



Building & Zoning Dept.
 41 City Hall Place
 Plattsburgh, New York 12901
 Ph: 518-563-7707
 Fax: 518-563-6426

X USE CLASS A VARIANCE AREA CLASS B VARIANCE SUP SPECIAL USE PERMIT

Date: November 19, 2021 Appeal No.: 2306

An application is hereby made to the Zoning Board of Appeals pursuant to the City of Plattsburgh Zoning Ordinance for a variance to allow the property use as herein described.

Applicant: Keith L. Howe
 Applicant's Address: 16 Jerry Drive
 Plattsburgh, N.Y. 12901
 Telephone No.: (518) 569-8129
 Parcel Identification: Tax Map # 233.6-1-6.2.
 Location of Request: Arizona Avenue, Plattsburgh, New York
 Property Owner: Keith L. Howe
 Request Description: Applicant wishes to construct self-storage
 units on the subject property.
 Zoning District: R2
 Section Appealed: Section 270-8
 Previous Appeal: No.: N/A Date:

Identify Applicant's Right to Apply for Variance:

Ownership: X Long Term Lease: Contract To Purchase:

Other (Please Explain):

Applications for Zoning Variances must be accompanied by:

- 13 copies of existing and proposed site plan
- 13 copies of existing and proposed floor plan

The Zoning Board of Appeals may impose reasonable conditions and restrictions on the grant of area and use variances provided they are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Keith L. Howe
 Signature (Owner/Applicant)
 Keith L. Howe
 Print First and Last Name

Thomas M. Murnane
 Notary Public
 Thomas M. Murnane
 Notary Public, State of New York
 No. 4904132
 Qualified in Clinton County
 Commission Expires August 10, 20 25



STAFFORD • OWENS

PILLER • MURNANE • KELLEHER & TROMBLEY, PLLC

Attorneys & Counselors at Law

One Cumberland Avenue

PO Box 2947

Plattsburgh, NY 12901

P 518.561.4400

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staffordowens.com

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Thomas M. Murnane
Jacqueline M. Kelleher
Jessica L. Miller
Justin R. Meyer
Brendan P. Owens
Meghan E. Zedick

November 19, 2021

HAND DELIVERED

City of Plattsburgh
Zoning Board of Appeals
41 City Hall Place
Plattsburgh, NY 12901

Susanna S. Piller (*Retired*)

Re: Keith L. Howe
3.63 Acre Parcel, Arizona Avenue, City of Plattsburgh
Tax Map No. 233.6-1-6.2

Dear Sirs/Madams:

Please be advised that the undersigned represents Mr. Keith L. Howe with respect to the attached Class A Variance Application and a Class B Variance Application for the above-referenced parcel of property.

Please note that Mr. Howe has contracted to sell the subject property to WJB Properties, LLC for the construction of self-storage units on the subject property.

I enclose herewith as Exhibit "A" a copy of a Contract for Purchase and Sale of Real Estate entered into between Mr. Howe and WJB Properties, LLC for the subject property. It should be noted that this Contract is contingent upon the approval by the City of Plattsburgh Planning and Zoning Boards and the Building Inspector's Office for all necessary permits to locate self-storage units on the subject property.

I also enclose herewith as Exhibit "B" a copy of Mr. Howe's deed dated December 7, 2011, a copy of the tax map of the subject property (Exhibit "C"), and a copy of the Assessment Sheet for the subject property (Exhibit "D").

It just recently came to light that the proposal of WJB Properties would require a Class A Variance and a Class B Variance for the construction of said self-storage units on the subject property.

In reviewing the Zoning Map for the City of Plattsburgh located online and located in the City of Plattsburgh Zoning Ordinance it was noted that this property was in a I (Industrial) Zone. However, upon a more thorough review of the project by the City Building Inspector's Office it came to light that the property is actually located in a R2 (Residential) Zone. This apparently was an error by the zoning mappers for the City in denoting that the property was in an Industrial Zone.

Ronald B. Stafford
(1935-2005)



It should be noted that on the Assessment Sheet for the subject property same also indicates that the subject property is in an Industrial Zone (See Exhibit "D"). Please note that if the property was located in an Industrial Zone a Class A Variance would not be necessary for the project.

We are aware that in attempting to obtain approval from the Zoning Board for a Class A Variance, certain standards must be proven. These standards are as follows:

1. Lack of a Reasonable Return.

Please be aware that Mr. Howe has advised that the subject property has been listed for sale for either an industrial use or a residential use since at least 2016. See listing sheet confirming the above attached hereto as Exhibit "E". Mr. Howe had employed Mr. Scott Tetreault to sell the property, however, since 2016 there have been no Contracts produced until the Contract provided by WJB Properties.

In reviewing the subject property, it is clear, in our opinion, that this property's best use is as a use as proposed by WJB Properties. The property on the west is bordered by Arizona Avenue, on the southeast by South Peru Street, on the North by New York State Route 22 and on the west by Wall Street and a large transformer site owned and used by the City of Plattsburgh Municipal Lighting Department. There are also a couple of small residential parcels located at the northeast corner of the subject property.

We will also be presenting a report from Mr. Derek Rosenbaum which confirms that the best use of Mr. Howe's property is a commercial/industrial use. Mr. Rosenbaum's report will confirm that Mr. Howe cannot realize a reasonable return for a use allowed in the R2 Zone.

As noted above, the subject property is surrounded by commercial/industrial uses and/or properties and does not lend itself to any type of residential uses.

I also attach hereto as Exhibit "F" a copy of a proposed Site Plan by R.M.S, P.C. for WJB Properties which shows the layout of the proposed self-storage project. We would call the Board's attention to the several easements that cross the subject property. We maintain that these easements significantly limit residential uses and/or other potential



commercial uses. It also should be noted that the Site Plan provides for a buffer around smaller residential properties located on Wall Street.

This project also provides for fencing around the self-storage facility.

Accordingly, we believe the above clearly indicates that Mr. Howe cannot realize a reasonable return for a use allowed in the R2 zoned area.

2. Uniqueness.

As noted above, Mr. Howe has owned this property since 2011. He has attempted to sell the subject property for at least ten years without any offers until the offer from WJB Properties. We maintain that the confusion with the erroneous zoning map may have contributed to the lack of offers.

