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*NOT FOR SERVICE OF PROCESS

June 18, 2014

Via US Mail and fax 564-7800
Hon. Grace Cardone, Chair
Zoning Board of Appeals
Town of Newburgh
308 Gardnertown Rd
Newburgh, NY 12550

RE: Magyar Truck Rental
5469 Rt 9W, Newburgh, NY
Section 9 Block 3 Lot 6

Dear Ms. Cardone:

I write at the direction of my clients, Magyar Truck Rental LLC and Julius and Mary Ann Magyar. By decision dated July 7, 1989, my clients received an interpretation from the ZBA which, although not following the usual analysis, essentially constituted a use variance in connection with their truck rental business located at 5469 Rt 9W, Newburgh, NY. A copy of the decision is enclosed. As you may know, within the past year the Magyars sold their adjoining gas station on Route 9W and have consolidated the truck rental business into a new building located on SBL 9-1-3. They thereafter made application to the Planning Board for an amendment to their site plan to additionally permit automobile rentals in the same location. As Planning Board attorney Donnelly noted in his letter to the ZBA of April 10, 2014, also enclosed, the Planning Board is seeking guidance as to the nature and extent of the rights conferred by the 1989 decision.

Please note that the applicant does disagree with Attorney Donnelly's characterization of their current application before the Planning Board as seeking to maintain "as many combinations of cars and trucks on the site as he desires." Although, as Mr. Donnelly concedes, the 1989 approval does not limit the number of trucks to be stored on site, the applicant readily agrees that a limitation of no more than 10 automobiles stored on the premises, is appropriate. My clients have no intention of seeking relief from that limitation, which is set forth in the existing code. Auto rentals are permitted as of right in the B zone, and, moreover, their addition to this particular site would truly have no material impact of any kind, particularly when considering the scope of the existing truck business. Magyar Truck Rental has operated from this location for well over 25 years without incident or neighborhood disharmony. It blends into this commercial area well, and my client has worked diligently to screen the vehicles from view. A casual drive past the site shows a pleasantly manicured building with clear and legible signage, featuring opaque fencing concealing the trucks stored within, as required by the most recent site plan. The proposed rental automobiles would be stored within the same enclosure.

In accordance with Mr. Donnelly's letter and the recommendation of Mr. Donovan, the Magyars request that the ZBA place this issue on an upcoming agenda under "Other Board Business" and advise the undersigned and Frank Valdina of the date and time. Thank you in advance for your consideration of this request.

Very truly yours,



TODD A. KELSON

TAK:cp
enclosures

cc: David Donovan, Esq.
Michael Donnelly, Esq.
Frank J. Valdina, Jr., P.E.
Mr. & Mrs. Julius Magyar

Attorneys and Counselors at Law

David A. Donovan
Michael H. Donnelly
Robert J. Dickover

James B. Blay, of Counsel

Successor Law Firm To:
Alexander Apprehenz, P.C., Florida, N.Y. (1910-1988)
Ludwig & Vanje, Esq., Warwick, N.Y.

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(Not for Service of Process)

April 10, 2014

Town of Newburgh Zoning Board of Appeals
808 Gardnertown Road
Newburgh, NY 12550

RE: Magyar Truck Rental 11.04
Section 9, Block 1, Lot 3
5465 Route 9W / Zone B

Members of the Board:

I write to you as the attorney for the Town of Newburgh Planning Board. The planning board took up consideration of the above referenced site plan application during its meeting held on April 8, 2014. The above referenced applicant has been before the planning board recently proposing to add car rentals to a previously approved site plan allowing operation of a Budget Truck Rental facility. The property is located in the B zoning district where vehicle rentals are allowed but where the code imposes a storage limitation of ten vehicles on an automobile rental facility. The earlier approved site plan did not clearly limit the storage of rental vehicles on the site to ten and the planning board may well have been lax in this regard.

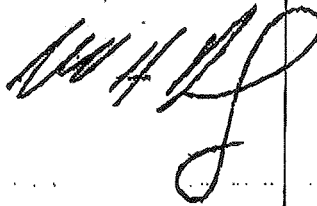
In any event, the applicant now clearly proposes a significant change in the site, proposing more than ten storage spaces and the addition of car rentals to the truck rentals earlier approved. Therefore, the planning board has directed me to refer this matter to you for consideration of the granting of a variance releasing the applicant from this 10-vehicle limitation.

The application before the planning board involves a building of under 4,000 square feet and is, therefore, a Type II action under SEQRA.

One final matter: It should be noted that, in 1989, the applicant received a "Decision and Resolution" from the Town of Newburgh Zoning Board of Appeals. I enclose a copy. That decision allowed the applicant to operate a

... (including this one) owned by the applicant at a time when an auton...ile rental facility was not an allowable use in the zone. While one would think this decision constituted a use variance, the decision does not follow the usual analysis for a use variance. Moreover, while the grant of relief included a condition requiring that all storage of rental vehicles "shall be located behind [an] existing split rail fence," it is impossible for the planning board to determine the extent of vehicle storage allowed by the decision. It is the applicant's contention that he has *carte blanche* to store as many combinations of cars and trucks on the site as he desires under authority of this decision. The planning board cannot reach this determination on the record presented. The planning board, therefore, refers this matter to you for an explanation or expansion of the relief earlier granted if indeed that decision has any viability at all today.

