

AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK,  
HELD ON MARCH 2, 2023, THE FOLLOWING RESOLUTION WAS ADOPTED:

**Application No. 18-AV-22**

Name: 572 Van Ranst Pl, LLC  
Premises: 572 Van Ranst Place  
District: R-M3  
Tax I.D.: Section 8, Block 88, Lot 15B

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MARCH 14 2023  
VILLAGE OF MAMARONECK

**WHEREAS**, 572 Van Ranst Pl, LLC ("Applicant") has applied to the Zoning Board of Appeals (Board) seeking area variances in connection with the construction of a new five story, 10-unit sustainable multifamily residential building with a fuel cell system and rooftop solar installation ("Project") at 572 Van Ranst Place in the Village of Mamaroneck ("Premises"); and

**WHEREAS**, the Premises is located across the street from Columbus Park, within the R-M3 zoning district and in the AE Flood Zone with a Base Flood Elevation (BFE) of 25.8; and

**WHEREAS**, the Premises is pre-existing nonconforming in connection with the Village of Mamaroneck Zoning Code ("Zoning Code") as to (a) the minimum total lot area with 6,500 sf where 7,500 sf is required, and (b) minimum lot width and frontage with 65 feet of width and frontage where a minimum of 100 feet is required; and

**WHEREAS**, the Premises is currently improved with an existing 2-family residential building with a total of 6 bedrooms that does not comply with Village Flood Damage Prevention Code ("Flood Code") construction standards for residential buildings in a flood zone; and

**WHEREAS**, the Village Building Inspector made an initial determination that area variances were required for the Project on July 22, 2021; and

**WHEREAS**, the Project constitutes an Unlisted Action pursuant to the New York State Environmental Conservation Law and the regulations promulgated thereto (SEQRA), and the Village of Mamaroneck Planning Board, as SEQRA Lead Agency undertook a coordinated review with the other involved agencies for the Project, including this Board; and

**WHEREAS**, the Project was reviewed by the Planning Board and Harbor Coastal Zone Management Commission (HCZMC) as part of the SEQRA coordinated review process and several modifications were made to the Project at the request of the Planning Board and HCZMC, including the addition of an emergency queuing platform from the second story emergency egress door that extends into the southern side yard; and

**WHEREAS**, on July 27, 2022, the Planning Board adopted a negative declaration and determined that the Project will not result in an adverse environmental impact and that a Draft Environmental Impact Statement would not be required for the Project.

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**WHEREAS**, as set forth in the last revised Building Determination Letter dated November 8, 2022, the following area variances are required for the Project:

- 1) **Coverage:** The Applicant seeks 3,301 square feet of lot coverage (51%) where a maximum of 3,250 square feet (50%) is permitted. This requires a 51 square foot (1%) coverage area variance.
- 2) **Floor Area Ratio (FAR):** The Applicant seeks an FAR of 1.6 where an FAR of 1.2 is permitted. This requires a 0.4 FAR area variance.
- 3) **Minimum Usable Open Space per Dwelling Unit:** The Applicant seeks to provide a total of 247 square feet of usable open space on the Premises for 10 units where 150 square feet per unit (a total of 1,500 per square feet) is required. This requires a 1,253 square foot open space area variance.
- 4) **Minimum Lot Area per Dwelling Unit:** The Applicant seeks to provide a total of 10 units where 8 units (6,500 square feet of lot area/minimum 800 square feet of lot area per dwelling unit) are permitted. This requires a 2-unit area variance.
- 5) **Building Height (Stories):** The Applicant seeks a building height of 5 stories where a maximum of 4 stories are permitted. This requires a 1-story height area variance.
- 6) **Lesser Side Yard Setback:** The Applicant seeks a lesser side yard setback of 0 feet where 8 feet is required. This requires an 8-foot lesser side yard area variance.
- 7) **Combined Side Yard Setback:** The Applicant seeks a combined side yard setback of 12 feet where 20 feet is required. This requires an 8-foot lesser side yard area variance.
- 8) **Encroachment into a Side Yard:** The Applicant seeks to permit a 10-inch encroachment into the northern side yard where no encumbrance is permitted. This requires a 10-inch side yard encroachment variance.