We contend that it is clear that the subject property is unique due to its size, the easements running across the subject property, and the uses which adjoin the subject property.

We maintain that the hardship to Mr. Howe is unique to this property.

3. Essential Character of the Neighborhood.

The subject property is currently vacant and wooded. In the neighborhood in which the property is located there are a number of industrial and/or commercial uses. In addition, as noted above, there is a large transformer site owned by the City of Plattsburgh Municipal Lighting Department located to the north and east of the subject property.

The use proposed by WJB Properties will have no impact on the neighborhood and, in our opinion, will actually enhance the neighborhood.

Accordingly, we contend that it is clear that the use proposed by WJB Properties will not change the essential character of the neighborhood.

4. Self-Created Hardship.



As noted in the Contract entered into by Mr. Howe and WJB Properties, same is contingent upon the approval by the Zoning Board of Appeals of all necessary variance and/or permits to allow the proposed self-storage facility to be located at the subject property.

Accordingly, there is no self-created hardship present.

Accordingly, we contend that the Applicant can meet all of the burdens necessary to obtain a Class A Variance for the subject property.

With respect to the Class B Variance, we are also aware that there are certain standards that must be met in order to obtain such a Variance. These standards are as follows:

1. Will an undesirable change be produced to the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance?

We contend that it is clear that the proposed use by WJB Properties will not produce an undesirable change to the character of the neighborhood. As noted above, the neighborhood in which the subject property is located is mainly commercial and/or industrial. Therefore, the use proposed by WJB Properties for self-storage units will not create an undesirable change in the character of the neighborhood.

2. Whether the benefits sought by the applicant can be achieved by some other feasible method.

It is our position that WJB Properties has reviewed all of its options for the number and location of the self-storage units on the subject property. To accommodate the costs associated with the purchase and construction of the self-storage units, we contend that the project as proposed (i.e., the number of units) is the least number that is possible to achieve WJB Properties' objectives.

3. Whether the request for an area variance is substantial.

We contend that the request for an area variance is not substantial. It should be noted that the Class B Variance is required due to the number of principal use structures proposed for the self-storage project which are more than one (1). We maintain that the number of structures is the



minimum required to allow this project to proceed from an economic standpoint.

Accordingly, it is clear that the request is not substantial.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the district.

As noted above, we contend that it is clear that the proposed variance will not have adverse effect or impact on the physical or environmental conditions in the neighborhood.

In fact, the project, we maintain will have a positive effect on the neighborhood as it will be cleaning up a wooded area of property that is essentially unusable and add an increased tax base for the City. We also believe that the proposed use will blend in nicely with the neighborhood and certainly not have an adverse effect.

5. Self-created hardship.

As noted above, in our Class A Variance argument, it is clear that the alleged hardship is not a self-created hardship. The Contract entered into by Mr. Howe and WJB Properties clearly indicates that same is contingent upon the approvals by the City of Plattsburgh for all necessary variances and approvals to construct self-storage units on the subject property.

Accordingly, we contend that it is clear that the Applicant has met all the burdens necessary to obtain a Class B Variance.

I also enclose as Exhibit "G" a Letter of Representation from Mr. Howe to the undersigned.

Based upon the evidence, documentation produced and the information contained in the Applications we believe the Applicant has met his burdens and the Class A Variance and Class B Variance Applications for the subject property should be approved.

If the Zoning Board and/ or the Building Inspector's Office should have any questions or comments with respect to this letter, please do not hesitate to contact the undersigned.

Thanking you for your kind consideration, I remain



Very truly yours,

**STAFFORD, OWENS, PILLER, MURNANE,
KELLEHER & TROMBLEY, PLLC**

By:

A handwritten signature in black ink, appearing to read 'T. Murnane', written over a horizontal line.

Thomas M. Murnane, Esq.

TMM/kmm

Enclosure

cc: Mr. Keith Howe
WJB Properties

Exhibit A



CONTRACT FOR PURCHASE AND SALE OF REAL ESTATE
(Applicable to Residential Sales)
THIS IS A LEGALLY BINDING CONTRACT
WHICH REQUIRES ATTORNEY APPROVAL

1. PARTIES:

Seller: Keith L. Howe
Address: 16 Jerry Drive, Plattsburgh, NY 12901
Citizenship/ Residency: (check all that apply)
[X] U.S. Citizen [] U.S Resident Alien
[X] New York Resident [] Other

Purchaser: WJB Properties
Address: 5 Jerry Drive, Plattsburgh, NY 12901
Citizenship/ Residency: (check all that apply)
[X] U.S. Citizen [] U.S Resident Alien
[X] New York Resident [] Other

2. PROPERTY: The property that this contract intends to convey is described as:

Address: Arizona Avenue, Plattsburgh, NY 12901 3.63 acres + or -
Located in the Township or City of Plattsburgh in Clinton County.
Recorded in the Clinton County Clerk's office in Liber/Page or Instrument# 2012 245484
Also referred to as Parcel APN# (Assessor's Parcel Number) 233.6-1-6.2

A copy of the deed(s) and a copy of the tax map are attached hereto and made a part hereof.

3. AGREEMENT: The seller agrees to sell and the purchaser agrees to purchase the premises under all the terms and conditions stated herein.

4. PURCHASE PRICE: The purchase price is \$75,000
It shall be payable as follows:

\$1,000 deposit upon the signing of this agreement;

\$N/A additional deposit due on or before

\$74,000 Lender's Attorney Trust Account check, cashier's check or certified check upon transfer of title;

\$N/A by purchaser giving to seller a purchase money mortgage for N/A years with interest at N/A % per year, with the first payment to be made N/A after closing.

5. WARRANTY DEED: The seller shall convey marketable title (marketable title has been defined as one that is free from reasonable doubt as to any fact or point of law upon which its validity depends) to the premises to the purchaser by Warranty Deed, with Lien covenant, in proper form for recording. If the Seller conveys in any trust capacity (e.g. Executor, Administrator, Trustee, etc.), the usual deed given in such cases shall be accepted. The deed shall be prepared, duly executed and acknowledged by the seller, at the seller's

12. HOME INSPECTION:

The Purchaser's obligations hereunder are contingent upon purchasers' receipt of a written home inspection report on the premises from a Licensed Home Inspector satisfactory to the purchasers. Such report may, at Purchasers option and expense, include inspections for structural and mechanical matters, pests, including wood boring insects, lead paint, asbestos, UFFI, radon gas, other hazardous substances, underground tanks, septic system and well water.

