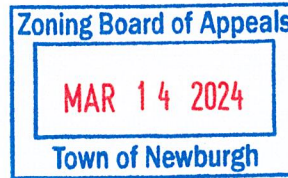


March 14, 2024

VIA HAND DELIVERY

Chairman Darrin J. Scalzo and
Members of the Zoning Board of Appeals
Town of Newburgh
21 Hudson Valley Professional Plaza
Newburgh, NY 12550



NICHOLAS M. WARD-WILLIS
Principal Member
nward-willis@kblaw.com
Also Admitted in CT

Re: Newburgh Chicken, LLC – Proposed Popeyes Chicken
197 South Plank Road
Parcel ID No. 60-3-6.1
Application for Special Permit Pursuant to Town Code § 185-19(A)(3)

Dear Chairman Scalzo and Members of the Zoning Board of Appeals:

Keane & Beane, P.C. respectfully submits this letter on behalf of Newburgh Chicken, LLC (the “Applicant”), contract vendee of the above-referenced property (the “Property”), which is currently owned by Louis J. Gallo and Jean F. Gallo and is located in the Business (B) Zoning District. Please allow this letter to serve as a request for certain adjustments to variances previously granted by the ZBA at its October 26, 2023 meeting, as well as for several new variances related to signs on the Property. Our office appeared before the Planning Board at its March 7, 2024 meeting, at which time we received the enclosed re-referral to the Zoning Board of Appeals (“ZBA”) to request the land use approvals sought herein.

I. Proposed Development

The Property is currently developed with an approximately 2,691 square-foot, one-story fast-food establishment (specifically, a Dairy Queen) with a drive-thru and 26 parking spaces. The existing fast-food establishment and drive-thru is a legal nonconforming use, as fast-food establishments are not permitted in the Business (B) Zoning District and has been located on the Property for several decades. The Applicant seeks to demolish the existing building and redevelop the Property with an approximately 2,537 square-foot, one-story fast-food establishment (specifically, a Popeyes Chicken) with a drive-thru and 22 parking spaces. Construction of the new building in a different location on the Property will improve on-site and off-site traffic conditions and improve the aesthetics of the Property.

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II. Special Permit and Variances Previously Granted by the Zoning Board of Appeals

Our office appeared before the ZBA at its September 28 and October 26, 2023 meetings. At the October 26, 2023 meeting, the ZBA granted the Applicant a special permit pursuant to Town Code § 185-19.A(3), which authorizes the proposed nonconforming use to continue on the Property, albeit in a different location and under a new corporate entity. Additionally, in granting the special permit, the ZBA determined that the applicable bulk requirements for the project are those which were proposed and presented as part of the development of the Property.

Moreover, there are certain dimensional requirements that apply to the project, regardless of the fact that the proposed use is not permitted by right in the Business (B) Zoning District. Accordingly, the ZBA granted the following area variances related to the project.

- (1) A **one (1) loading space variance from Zoning Code § 185-13.B(6)**, where the required loading spaces for the project is one (1) space and the proposed loading spaces is zero (0) spaces.
- (2) A **99.4-foot (99.4') variance from Zoning Code § 185-13.D(6)**, where the minimum required distance from the intersection to the entrance to the Property on South Plank Road (Rt. 52) is 150 feet (150.0') and the proposed distance is 50.6 feet (50.6').
- (3) An **11.7-foot (11.7') variance from Zoning Code § 185-18.C(4)(a)**, where the minimum required setback from the physical center line on Union Avenue (Rt. 300) is 80 feet (80') and the proposed setback is 68.3 feet (68.3').
- (4) A **23.5-foot (23.5') variance from Zoning Code § 185-18.C(4)(b)**, where the minimum required front yard setback from Union Avenue (Rt. 300) is 60 feet (60.0') and the proposed front yard setback is 36.5 feet (36.5').
- (5) A **6-foot (6.0') variance from Zoning Code § 185-14.M(2)(c)**, where the maximum permitted freestanding sign height is 14 feet (14.0') and the proposed freestanding sign height is 20 feet (20.0').

The ZBA granted the above area variances in reliance on the plan set titled "General Notes" (Sheet 1 of 2) and "Site Plan Exhibit" (Sheet 2 of 2), prepared by Dynamic Engineering Consultants, P.C. and dated October 17, 2023.