(collectively, the "Area Variances"); and

**WHEREAS**, in furtherance of the application, the Applicant submitted materials in support of the Project for the Board's consideration, which included but were not limited to the following:

- Building Determination Letter dated July 22, 2021;
- Resolution of the Village Planning Board dated July 27, 2022 issuing a negative declaration of environmental significance for the Project and SEQRA Negative Declaration;
- Aerial photographs and photographs of existing conditions at the Premises and surrounding neighborhood;
- Traffic and Parking Study and Trash/Recycling Generation Analysis, prepared by DTS Provident Design Engineering, LLP, dated April 18, 2022;
- Architectural Plans prepared by John Sullivan Architecture, P.C., dated 12/16/20, and last revised 4/20/22;
- Civil Engineering drawings prepared by Hudson Engineering & Consulting, P.C., dated 9/1/21, and last revised 2/16/22;
- Stormwater Pollution Prevention Plan & Drainage Analysis prepared by Hudson

- Engineering & Consulting, P.C., dated 9/1/21, and last revised 6/22/22;
- Topographic survey of the Premises, prepared by Ramsay Land Surveying, PC, dated 3/15/21; and

**WHEREAS**, the Application shows that the Project will fully comply, and in some instances exceed, the Flood Code construction standards for a multifamily residential building in an AE flood zone; and

**WHEREAS**, the Board considered the Applicant's request for area variances and received public comments during the duly noticed public hearing opened on September 8, 2022 which hearing was continued on October 6, 2022 and December 29, 2022 and then closed on January 5, 2023; and

**WHEREAS**, by a letter from its attorney dated September 22, 2022, the Applicant submitted the following supplemental materials:

- Revised Building Determination, dated September 14, 2022 amending the list of area variances required by the Project;
- Letter addressing Project economics and costs for sustainability and resilience features, prepared by DGC Contracting;
- Amended Architectural Plans prepared by John Sullivan Architecture, P.C., dated 12/16/20, and last revised 9/19/22 with additional detail on the proposed height and elevations of each floor; and

**WHEREAS**, by letter dated September 30, 2022, the Applicant provided details as to its experience in sustainable and resilient building design, fuel cell systems and listed associated community benefits of the Project; and

**WHEREAS**, an updated Survey of the Premises dated August 18, 2022 identified a previously unknown approximately 10-inch encroachment into the northern side yard from the adjacent Parkview Station Condominium building which encumbers a total area of approximately 51 square feet ("Encroachment"); and

**WHEREAS**, by a letter from its attorney dated November 10, 2022, the Applicant submitted the following supplemental materials addressing the Encroachment:

- Amended area variance application;
- Revised Building Determination Letter dated November 8, 2022 with a revised list of area variances required for the Project in light of the recently identified Encroachment of the adjacent building onto the Premises;
- August 18, 2022 survey of the Premises depicting the Encroachment, prepared by Ramsay Land Surveying, P.C.;
- Copies of 2004 Zoning Board and Planning Board approval resolutions granting area variances for the adjacent Parkview Station Condominium Building;

- Amended Sheet SP1.0 of the Architectural Plans prepared by John Sullivan Architecture, P.C., dated 12/16/20, and last revised 10/25/22 with additional detail on the Encroachment and revised zoning compliance chart

(together and collectively with all materials previously submitted, "Application Materials"); and

**WHEREAS**, at the January 5, 2023 Board meeting, the Applicant represented that it had provided requested civil engineering materials, including the stormwater management plans and flood volume storage analysis, to the owners of properties near the Premises who had commented on the Application at the December 29, 2022 public hearing and that it had discussions with each owner regarding these materials; and

**WHEREAS**, following the close of the public hearing on January 5, 2023, the Board deliberated on the matter of the Area Variances at its February 2, 2023 public meeting and requested preparation of a draft resolution for its consideration.

