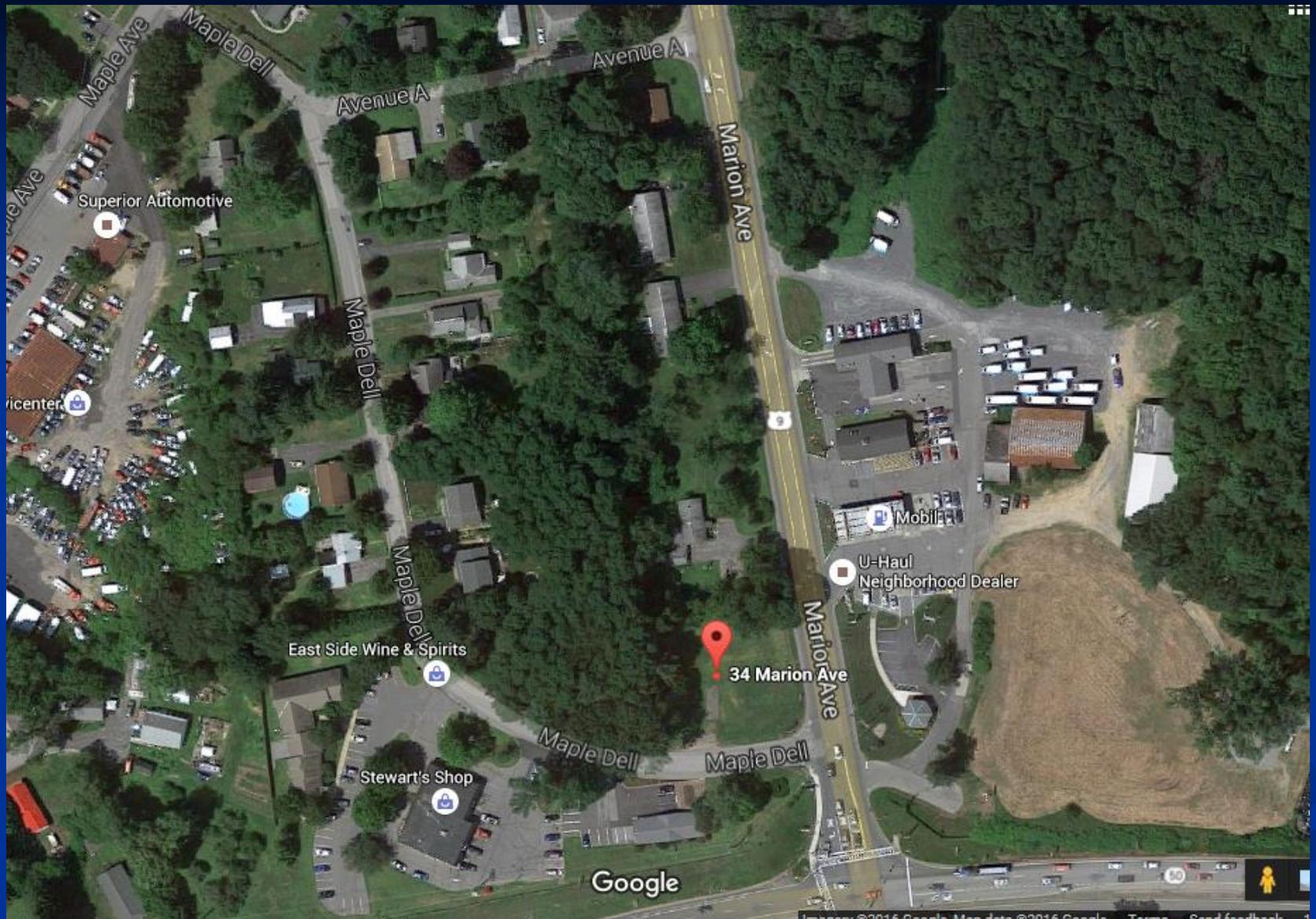


Maple Shade Corners, LLC

Use Variance for 34 Marion Avenue

Zoning Board of Appeals

July 11, 2016



Reasonable Return on Investment

- “A reasonable return can be realized if using the land in accordance with the zoning is economically feasible or if the land can be developed in accordance with the zoning.” NY Zoning Law and Practice, §29:7.
 - Evidence submitted:
 - Land cannot be developed in UR-2 as residential/SUP
 - Marketing efforts, signs, ↓ price, MLS, web
 - Prior offers

Burden of proof can be met by “establishing that if they use the land in the permissible manners, they would incur a financial loss.” NY Zoning Law and Practice, §29:7

- Cost to construct modest house-
 - \$346,000
 - 2X assessed value of other homes

- Impediments to SUP
 - Parking
 - Cost to construct
 - Size

***** NO VIABLE OFFERS!**

Actual Costs

EXPENSE TYPE	PAYMENT AMOUNT
1982 Purchase	\$40,000
2012 Demolition	\$19,000
City/County Tax	\$28,897
School Tax	\$34,567
Maintenance	\$15,940
TOTAL	\$138,404

Matter reversed ZBA where the Appellate Division found the Board “failed to account for the present value of petitioner’s investment.” *Matter of Rothenberg*, 232 AD2d 568.

