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VIA EMAIL – [susan.barden@saratoga-springs.org](mailto:susan.barden@saratoga-springs.org)

Zoning Board of Appeals  
City of Saratoga Springs  
City Hall – 474 Broadway  
Saratoga Springs, New York 12866

**Re: ANW Holdings, LLC, 27 Jumel Place; Area Variance Application**

Dear Zoning Board of Appeals:

We represent Samuel Brewton, Gerald and Debra Mattison, and Sandra Cohen in connection with the above-referenced matter.

The “benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance”. Additionally, in granting an area variance, the ZBA must “grant the minimum variance that it shall deem necessary and adequate”. The benefit sought by the applicant can be achieved by a subdivision of the lot into 5 single-family lots, which would be achievable without the need for a variance to allow more than one principal building, and an area variance to allow 7 homes, rather than 5 homes, is not the “minimum variance” necessary and adequate for the Applicant’s legitimate objectives.

In its May 20, 2016 letter, the Applicant claims that since it obtained variances in 2013, its land acquisition and development costs increased by \$331,450.<sup>1</sup> The applicant also states that its home sale prices have increased:

“The results indicate that the average home cost of \$640,000 for 7 units reported in 2013 application process was accurate at that time, but the rising cost development costs [sic] has increased the average home price to \$930,000 in 2016. In order to address the varied market, ANW is proposing several price points ranging from \$587,045 to \$1.255M for a median price of \$921,022.”

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<sup>1</sup> Since that letter, the Applicant has stated that the land acquisition and development costs have increased by only \$256,450. All of these numbers contradict (and are suddenly several hundred thousand dollars more than) the numbers offered by the Applicant at the February 22, 2016 ZBA meeting.

In its revised materials, the Applicant continues to maintain that an average home sale price of \$1.08 million or more would be “not supported by the market”. But in those same materials, the Applicant represents that an average home sale price of \$930,000 would be supported by the market, and in fact, the Applicant is offering a range of home sale prices with a “median price of \$921,022”.

The Applicant insists that the project is the same project as was proposed in 2013. Therefore, the ZBA must conclude that the Applicant seeks the same benefit as it sought in 2013. As shown below, the benefit sought by the Applicant can be achieved with five single-family homes, whether subdivided or not.

In 2013, the Applicant proposed an average home price of \$640,000 for 7 units (Letter from Carter Conboy, dated May 20, 2016, at 7). The total revenue generated would therefore equal \$4,480,000. After subtracting the claimed 2013 land acquisition and development costs of \$905,640, the Applicant would have been left with **a net revenue in 2013, based on 7 homes, of \$3,574,360.**

Now, in 2016, the Applicant indicates that its average home sale price will be \$930,000, and that it will sell the homes at prices between \$587,045 to \$1.255 million, with a median home price of \$921,022. If the Applicant is permitted to construct 7 homes and will sell at its stated average home price of \$930,000, the total revenue generated will equal \$6,510,000. After subtracting the claimed 2016 land acquisition and development costs of \$1,303,380, the Applicant is left with a net revenue of \$5,206,620. **The 2016 net revenue for 7 homes is \$1,632,260 more than the net revenue generated by the 2013 proposal for 7 homes.**

**The Applicant’s argument, distilled to its essence and assuming the accuracy of all of the numbers the Applicant has provided, is as follows: because its costs have increased \$331,450, its net revenue must increase \$1,632,260.** That makes no sense, and is simply irrational.

However, if the Applicant is permitted to construct 5 homes and sells those homes at the stated 2016 average home price of \$930,000, the total revenue generated will be \$4,650,000—which is still more than the revenue that would have been generated in 2013 for 7 homes. After subtracting the 2016 land acquisition and development costs of \$1,303,380, the Applicant is left with **a net revenue in 2016, based on 5 homes, of \$3,346,620**—which is 94% of the net revenue it would have generated with 7 homes in 2013.

Notably, \$250,000 worth of increased land acquisition and development costs claimed by the Applicant between 2013 and 2016 relates to \$100,000 of “administrative” costs<sup>2</sup>—something the Applicant did not deem important enough to report either in 2013 or on February 22, 2016—and \$150,000 in construction costs for installing a new water main along Jumel Place<sup>3</sup>—again, an item that did not appear in the Applicant’s reported costs on February 22, 2016. These new costs are

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<sup>2</sup> When asked at the May 23, 2016 meeting what the “administrative” costs of \$100,000 were, the Applicant summarily answered that they related to office administration, project management, and administrative expenses.

<sup>3</sup> When asked whether the water main replacement along Jumel Place was because the line was too small, the Applicant responded that it was actually just because the water main was old and the City Engineer requested that it be replaced.

wholly unsupported by any documentary evidence. One is so suspect that it has never before been reported until May, 2016, and the other appears to be nothing more than a voluntary assumption by the Applicant of a City obligation. The ZBA certainly could view these new costs as speculative, inflated, and/or unnecessary, particularly in light of the Applicant's claimed need to make an additional \$1.6 million to cover an increase in costs of \$330,000. If these "new" and unsubstantiated costs are disregarded in calculating the benefit to the Applicant from granting a variance to allow 5, rather than 7, homes, the Applicant would be left with **a net revenue in 2016, based on 5 homes, of \$3,596,620**—which actually **exceeds** the 2013 projected net revenue based on 7 homes by \$22,260.

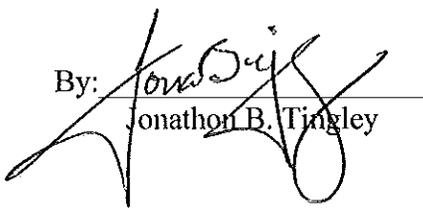
The ZBA need not grant the full variance for 7 principal buildings simply because the Applicant has asked for it. The Applicant has failed to demonstrate that the variances requested are the minimum variances necessary or adequate to achieve its legitimate objectives, or that there does not exist some feasible alternative to achieve its legitimate objectives.

Requiring a five-lot subdivision or granting an area variance to allow **5** principal buildings (rather than the 7 requested) will provide the Applicant with the same objective it sought and obtained in 2013 for this project. **Limiting the number of homes to five would also allow for the project to be reconfigured so as to lessen the other area variances needed, including area variances for maximum principal building coverage, rear-yard setback, and front-yard setback.**

On behalf of Mr. Brewton, Mr. and Mrs. Mattison, and Ms. Cohen, we respectfully request that, in the absence of the Applicant's agreement to seek a more appropriately sized project consisting of five homes, the ZBA deny the area variances requested.

Very truly yours,

TUCZINSKI, CAVALIER & GILCHRIST, P.C.

By:   
Jonathon B. Tingley