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III. Developments Since October 26, 2023 and the Need for Adjustments

Since last appearing before the ZBA on October 26, 2023, our office has appeared before the Planning Board at its December 7, 2023, February 1, 2024, and March 7, 2024 meetings. In response to comments received from the Planning Board and in an effort to address grading issues on the south side of the Property, the Applicant has made certain minor changes to the site plan (the “January 2024 Proposal”), which mostly entail a slight rotation/shift of the proposed building. Accordingly, some of the bulk requirements set by the ZBA need slight adjustments, as do some of the variances previously granted.

Additionally, there were discussions with the Planning Board and the Town’s consultants about the potential for a dedication to the DOT in order to facilitate possible future improvements to the intersection of South Plank Road (Route 52) and Union Avenue (Route 300). As a result, the Applicant prepared a concept plan that provides for the dedication of an approximately ten (10)-foot wide area consisting of about 1,100 square feet to be offered to the DOT (the “March 2024 Concept”). This plan was prepared by the project engineers after discussions with the office of Creighton Manning, which indicated that it was understood that any improvement to the intersection would involve the creation of a left-hand turning lane when heading eastbound on South Plank Road (Route 52). Discussions with the DOT and the Town’s consultants are ongoing, and it is anticipated that DOT will be providing comments on the March 2024 Concept in the near future.

At the March 7, 2024 Planning Board meeting, we presented both the January 2024 Proposal and the March 2024 Concept.¹ Through our presentation, we provided clarity to the Planning Board on the issue of which previously granted variances and previously approved bulk regulations would need adjustments as a result of both plans. Importantly, almost all of the adjustments were identical, regardless of whether the January 2024 Proposal or the March 2024 Concept would be the “official” plan the Planning Board chooses to act on. The only adjustment that differed between the two plans was the minimum front yard setback to South Plank Road (Route 52), which is ten (10) feet shorter under the March 2024 Concept as a result of the proposed ten (10)-foot wide dedication to the DOT. Under both plans, however, that setback is increasing from that which was approved by the ZBA.

The precise adjustments to the previously approved variances and bulk regulations are detailed in the enclosed color-coded charts. Nevertheless, for the Board’s convenience, the adjustments are generally:

- (1) An increase to the approved minimum front yard setback on South Plank Road (Route 52) in the amount of 4.9 feet (under the January 2024 Proposal) or 14.9 feet (under the

¹ A copy of both the January 2024 Proposal and the March 2024 Concept is enclosed.

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March 2024 Concept). Note that this is the only adjustment that differs between the two plans.

- (2) A decrease to the approved minimum front yard setback on Union Avenue (Route 300) in the amount of 2 feet.
- (3) A decrease to the approved minimum rear yard setback in the amount of 2.5 feet.
- (4) An increase to the approved minimum side yard setback in the amount of 3.4 feet.
- (5) An increase to the approved maximum lot surface coverage in the amount of 60.0 square feet (a 0.1% increase).
- (6) An increase in the variance granted for the distance from the intersection to the entrance to the Property on South Plank Road (Route 52) in the amount of 0.5 feet.
- (7) An increase in the variance granted for the minimum required setback from the physical center line on Union Avenue (Rt. 300)
- (8) An increase in the variance granted for the minimum required front yard setback from Union Avenue (Route 300) in the amount of 2.0 feet.

With that being said, all of the above changes to the previously approved variances and bulk regulations are still improvements relative to the existing dimensional aspects of the Property.

IV. New Variances Required for the Proposed Signs on the Property

Since the October 26, 2023 ZBA meeting, the Applicant has also been able to prepare the enclosed Signage Exhibit. As a result, the following variances have been identified with respect to the proposed signage on the Property:

- (1) A **0.5-foot variance from Zoning Code § 185-14.M(2)(a)**, where a freestanding sign is only permitted if the building on the site is set back a minimum of 35 feet from the front property line and the proposed setback is 34.5 feet from Union Avenue (Route 300).
- (2) A **114.7-square-foot variance from Zoning Code § 185-14.M(1)(a)(2)**, where the total allowable sign area for all permanent signs on a site containing a freestanding sign is $\frac{3}{4}$ square foot of sign area per linear foot of building wall that fronts on a street (in this case, 87.9 square feet) and the proposed total sign area is 202.6 square feet.

