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Stephanie W. Ferradino
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September 19, 2016

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

Re: 34 Marion Avenue, Saratoga Springs, NY 12866

Dear Chairman Moore:

Enclosed please find the following submission for the upcoming Zoning Board of Appeals meeting to be held next Monday:

1. Affidavit of William J. Healy; and
2. Affidavit of Jay Verro.

An electronic version of the submission and supporting materials above will be emailed to the planning office for posting on your website. Thank you very much.

Very truly yours,

TUCZINSKI, CAVALIER & GILCHRIST, P.C.

By: _____
Stephanie W. Ferradino

SWF:tlp
Enclosures

CITY OF SARATOGA SPRINGS
ZONING BOARD OF APPEALS

In the Matter of the Application for an Appeal of the Decision Regarding Use Variance by:

MAPLE SHADE CORNERS, LLC,
34 Marion Avenue, Saratoga Springs, NY

Application No.: 2900

STATE OF NEW YORK)
)ss:
COUNTY OF SARATOGA)

WILLIAM J. HEALY, being duly sworn, hereby deposes and says:

1. I am a member of 54 Marion Avenue LLC, a limited liability corporation formed in the State of New York, and the owner of property located at 34 Marion Avenue in the City of Saratoga Springs, State of New York.

2. I purchased the property located at 34 Marion Avenue, Saratoga Springs, NY in 1982 for approximately $40,000. At the time of the purchase, I was aware that the property was being used as residential and zoned for that use. When the purchase occurred, there was a residence on the land that the previous owner had lived in. In addition, there was a detached garage, which still remains on the site. In 1982, this site was suitable for a residence and fit in with the neighborhood as a residential site. That has changed over the time I have owned the property based on many factors over which I had no control.

3. After a period of time when the house was vacant, I attempted to rent the property. This was in the early 1990's. I had difficulty renting the house because it was not insulated. The utility costs for the 6-8 months a year that the property needed to be heated were cost prohibitive, which caused my tenants to leave the property. Unfortunately, I ended up paying the heating bills which had accrued during their tenancy. Because a significant

investment would be required to insulate the house and make other necessary improvements, I chose not to continue renting the property.

4. Since the time I have owned the property, the area has become significantly more commercial, especially along Maple Avenue in the towns of Greenfield and Wilton and now with the growth in the area of Fresh Market. I am advised that the traffic volume has increased by approximately 43% during my ownership of this land. I believe that this increased traffic volume, the reconfiguration of the intersection immediately in front of the site, its location on the corner of a busy intersection and the property having commercial uses surrounding it, together with the growth that has occurred adjacent to my property and along the corridor have all contributed to my difficulty in attracting residential purchasers to build on the site.

5. In 2005, I was approached by a realtor who advised me that they could market and sell the Marion Avenue property. Because the property had not been able to be used, I was interested in their offer to list it. The realtor advised that the listing should be for $499,500 and they advised that the property could be marketed for commercial use. The area along the Marion Avenue/Maple Avenue corridor had become increasingly more commercial since 1982 when I purchased the property, so their advice that the property could be marketed as commercial made sense. In 2005, the real estate market in Saratoga seemed to be strong. I relied on the professional advice I was given by my realtors and agreed to the listing.

6. In 2012, as the residential structure on the property continued to deteriorate and I found that it would be cost prohibitive to salvage the structure, I made the decision to remove the residence. At that point, the structure was a danger to the public because of the deterioration and presence of asbestos, as well as a nuisance to the neighborhood because of the unsightliness of the house. That year, I invest in the demolition of the residence and safe removal of the asbestos.

7. On or about 2013-2014, I agreed to drop the price to below, after expenses, the amount of my investment in the property. While I have accepted the three offers that have been presented to me, all of which, after expenses of sale, would result in a loss to me, only the current offer remains viable and only if this variance is granted.

8. I am concerned that I will never be able to sell this land, as it is clear that no one is interested in this property for residential use over the many years it has been marketed as a residential building lot, nor will I be able to sell if for commercial if the Zoning Board will not grant a variance for a use which is for a very low impact use, and will not be intrusive to the adjacent residences. The reality is, that this parcel of land is no longer attractive for residential use. It is on a high traffic road surrounded by commercial uses. When I bought this parcel, I paid fair market value for it. I did not see it as foreseeable that not only would I be unable get a reasonable return on my investment, the property would become completely unmarketable. I did not create this hardship, as the area experienced commercial growth and significant traffic that I could not have foreseen in 1982. When I purchased the property, I did the due diligence to ascertain the zoning. However, the area has changed significantly along that thoroughfare, rendering the site useless for residential purposes as it is zoned. It appears, despite listing the property for 11 years, drop in price and continued tax and other payments, that I cannot recoup my investment.

