

February 12, 2024

Via FedEx

Christopher Carthy, Chair and
Members of the Planning Board
Town of North Castle
17 Bedford Road
Armonk, New York 10504-1898

Joseph Monticelli, Chair and
Members of the Zoning Board of Appeals
Town of North Castle
17 Bedford Road
Armonk, New York 10504-1898

Re: 428-436 Main Street, North Castle

Dear Chair Carthy and Members of the Planning Board and Chair Monticelli and Members of the Zoning Board of Appeals,

As you know, our firm represents 428-436 Main Street LLC, the owner of the above-referenced property located at 428-436 Main Street (“Subject Property”).

Our client was last before the Zoning Board of Appeals on January 5, 2023, after which that Board issued a Resolution of Approval finding that where twenty (20) spaces were required by the Town’s Zoning Ordinance, there are zero (0) off-street parking spaces provided on the site and granting our client a parking variance for twenty spaces, subject to site plan approval from the Planning Board. A copy of that Resolution is attached hereto as **Exhibit A**.

Since that appearance, and grant of the parking variance, it was discovered that there was a discrepancy in the calculation of spaces required in connection with the uses present at the Subject Property, specifically that two additional spaces are required.

This error occurred because the mix of uses as presented and upon which **Exhibit A** was granted, was based upon a sketch provided by an employee of the client showing incorrect uses within the building spaces which would result in 20 spaces being required, rather than actual then the existing uses which require 22 spaces. Since obtaining that variance and in the process of making certain amendments to the Site Plan as approved by the Planning Board so as to allow the Chairman to sign it as approved, Project Engineer Joseph Riina and the undersigned were alerted by the client that the space sizes and allocation of uses on the earlier sketch were inaccurate, resulting in the number of parking spaces required being different from those submitted to the Zoning Board of Appeals and upon which the variance was granted .

The undersigned has since spoken with the Director of Planning Adam Kaufman. Adam Kaufman has required that in order to clear up the discrepancies between the first sketch and the corrected site plan, so that the parking shortfall might be properly and fairly dealt with going

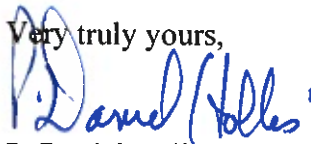
Hollis Laidlaw & Simon

forward, that the client file a request to appear before the Planning Board at its February 26th meeting to obtain a referral to the Zoning Board of Appeals for the ZBA's March 7th meeting so that the Zoning Board can issue an amended variance subject to Planning Board approval of a revised Site Plan at the Planning Board's March 11th meeting.

Accordingly, we are submitting this letter to your Boards to request that the Planning Board review and refer this matter to the Zoning Board of Appeals for issuance of a corrected variance for twenty-two parking spaces (22), rather than twenty, and approval of the revised Site Plan by the Planning Board. Specifically, we respectfully request to appear before your respective Bopards on the dates set forth immediately above,

If you have any questions, please do not hesitate to contact me. Thank you for your consideration.

Very truly yours,



P. Daniel Hollis, III

Enclosures

Exhibit A

Resolution of Approval for Area Variance

Zoning Board of Appeals of the Town of North Castle

WHEREAS, the applicant, 428-436 Main Street, LLC, affecting property located at 428 through 436 Main Street in Armonk, New York (108.01-6-24) in the CB-A2 Zoning District sought an interpretation of the Building Inspector's October 17, 2022 Notice of Violation relating to the rental of one of the applicant's stores; and

WHEREAS, in the alternative, applicant sought an area variance from the off-street parking requirements related to that same property where twenty (20) spaces were required and zero (0) were provided; and

WHEREAS, the Board was fully familiar with the subject property and its surrounding neighborhood; and

WHEREAS, the Application was an appeal from a decision, interpretation of the Building Inspector; and

WHEREAS, on January 5, 2023 the Board conducted a public hearing on the application, all interested parties being given an opportunity to be heard and the Board accepted documentary evidence in support of the application; and

WHEREAS, there was no objection, testimonial or otherwise, to the grant of the application for this variance; and

WHEREAS, proof of notice to nearby neighbors was submitted by the applicant.

NOW, THEREFORE, the Zoning Board makes the following findings:

1. The application constitutes a Type 2 action pursuant to SEQRA.
2. As determined by the Planning Board and acquiesced by the applicant, twenty (20) off street parking spaces are required by the Town's zoning ordinance in connection to the uses being had on the subject property.
3. There are zero (0) off-street parking spaces provided on site.
4. The Board members are fully familiar with the site, the various uses extant on the subject property and the lack of any legal, conforming parking spaces included within the subject site.
5. The Board is aware that this lack of legal, conforming spaces has been in existence throughout the more than hundred years of the property's existence.

6. The Board finds, as has the Planning Board consultants, that the scenario set forth in paragraph five above has created a problem for the applicant as well as the (two) Boards each time a store changes ownership or use.
7. The Board finds repeated applications to itself and the Planning Board for amended site plan approvals is wasteful of time, energy and finances.
8. The Board finds that unless a changed use generates an increased number of required parking spaces, beyond the baseline of twenty (20) established herein, no resort to the ZBA would be required so long as the (changed) use is one consistent with the CB-A2 uses authorized in the subject Zoning District (CB-A2).
9. Clearly, as is evident from the above facts, there will be no change in the character of the Neighborhood which has remained constant and pre-dated the zoning ordinance itself.
10. The need for a variance is not technically self-created as it pre-dates the ordinance (see ¶ 9, *supra*).
11. There is no feasible alternative to the grant of this variance: a denial would force long term vacancies, *inter alia*, which would negatively impact the applicant and the Town itself.
12. There exists no negative environmental impact from the grant of this variance, nor has there been even a hint of negative impact upon the neighboring properties.
13. Indeed, this Board finds that there is now, and has been throughout the past, sufficient parking for residents, et al., to access the applicant's stores.
14. To reiterate, the Board finds this variance should cover all of the various stores and the apartment within the subject property.
15. The applicant has withdrawn his appeal of the Building Inspector's interpretation (which was a part of this application).
16. The Board accepts the baseline of twenty (20) parking spaces being required as set forth in this application and his application extant with the Planning Board as set forth in the exhibits he has attached to this application.
17. Because of all of the above, the substantiality factor set forth in Town Law, § 267-6(7)b has been effectively mitigated.

ACCORDINGLY, the Board of Appeals resolves the parking area variance of twenty (20) spaces is granted subject to the following conditions:

1. Site plan approval from the Town's Planning Board.


2. Compliance with all requirements of the Town's Code and Ordinances.

Motion: Mr. Stopnik
Second: Mr. Greer
Mr. Stipo: Yes
Mr. Berkelhamer: Yes
Mr. Monticelli: Yes

Variance granted as above.

January 5, 2023

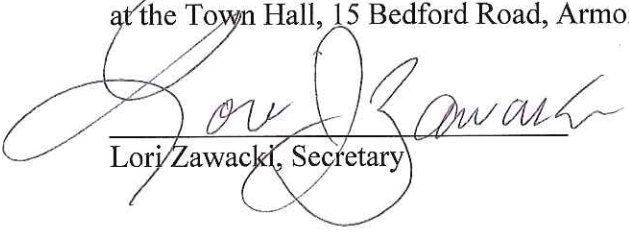
Armonk, New York


Joseph Monticelli, Chairman

2/22/23


Gerald D. Reilly, Esq., Board Attorney

I hereby certify this is a true copy of a resolution approved by unanimous vote on January 5, 2023 at the Town Hall, 15 Bedford Road, Armonk, New York.


Lori Zawacki, Secretary