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None of these variances have been previously granted by the ZBA, and so the Applicant respectfully requests them at this time.

V. Review of the Area Variance Factors

A. Area Variance Factors under New York Town Law

Pursuant to Town Law § 267-b(3)(b), in determining whether to issue an area variance, the Zoning Board must balance the benefit to the applicant in granting the variance against the potential detriment to the health, safety, and welfare of the Town and the reasonable expectations of neighboring property owners by such grant. In making its determination, the Zoning Board must consider the following factors:

- (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.

As set forth below, the Applicant respectfully submits that it satisfies all of the legal criteria required for the granting of the area variances.

- 1. An undesirable change will not be produced in the character of the neighborhood by the granting of the area variances, nor will there be detriment to nearby properties.**

No undesirable change will be produced in the character of the neighborhood by granting any of the variances, nor will there be a detriment to nearby properties. As was discussed before the Zoning Board at its October 26, 2023 meeting, the proposed development will reduce the existing nonconformities on the Property. To that extent, all of the area variances will facilitate the

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development of a site that will enhance public safety and community character via the construction of a new building set back further from the streets, with improved on-site and off-site traffic circulation. The appearance of the building, and the landscaping and functionality of the Property will be improved through the granting of the area variances. Additionally, the nearby properties—some of which also face similar issues with setbacks from intersections and state highways—will all benefit from the improvement in the traffic flow along South Plank Road and Union Avenue. To the extent that some of the previously granted variances are being increased, such increases are so minimal that they will not suddenly produce an undesirable change in the character of the neighborhood, nor will there be any detriment to nearby properties. The same can be said for the requested sign variances.

2. **The benefit sought by the Applicant cannot be achieved by any feasible method other than the area variances.**

The benefit that the Applicant seeks cannot be achieved by any feasible method other than the area variances due to the existing nature of the Property. The location of the site—namely that it is located at the corner of an intersection of two state highways—results in the need for certain setbacks for accessways and front yards, while the size of the Property limits the ability to comply with said setbacks. Said difficulties would apply to almost all development. Although the Applicant has endeavored to comply with all Town regulations to the maximum extent possible, there is no feasible alternative other than the adjusted area variances to comply with the requirements set forth in the table above.

With regard to the sign variances, the sign package prepared for the project is a standard corporate package for the Popeyes chain. Compliance with the limitations provided by the Zoning Code—particularly with regard to the total square footage of all permanent signs on the site—would be infeasible given the corporate and industry standards.

3. **The requested area variances are not substantial.**

It is well-established that substantiality is not measured strictly by mathematical means, but it must also be measured by consideration of the facts and circumstances surrounding the impact of the variance if granted. None of the requested adjustments to the previously granted variances are substantial (nor are the variances in their entirety), whether analyzed mathematically or in consideration of the facts and circumstances surrounding their impact if they were granted. As stated above, the proposed project will reduce the existing nonconformities on the Property. Moreover, the surrounding properties face similar issues with setbacks from intersections and state highways. The same applies to the requested sign variances. Thus, the impact of the variances if granted is not substantial, nor are the variances themselves mathematically substantial.

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4. **The proposed area variances will not have any adverse effects or impacts on the physical or environmental conditions in the neighborhood or district.**

Should the variances be granted, there will be no adverse effects or impacts on the physical or environmental conditions in the neighborhood or district. At its September 28, 2023 meeting, the Zoning Board confirmed that the proposed project is a Type II action under SEQRA, as it is the construction of a primary, non-residential structure involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance. Thus, it will not have a significant impact on the environment. Moreover, as part of the site plan approval process, the Applicant will submit a stormwater management plan and any other required documents that will further demonstrate that the variances (and the project generally) will not have any adverse effects or impacts on the physical or environmental conditions in the neighborhood.