Inspection reports will be completed within 10 calendar days following acceptance of this purchase-sale agreement.

Should the results of any such test on inspection be unsatisfactory to the Purchasers, this agreement may be cancelled by giving written notice together with a copy of the report to the Seller, within five (5) calendar days of receipt of inspections. Whereupon all obligations of the parties shall cease and Purchasers deposits shall be promptly returned in full.

Purchasers' failure to give such notice within 15 calendar days shall be considered a waiver of Purchasers' right to cancel under this paragraph. The Purchasers and Purchasers consultants shall have the right of access to the premises for the purpose of conducting a home inspection, at reasonable and agreed upon times.

Purchaser acknowledges the benefits of home inspections and by initialing here waives their right to home inspection.

13. PERSONAL PROPERTY: The following personal property, currently owned by the Seller, free of all liens and encumbrances, shall be left at the property as a courtesy to the Purchaser at no additional cost or consideration:

N/A

14. TAX AND OTHER ADJUSTMENTS: The following, if any, shall be apportioned so that the Purchaser and Seller are assuming the expenses of the property and income from the property as of the date of transfer of title:

- a. rents and security deposits: Seller shall assign to Purchaser all written leases and security deposits affecting the premises;
- b. taxes, sewer, water rents, and condominium or homeowner association fees;
- c. municipal assessment yearly installments;
- d. fuel oil and kerosene shall be adjusted for a standard 275 gallon tank based on 260 gallons if the tank is full, or the appropriate fraction thereof if the tank is not full, at the cash price as of the day of closing as determined by the seller's fuel provider;
- e. propane or other fuel.

15. REAL ESTATE BROKER: The Purchaser and Seller agree that N/A _____ (Listing Broker) brought about this sale and seller agrees to pay his commission. It is further agreed that the listing broker shall hold any and all deposits made by purchaser in an escrow account. This sale is Co-Brokered through N/A _____ (Selling Broker). The fax number for the listing Broker to which legal notice may be sent is (518) _____.

23. SEE ATTACHED ADDENDA (incorporated herein by reference):

YES NO

- Addendum "A" - Agency Disclosure
- Addendum "B" - Lead Paint Disclosure
- Addendum "C" - Property Condition Disclosure
- Addendum "D" - 72 Hour Contingency
- Addendum "E" - Section 1031 Addendum
- Addendum "F" - Agricultural Disclosure
- Addendum "G" - Utility Disclosure
- Addendum "H" - Sellers Concessions

24. OTHER

Subject to approval by city of Plattsburgh planning, zoning boards, permits and any and all government agencies. City of Plattsburgh must approve a minimum of 110 units in order for this project to be completed. If Purchasers are unable to receive approval on the project this contract becomes null & void and said deposit is returned.

[Signature]
Seller Date 7/19/21

Warren J. Bennett
Purchaser Date
dotloop verified
07/15/21 2:47 PM EDT
N22H-V5IH-HQV5-VIOC

Seller Date

Purchaser Date

I hereby certify that the contract's execution date for this Agreement is 7/19/21, and that all necessary signatures and/or initials have been obtained from the Parties hereto on or before this date.

Kathey Bennett
Print Name Date 7/19/21

Kathey Bennett
Sign Name Date 7/19/21

THE FORM OF THIS CONTRACT HAS BEEN APPROVED BY THE CLINTON COUNTY BOARD OF REALTORS AND THEIR ATTORNEY. IT IS RECOMMENDED YOU CONSULT AN ATTORNEY BEFORE SIGNING.

Exhibit B



John H. Zurlo, County Clerk
 137 Margaret St
 Ste 101
 Plattsburgh, NY 12901-2966
 (518) 565-4700

Mary

Clinton County Clerk Recording Cover Sheet

Received From :
 CLINTON ABSTRACT

Return To :
 JOSEPH LAVORANDO, ESQ.
 30 CLINTON ST
 PLATTSBURGH, NY 12901

First 1ST PARTY(---OR)

PLATTSBURGH AIRBASE REDEVELOPMENT CORP

First 2ND PARTY(--EE)

HOWE, KEITH L

Instr Number : 2012-00245484

Index Type : Land Records

Type of Transaction : Deed - (Other Property)

Recording Fee : \$315.00

Recording Pages : 4

The Property affected by this instrument is situated in Plattsburgh (City), in the County of Clinton, New York

Real Estate Transfer Tax

RETT # : 1047

Deed Amount : \$20,000.00

RETT Amount : \$80.00

Total Fees : \$395.00

State of New York

County of Clinton

I hereby certify that the within and foregoing was recorded in the Clerk's office for Clinton County, New York

On (Recorded Date) : 01/19/2012

At (Recorded Time) : 1:01:00 PM



Doc ID - 004096940004

2336-1-6.2

John H. Zurlo
 John H. Zurlo, County Clerk



This sheet constitutes the Clerks endorsement required by Section 319 of Real Property Law of the State of New York

Entered By: MARY Printed On : 01/19/2012 At : 1:01:43PM

*Book
Loc 145
E 5 f*

This Quitclaim Deed is made and entered into this 7th day of ~~November~~ ^{December}, Two Thousand Eleven by and

Between

PLATTSBURGH AIRBASE REDEVELOPMENT CORP., a not-for-profit corporation organized under the laws of the State of New York, with offices at 130 Arizona Avenue, Suite 2000, Plattsburgh, New York 12903 ("Grantor"), and

KEITH L. HOWE, residing at 45 Champlain Street, Plattsburgh, NY 12903 ("Grantee"),

I. CONSIDERATION AND CONVEYANCE

Witnesseth that the Grantor, in consideration of **ONE DOLLAR (\$1.00)**, lawful money of the United States, does hereby quitclaim and release unto the Grantee, its successors, and assigns forever, all of that certain real property located in the City of Plattsburgh, County of Clinton, State of New York, and more particularly described on:

EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

II. APPURTENANCES

Together with the appurtenances and all the estate and rights of the Grantor in and to said premises.

