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September 26, 2016

**Via Electronic Mail (Lindsey.Gonzales@Saratoga-Springs.org)**

Zoning Board of Appeals of the City of Saratoga Springs  
475 Broadway  
Saratoga Springs, New York 12866

Re: *Opposition of Lu Holding, LLC and Wen Mei "Iris" Lu to Proposed Area Variance  
of Pet Lodge of Saratoga and Applicant Matt Sames*  
(Tax Parcel No.: 191.8-1-1,2,3,4,5,6)

Dear Board Members:

This firm represents Lu Holding, LLC (the "Company") and its principal, Iris Lu (Ms. Lu). The Company and Ms. Lu respectfully request that the Zoning Board of Appeals (the "ZBA") deny, in its entirety, the above-referenced Application for Area Variance (the "Application") submitted by Matt Sames (the "Applicant"), owner of Tax Parcel No. 191.8-1-1,2,3,4,5,6 (the "Proposed Pet Lodge").

The Company owns certain real property adjacent to the Proposed Pet Lodge (Tax Parcel No. 191.8-1-47), which contains a restaurant building recently occupied by Hibachi Restaurants, Inc. and a residential house (the "Hibachi Property"). Ms. Lu owns several vacant residential parcels on the East and South sides of the Proposed Pet Lodge (SBL #191.-2-46, SBL # 191.8-1-8, and SBL # 191.8-1-38). One of the adjacent parcels owned by Ms. Lu (SBL # 191.-2-46) is a private road called Pratt Drive, which sits between the Proposed Pet Lodge and the Hibachi Property. Pratt Drive is a necessary for ingress and egress of approximately 32 acres of land owned by Ms. Lu and/or the Company. As adjacent landowners and members of the community, my clients respectfully request that the Zoning Board of Appeals ("ZBA") deny the Application in its entirety.

Applicant has proposed to construct a building designed to house a "Pet Lodge" business, and to thereafter operate this business, housing dogs and other pets on a 24/7 basis. The Zoning and Building Inspector for the City of Saratoga Springs (the "Inspector") recently issued a determination denying an application submitted by Applicant seeking approval of the "[p]roposed construction of a pet boarding facility." The Inspector denied the application on the

ground that the proposed building significantly exceeds (by as much as 100 feet), the minimum setbacks for the property under the City of Saratoga Springs Zoning Ordinance (the “Zoning Code”). Applicant then proceeded to file the instant Application, seeking a substantial area variance pursuant to Section 8.3.1 of the Zoning Code. The only justification for the requested area variance in the Application is to state that “a variance is necessary to construct a usable building.” My clients respectfully submit that the requested variance must be denied pursuant to the unequivocal mandate of the Zoning Code.

Section 8.3.1 of the Zoning Code expressly limits the granting of an area variance to those applications limited to seeking “relief from the dimensional or physical requirements imposed by the applicable zoning regulations.” That Section states, in no uncertain terms, that “[a]n area variance does not authorize any change in the type of use of the property.” The Zoning Code continues:

In making its determination whether to grant an area variance, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such the determination, the ZBA shall also consider:

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 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 ZBA, but shall not necessarily preclude the granting of an area variance.

Zoning Code § 8.3.1(A) (emphasis supplied).

The Application must be denied under the clear language of this provision. First, the Application seeks a *de facto* use authorization and is therefore not the proper subject of an area variance as defined in the Zoning Code. Indeed, the Application itself states that the area variance is sought to facilitate a change in use of the Property, from its current vacant status to an active animal lodging business. Again, section 8.3.1(A) of the Zoning Code expressly states that “an area variance does not authorize any change in the type of use of the property.” Accordingly, the Application should be denied.

The Application also must be denied because it would cause significant detriment to the health, safety and welfare of the neighborhood and community (Zoning Code § 8.3.1[A]). It is beyond dispute that dogs, especially when crammed with other dogs in constrained spaces, create a significant amount of noise and odor. Such noise and odor, which indisputably would “have an

adverse effect or impact on the physical or environmental conditions in the neighborhood” (Zoning Code § 8.3.1[A]), would persist at all hours of the day and night. Dogs are especially likely to act loudly and/or aggressively when they are crated in unfamiliar environments, which is exactly what Applicant proposes to do. Accordingly, in addition to potentially threatening the health of neighboring children allergic to household pets, this proposed use therefore exposes Applicant’s residential neighbors to potentially large and aggressive dogs, thus threatening the welfare of the neighborhood (Zoning Code § 8.3.1[A]). The significant detriment that the Proposed Pet Lodge would cause to the health, safety and welfare of the neighborhood and community warrant denial of the Application in its entirety.

Similarly, the Application should also be denied because it would produce an undesirable change in the character of the neighborhood (Zoning Code § 8.3.1[A]), which is predominantly residential. A pet boarding facility requires ample land in order to adequately house the visiting animals, and to serve as a buffer to absorb the significant noise and odor caused by such a business. A pet boarding facility (especially an oversized one) should not be located directly adjacent to residential homes and commercial restaurants.

Furthermore, the granting of the area variance would negatively impact and devalue the nearby land, especially for residential use, thereby creating “a detriment to nearby properties” (Zoning Code § 8.3.1[A]). No one wants to live or eat next to a 24/7 pet lodging facility. The proposed building and its rear fenced-in “play yard,” as well as the proposed septic tank and dumpster, are directly diagonal from an existing residential home. The significant detriment to adjoining property values that would be caused by the Proposed Pet Lodge provides sufficient justification, in and of itself, for denial of the Application in its entirety.

The Application should also be denied under the Zoning Code because the area variance is “substantial” (Zoning Code § 8.3.1[A]). Indeed, Applicant’s underlying use application seeks approval to infringe upon the Code’s minimum setbacks by up to **100 feet** – a huge amount of space relative to the small parcel of property. This is because **the pet lodge property is way too small for the Proposed Pet Lodge**. Review of the Application demonstrates that Applicant is attempting to fit a 6,000 square foot building, a 3,900 square foot exterior play yard, a septic system, a parking lot, greenspace, and a drainage system on a narrow lot approximately 104 feet wide. In short, the proposed area variance would result in a large business crammed onto a small property, with overflow inevitable. (In fact, it does not appear that the Application adequately accounts for the setback required for the proposed septic system). The substantiality of the requested area variance simply cannot be disputed.

Finally, any alleged difficulty created by application of the Zoning Code’s minimum setbacks is indisputably self-created. Applicant could have considered the Zoning Code and its pertinent restrictions prior to purchasing the property, and can of course utilize the property for a myriad of lawful purposes that do not include housing large amount of scared and nervous animals.

In sum, given the details of the area variance demanded by Applicant, virtually all of the factors required to be set forth in Section 8.3.1(A) of the Zoning Code support denial of the Application. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jon E. Crain', with a stylized flourish at the end.

Jon E. Crain

cc: Iris Lu