Present Value on Investment

FUTURE VALUE OF RETURN ON INVESTMENT 1982-2016

Investment	2%	4%	5%	6%	7%
\$40,000	\$78,427	\$151,773	\$210,134	\$290,041	\$399,125
\$6,436 (first five years of expenses over <u>30 year investment</u>)	\$11,658	\$20,875	\$27,816	\$36,965	\$48,992
2012 demolition (no interest)	\$19,000	\$19,000	\$19,000	\$19,000	\$19,000
Remainder of tax and maintenance (no interest)	\$72,968	\$72,968	\$72,968	\$72,968	\$72,968
Total	\$182,054	\$264,617	\$329,919	\$418,975	\$540,086

Reasonable Return (continued)

- Not seeking variance because want a more profitable use – simply unable to sell the property as it is zoned.
- Need to demonstrate “diligent and bona fide effort was made to sell the property.” *Matter of Forrest V. Evershed*, 7 NY2d 256.
 - *Time on the market*
 - *Price decrease (comparable prices in Saratoga)*
 - *Signage and advertisement*
 - *Efforts to show and offers made*

Listing Prices 2005-2007

SALE PRICES 2005-2007 FOR RESIDENTIAL VACANT LAND

Address	Acres	Zoning / Use	Sale Date	Sale Price	Adjusted to a 0.43 Acre site to match the subject property
45 Jefferson St. 178.28-1-27	0.17	UR-2 Res. Vacant Land	April 4, 2005	\$260,000	\$657,647
Broadway 165.28-2-8.2	0.4	UR-1 Res. Vacant Land	June 16, 2005	\$485,000	\$521,375
77 Excelsior Avenue 166.5-5-4.1	1 Acre of "Primary Land" with 1.2 Acres of "Residual Land" type	C5 Res. Vacant Land	April 10, 2006	\$900,000	\$387,000 based on 1 Acre of "Primary Land" which is generally the buildable portion of the parcel
115 Grand Ave. 165.66-2-78	3,049 sf = .07 Acres	UR-3 Vacant Commercial	July 24, 2007	\$170,000	\$1,044,286

Listing Prices - Present

RECENT SALES IN VICINITY OF PROPERTY

Address	Acres	Zoning / Use	Sale Date	Sale Price	Adjusted to a 0.43 Acre site to match the subject property
70 Excelsior Ave. 166.29-3-3	.87 Acres	T-5 Res./Comm. Vacant Land	December 9, 2015	\$385,000	\$190,287
Joshua Road 178-2-14	0.32 Acres	UR-2 Res. Vacant Land	March 2, 2012	\$155,000	\$208,281
130 Excelsior Avenue 166-4-33	2.87 Acres	T5 Res./ <u>Comm</u> Vacant Land	July 1, 2015	\$961,700	\$144,087
34 Longwood Dr. 166.11-1-14	.42 Acres	UR-1 Res. Vacant Land	October 11, 2013	\$145,000	\$148,452

Building Permits

2009-2016: 326 new permits for single family residential construction



Residential Vacant Sales

ADDRESS	ACREAGE	PRICE
39 Second Street UR2 - 2015	.17	\$250,000
245 Woodlawn Avenue UR1 – 2014	.29	\$399,000
North Circular Street UR2 – 2014	.47	\$310,000
14 Persimmon Place UR2 – 2015	.15	\$195,000
60 Franklin Street UR4 - 2015	.17	\$343,750
49 State Street UR3 -2014	.34	\$555,000 (assessed \$66,000)
Greenfield Avenue UR – 2015	.26	\$489,000
33 Joseph Street	.58	\$225,000 (asbestos + demolition)