III. EXCEPTIONS

Excepting therefrom all utility systems owned by the United States of America, Primelink, Inc., New York State Electric & Gas Corporation, County of Clinton Industrial Development Agency, Grantor or the City of Plattsburgh, including wire, cables, conduit, pipes, transformers, pumps, switching gear, poles, anchors, guys, towers, and appurtenant installations, structures, facilities, and equipment, reserving the rights of way and easements shown on existing subdivision plans or that may be revealed by a detailed survey and physical inspection of the premises, in the United States of America, Primelink, Inc., New York State Electric & Gas Corporation, County of Clinton Industrial Development Agency, Grantor and the City of Plattsburgh to keep, operate, inspect, maintain, repair, remove, and replace such utility systems, and for ingress and egress to and from such systems. Not included in this exception are those parts of the utility system that serve only a specific building(s) or building lot(s), and that, in the practice of public utility in the City of Plattsburgh, Clinton County, New York, are usually controlled by individual realty owners and not by utility providers.

SUBJECT TO all utility easements and rights of way on the premises conveyed by the Grantor to the City of Plattsburgh by Assignment and Assumption of Grant of Easement for Utility Systems dated the 26th day of September, 2002, and recorded in the Office of the Clerk of Clinton County on the 26th day of September, 2002, as Instrument Number 147217.

SUBJECT TO all utility easements and rights of way on the premises conveyed by the Grantor to New York State Electric & Gas Corporation by Assignment and Assumption of Grant of Easement dated as of the 16th day of December, 2004, and recorded in the Office of the Clerk of Clinton County on the 11th day of January, 2005, as Instrument Number 05178762.

SUBJECT TO the right of New York State Electric & Gas Corporation, its successors and assigns, to obtain an easement for the installation, operation and maintenance of facilities on, over, through or under the property, the location of such easement being subject to the consent of the owner, which consent shall not be unreasonably withheld, conditioned or delayed. This provision shall be a covenant running with the land.

SUBJECT TO the following covenant: The Grantee acknowledges the restrictive covenant regarding the future expansion of Arizona Avenue set forth in that certain deed dated the 23rd day of May, 2011, by and between Lakeside Container Corp and Plattsburgh Airbase Redevelopment Corp., and recorded in the Clinton County Clerk's Office on even date as Instrument Number 2011-00240295, and the development of the premises conveyed herein shall accommodate any future expansion of Arizona Avenue in an easterly direction.

In Witness Whereof, the Grantor has hereunto caused its corporate seal to be hereunto affixed, and these presents to be signed by its duly authorized officer this 16th day of November, 2011.

IN PRESENCE OF:

PLATTSBURGH AIRBASE
REDEVELOPMENT CORP.


BY: R. Bruce Steadman
ITS: President & CEO

STATE OF New Jersey)
) SS:
COUNTY OF Monmouth)

On the 7th day of November, in the year 2011 before me, the undersigned, a Notary Public in and for said State, personally appeared R. BRUCE STEADMAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

Bethany Henderson
Notary Public
State of New Jersey
My Commission Expires 4-8-2013

Record & Return to:

EXHIBIT A

ALL THAT CERTAIN PIECE OR PARCEL OF LAND, situate, lying and being in the City of Plattsburgh, County of Clinton, State of New York, being Parcel 3 as shown on a subdivision map entitled "Lakeside Container Corporation Proposed Subdivision 2001", located at Arizona Avenue and New York State Route 22, City of Plattsburgh, Clinton County, New York, as reflected on a survey map drawn by R.M. Sutherland, PC dated May 22, 2001 and recorded and filed with the Clinton County Clerk's office on August 31, 2001 as Map PL-B-187, said parcel being more particularly described as follows:

BEGINNING at a street monument set in the southerly bounds of New York State Route 22 said point being the northeast corner of Parcel 2 as illustrated on said subdivision map and said point being the most northwesterly corner of the parcel herein described; from said point and place of beginning, thence turning and running S 54° 49' 59" E and traveling a distance of 43.16 feet to an iron pin; thence turning and running N 84° 10' 34" E and traveling a distance of 100.00 feet to an iron pin; thence turning and running S 6° 17' 36" E a distance of 132.16 feet to an iron pin marking the southwest bounds of lands now or formerly owned by Pearl Laundry by virtue of a deed recorded with the Clinton County Clerk's office in Volume 363 at page 405; thence turning and running N 84° 13' 18" E a distance of 198.20 feet along the southerly bounds of Laundry (Volume 363, page 405) and the southerly bounds of lands now or formerly owned by Mayotte (Volume 514, page 119) to an iron pin set or found at a point which marks the southeast corner of lands now or formerly owned by Mayotte as aforesaid; Thence turning and running S 5° 50' 27" E along the assumed westerly bounds of Wall Street Extension a distance of 287.11 feet to an iron pin; thence turning and running N 72° 13' 42" E a distance of 227.17 feet to an iron pin; thence turning and running S 55° 2' 58" E and traveling a distance of 109.05 feet to an iron pin; thence turning and running S 34° 13' 34" W and traveling a distance of 287.09 feet to a point; thence continuing S 35° 46' 14" W and traveling a distance of 150.53 feet to a street monument set which point marks the southwest corner of the parcel herein described and is also the southeast corner of Parcel 2 as shown on the above referenced subdivision map; thence turning and running N 29° 28' 5" W along the easterly bounds of Parcel 2 a distance of 877.97 feet to the point and place of beginning.

HEREBY INTENDING TO DESCRIBE AND CONVEY Parcel 3 on the above referenced subdivision map containing 3.63 acres of land. In the event of any typographical error or discrepancy between the narrative description contained herein and the above referenced subdivision map (PL-B187) it is the intention of the parties that the subdivision map description shall control.

SUBJECT TO any and all easements as shown on said map, as well as any other easements, covenants, rights of way or restrictions of record or visible upon an inspection of the premises.

Being part of the premises (Parcel B) conveyed by the United States of America to Lakeside Container Corp. by deed dated February 2, 2000 and recorded on February 16, 2000 as Instrument No. 119334 of Deeds in the office of the Clinton County Clerk.