WHEREFORE, I submit this affidavit as evidence of the statements herein and request the Zoning Board of Appeals grant the variance for this use.

William J. Healy, member
54 Marion Avenue, LLC

Sworn to before me this 16th
day of September, 2016

Notary Public

THERESA A. CAPOZZOLA
Notary Public, State of New York
No. 01CA4946796
Qualified in Saratoga County
My Commission Expires 2/4/2019.

CITY OF SARATOGA SPRINGS
ZONING BOARD OF APPEALS

In the Matter of the Application for an Appeal of the Decision Regarding Use Variance by:

MAPLE SHADE CORNERS, LLC, Application No.: 2900

RE: 34 Marion Avenue, Saratoga Springs, NY

STATE OF NEW YORK)
)ss:
COUNTY OF ALBANY)

JAY VERRO, being duly sworn, hereby deposes and says:

1. I am a Certified Commercial Investment Member (CCIM) and commercial real estate practitioner with NAI Platform located at 14 Corporate Woods Boulevard in Albany, New York. I began my career in Saratoga in 1982 managing residential and commercial property. I have had properties under my management or listings for lease or sale in and around Saratoga Springs for the last 34 years.

2. When I began my career in 1982, Saratoga Springs was not as vibrant a community or developed as significantly as the present time. At that point, the city center had not been opened, Broadway contained many vacant storefronts, and the city was surrounded by rural, undeveloped land. The Pyramid Mall was close to, but had not celebrated its 10 year anniversary, and Wilton remained largely undeveloped.

3. The towns of Greenfield and Wilton are in close proximity to the subject parcel located at 34 Marion Avenue and the towns view this area as ripe for commercial development, as is evidenced by their zoning of the roadway to include commercial, dense residential, mixed

use and hamlet zoning. One town official recently stated that it is the town's intent to have their commercial located on state highways, such as Route 9.

4. Examples of some recent notable development having an impact along Maple Avenue, which increased the commercial activity along the roadway in front of the subject parcel, include the following:

a. Gordon Building – 110 units
b. Park Place – 114 units
c. Saratoga Heritage Apartments – 216 units
d. Saratoga Health and Wellness Center
e. Home of the Good Shepard
f. Nemer Auto Park
g. Adirondack Community College
h. CVS
i. Dunkin Donuts
j. Stewarts

5. In addition to the above, several banks, professional offices and other commercial businesses have been constructed on the roadway, on vacant parcels and by renovation of structures previously used as residences. This has increased the traffic in front of the property.

6. In addition, applications are pending for a new convenience store, Cumberland Farms, on the busy Daniels/Maple Avenue intersection, and a self storage unit facility which was recently approved in Greenfield behind the strip mall and bank. The towns continue to see applications for commercial properties and the growth along this corridor has increased since 1982.

7. In the Comprehensive Plan for the town of Wilton, it states that "The Route 9 corridor includes a mixture of diverse small commercial uses, predominantly south of Worth Road. These uses include a new auto park, banks, professional offices, retail stores. There has been a progressive change in use as residential properties are sold and renovated for commercial use." At page B-16. According to data contained in the Comprehensive Plan, from 1980 to 2010,

the population has increased by 125% in the town, from 7,182 to 16,173 people. This impacts Route 9 traffic, as it is a major artery for transportation in and through the town.

8. The Maple Avenue Middle School opened in 1991. The traffic impact attributable directly to the school was significant, but it also had an indirect impact on commercial growth, by increased visibility for businesses along that corridor. Currently, the school contains 1600 students and more than 110 teachers and administrative staff. Buses and cars add to the traffic volume along a roadway that had much less traffic in 1982.

9. With the opening of the Fresh Market grocery store, associated retail and residential cluster, which currently has 55 residential units and anticipates construction of three more residential buildings for a total of 150 units, across the arterial from the project site, traffic volume will continue to increase in front of the subject parcel. The Bonacio construction project that is near completion on Excelsior will have an additional 65 units, and another building is being built on the corner of East Avenue. All of this development will impact 34 Marion Avenue, as the residential users will be using the commercial businesses, such as Stewart's convenience store and gas stations (separate commercial businesses located surrounding the parcel), as those are the most convenient services for these residential units.

10. In 2011, the intersection next to the property was reconfigured and expanded. This was done in order to improve the flow of traffic between Marion/Maple Avenue and Route 50. As part of the improvements, a turning lane was added right in front of the subject property, increasing the width of the roadway from 2 to 3 lanes. My personal observation is that stacking occurs at the traffic light to fill this lane in front of 34 Marion Avenue.