**NOW, THEREFORE BE IT RESOLVED**, that, after considering the Application, supporting materials, testimony from the public hearing and comments from members of the public, the Board hereby approves the Area Variances. In making its determination, the Board finds that the benefit to the Applicant from granting the requested Area Variances outweighs any detriment to the community or neighborhood based on the following findings:

- 1) The Board finds that the Area Variances will not result in an undesirable change to the character of the neighborhood or a detriment to nearby properties for the following reasons:
  - a. The Applicant seeks relief from the maximum coverage, maximum floor area ratio, maximum height (stories), minimum lesser and combined side yard, minimum usable open space per dwelling unit and minimum lot area per dwelling unit requirements in the Zoning Code to construct the Project and seeks relief from the requirement that a side yard remain unencumbered to accommodate an existing Encroachment of the adjacent condominium building.
  - b. The Area Variances will permit a building with a mass, height and density that is consistent with other multifamily buildings in the surrounding area and the condominium building immediately adjacent to the Premises.
  - c. The Project will replace an existing 2-family residence that does not comply with Village Flood Code Standards for residential buildings in an AE flood zone and has suffered damage from flooding in the past.
  - d. The Project will fully comply with, and in some instances exceed, the Village Flood Code standards for residential construction of a multifamily building in an AE flood zone.
  - e. Although an area variance for the top story is required, the Project complies with the maximum height requirement in total feet (49 feet proposed where 50 feet is permitted) for the R-M3 Zoning District.

- f. The area variance for the additional story is necessary to accommodate the number of units, the mechanicals and the green building aspects of the Project in light of the requirements for building in the AE flood zone. The building will be elevated by 8 feet above the BFE resulting in the first finished floor at approximately 12 feet above the existing grade to accommodate severe flooding events. The proposed elevation of the first finished floor was supported by both the Planning Board and the HCZMC.
  - g. The Project is located across the street from open space provided by Columbus Park, a public park with a large recreational space, playground and basketball court.
  - h. A 10-unit building would otherwise be permissible on the Premises without the need for an area variance if two residential units in the building constituted affordable units (Zoning Code Sections 342-103-104).
  - i. The Project proposes fully compliant off-street parking spaces for all 10 units.
  - j. The Applicant's Traffic Impact Study demonstrates that the proposed building will not significantly increase the amount of traffic flowing throughout the surrounding community.
- 2) The Board finds that the benefit sought by the Applicant cannot be achieved by some method, feasible for the Applicant to pursue, other than the Area Variances for the following reasons:
- a. The Applicant's economic analysis and financial statement demonstrate that it is economically impracticable to include affordable units or provide less than 10 market rate units in the Project. The materials support the conclusion that the added expenses associated with the flooding compliance and green aspects of the Project, including the fuel cell technology and sustainable and flood resilient building construction, are a barrier to economic feasibility if affordable units or less than 10 units were included in the Project.
  - b. The Premises is a pre-existing nonconforming lot in terms of total lot area and minimum lot width and frontage which constrain the ability to comply with the coverage, usable open space, lot area per dwelling unit and FAR requirements.
  - c. The Premises is located in the AE flood zone and the Flood Code requires buildings be elevated to at least 2 feet above the BFE. Compliance with the applicable Flood Code development standards for building height and the placement of building mechanicals constrains the ability to develop the property without area variances.
  - d. The elevation of the first finished floor constrains the available space to locate residential units, open space and the necessary mechanicals for the fuel cell and solar installations, necessary elements of the sustainable aspects of the Project.
  - e. The Project includes a rooftop terrace and outdoor decks for building residents, but the Zoning Code only permits 10% of open space requirements to be fulfilled with rooftop space (Zoning Code Section 342-3).
  - f. The lesser and combined side yard variances are solely necessitated by the addition of a queuing platform from the second-floor emergency egress door to

enable safe building evacuation during a significant flood event. The location and configuration of this queuing platform was requested by both the Planning Board and the HCZMC.