Unique Circumstances

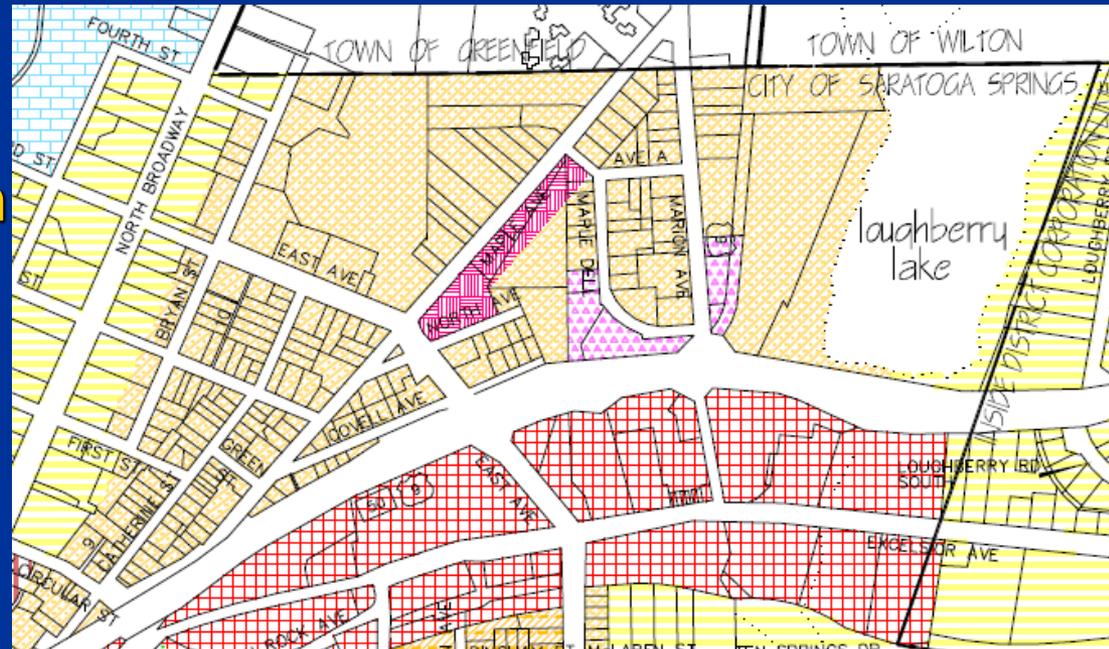
- Uniqueness relates from circumstances that are peculiar to the land (not the owner).
 - “[T]hat does not mean that the applicant must prove that the hardship effects no other parcel in the district or neighborhood.”
- Unique Circumstances
 - Vacant Parcel
 - Corner lot on difficult intersection/arterial
 - Busy Commercial Corridor developed over time

Douglaston Civic Assn Inc. v. Klein

51 NY2d 963

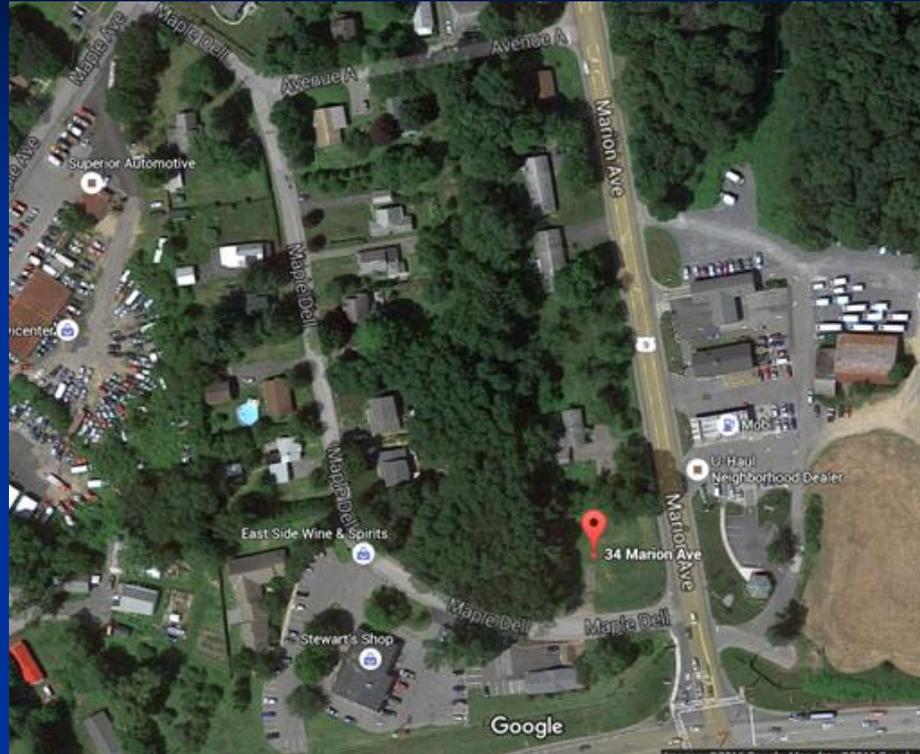
- Swampy parcel in area with other swampy parcels.
- Owner to use as tennis court facility rather than residential.
- “Uniqueness does not require that only the parcel of land in question and none other be affected by the condition which creates the hardship.”