11. In my professional opinion, the subject property is not marketable as a buildable residential lot, at any price, due to the change in the traffic volume in front and to the side of the

parcel. The location on a corner lot that is proximate to a busy intersection and a growing commercial area makes the property undesirable for a single family residential home.

12. Upon information and belief, in 1982, the Maple Avenue/Marion Avenue corridor had a significantly lower traffic volume than shown in the Department of Transportation's online traffic volumes from 2014. In 1982, there was approximately 8787 trips past the site on a daily basis. This increased 43% by 2014 when the traffic counts show 12,586 trips. In the DOT 2014 map, the volumes on Maple Avenue are higher than the dense commercial downtown on Broadway in Saratoga, between Church Street and West Circular. Given the growth in the past two years close to the property and the new grocery store, the traffic counts are likely to be higher now.

WHEREFORE, this affidavit is submitted in support of the application for a use variance for property located at 34 Marion Avenue in the City of Saratoga Springs, New York.

Jay Verro

Jay Verro

Sworn to before me this 16
day of September, 2016

Notary Public

CHRISTINE M. McGRAW
NOTARY PUBLIC IN THE STATE OF NEW YORK
QUALIFIED IN ALBANY COUNTY, NO. 01MC6102232
MY COMMISSION EXPIRES JANUARY 12, 2020

CITY OF SARATOGA SPRINGS
ZONING BOARD OF APPEALS

In the Matter of the Application for an Appeal of the Decision Regarding Use Variance by:

MAPLE SHADE CORNERS, LLC, Application No.: 2900

RE: 34 Marion Avenue, Saratoga Springs, NY

STATE OF NEW YORK)
)ss:
COUNTY OF SARATOGA)

PETER RIPOSA, being duly sworn, hereby deposes and says:

1. I am a licensed realtor with McNeary Realty, Inc. located at 12 Circular Street, Saratoga Springs, New York 12866.

2. I have been the listing agent for property located at 34 Marion Avenue, Saratoga Springs, New York for the last three (3) years. My office, McNeary Realty, Inc., has been the listing agent since 2005. It was my office that suggested the original listing prices, as well as made recommendations for reductions in price as the property remained on the market.

3. In the three (3) years that I have had the listing, I have received approximately 100 calls from potential buyers of the property. The majority of the calls are to inquire if the property can be used for a commercial use based on the location. The area around this property is largely commercial and has become more so over the last ten years as more commercial growth has occurred along the busy Maple Avenue corridor in the towns of Wilton and Greenfield, and recently, along Excelsior Avenue.

4. Three other realtors in my office, Dinda Dalstrom, Tammy Kalker and Fred McNeary, also listed the property. They collectively advised that they received approximately

180 calls. Despite the interest, the property has only been shown five (5) times resulting in only two (2) offers. The offers were generated in 2014 and 2015. Each of these offers was rescinded after they were made aware of the process to use the property commercially.

5. From 2005 until the present, no offers have been made to purchase the property for residential use. The property has been listed on the MLS, McNeary Realty's website as well as Realtor.com. A sign indicating that the property is for sale has been continuously posted on the property located at 34 Marion Avenue, Saratoga Springs, New York 12866. In my professional opinion, the growth in the surrounding communities, and now across the arterial in the area of Excelsior Avenue, has significantly impacted the attractiveness for having a family live on this busy intersection. From a safety perspective, the location on a corner with traffic on two sides of the property and commercial development make it less attractive for many residential home buyers who have children or pets.

6. In my professional opinion, I do not believe this vacant lot is marketable as a residential lot, even at a significantly reduced price. Based on the estimate provided by a local contractor, the cost to construct a small residential home at that site would be minimally $206,000. Were the lot priced at even what the owner initially paid for it ($40,000), that combined price still would result in a higher price point than the market would bear at that location. Add to this the traffic volume, safety issues with location on a corner, surrounding commercial properties and the noise of the arterial, and the ability to sell this property at any price for residential use is unlikely to occur, as we have seen since 2005.

7. It is further my opinion that building a home at that site is risky, because the investor's ability to resell the property will continue to diminish as the traffic volume increases

in the front and side yards of the site as a direct result of the commercial development that has occurred in the last 5 years and which is anticipated to continue to increase.

WHEREFORE, I submit this affidavit as evidence of the statements herein and request the Zoning Board of Appeals grant the variance for this use.

Peter Riposa

Sworn to before me this 19th
day of September, 2016

Notary Public

Rachel A. Petryna
Notary Public State of New York
No. 01PE6107354
Qualified In Saratoga County
Commission Expires March 29, 2020