5. **The alleged difficulties were not self-created.**

While the Applicant has agreed to purchase the Property subject to its limitations, the need for these variances is driven by the existing size/layout and location of the Property. As touched on above, any reasonably suitable development of the Property will result in the need for some, if not all, of the requested variances. Additionally, given the corporate signage package from Popeyes, the Applicant did not create the need for the sign variances itself. Nevertheless, even if the Zoning Board determines that the difficulties are considered self-created, this factor does not preclude the granting of any of the variances.

**B. Considerations Under the Town of
Newburgh Zoning Code**

Pursuant to Zoning Code § 185-54.B(1), in determining whether to issue an area variance, the Zoning Board must find that such variance will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are unnecessary hardships or practical difficulties in the way of carrying out of the strict letter of the Zoning Code. No area variance can be granted unless the Zoning Board finds:

- (1) That there are special circumstances or conditions fully described in the findings of the Board applying to the land or building for which the variance is sought, which circumstances or conditions are unique to such land or building and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the appellant or applicant subsequent to the adoption of this chapter, whether in violation of the provisions hereof or not.

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- (2) That for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the appellant or applicant of the reasonable use of such land or building and the granting of the variance is necessary for the reasonable use of the land or building and that the variance which is granted by the Board is the minimum variance that will accomplish this purpose.
- (3) That the granting of the variance will be in harmony with the general purposes and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

As stated above, the circumstances necessitating the variances are unique to the Property inasmuch as they are due to a combination of its size and location. The strict application of the Zoning Code would certainly deprive the Applicant of a reasonable use of the Property, and the variances sought are indeed the minimum necessary. Finally, the granting of the variances will be in harmony with the purposes and intent of the Zoning Code, and will unquestionably benefit the public welfare.

VI. Application Submission Materials

In support of this application, enclosed please find eleven (11) copies of the following materials:

- (1) Planning Board re-referral letter.²
- (2) Drawing entitled "Site Plan Exhibit," prepared by Dynamic Engineering Consultants, P.C., dated 03/04/2024 (i.e., the March 2024 Concept).
- (3) Drawing entitled "Site Plan," prepared by Dynamic Engineering Consultants, P.C., last revised 01/17/2024 (i.e., the January 2024 Proposal).
- (4) Sign package entitled "Popeyes Signage Exhibit," prepared by Dynamic Engineering Consultants, P.C., dated 02/06/2024.
- (5) Elevations entitled "Rendering Elevations," prepared by G141 Architecture, LLC, dated 11/15/2023.
- (6) Color-coded chart entitled "Dimensional Requirements/Measurements."

² The re-referral letter is erroneously dated March 13, 2023 and makes reference to a March 7, 2023 Planning Board meeting. However, the references to the variances previously granted by the ZBA on October 26, 2023 make it evident that those March 2023 dates should actually be March 2024.

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- (7) Color-coded chart entitled "Variances Granted at 10/26/2023 ZBA Meeting."
- (8) Color-coded chart entitled "Sign Details and Compliance."
- (9) Assessor's list of property owners within 500 feet of the Property.

VII. Conclusion

For the reasons set forth above, the Applicant respectfully submits that the Zoning Board should adjust the previously approved variances and bulk regulations, as well as grant all of the sign variances now being requested. We look forward to continued discussions with the Zoning Board concerning the application at its regular meeting on March 28, 2024.

Thank you for your consideration.

Very truly yours,

Nicholas M. Ward-Willis

Nicholas M. Ward-Willis

cc: Gerald Canfield
Michael Donnelly, Esq.
Patrick Hines, PE

James R. Loeb
Richard J. Drake, *retired*
Glen L. Heller*
Marianna R. Kennedy
Gary J. Gogerty
Stephen J. Gaba
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Dominic Cordisco
Ralph L. Puglielle, Jr.
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Sarah N. Wilson
Michael J. Barfield**
Meghan R. LoCicero

Jennifer L. Schneider
Managing Attorney

*LL.M. in Taxation

**Member NJ & NY Bar

March 13, 2023

BY EMAIL ONLY

Darrin J. Scalzo, Chairman
Zoning Board of Appeals
Town of Newburgh Town Hall
1496 Route 300
Newburgh, New York 12550

Re: Newburgh Chicken // ZBA re-referral
Planning Board Project No. 2023-17

Dear Chairman Scalzo and Zoning Board Members:

At the Planning Board's March 7, 2023 meeting, the Planning Board resolved to re-refer this application to the Zoning Board of Appeals for its consideration adjustments to the variances previously granted on October 26, 2023 for the proposed redevelopment of the existing Dairy Queen site located at 197 South Plank Road. The project has now been identified as a proposed Popeyes Louisiana Chicken fast food restaurant.

