)	N/A	41,653	40,383	--
Percentage	N/A	94.3%	91.5	--
Maximum Building Height				
Stories	3	4	4	1 story
Feet	45'	45'	45'	
Minimum Yard Requirements				
Front (Waverly)	Note 1	0'	0'	--
Front (Fenimore)	10'	0.4'	10'	--
Rear (Southeast)	None	2'	2'	--
Rear (Southwest)	None	3'	3'	--
Off-Street Parking	137	52	26	111
Off-Street Loading	8	0	3	5

A-26 Comment:

The ZBA is considering the site as a whole, and it is not clear from the chapter what aspects of the proposed variances are associated with the existing self-storage facility, existing buildings on the corner, and the proposed self-storage facility. A zoning analysis that breaks-out each of the three parts as well as the whole should be provided in the FEIS.

(AKRF Memorandum, April 30, 2021)

A-26 Response:

The FEIS Plan no longer involves the preservation of the existing older, non-conforming buildings. See response to Comment A-25.

A-27 Comment:

It is unclear from the DEIS whether the requested front yard variance is for the existing building at the corner of the proposed self-storage facility. The proposed self-storage facility is shown as being 7 feet 8 inches from the lot line, but this is the variance requested in the Tables II-1 and IV.A-4. However, if 7-feet 8-inches is proposed, and 10 feet is required, then the requested variance should be for 2-feet 4-inches.

(AKRF Memorandum, April 30, 2021)

A-27 Response:

The FEIS Plan no longer preserves the existing building referenced in this comment. The building will be demolished, so the variance is no longer required.

A-28 Comment:

*The FEIS should address the proposed setbacks from Fenimore Road in relation to the requested area variance. As noted above, clarity on the extent of the variance sought should be provided.
(AKRF Memorandum, April 30, 2021)*

A-28 Response:

See response to Comment A-27.

A-29 Comment:

*The DEIS states the building will be a “net-zero” building in order to address Section D-3g of the Scoping Document. Supporting information should be provided to demonstrate what the Net-Zero building will include, and how these features will avoid or reduce the impacts of climate change and rising sea levels.
(Kellard Sessions Memorandum, February 4, 2021).*

A-29 Response:

The Applicant has demonstrated a long-standing commitment to Green Building. The existing Mamaroneck Self Storage facility was built as the first state-of-the-art, first-of-its-kind “green” self-storage facility in Westchester County. Energy efficiency was a priority. The Applicant enrolled the project in NYSERDA’s New Construction Program (NCP), which required compliance with rigorous energy-efficiency and sustainability standards set by the program. The Applicant partnered with high performance building consultants Steven Winter Associates to develop the project to incorporate sustainable features and realize energy cost savings from their investment. Notable energy conservation measures incorporated into the existing building include:

- High-efficiency HVAC equipment including Variable Frequency Flow (VRF) heat pumps for heating and cooling, a 65% Efficient Energy Recovery Ventilation system (ERV) for mechanical ventilation;
- High-efficiency interior and exterior LED lighting on motion sensors;
- All water-saving devices;
- 8.5Kw solar shingle array on the SE & SW sides of the building;
- The building envelope is comprised of 4" rigid insulation, 4" close cell spray foam with 8" close-cell spray foam in the ceiling.

Energy savings were 52% over the baseline standard building code with over \$30,000 annual electric-cost savings. The existing Mamaroneck Self Storage energy bills currently run from \$1,400 - \$1,800 monthly (similar to the cost of the average 6,000 square foot residential home).

The Mamaroneck Self Storage project was the recipient of three prestigious awards for its energy-efficient construction:

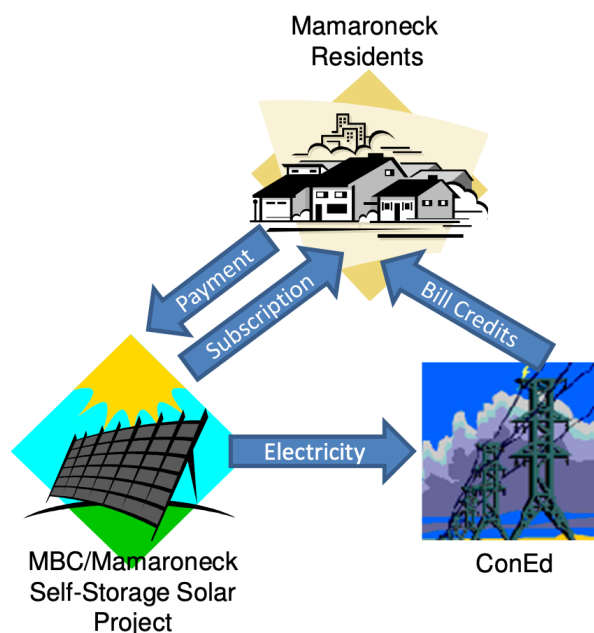
- HBRA-CT HOBI Award: Best Green Commercial Project;
- Best of BOMA Westchester County Signature Award;
- Westchester County Earth Day Award.

As construction was completed on the existing facility, the Applicant was awarded a NYSERDA Community Microgrid Project grant to investigate how a Community Microgrid system could be incorporated into future expansion plans in order to provide necessary affordable energy to the surrounding neighborhood in the event of natural or man-made disaster.

The FEIS Plan will incorporate the same energy-efficient measures as the existing building. It is the goal of the Applicant to operate a net-zero facility. A net zero building is one that has zero net energy consumption, producing as much energy as it uses in a year. In some months it may generate excess electricity through distributed renewables; at other times it may require electricity from the grid. On balance, it is self-supporting.

Additionally, the Applicant is proposing a Community Solar System, pursuant to NYSEERDA's Community Solar Program, consisting of the installation of roof-mounted photovoltaic solar arrays. The Applicant will partner with a NYSEERDA approved Community Solar Developer to oversee the engineering, permitting, installation and operation of the Community Solar System. The Community Solar System program is designed to provide clean energy to local residents. The Applicant will install roof mounted photovoltaic solar arrays on the new building addition.

These solar arrays are connected to the existing ConEd electrical grid via a separate service connection on the Site adjacent to the existing electric meter. Electricity produced from the solar panels is sent directly into the ConEd grid. The Applicant then offers subscriptions to Mamaroneck residents for a portion of that electricity, resulting in reductions in their ConEd bills. This system democratizes solar, and affords everyone access to clean energy, even those who cannot install a solar system on their own property.



Mamaroneck Self Storage is currently enrolled in the Green Building Partnership's Green Building Certification Program, which measures the sustainability of a

business's daily operation. Mamaroneck Self Storage strives to be a model of sustainability for Westchester County, in both the construction of the building as well as the operation of the business.