ALSO BEING a part of the premises conveyed by Lakeside Container Corp. to Plattsburgh Airbase Redevelopment Corp. by deed dated May 23, 2011 and recorded in the Clinton County Clerk's Office on the same date in the Deed Index as Instrument Number 2011-00240295.

Exhibit C

Exhibit D



Property Description Report For: Arizona Ave,
Municipality of City of Plattsburgh

No Photo Available

Total Acreage/Size:	3.63	Status:	Active
Land Assessment:	2021 - \$45,000	Roll Section:	Taxable
Full Market Value:	2021 - \$45,000	Swls:	091300
Equalization Rate:	2021 - 100.00%	Tax Map ID #:	233.6-1-6.2
Deed Book:	20122	Property Class:	340 - Vacant Indus
Grid East:	761198	Site:	COM 1
		In Ag. District:	No
		Site Property Class:	340 - Vacant indus
		Zoning Code:	06 - I-Industrial
		Neighborhood Code:	13506 - Mixed Comm
		School District:	Plattsburgh
		Total Assessment:	2021 - \$45,000
		Property Desc:	Survey Map 20011/34415 Vacant Land
		Deed Page:	48916
		Grid North:	2128962

Owners

Keith L Howe
16 Jerry Dr
Plattsburgh NY 12901

Sales

Sale Date	Price	Property Class	Sale Type	Prior Owner	Value Usable	Arms Length	Add. Parcels	Deed Book and Page
5/25/2012	\$1	340 - Vacant indus	Land Only	Howe, Keith L	No	No	No	20122/48916
12/7/2011	\$20,000	340 - Vacant indus	Land Only	PARC	No	No	No	20122/45484
5/23/2011	\$1	340 - Vacant indus	Land Only	Lakeside Container Corp	No	No	No	20112/40295

Utilities

Sewer Type:	Comm/public	Water Supply:	Comm/public
Utilities:	Gas & elec		

Inventory

Overall Eff Year Built:		Overall Condition:	Normal
Overall Grade:	Average	Overall Desirability:	3

Buildings

AC%	Sprinkler%	Alarm%	Elevators	Basement Type	Year Built	Eff Year Built	Condition	Quality	Gross Floor Area (sqft)	Stories
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Improvements

Structure	Size	Grade	Condition	Year
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Special Districts for 2021

No information available for the 2021 roll year.

Exemptions

Year	Description	Amount	Exempt %	Start Yr	End Yr	V Flag	H Code	Own %
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Taxes

Year	Description	Amount
2021	County	\$760.35
2021	School	\$1,043.64
2020	County	\$790.73
2020	School	\$1,047.41

*** Taxes reflect exemptions, but may not include recent changes in assessment.**

Exhibit E

6

MLS#: 157175 0 Arizona Avenue Plattsburgh, NY 12901

Photo/Document History

Date/Eastern Time	Changed By	Change
7/20/2016 2:02:00 PM	Nicole Bombard (Office Staff)	New Listing (\$98,000)
7/20/2016 2:02:00 PM	NavicaMLS	Photo for Main View Processed
7/22/2016 10:43:00 AM	Nicole Bombard (Office Staff)	Main view Deleted
7/22/2016 10:44:00 AM	NavicaMLS	Photo for Main View Processed
8/15/2017 9:41:00 PM	Nicole Bombard (Office Staff)	Expire Date Modified (7/18/2017 to 7/18/2018)
8/15/2017 3:41:00 PM	Nicole Bombard (Office Staff)	Misc. Change
7/26/2017 4:29:00 PM	Nicole Bombard (Office Staff)	Price Change (\$98,000 to \$59,000)
7/26/2017 4:29:00 PM	Nicole Bombard (Office Staff)	Misc. Change
8/11/2018 11:17:00 AM	Nicole Bombard (Office Staff)	Expire Date Modified (7/18/2018 to 7/18/2019)
6/11/2018 11:17:00 AM	Nicole Bombard (Office Staff)	Misc. Change
6/27/2019 10:35:00 AM	Karen Thornton (Office Staff)	Expire Date Modified (7/18/2019 to 7/18/2020)
6/27/2019 10:35:00 AM	Karen Thornton (Office Staff)	Misc. Change
7/19/2020 1:45:00 AM	NavicaMLS	Expired by system

Exhibit F

Exhibit G



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November 16, 2021

City of Plattsburgh
Zoning Board of Appeals
41 City Hall Place
Plattsburgh, NY 12901

Re: Variance Application
Arizona Property – City of Plattsburgh

Susanna S. Piller (*Retired*)

Dear Sir/Madam:

I, Keith L. Howe, hereby authorize Thomas M. Murnane, Esq. to represent my interests with respect to the Variance Applications before the City of Plattsburgh Zoning Board of Appeals and any other necessary Applications required by the City of Plattsburgh Boards.

Keith L. Howe

Ronald B. Stafford
(1935-2005)

Use Variances Standards

The state statues defined a use variance as: "the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulation.
General City Law, 81-b(1)

The state statues then go on to provide the zoning board with the standards for granting the use variance:

(b) No such use variance shall be granted by the zoning board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(1) the applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence;

(2) That the alleged hardship to the property in question is unique, and does not apply to a substantial portion of the district of neighborhood;

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood;

(4) that the alleged hardship has not been self created.

The board of appeals, in granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community."

General City Law, 81-b(3)

ZONING BOARD OF APPEALS

CITY HALL

PLATTSBURGH, NEW YORK 12901

STANDARDS OF PROOF - USE VARIANCE: "UNNECESSARY HARDSHIP STANDARD"

For an applicant to be entitled to a Use Variance, he must satisfy the "unnecessary hardship standard". The courts of New York hold that, to satisfy this standard, the applicant must establish by competent proof the following:

1. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone.
2. The use to be authorized by the variance will not alter the essential character of the locality.
3. The hardship is unique as to this parcel and is not general throughout the zoning district.