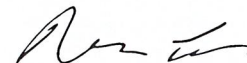
The applicant has been coordinating with the NYSDOT and the Town of Newburgh regarding necessary improvements to the Route 300 & 52 intersection, and as a result of those improvements and other site layout changes, the variances for the project have in some instances increased in nonconformity, and in others have decreased in nonconformity. Rather than listing the changes individually, I have this date received the enclosed charts from the applicant's counsel, which identifies those variances that are increasing, decreasing, or remaining the same. The applicant has also now identified certain variances required for the proposed signage for the project.

As previously noted, the site is located in the Town's B zoning district, and fast food restaurants are not an allowed use within the B district.

As before, the Planning Board has not declared its intent to serve as lead agency so that the Zoning Board of Appeals may consider and process this application without the need to wait for the Planning Board to conclude its SEQRA review.

Thank you for your consideration of this matter.

Very Truly Yours,



Dominic Cordisco

NEWBURGH CHICKEN, LLC

Summary of Changes from 10/26/2023 ZBA Approval
Prepared for 03/07/2024 Planning Board Meeting

DIMENSIONAL REQUIREMENTS/MEASUREMENTS

#	Dimension	Existing ¹	ZBA Approved ²		01/2024 Proposal		01/2024 Proposal ³		03/2024 Concept ⁴		Change b/w 01/2024 Proposal and 03/2024 Concept
			Approved	01/2024 Proposal	Change b/w ZBA Approval and 01/2024 Proposal	03/2024 Concept	Change b/w ZBA Approval and 03/2024 Concept				
1	Minimum Lot Area	42,212 s.f. (0.97 ac)	42,212 s.f. (0.97 ac)	42,212 s.f. (0.97 ac)	No change	42,212 s.f. (0.97 ac)	No change	42,212 s.f. (0.97 ac)	No change	No change	Change b/w 01/2024 Proposal and 03/2024 Concept
2	Minimum Lot Width	125.5 feet	125.5 feet	125.5 feet	No change	125.5 feet	No change	125.5 feet	No change	No change	No change
3	Minimum Lot Depth	297.0 feet	297.0 feet	297.0 feet	No change	297.0 feet	No change	297.0 feet	No change	No change	No change
4	Minimum Front Yard Setback (South Plank Road [Rt. 52])	13.9 feet	77.1 feet	92.0 feet	+14.9 feet	92.0 feet	+14.9 feet	82.0 feet	+4.9 feet	-10.0 feet	-10.0 feet
5	Minimum Front Yard Setback (Union Avenue [Rt. 300])	25.3 feet	36.5 feet	34.5 feet	-2.0 feet	34.5 feet	-2.0 feet	34.5 feet	-2.0 feet	No change	No change
6	Minimum Rear Yard Setback	79.4 feet	118.6 feet	116.1 feet	-2.5 feet	116.1 feet	-2.5 feet	116.1 feet	-2.5 feet	No change	No change
7	Minimum Side Yard Setback	6.6 feet	60.2 feet	63.6 feet	+3.4 feet	63.6 feet	+3.4 feet	63.6 feet	+3.4 feet	No change	No change
8	Maximum Building Height	≤40 feet	≤40 feet	≤40 feet	No change	≤40 feet	No change	≤40 feet	No change	No change	No change
9	Maximum Lot Surface Coverage	49.4% (20,837 s.f.)	60.8% (25,649 s.f.)	60.9% (25,709 s.f.)	+60.0 s.f.	60.9% (25,709 s.f.)	+60.0 s.f.	60.9% (25,709 s.f.)	+60.0 s.f.	No change	No change
10	Maximum Building Coverage	6.4% (2,691 s.f.)	6.0% (2,537 s.f.)	6.0% (2,537 s.f.)	No change	6.0% (2,537 s.f.)	No change	6.0% (2,537 s.f.)	No change	No change	No change

= Increasing setback
 = No change
 = Decreasing setback/increasing coverage

¹ There are no "required" dimensions as the use is nonconforming.
² Pursuant to the Special Permit granted by the ZBA at its 10/26/2023 meeting, the proposed bulk requirements listed below were approved for the Property.
³ Based on Site Plan Set dated 01/17/2024 and presented to the Planning Board at its 02/01/2024 meeting.
⁴ Based on Concept Plan for DOT dedication dated 03/04/2024 and presented to the Planning Board at its 03/07/2024 meeting.