Comparison between parcel and entire district.



Unique Circumstances: Location

- “If the applicant suffers greater hardship than nearby lands, then a zoning board of appeals may grant a use variance to relieve that hardship.” NY Zoning Law and Practice, §29:8.

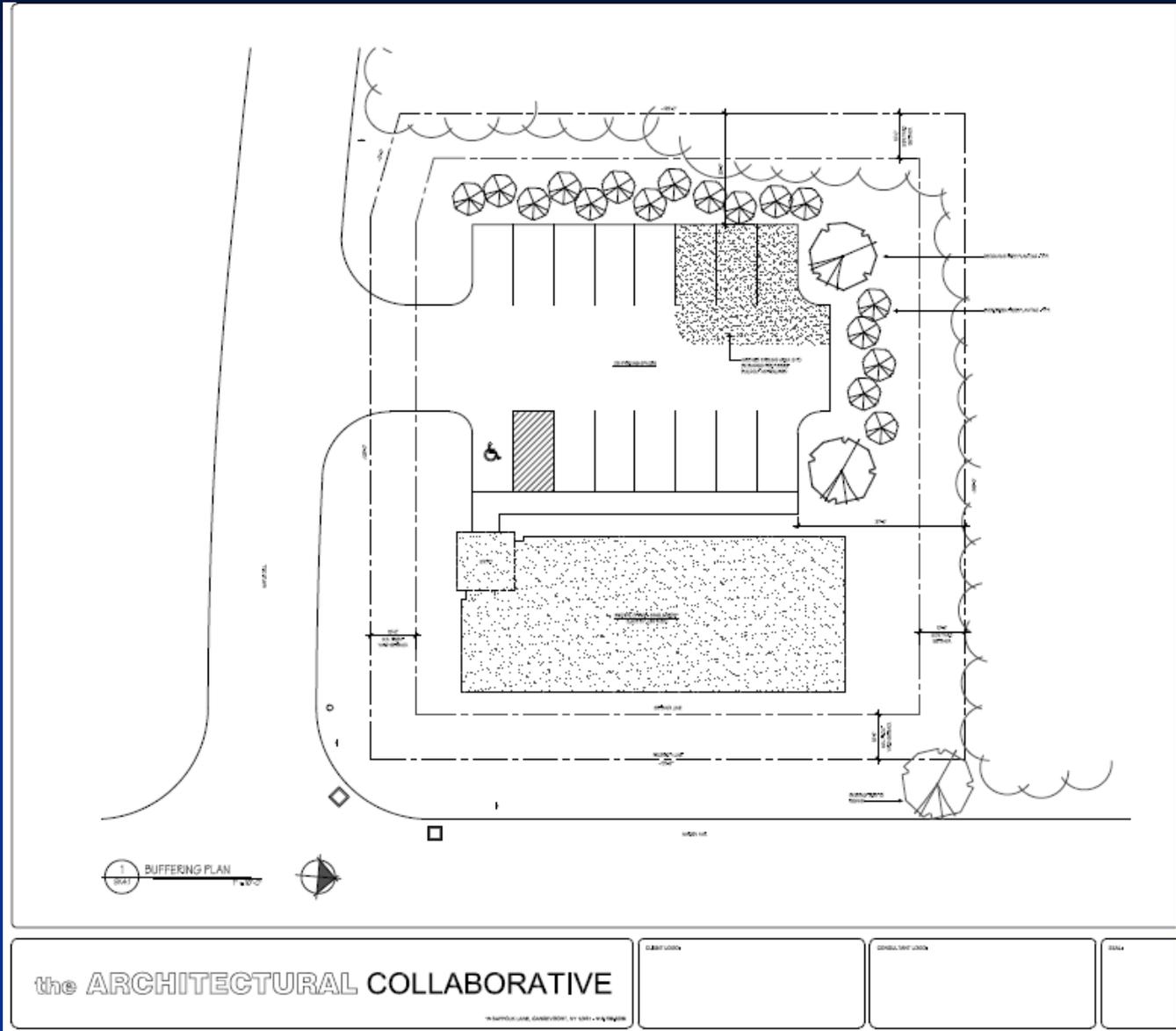


“Further, the hardship is unique, as this is the only parcel located on a major intersection within this commercialized area which is undeveloped and zoned residential.” *Matter of Rothenberg*.

