



October 3, 2022

MJ Project No. 18974.00

Chairman Donald Massey and
Members of the Zoning Board of Appeals
P.O. Box 764
Schoharie, NY 12157

**Re: Zoning Board of Appeals Area Variance Request for
Highbridge Development Schoharie, LLC, Route 30A Development Site
(Tax ID 48.-4-22)**

Dear Chairman Massey and Members of the Zoning Board of Appeals:

On behalf of Highbridge Development Schoharie, LLC (Applicant), we respectfully submit this letter to the Zoning Board of Appeals (ZBA) for consideration of an area variance for a proposed project that involves the development of approximately 48 acres of vacant land along the east side of Route 30A and south side of Interstate 88 on the above referenced Property. This is a supplement to the information previously provided to the ZBA for its review.

The property is located within the commercial zoning district which allows a maximum building height of 35 feet. As stated in Article 12 – Definitions of the Town of Schoharie Zoning Law the term “HEIGHT” is defined as “the vertical distance measured from the average finished grade along the walls of the building to the highest point of the roof for flat roofs...”

The Applicant is proposing to construct a warehouse/office structure, allowed in the Commercial Zone subject to site plan review and special use permit granted by the Planning Board. The warehouse/office structure has a flat roof and maximum building height of 45 feet which exceeds the maximum allowable height by 10 feet and will require approval of an area variance by the ZBA.

The proposed 45-foot building height measurement was determined by the distance from the average finished grade elevation along the walls of the building to the highest point of the proposed flat roof and does not include the height of any mechanical units that will be on the roof. Please refer to the enclosed exterior elevation drawings provided by the architect which show the overall height dimension of the proposed building.

TOWN OF SCHOHARIE STANDARDS FOR AREA VARIANCES

The Town of Schoharie Zoning Code authorizes the Zoning Board of Appeals to issue area variances in this case to allow the height of the structure to be 45 feet instead of 35 feet, where the applicant has been referred by the Town Planning Board to the ZBA or where the applicant is appealing a determination by the Code Enforcement Officer. Town of Schoharie Zoning Law 9.2-3. In this case the Applicant was referred to the ZBA by the Town Planning Board because the height of the proposed warehouse building exceeds the height limit of 35 feet for this Commercial Zone by 10 feet.

In making its determination whether to grant an area variance, the ZBA takes into consideration the following: “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 of such grant.”

In making this determination the ZBA considers:

- (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 requested 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 or overlay district; and
- (5) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board of Appeals, but which shall not necessarily preclude the granting of the area variance.

The ZBA grants the minimum variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.

The ZBA, in granting area variances, imposes such reasonable conditions and restrictions as are related to and incidental to the proposed use of the property. Such conditions are to be consistent with the spirit and intent of this Law and are imposed for the purpose of minimizing any adverse impact the variance may have on the neighborhood or the community.

HOW THE PROPOSED PROJECT MEETS THE AREA VARIANCE STANDARDS

(1) If the variance is granted, the applicant will have the following benefit:

A shorter, less modern structure is less beneficial to the community in that the structure may be less marketable to tenants or buyers. The minimum interior clearance height of 36 feet is what is expected currently by tenants or buyers and any warehouse providing less may sit idle for longer periods of time. A building with a minimum interior clear height of 36 feet can provide between 10% - 25% more storage area (capacity) than a building with a minimum 32 feet of clear height. The height of the racking system and how many racks the company is able to “stack” is greater in a 36’ clear height building and is often a driving factor for companies during site selection. For that reason, a 36’ clear height is critical to the marketability of the site and for attracting business to the community. (See the attached letter provided by the real estate brokerage firm for additional information.)

(2) If the variance is granted there will not be an undesirable change in the character of the neighborhood or a detriment to nearby properties; because,

An overall 10 feet increase in the office/warehouse building height will not have an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed building will be constructed in a low area on the property. Moreover, the existing adjacent topography and proposed landscaping on the perimeter of the property will sit higher than the building and thereby provide screening. In addition, the proposed building will be set back over 500 feet from the road and be located behind two commercial retail buildings which will further minimize the visual impact of the increased building height.

Video shown at the last ZBA meeting simulated the view of the proposed project as a driver proceeds East and West on I-88. The video demonstrates that the height of the building will not cause an undesirable change in the character of the neighborhood or views of the neighborhood. This limited view of the warehouse is a result of the higher elevation of I-88 and the lower elevation of the building. Substantial evergreen landscaping

proposed around the structure (as shown on the enclosed landscaping drawings and visual rendering) further addresses the height of the building.

