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October 16, 2023

Via Email: zoningboard@townofnewburgh.org

Hon. Chairman and Board Members

Zoning Board of Appeals

Town of Newburgh

Town Hall

1496 NY 300

Newburgh, New York 12550

RE: July4Ever, LLC

Dear Chairman and Board Members:

As per your suggestion we have below set forth the specific interpretations we request as to the six (6) alleged noncompliance violations issued by your Building Department.

1. Is the mobile home approved by the 2003 variance a habitable residence in a R-1 Zoning District with accessory office use provided occupancy is required as a term of employment? Yes.

The 2003 variance was for an application for a mobile home. The terms of the variance required security provisions. The zoning code expressly provides for occupancy as a condition of employment. A residence is a permitted use in a R-1 zone.

2. Is the erection of the blue modular building a structure that violates the limited structure use conditions of the 1982 and 2003 variances? Yes.

The blue modular building is a structure. The use variance expressly stated no structures without the ZBA approval. No approval was requested or granted.

3. Is the erection of a fabric domed storage building a structure that violates the limited structure use condition of the 1982 and 2003 variances? Yes

The fabric domed storage building is a structure. The use variance expressly stated no structures without the ZBA approval. No approval was requested or granted.

4. Does the variance granted in 1982 to store and vend Class C fireworks explosives include Class B explosives? No.

The variance expressly stated Class C. There are substantial regulatory differences for Class B that would require conditions not part of the Class c approval.

5. Are cargo containers or tractor trailers allowed on the property as an accessory use to the principal use of fireworks storage and vending? Yes.

Neither cargo containers nor tractor trailers are structures. They are portable storage units movable by motor vehicles or other equipment. All products arrive and depart in cargo containers or tractor trailers. The use is reasonable accessory to a storage and vending use.

6. Is off-street parking of commercial vehicles on the property allowed? Yes.

The use variance of 1982 and 2003 contemplated commercial use of the property. Parking off-street is a reasonable and customary accessory use for a commercial business. There is no issue of encroachment or adverse effect on any public right of way.

We trust these will be helpful to your deliberations. The numbers correspond to the notice of noncompliance items, list attached.

Very truly yours,



Gerald N. Jacobowitz

cc: Mr. Vincent Esposito Via Email: vincent@july4ever.net

382 Rock Cut Rd. Walden NY 12586

Required use variance:

Town of Newburgh Municipal Code:

- 1) 185-37 individual mobile homes on individual lots (Residence)
 - Mobile homes on individual lots shall not be permitted in any district.
- 2) 185-19: Nonconforming uses. A nonconforming use may continue indefinitely, subject to the following provisions: (Fireworks)
 - 1 Alterations. A nonconforming use shall not be enlarged, extended, reconstructed or restored, except in accordance with Subsection B(2) herein, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
- 3) 185-19: Nonconforming uses. A nonconforming use may continue indefinitely, subject to the following provisions: (Additional office trailer)
 - Alterations. A nonconforming use shall not be enlarged, extended, reconstructed or restored, except in accordance with Subsection B(2) herein, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
- 4) 185-7-F: Unspecified uses:
 - Unspecified uses. Any use not specifically permitted shall be deemed to be prohibited. (Storage building in an R-1 zone)
- 5) 185-15.1-B: (Cargo containers)
 - Cargo containers are not permitted to be used for accessory storage on property zoned residential or on property, the primary use of which is residential.
- 6) 185-13-E: Off street parking of commercial vehicles in a residential zone:
 - Does not meet the requirements for this section. (Box trucks and trailers)

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Town of Newburgh Municipal Code:

- 1) 185-37 Residential mobile homes on individual lots. (Residence)
 - Mobile homes on individual lots shall not be permitted in any district.
- 2) 185-19: Nonconforming uses. A nonconforming use may continue indefinitely, subject to the following provisions: (Fireworks)
 - 1 Alterations. A nonconforming use shall not be enlarged, extended, reconstructed or restored, except in accordance with Subsection 3(2) herein, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
- 3) 185-19: Nonconforming uses. A nonconforming use may continue indefinitely, subject to the following provisions: (Additional office trailer)
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