NEWBURGH CHICKEN, LLC

SIGN DETAILS AND COMPLIANCE
 based on Poppyes Signage Exhibit dated 02/06/2024

#	Sign Type	Requirement	01/2024 Proposal ¹		03/2024 Concept ²		Change b/w 01/2024 Proposal and 03/2024 Concept
			Proposed	Variance Sought	Proposed	Variance Sought	
1	Freestanding (1 sign)	Not less than 15 feet from any front or side property line, or a distance equal to the height of said sign, whichever is greater. [§ 185-14.(5)(a)]	20 feet	Complies	20+ feet	Complies	No change
Not less than 10 feet from any building, or equal to the height of the sign, whichever is greater. [§ 185-14.(5)(b)]		> 10 feet	Complies	> 10 feet	Complies	No change	
One freestanding sign may be placed on properties in the B District. [§ 185-14.M(2)]		1 sign	Complies	1 sign	Complies	No change	
Only permitted if the building on the site is set back a minimum of 35 feet from the front property line. [§ 185-14.M(2)(a)]		34.5 feet (Union Avenue)	0.5 feet	34.5 feet (Union Avenue)	0.5 feet	No change	
On lots with a width of more than 100 feet, the maximum sign area shall be 60 s.f. [§ 185-14.M(2)(b)]		54.6 s.f.	Complies	54.6 s.f.	Complies	No change	
The maximum height shall be 14 feet . [§ 185-14.M(2)(c)]			Granted ³	20 feet	Granted ³	No change	
No sign may be located within the triangular area on corner lots determined in accordance with § 185-17B. No support structure(s) for a sign may be located in said area unless the combined total width is 12 inches or less and the combined total depth is 12 inches or less. [§ 185-14.I(8)]			Not within triangular area	Complies	Not within triangular area	Complies	No change

¹ Based on Site Plan Set dated 01/17/2024 and presented to the Planning Board at its 02/01/2024 meeting.
² Based on Concept Plan for DOT dedication dated 03/04/2024 and presented to the Planning Board at its 03/07/2024 meeting.
³ Granted by the ZBA at its 10/26/2023 meeting.

= Complies
 = Granted by the ZBA at its 10/26/2023 meeting
 = Variance required

NEWBURGH CHICKEN, LLC

SIGN DETAILS AND COMPLIANCE

based on Popeyes Signage Exhibit dated 02/06/2024

#	Sign Type	Requirement	01/2024 Proposal ¹		03/2024 Concept ²		Change b/w 01/2024 Proposal and 03/2024 Concept	
			Proposed	Variance Sought	Proposed	Variance Sought		
2	Building-Mounted (5 signs)	Length shall not exceed 70% of the width of the tenancy or building wall to which it is mounted. [§ 185-14.j(1)(d)]	< 70%	Complies	<70%	Complies	No change	
If there is a freestanding sign on the site, the total allowable sign area for all permanent signs on the site, except freestanding signs, shall be $\frac{3}{4}$ s.f. of sign area per linear foot of building wall that fronts on a street is allowed. [§ 185-14.M(1)(a)(2)]								
North Façade = 33.25 linear feet fronting on a street (South Plank Road) x $\frac{3}{4}$ = 24.9 s.f.								
		Popeyes Louisiana Kitchen Channel Letters	52.3 s.f.		52.3 s.f.			
		Popeyes Chicken Symbol	37.4 s.f.		37.4 s.f.			
		TOTAL	89.7 s.f.	64.8 s.f.	89.7 s.f.	64.8 s.f.	No change	
East Façade = 84.0 linear feet fronting on a street (Union Avenue) x $\frac{3}{4}$ = 63.0 s.f.								
		Popeyes Only Channel Letters	14.3 s.f.		14.3 s.f.			
		TOTAL	14.3 s.f.	Complies	14.3 s.f.	Complies	No change	
West Façade = 0 linear feet fronting on a street x $\frac{3}{4}$ = 0.0 s.f.								
		¹ Love That Chicken' Sign	90.7 s.f.		90.7 s.f.			
		Popeyes Seal	7.9 s.f.		7.9 s.f.			
		TOTAL	98.6 s.f.	98.6 s.f.	98.6 s.f.	98.6 s.f.	No change	
South Façade = N/A								
TOTAL = 117.25 linear feet fronting on a street x $\frac{3}{4}$ = 87.9 s.f.								
There is no limit on the number of such signs on a site so long as their aggregate square footage is within the total allowable area limit. [§ 185-14.M(1)(b)]		6 signs		6 signs		6 signs	No change	
An attached wall sign shall not extend beyond the ends or over the top of the wall to which it is mounted. [§ 185-14.j(1)(d)]		Below top		Below top		Below top	No change	