- 3) While the Board finds that some of the requested Area Variances are substantial, this will not prevent the granting of the Area Variances for the following reasons:
- a. Related to the side yard encumbrance, the Project seeks the variance to address an existing 10-inch, 51 square foot Encroachment.
  - b. Related to the 1% area variance for coverage, this variance is not substantial and is required solely to address the existing side yard Encroachment.
  - c. Related to height, a 1-story area variance is requested even though the proposed 49-foot building fully complies with the maximum 50-foot height requirement. The additional story will accommodate the mechanicals for the fuel cell system and outdoor terrace and deck space for the building residents. The proposed building mirrors the height of the adjacent Parkview Station Condominium building.
  - d. Related to the lesser and combined side yard setback variances, these variances are solely needed to provide the emergency queuing platform from the second-floor emergency egress door. This queuing platform was requested by the Planning Board and HCZMC and is necessary for building evacuation during a significant flooding event.
  - e. Related to the minimum lot area per dwelling unit, the 2-unit variance is sought to make the Project financially viable and offset the substantial cost of the fuel-cell unit and resiliency features. The Premises is preexisting non-conforming with the minimum lot area and lot width requirements. The substandard lot size limits the ability to provide an adequate number of rental units to offset the cost of the Project without a variance. Two additional units would be permitted (for a total of 10) without an area variance if the Applicant incorporated two affordable units into the Project, thus showing that the number of units was considered appropriate by the Village when the current zoning provisions were adopted. Given the significant expense of the Project, the Applicant has provided an economic analysis indicating that converting any of the 10 units to affordable units or eliminating any of the proposed market-rate units would render the Project economically infeasible.
  - f. Related to the minimum usable open space per dwelling unit, the Project incorporates meaningful open space with an ample rooftop terrace and outdoor decks. The Premises is preexisting non-conforming with the required minimum lot area and lot width, which limit the ability to provide the required amount of open space per unit. The Premises is located across the street from Columbus Park which provides large, open green space, a playground and basketball court that are available to building residents.

- g. Related to the FAR, the area variance seeks a 0.4 FAR variance to construct a sustainable building on an existing nonconforming undersized lot that is consistent with the massing of the adjacent Parkview Station condominium building. The proposed FAR accommodates the existing north side yard Encroachment. The adjacent Parkview Station condominium building was previously granted an area variance by this Board to permit an FAR of 1.6. The FAR is required to support the number of units required to make the Project economically viable.
- 4) The Board finds that the Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the following reasons as demonstrated by the Planning Board's adoption of a negative declaration that the Project will not have significant adverse environmental impacts, which included the following:
  - a. The Project proposes a flood resilient sustainable building that is fully compliant with Flood Code construction standards. The proposed building will replace an existing 2-family (6 bedroom) dwelling unit that does not comply with Flood Code construction standards for a residential building.
  - b. The Project will increase flood volume storage onsite.
  - c. The Project results in approximately 73% reduction in carbon emissions compared to a similar building powered by fossil fuels.
  - d. The Project proposes new stormwater management infrastructure to reduce stormwater flow and runoff rates.
  - e. The Project proposes new landscaping where none exists today.
- 5) The Applicant's need for the Area Variances, except as related to the Encroachment, was self-created, but in balancing the factors that the Board is to consider, this conclusion is given less weight for the following reasons:
  - a. The Premises is a pre-existing nonconforming lot in terms of total lot area and minimum lot width and frontage, and the recently discovered Encroachment cannot be rectified.
  - b. The Premises is located in an AE flood zone and therefore must comply with the construction standards in the Flood Code for residential buildings, including the required elevation of the first finished floor and locations of mechanical equipment.
  - c. The lesser and combined side yard variances are necessitated by the location and configuration of the queuing platform for emergency egress which was specifically requested by the Planning Board and the HCZMC as a matter of public safety.

**BE IT FURTHER RESOLVED**, that, the Area Variances granted herein for the Project are conditioned on the following:

- 1) That the Applicant shall obtain a building permit, floodplain development permit and all other required permits and approvals from the Village of Mamaroneck.
- 2) The Applicant shall complete construction within 24 months of the date of this Resolution, unless otherwise extended by the Board.
- 3) The Project shall be constructed in compliance with the Application Materials and this Resolution, except for non-substantial changes to the Project which can be reviewed and approved by the Building Department, but which shall not change the Area Variances.
- 4) The granting of these Area Variances does not relieve the Applicant from complying with all other applicable Village laws and regulations.

**BE IT FURTHER RESOLVED**, that, the Board directs that a complete copy of this resolution be filed with the Village Clerk in compliance with New York State Village Law.

On the motion of Board member Heaney, seconded by Board member Glattstein, the foregoing resolution was adopted with all Board members voting as follows:

<b>Robin Kramer, Chair</b>	<b>-YES</b>
<b>Gretta Heaney</b>	<b>-YES</b>
<b>Brian Glattstein</b>	<b>-YES</b>
<b>David Neufeld</b>	<b>-YES</b>
<b>Angelique Shingler</b>	<b>-Absent</b>

The motion was carried on a vote of 4-0 with one member absent



Robin Kramer, Chair, Zoning Board of Appeals

DATED: Mamaroneck, New York  
3/24, 2023