Very truly yours,



MICHAEL H. DONNELLY

cc: Town of Newburgh Planning Board
Valdina Consulting Engineers

TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
105 PLATTEKILL TURNPIKE
NEWBURGH, NEW YORK 12550

OFFICE OF ZONING BOARD
(814) 864-7904

August 11th, 1989

Mr. & Mrs. Julius Magyar
704 Route 9-W
Newburgh, New York, 12550

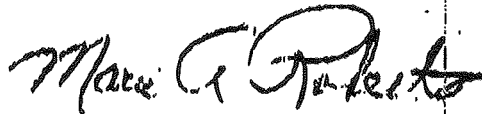
Re: "Decision and Resolution" from the Zoning Board of Appeals.

Dear Mr. & Mrs. Magyar:

This letter is to advise you that the Zoning Board of Appeals has reached their "Decision and Resolution" on your application to relocate an existing gas station onto the site across the street on Route 9-W. A copy of this "Decision and Resolution" is enclosed.

A permit for the construction of canopies for this station has already been issued by the Building Department. As you know before a Certificate of Occupancy can be issued for this new station, the one across the street must be eliminated.

Very truly yours,



Marie A. Roberts
Secretary to Zoning Board of Appeals

TOWN OF NEWBURGH
ZONING BOARD OF APPEALS

IN THE APPLICATION OF
JULIUS AND MARYANN MAGYAR

Section 9
Block 1
Lots 3 & 6

DECISION AND RESOLUTION

The application of Julius and Maryann Magyar, owners of the above-captioned premises, seeks an interpretation of §30.21, Article II(B), #35 so as to permit the relocation of applicant's existing gas station (now sited across 9W) onto the subject site which is presently improved by a truck rental business operated by applicant.

The Applicant, having submitted this application, paid the required fees, provided a true copy of the property description, submitted a plot plan and list of property owners within three hundred feet, the matter was noticed for public hearing and caused to be published by the Chairman of the Board; and the hearing being conducted, the Board thereupon entered into deliberative session and does find as follows:

1. That the procedural requirements of the Town Law of the State of New York, the Zoning Ordinance of the Town of Newburgh and the regulations of this Board have been complied

2. The applicants are owners of these two contiguous lots, whose combined area is approximately 5.6 acres. Applicant proposes to move the parking of his rental trucks from Lot 6 onto Lot 3, thus leaving an area on Lot 6 of sufficient dimension to accommodate the requirements of §30.52(B) which sets forth the minimum area requirements for service stations.

3. This Board finds that the existing traffic pattern on 9W would be better served by the relocation of applicant's existing gas station now located on a curve diagonally across 9W to lot 6, the location, and area of which provide better ingress and egress to and from the site, and better sight lines than does the smaller, pre-existing non-conforming lot.

4. It is the finding of this Board that the restriction against the combined uses of gas station and truck rental businesses set forth at Article II(A) §30.21, #35 may be varied in this instance where the resulting of gas station aforesaid would be in the public interest of safety.

5. The Board also finds, however, that the storage of rental trucks which usage presently dominates Lot 6, must be moved to Lot 3 and that only the paperwork aspect of the truck rental business may be conducted in the existing structure on Lot 6. Maintenance of trucks may not impede or impinge upon the strict area requirements for motor vehicle stations previously

THERE BEING NO FURTHER FINDINGS REQUIRED OF THIS BOARD, the application of Julius and Maryann Magyar is approved subject to the following conditions:

1. Applicants' storage of the trucks on Lot 3 shall be located behind the existing split rail fence, and in the event such fence is to be removed, the storage shall be no closer than that distance from Route 9W.

2. Applicant conforming with all applicable building, safety, health and environmental codes.

3. The existing station located across the street is to be eliminated before a Certificate of Occupancy can be granted on this station.

DATED: NEWBURGH, NEW YORK
JULY 7, 1989

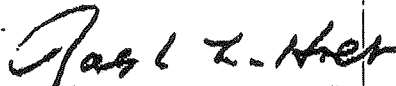
Ralph L. Holt

Ralph L. Holt
Chairman

VOTING ON THE APPLICATION OF
JULIUS AND MARYANN MAGYAR

DOUGLAS W. CARLE	VOTE	ABSENT
DAVID RUSSELL, SR.	VOTE	AYE
JOHN DELESSIO	VOTE	AYE
GRACE CARBONE	VOTE	ABSENT
PAUL BLANCHARD	VOTE	AYE
RICHARD RASKIN	VOTE	AYE
RALPH L. HOLT, CHAIRMAN	VOTE	AYE

DATED: NEWBURGH, NEW YORK
JULY 7, 1989



Ralph L. Holt
Chairman

06/19/2014 09:18

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FOR FWD

... Page 265 DEW 5218 23:02 PM

FILE 02

10/20/14

IN FRONT OF

DEPARTMENT OF JUSTICE

PAGE 02

CONTACT INFO

PERSONAL INFO

FAMILY DETAILS

Other: 06/19/2014

06/19/2014

06/19/2014

LYNDON B. JOHNSON, PRESIDENT OF THE UNITED STATES OF AMERICA

PAGE 02

TO:
FROM:
DATE:
FROM ADDRESS:

FROM: Michael Kennedy
DATE: Fri, May 02, 2014
11:21:52 AM

RE:

Re: 24/11-1000

NOTES/COMMENTS:
See attached

Michael F. Kennedy
J. Donovan, Donnelly & Associates, LLP
Michael.Donnelly@fdk.com
(845) 294-9447

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