A. REASONABLE RETURN: As to proof of "no reasonable return", the New York Court of Appeals held in the case of Crossroads Recreation v. Broz 4 N.Y. 2d 39 - that the issue of "reasonable return" cannot be satisfied except by a showing of dollars and cents proof in which the following is established by competent evidence:

1. The amount paid for the land in question.
2. Its present market value.
3. Annual maintenance expenses.
4. Annual land taxes and school taxes.
5. The unpaid balance of mortgages and other encumbrances.
6. The annual income from the land in question for each and every use permitted in this Zoning District.
7. Proof that this actual or estimated return for each permitted use is not reasonable under the circumstances.
8. If the subject premises are the subject of a contract of purchase contingent upon the grant of a use variance, then the applicant must establish the fair market value of the property independent of the purchase price, because in the absence of such proof, it will be presumed that the purchase price included a premium over fair market price at the time of purchase in expectation of favorable zoning relief. Professional Park v. Town of Bedford, 60 N.Y. 2d 492 (1983).

Whether any of the permitted uses would generate a reasonable return requires proof from which can be determined the rate of return earned by similar or like property in the community requires proof in dollars and cents from the owners investment in the property as well as the return that the property will produce from the various uses permissible under the existing classification.

The burden of proof is always on the applicant on the issue of establishing unnecessary hardship. This does not, however, bar the municipality from going forward with proof to the contrary because as the Court of Appeals said in Professional Park v Town of Bedford:

"When the proponent presents proof sufficient to permit the trier of fact to decide in his or her favor, the opponent must counter that proof or risk an adverse determination. Only in that general sense can it be said that there is no obligation on the municipality to go forward with the proof."

ZONING BOARD OF APPEALS

CITY HALL

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"Unnecessary Hardship Standard"

Proof of present market value and annual income can be best established through the testimony of an expert witness. Where more than one use is permitted in the zoning district, the applicant must prove the projected annual income from each and every permitted use, and must prove that this annual return is not reasonable as compared to the returner by like property in the community.

If, on the basis of this dollars and cents proof, the ZBA determines that no reasonable return can be derived from any of the permitted uses, then the applicant has proven the first part of the unnecessary hardship standard.

B. ESSENTIAL CHARACTER: In addition, the applicant must prove by competent evidence that the proposed use will not alter the essential character of the neighborhood.

C. UNIQUENESS: The applicant must prove that the hardship is not so general throughout the zoning district as to require the conclusion that if all parcels similarly situated were granted variances, the zoning of the district would be materially changed. In other words, if the hardship is common throughout the area, then perhaps legislative action by the Town Board in the nature of a zone change or zoning ordinance amendment may be in order.

If the ZBA determines that the applicant has not furnished competent evidence meeting and satisfying both of the above standards, then the ZBA must deny the use variance.

D. OTHER FACTORS TO BE CONSIDERED BY ZBA:

SELF-CREATED HARDSHIP: If the hardship complained of is self-imposed, then the variance will be denied. The cases hold that a party who knowingly acquires land for a use prohibited by the Zoning Ordinance creates his own hardship. Even if he did not actually learn of the prohibition at the time of the purchase he is nevertheless chargeable with knowing the restrictions on use.

PERSONAL PROBLEMS: Is the plight of the owner due to personal problems as opposed to use of the land or buildings. If personal problems, then the use variance must be denied.

ZONING BOARD OF APPEALS

CITY HALL

PLATTSBURGH, NEW YORK 12901

TO: All Applicants for Zoning Variance or Special Use Permit

SUBJECT: Required information for filing application

The Zoning Ordinance stipulates that the Building Inspector determine that all submittals for a Variance or Special Use Permit have adequate information (in form and content - Section 270-54A) for review by the Zoning Board of Appeals. In order to insure such information is consistently provided with each application the following information shall be required with each application:

1. Existing Site Plan - showing to scale the property lines, principal buildings, accessory structures, rights-of-ways as may exist and other improvements (city street and facilities abutting the site, driveways, parking areas, drainage structures, fence, etc.). Where the application is a request for the reduction of any yard setback the existing site plan shall be a survey of the property as prepared by a Licensed Land Surveyor and shall show the location of buildings on the abutting property where the yard reduction is proposed.
2. Proposed Site Plan - showing clearly to scale what is proposed to be constructed (and removed) under this application. The proposed improvement (s) shall be shaded, colored or contrasted in an acceptable manner to make them easily discernible. Adequately dimension the proposed improvements and indicate the setbacks as applicable.
3. Area and Bulk Calculations - Calculations of the lot area, lot dimensions, building area (existing/proposed), lot coverage, open space, all yard setbacks, dwelling unit density, building(s) height, parking required shall be submitted in tabulated form to show existing, proposed and required.
4. Building Plans - Submit schematic building plans to scale showing the existing/proposed building layout and identify clearly the existing/proposed use of all building spaces. Include elevation view(s) of proposed construction as applicable.
5. Area Location Map - showing all properties on each side of the street and noting the existing occupancy for each such lot on all four sides of the site. A copy of the tax map of the area marked to show the occupancy shall be sufficient for this information.

No application will be accepted after this date unless it contains all of the above information (11 sets). No application will be accepted for the agenda until all such appropriate information has first been filed with this office for a review and determination of zoning compliance/noncompliance (and such a determination has been issued to the applicant in writing).

Variations

One of the basic powers given by law to a zoning board of appeals is called the "variance" power. The board has the authority to "vary," or modify, the strict letter of a zoning ordinance or local law in cases where this strict interpretation could cause practical difficulties or unnecessary hardships for an individual.

Appeals boards are frequently confronted with requests for variances. There are two types of requests that come before the board, and the standards by which they are judged differ. A use variance is a request to utilize property for a use or activity which is not permitted by the zoning ordinance, and the applicant must demonstrate "unnecessary hardship." An area variance is a request for relief from dimensional standards contained in the zoning ordinance, and it requires a demonstration of "practical difficulty."

The basic standards for determining unnecessary hardship and practical difficulty have been established and refined by the courts in numerous cases.

Use Variance

An individual who wants to utilize property for a use that is not permitted by the zoning ordinance must apply for a use variance. An applicant for a use variance must demonstrate unnecessary hardship by satisfying each of the following three tests:

1. Uniqueness

The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone AND that these features make it impossible to earn a reasonable return without some adjustment. If the features or conditions are generally applicable throughout the district, a variance should not be granted. In those situations where the difficulty is shared by others, the relief should be accomplished by an amendment to the zoning ordinance, not a variance.

2. Reasonable Return

The applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted by the zoning ordinance. There must be a "dollars and cents" proof of the applicant's inability to realize reasonable return; speculation or qualitative assessment is inadequate.² Failure to realize the highest return is not considered a hardship.