The character of this commercial corridor is set by a mix of office, retail, and hotel along an interstate highway (88) and accessed off NYS Route 30A. The PDD opposite the project on NYS Route 30A features a gas station with a convenience store, a Dunkin Donuts and numerous small office buildings, as well as a hotel which is more visible from I-88 than the proposed warehouse. The applicant recognizes that there are farming operations and single-family homes adjacent to the proposed warehouse property. The viewshed has been mitigated by landscaping the property such that the views of the warehouse will be screened. As stated above the front of the warehouse is largely screened by retail structures proposed in front of the warehouse. A height difference of 10 feet, where I-88 really dominates the views in the area, will not be perceptible to the surrounding properties or appear out of scale.

- (3) *The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance; because,*

There is no other feasible method the applicant can pursue. It is critical to have a minimum interior clear height of 36 feet in order to remain competitive and attract the best user(s)/tenant(s) to the property as well as to preserve the potential to re-purpose the property for future user(s)/tenant(s). (See the attached letter provided by the real estate brokerage firm.) Construction of a warehouse without the amenities expected in the market for such facilities would only result in an unmarketable project. The ZBA is authorized to issue area variances, specifically height variances, where the Code limitations may have not kept pace with the modern design requirements for these types of facilities as long as the standards are met.

- (4) *The requested area variance is not substantial; because,*

The requested 10 feet increase in the office/warehouse building height will not be substantial and is the minimum necessary to provide an interior clear height of 36 feet and provide clearance of interior mechanical piping, and structural framing/roof system. The height of the rooftop mounted mechanical and HVAC systems is also shown on the enclosed elevation drawings but is sufficiently screened by the proposed landscaping. That said, the height is measured with respect to the surface of the flat roof. In this case, the height variance is not substantial because of the unusual topography relative to I-88 and the landscaping that is proposed to screen the warehouse. The warehouse is also placed on the property as far away as it can be from surrounding uses. As a result, the difference in height under these circumstances will not appear substantial.

- (5) *The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; because,*

The proposed height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as the proposed building will be developed in a low area on the property and the existing topography and proposed landscaping on the perimeter of the property will be higher and provide screening; and the increased building height will allow for a decrease in the building footprint which will further minimize the overall physical and environmental (existing on-site wetlands) impacts on the property. The Project itself will be connected to public sewer and water, is being placed in an active commercial zone and area of the Town and is immediately adjacent to an interstate highway. The Town has designated this area as commercial to attract warehouses and retail commercial uses. All stormwater measures will comply with the stringent NYS Department of Environmental Conservation requirements and will control both the quantity and quality of stormwater that flows across impervious areas of the project. The project meets all of the other Code requirements with respect to lot coverage and all setbacks. The increased height of the warehouse building will not have an adverse effect or impact on the physical or environmental conditions in the vicinity of the project.

- (6) *The alleged difficulty was not self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance:*

The need for the building height variance was not self-created. There is no other feasible method the applicant can pursue. It is critical to have a minimum interior clear height of 36 feet. (See the attached letter provided by the real estate brokerage firm for additional information.) Even if the ZBA believes that this hardship is self-created by virtue of proposing the warehouse in the Town of Schoharie in the Commercial Zone this does not prevent the ZBA from granting the height variance. Moreover, any Applicant proposing this permitted use, i.e., a warehouse, is going to request the height increase because it is driven by industry standards that apply to any warehouse proposed at this location by any Applicant. Building a warehouse without a minimum interior clear height of 36 feet would not be a rational choice for anyone seeking to develop, lease or buy a warehouse.

If you have any questions related to the above request or if you require additional information, please contact our office.

Very truly yours,
MCFARLAND-JOHNSON, INC.



Timothy D. Bailey, P.E.
Senior Project Manager

cc: Alan Tavenner, Town Supervisor
Kathryn M. Saddlemire, Planning Board Chairwoman
Cliff Dorrough, Town of Schoharie Code Enforcement/Zoning Officer, Building & Fire Inspector
Pamela Foland, Town Clerk
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Michael D. Harrington, P.E., Town Engineer
Terresa Bakner, Applicant/Owner Counsel
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