Essential Character of the Neighborhood

- Need to demonstrate the probable effect on the neighborhood of the proposed use.
 - Traffic
 - Lighting
 - Sound
- Proposal preserve neighborhood character – low volume, buffering, daytime hours.

Screening Plan



- Examine the exact situation that exists in the vicinity of the proposed use. “If similar or identical uses to the one sought by the applicant already exist in the vicinity of the requested variance, then the likelihood that the new use will change the essential character of the locality is reduced.” NY Zoning Law and Practice, §29:9
- Existence of other similar uses provides “prima facie proof that this additional use will not alter the essential character...” NY Zoning Law and Practice, §29:9

Size of office

the ARCHITECTURAL COLLABORATIVE

15 Suffolk Lane
Gansevoort, NY 12831

Functional Space Program

Mapler Shade Corners, LLC
34 Marion Ave
Saratoga Springs, NY 12866

June 30, 2016

Space	Quantity	Area	Total Net Area	Comments
Patient Area				
Entrance Vestibule	1	80	80	
Waiting Area/Check-in	1	250	250	
Reception	1	150	150	
Private Check-out - 2 bays	1	100	100	
Waiting Area Toilet Room	1	50	50	
Conference Room	1	175	175	
Operator	3	140	420	
Exam Area Toilet	1	50	50	
		Total	1,275	
Staff Area				
Lab Alcove	1	80	80	
Doctor Office	1	125	125	
Admin Office	1	90	90	
Shared Office	1	125	125	
Break Room	1	170	170	
Staff Toilet	1	50	50	
		Total	640	
Support Area				
IT Closet	1	30	30	
Soiled Holding	1	50	50	
Clean Holding	1	50	50	
Mechanical Closet	1	150	150	
Janitor's Closet	1	30	30	
		Total	310	
Total Net S.F.			2,225	
Net/Gross Factor			0.7	
Total Gross S.F.			3,179	

New office space plans

- Entry vestibule
- Waiting area bathroom/janitor's closet
- Area for check in/check out (privacy)
- Larger operatories
- Conference room
- Staff offices (2)
- Server/computer room

Design Elements

- Subject to DRC review
- 1 story building
 - 60 ft. in zone
- Similar roofline to adjacent properties
- Materials and building elements – “residential in feel”
- Natural stone/brick and siding

Self Created Hardship

- Applicant has not acquired the property; he has exercised “reasonable diligence” & is under contract contingent on ZBA decision.
- Hardship created by increased commercial nature of surrounding municipalities in this corridor over time.

NYS DOT Traffic Counts 2014





SARATOGA COUNTY PLANNING BOARD

TOM L. LEWIS
CHAIRMAN

JASON KEMPER
DIRECTOR

June 24, 2016

Susan Barden, Senior Planner
City of Saratoga Springs
City Hall 474 Broadway
Saratoga Springs, NY 12866

SCPB Referral Review#16-117-Use Variance-Maple Shade Corners LLC
Proposed use as a small dentist office (3,000 s.f.) in a residential district (UR-2 District).
Marion Avenue (NYS Route 9) and Maple Dell (NW quad of intersection)

Received from the City of Saratoga Springs Zoning Board of Appeals on June 2, 2016.

Reviewed by the Saratoga County Planning Board on June 16, 2016.

Decision: No Significant Countywide or Intercommunity Impact

Comment:

The subject property is a vacant parcel on which in 2012 there was the demolition of an existing residence. The surrounding area/neighborhood is a mix of uses located near municipal boundaries of the city and the towns of Wilton and Greenfield. Such uses are: a gas station and auto repair shop, car wash, a small office, a retail store with no gas sales, an internal (to Marion Ave and Maple Dell) residential neighborhood, residential uses facing Marion Avenue, a longtime restaurant/diner, and residential structures converted to office/retail sales. The principal recommendation from this body would be that the applicant be advised by the city to consider a rezoning of the property, which may be more applicable - to a zoning which is more compatible with the Office/Residential used in the Marion Avenue/Rt. 9 corridor by Wilton and Greenfield. That being absent from the city zoning ordinance we recommend approval of the use variance based upon the financial and historical evidence presented with recommendations for appropriate design guidelines or architectural standards appropriate for other conversions that will follow. We suggest that every effort in new construction be given to providing a residential appearance as now exists in corridor and that parking be only in the rear of the property with access off Maple Dell, not Marion Ave.

Michael Valentine, Senior Planner
Authorized Agent for Saratoga County
50 WEST HIGH STREET
BALLSTON SPA, NY 12020

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Maple Shade Corners, LLC

Use Variance for 34 Marion Avenue

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