3. Character

The applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the "spirit" of the ordinance or local law should be preserved.

The applicant for a use variance must meet all three tests before the appeals board may grant relief. A use variance should not be granted if the "unnecessary hardship" was created by the applicant. If the appeals board grants a use variance to an applicant who has failed to meet each of the tests, it runs the risk of assuming the function of the legislative body and making a decision contrary to the legislative intent of the zoning ordinance.

An increasing number of use variance requests is often the sign of an "aged" zoning regulation. The appeals board should not circumvent the legislative process by granting use variances. Instead, the appeals board should advise the governing body of the need to reexamine and amend the zoning ordinance.

Area Variance

In the case of an area variance, the applicant is seeking modification of dimensional standards, such as yard requirements, set-back lines, lot coverage, frontage requirements or density regulations, so that the property may be utilized for one of the uses permitted by the zoning ordinance. The appeals board may grant relief if the applicant can demonstrate that strict compliance with the regulations would cause practical difficulty.

The determination of practical difficulty is a three-step process.³

1. First, the applicant must demonstrate that the application of the zoning ordinance to his property causes significant economic injury.
2. Once the applicant has demonstrated economic injury, then the municipality must show that the regulation in question is reasonably related to a legitimate exercise of the police power.
3. Last, assuming the municipality has met its burden of proof, the applicant must demonstrate that the restrictions, as strictly applied in his case, are unrelated to the public health, safety or welfare of the community and that granting the variance will not adversely affect the community.

In making a determination of practical difficulty, the appeals board may consider:⁴

1. How substantial the variation is in relation to the requirement;
2. The potential effect of increased density on available municipal, county and state facilities and services;
3. Whether the variance will cause a substantial change in the character of the neighborhood;
4. Whether the difficulty can feasibly be mitigated by some other method; or
5. Whether the interests of justice will be served in granting the variance.

The appeals board should grant the minimum relief necessary to allow reasonable use of the land in question. Not every applicant for an area variance is automatically entitled to receive relief. Each application should be carefully considered against the requirement for proof of practical difficulty.

Summary

The major difference between a use variance and an area variance involves the use of the property. An area variance results in a modification of physical restrictions so that an allowable use may be established on the property. By contrast, a use variance permits the establishment of a use which is prohibited by the zoning ordinance and the zoning map. It is for this reason that the standards for a use variance are more stringent than the standards established for an area variance.

Frequently, the appeals board is encouraged to make legislative decisions under the guise of use variance requests. The appeals board should exercise caution when confronted with a request for a use variance, and only grant those which meet the tests established for determining unnecessary hardship. The appeals board should resist the inclination to correct deficiencies in the zoning ordinance through the exercise of its variance power. If particular provisions of the zoning ordinance are inappropriate or unjust, the appeals board should recommend that the legislative body (City Council, Town Board, Board of Trustees) take the necessary steps to amend the ordinance or local law.

¹Otto v. Steinhilber, 282 NY 71 (1939), Village of Bronxville v. Francis, 150 NYS 2d 906 (1956); Jayne Estates v. Raynor, 22 NY 2d 417 (1968); Douglaston Civic Association, Inc. v. Klein, 51 NY 2d 963 (1980).

²Fayetteville v. Jarrold, 53 NY 2d 254 (1981).

³Fulling v. Palumbo, 21 NY 2d 30 (1967); National Merritt, Inc. v. Warst, 41 NY 2d 438 (1977).

⁴Waschsberger v. Michalis, 19 Misc 2d 909 (1959).

Department of Planning



Note:

This Tech Memo was prepared by the
publication for municipal governments.

Department of Planning as an information
It is not intended to be a legal opinion.

**Full Environmental Assessment Form
Part 1 - Project and Setting**

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Howe Class A Variance		
Project Location (describe, and attach a general location map): Arizona Avenue, Plattsburgh, New York		
Brief Description of Proposed Action (include purpose or need): Construction of self-storage units on the subject property		
Name of Applicant/Sponsor: Keith L. Howe	Telephone: (518) 569-8129	E-Mail:
Address: 16 Jerry Drive		
City/PO: Plattsburgh	State: New York	Zip Code: 12901
Project Contact (if not same as sponsor; give name and title/role): Thomas M. Murwane, Esq.	Telephone: (518) 561-4400	E-Mail: tmurwane@staffordowens.com
Address: One Cumberland Avenue		
City/PO: Plattsburgh	State: New York	Zip Code: 12901
Property Owner (if not same as sponsor):	Telephone:	E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village <input type="checkbox"/> Yes <input type="checkbox"/> No Planning Board or Commission		
c. City, Town or <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Village Zoning Board of Appeals	City of Plattsburgh Zoning Board of Appeals	November 19, 2021
d. Other local agencies <input type="checkbox"/> Yes <input type="checkbox"/> No	- Class A Variance - Class B Variance	
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Clinton County Planning Board	November 19, 2021
f. Regional agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? Yes No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? Yes No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? Yes No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) Yes No

If Yes, identify the plan(s):

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? Yes No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
 If Yes, what is the zoning classification(s) including any applicable overlay district?
R2

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No
 If Yes,
 i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? City of Plattsburgh School District

b. What police or other public protection forces serve the project site?
City of Plattsburgh, NY's Police.

c. Which fire protection and emergency medical services serve the project site?
City of Plattsburgh

d. What parks serve the project site?
Unknown.

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?
Industrial / Commercial

b. a. Total acreage of the site of the proposed action? 3.63 acres
 b. Total acreage to be physically disturbed? 3 acres
 c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 3.63 acres

c. Is the proposed action an expansion of an existing project or use? Yes No
 i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
 If Yes,
 i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____
 ii. Is a cluster/conservation layout proposed? Yes No
 iii. Number of lots proposed? _____
 iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? Yes No
 i. If No, anticipated period of construction: _____ months
 ii. If Yes:
 • Total number of phases anticipated 2
 • Anticipated commencement date of phase 1 (including demolition) March month 2022 year
 • Anticipated completion date of final phase June month 2022 year
 • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: Phase 2 will commence at the completion of Phase 1.

