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August 27, 2021

VIA FEDERAL EXPRESS AND EMAIL

Town of Wallkill Zoning Board of Appeals
99 Tower Drive – Building A
Middletown, New York 10940

RE: *Area Variance Application – Golden Triangle*
350 Silver Lake-Scotchtown Road, Middletown, New York 10941
Our File No.: 15364-70184

Dear Members of the Zoning Board of Appeals:

This firm represents VREP Acquisitions, Inc. (the “Applicant”) in relation to the company’s land use applications to construct four (4) warehouses (the “Project”) on parcels located at the site known as Golden Triangle, 350 Silver Lake-Scotchtown Road, Middletown, New York 10941, which is comprised of four (4) separate lots, identified by Town Tax Map as (1) Section 40, Block 1, Lot 16, (2) Section 40, Block 1, Lot 35, (3) Section 41, Block 1, Lot 45, and (4) Section 50, Block 1, Lot 62 (the “Project Site”). The Applicant recently applied to the Town of Wallkill Planning Board (“Planning Board”) for special use permit and site plan approval for the Project, which consists of four warehouses having the following square footage: (1) Warehouse #1 – 234,320 square feet, (2) Warehouse #2 – 239,249 square foot, (3) Warehouse #3 – 280,500 square feet, and Warehouse #4 – 96,000 square feet. Additionally, the Project also consists of designated parking spaces for employees, visitors, and loading dock uses, and multiple storm water infiltration basins for storm water management. At its June 17, 2020 meeting, the Planning Board referred this matter to the Zoning Board of Appeals (“ZBA”) to decide on the following variances necessary for the Project:

- 1) An area variance allowing for an additional ten (10) feet in height for each of the four (4) warehouses within the ENT-L District from the requirement set forth in Town of Wallkill Code Section 249-90(1), which permits structures within ENT-L Districts a maximum of thirty-five (35) feet in height. *See* Appendix A, ZBA Application & Plans.

For the reasons set forth below, the Applicant respectfully submits that the requested variance meet the standard for area variances set forth in Zoning Code § 249-48(c)(2). Granting the variance will not result in any adverse impact to the health, safety, or welfare of the community.

The Project

The Applicant proposes to construct four (4) warehouses on parcels located at the site known as Golden Triangle, 350 Silver Lake-Scotchtown road, Middletown, New York 10941, which is comprised of four (4) separate lots, identified by Town Tax Map as (1) Section 40, Block 1, Lot 16, (2) Section 40, Block 1, Lot 35, (3) Section 41, Block 1, Lot 45, and (4) Section 50, Block 1, Lot 62. The four warehouses having the following square footage: (1) Warehouse #1 – 234,320 square feet, (2) Warehouse #2 – 239,249 square foot, (3) Warehouse #3 – 280,500 square feet, and Warehouse #4 – 96,000 square feet. The four (4) warehouses, in order to accommodate modern warehouse racking requirements, are to be constructed, pending the area variance approval, at a height of forty-five (45) feet.

The Project Site consists of approximately 92.775 acres of land located in the Town's Enterprise Light (ENT-L) zoning district. The Site is located at/near the intersections of NYS route 17/Interstate 86 and NYS Route 211 and Interstate 84. It is surrounded by a variety of commercial and residential uses. "Warehouses" are permitted in the ENT-L zoning district, subject to site plan and special use permit approval from the Planning Board. *See* Zoning Code § 249-27.1(C). Aside from the requested variance, the Project complies with all area and bulk regulations contained in the Zoning Code.

The Project is a Type I Action under the New York State Environmental Quality Review Act ("SEQRA") and the Planning Board has completed a coordinated environmental review by the adoption of a negative declaration on July 7, 2021, which adoption completes the SEQRA review for this Project. The Planning Board considered, among other things, the potential impacts of the Project on the surrounding area, including its potential visible impact. *See* Appendix B, SEQRA Negative Declaration.

The Requested Variance Meets the Legal Standards for Issuance of An Area Variance

Zoning Code § 249-48(c)(2) of the Town Zoning Code requires that "[w]hen the variance is requested, the Board may grant said variance upon the finding that there are practical difficulties, such as (1) how substantial the variation is in relation to the requirement, (2) the effect, if the variance is allowed, of the increased population density, if any, this produces on

available governmental facilities, (3) whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created, (4) whether the difficulty can be obviated by some method feasible for the applicant to pursue, other than a variance, and (5) whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.

For the reasons set forth below, the requested variance meet these standards.

A. Height of Structures

The Applicant proposes to construct four (4) warehouses at the Project Site, each at heights of forty-five (45) feet, where structures within the ENT-L District are permitted heights not exceeding thirty-five (35) feet. *See* Zoning Code § 249-90(1).

1. How substantial the variation is in relation to the requirement;

The requested area variance may be substantial. The Applicant proposes to construct four (4) warehouses, each at heights of up to forty-five (45) feet, where structures within the ENT-L District are permitted heights not exceeding thirty-five (35) feet. However the proposed height is fairly consistent with surrounding commercial facilities, such as the four-story “Residence Inn by Marriot” and four-story “Home2 Suites by Hilton – Middletown”.

2. The effect, if the variance is allowed, of the increased population density, if any, this produces on available governmental facilities;

The variance requested by the Applicant shall have no effect on increased population density, as the structures proposed are commercial facilities only, and are not intended for residential use.

3. Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created;

An undesirable change will not be produced in the character of the neighborhood by the granting of the area variance. The Project Site is located in an ENT-L District, and the proposed Project is a special permitted use in the district. The Project Site is located in close proximity to a number of commercial facilities, including warehouses such as those for “Advance Coating Technologies” (aerospace industry), “Southern Wine and Spirits,”

“Meyer Tools” (aerospace industry), large big-box retailers such as “At Home,” “Lowe’s,” “Petco,” and hotels such as “Residence Inn by Marriot” and “Home2 Suites by Hilton – Middletown.” Therefore, the Project will be consistent and harmonious with surrounding land uses, and will not be a detriment to adjoining properties.

4. Whether the difficulty can be obviated by some method feasible for the applicant to pursue, other than a variance;

The benefit sought by the Applicant cannot be achieved through any means other than the requested area variance. The Zoning Code does not allow for structures within the ENT-L District to exceed thirty-five (35) feet in height. However, in order to accommodate modern warehouse racking requirements, which require AT LEAST forty-foot high structures, additional height is required. For example, current Amazon warehouses and fulfillment centers primarily have forty-feet of interior clear height.

5. Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance;

When considering that the Project (1) will be consistent and harmonious with the surrounding areas, (2) will not pose as a substantial detriment to the surrounding areas, (3) is fairly consistent to other surrounding structures with respect to height, (4) cannot be built by some feasible method without the area variance, and (5) shall not increase population, the interests of justice will be served by allowing the area variance. This is supported by the Planning Board’s recent adoption of the SEQRA negative declaration for this Project, which considered, among other things, the potential impacts of the Project on the surrounding area, including its potential visible impact.

Conclusion

For the foregoing reasons, we respectfully request that the ZBA grant the requested variance for the Project. In support of this application, we hereby submit ten (10) hard copies of the instant letter and the following exhibits:

Appendix A: ZBA Application and Site Plans

Appendix B: SEQRA Negative Declaration.

We have also enclosed one (1) check made payable to the town of Wallkill for the commercial area variance application.

We look forward to appearing before the ZBA at its next meeting. In the meantime, please do not hesitate to contact me if you have any questions or concerns.

Sincerely,



Dominic Cordisco

DRC/990828
Enclosures