NEWBURGH CHICKEN, LLC

SIGN DETAILS AND COMPLIANCE

based on Poppyes Signage Exhibit dated 02/06/2024

#	Sign Type	Requirement	01/2024 Proposal ¹		03/2024 Concept ²		Change b/w 01/2024 Proposal and 03/2024 Concept
			Proposed	Variance Sought	Proposed	Variance Sought	
3	Menu (4 signs)	To be reviewed with Town Building Inspector for determination on whether a variance is required.					
4	Directional (2 signs)	On-premises directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, nonilluminated, not exceeding 4 s.f. per face and 6 feet above the ground are exempt signs. § 185-14.D(1)(k)	3.12 s.f. 3.0 feet tall	Complies Complies	3.12 s.f. 3.0 feet tall	Complies Complies	No change No change

NEWBURGH CHICKEN, LLC

Summary of Changes from 10/26/2023 ZBA Approval
Prepared for 03/07/2024 Planning Board Meeting

VARIANCES GRANTED AT 10/26/2023 ZBA MEETING

#	Variance	Required or Max.	ZBA Approved ¹		01/2024 Proposal ²				03/2024 Concept ³				Change b/w 01/2024 Proposal and 03/2024 Concept	
			Approved	Size of Variance Granted	01/2024 Proposal	Change in Dimensions	01/2024 Proposed Variance	Change in Variance Sought	03/2024 Concept	Change in Dimensions	Proposed Variance Now	Change in Variance Sought		
1	Loading Spaces	1 space	0 spaces	1 space	0 spaces	No change	No change	1 space	No change	1 space	No change	No change	No change	No change
2	Access on South Plank Road	150 feet	50.6 feet	99.4 feet	50.1 feet	-0.5 feet	+0.5 feet	99.9 feet	+0.5 feet	99.9 feet	+0.5 feet	-0.5 feet	99.9 feet	+0.5 feet
3	Center Line on Union Avenue (Rt. 300)	80 feet	68.3 feet	11.7 feet	66.3 feet	-2.0 feet	+2.0 feet	13.7 feet	+2.0 feet	13.7 feet	+2.0 feet	-2.0 feet	13.7 feet	+2.0 feet
4	Front Yard Abutting Union Avenue (Rt. 300)	60 feet	36.5 feet	23.5 feet	34.5 feet	-2.0 feet	+2.0 feet	25.5 feet	+2.0 feet	25.5 feet	+2.0 feet	-2.0 feet	25.5 feet	+2.0 feet
5	Freestanding Sign Height	14 feet	20 feet	6 feet	20 feet	No change	No change	6 feet	No change	6 feet	No change	No change	6 feet	No change

- = Lessening noncompliance
- = No change in noncompliance
- = Increasing noncompliance

¹ Variances were approved by the ZBA at its 10/26/2023 meeting.
² Based on Site Plan Set dated 01/17/2024 and presented to the Planning Board at its 02/01/2024 meeting.
³ Based on Concept Plan for DOT dedication dated 03/04/2024 and presented to the Planning Board at its 03/07/2024 meeting.