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,

i. Total number of structures 6 12-15' 20-40' 80'-190' See attached
 ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length map.
 iii. Approximate extent of building space to be heated or cooled: 0 square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: _____
 ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: _____
 iii. If other than water, identify the type of impounded/contained liquids and their source. _____
 iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres
 v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
 vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) Yes No
 If Yes:

i. What is the purpose of the excavation or dredging? _____
 ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
 • Volume (specify tons or cubic yards): _____
 • Over what duration of time? _____
 iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____
 iv. Will there be onsite dewatering or processing of excavated materials? Yes No
 If yes, describe. _____
 v. What is the total area to be dredged or excavated? _____ acres
 vi. What is the maximum area to be worked at any one time? _____ acres
 vii. What would be the maximum depth of excavation or dredging? _____ feet
 viii. Will the excavation require blasting? Yes No
 ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description). _____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No
 If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No
 If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? Yes No
 If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No
 If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No
- Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No
 If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No
 If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No
 If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No
 If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No

<ul style="list-style-type: none"> • Do existing sewer lines serve the project site? _____ • Will a line extension within an existing district be necessary to serve the project? _____ <p>If Yes:</p> <ul style="list-style-type: none"> • Describe extensions or capacity expansions proposed to serve this project: _____ 	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____</p> <p>If Yes:</p> <ul style="list-style-type: none"> • Applicant/sponsor for new district: _____ • Date application submitted or anticipated: _____ • What is the receiving water for the wastewater discharge? _____ <p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans): _____</p> <p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____</p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel? _____ Square feet or _____ acres (impervious surface) _____ Square feet or _____ acres (parcel size)</p> <p>ii. Describe types of new point sources. _____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____</p> <ul style="list-style-type: none"> • If to surface waters, identify receiving water bodies or wetlands: _____ <ul style="list-style-type: none"> • Will stormwater runoff flow to adjacent properties? _____ 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____</p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____</p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____</p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> • _____ Tons/year (short tons) of Carbon Dioxide (CO₂) • _____ Tons/year (short tons) of Nitrous Oxide (N₂O) • _____ Tons/year (short tons) of Perfluorocarbons (PFCs) • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆) • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs) • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs) 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

b. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? Yes No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? Yes No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? Yes No

If Yes:

i. When is the peak traffic expected (Check all that apply): Morning Evening Weekend
 Randomly between hours of _____ to _____

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____ Yes No

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____

iii. Will the proposed action require a new, or an upgrade, to an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations: **Open 24-7.**

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? Yes No
 If yes:
 i. Provide details including sources, time of day and duration:

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No
 Describe: _____

n. Will the proposed action have outdoor lighting? Yes No
 If yes:
 i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:
 There will be some downcast LED lights on the units. On dusk to dawn.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No
 Describe: There will be some trees remaining.

o. Does the proposed action have the potential to produce odors for more than one hour per day? Yes No
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? Yes No
 If Yes:
 i. Product(s) to be stored _____
 ii. Volume(s) _____ per unit time _____ (c.g., month, year)
 iii. Generally, describe the proposed storage facilities:

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? Yes No
 If Yes:
 i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? Yes No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? Yes No
 If Yes:
 i. Describe any solid waste(s) to be generated during construction or operation of the facility:
 • Construction: _____ tons per _____ (unit of time)
 • Operation: _____ tons per _____ (unit of time)
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:
 • Construction: _____
 • Operation: _____
 iii. Proposed disposal methods/facilities for solid waste generated on-site:
 • Construction: _____
 • Operation: _____

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

- Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Aquatic Other (specify): _____

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces		1.88	1.88
• Forested	3.63	1.75	1.75
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation? Yes No
 i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
 If Yes:
 i. Identify Facilities: _____

e. Does the project site contain an existing dam? Yes No
 If Yes:
 i. Dimensions of the dam and impoundment:
 • Dam height: _____ feet
 • Dam length: _____ feet
 • Surface area: _____ acres
 • Volume impounded: _____ gallons OR acre-feet
 ii. Dam's existing hazard classification: _____
 iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
 If Yes:
 i. Has the facility been formally closed? Yes No
 • If yes, cite sources/documentation: _____
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____

 iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
 If Yes:
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
 If Yes:
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes – Spills Incidents database Provide DEC ID number(s): _____
 Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
 ii. If site has been subject of RCRA corrective activities, describe control measures: _____

 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
 If yes, provide DEC ID number(s): _____
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? Greater than 3 feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site: Topsoil / sand 50/50 %
 _____ %
 _____ %

d. What is the average depth to the water table on the project site? Average: _____ feet unknown

e. Drainage status of project site soils: Well Drained: 100 % of site
 Moderately Well Drained: _____ % of site
 Poorly Drained: _____ % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: 0 % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No

If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100-year Floodplain? Yes No

k. Is the project site in the 500-year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:
 i. Name of aquifer: _____

m. Identify the predominant wildlife species that occupy or use the project site: Grey Squirrel

n. Does the project site contain a designated significant natural community? Yes No
 If Yes:
 i. Describe the habitat/community (composition, function, and basis for designation): _____
 ii. Source(s) of description or evaluation: _____
 iii. Extent of community/habitat:
 • Currently: _____ acres
 • Following completion of project as proposed: _____ acres
 • Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? Yes No
 If Yes:
 i. Species and listing (endangered or threatened): _____

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? Yes No
 If Yes:
 i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? Yes No
 If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? Yes No
 If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? Yes No
 i. If Yes: acreage(s) on project site? _____
 ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? Yes No
 If Yes:
 i. Nature of the natural landmark: Biological Community Geological Feature
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? Yes No
 If Yes:
 i. CEA name: _____
 ii. Basis for designation: _____
 iii. Designating agency and date: _____

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? Yes No
 If Yes:
 i. Nature of historic/archaeological resource: Archaeological Site Historic Building or District
 ii. Name: _____
 iii. Brief description of attributes on which listing is based: _____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? Yes No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? Yes No
 If Yes:
 i. Describe possible resource(s): _____
 ii. Basis for identification: _____

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? Yes No
 If Yes:
 i. Identify resource: _____
 ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____
 iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? Yes No
 If Yes:
 i. Identify the name of the river and its designation: _____
 ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? Yes No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Keith L. Howe Date November 16, 2021

Signature  Title _____