

Original

# APPLICATION TO BOARD OF APPEALS

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Appeal No. 2022-001

Date January 7, 2022

TO THE ZONING BOARD OF APPEALS, WEST SENECA, NEW YORK:

I (we) Julius Aebly c/o Sean Hopkins, Esq. of Hopkins Sorgi & McCarthy PLLC  
5500 Main Street, Suite 343  
Williamsville, New York 14221

, HEREBY APPEAL TO THE ZONING BOARD OF APPEALS FROM THE  
DECISION OF THE BUILDING INSPECTOR ON AN APPLICATION FOR A BUILDING PERMIT NO. \_\_\_\_\_,  
DATED Dec. 2, 2021, WHEREBY THE BUILDING INSPECTOR DID DENY TO  
a request for a building permit for a proposed office building and drive-thru restaurant as depicted on the Concept Site Plan [Drawing C-100]

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> A PERMIT FOR USE for a proposed commercial project | <input type="checkbox"/> A CERTIFICATE OF EXISTING USE      |
| <input type="checkbox"/> A PERMIT FOR OCCUPANCY  | <input type="checkbox"/> A CERTIFICATE OF ZONING COMPLIANCE |
| <input type="checkbox"/> A TEMPORARY PERMIT OR EXTENSION THEREOF                       | <input type="checkbox"/> AREA PERMIT                        |

1. Applicant is the  PROPERTY OWNER  
 CONTRACTOR FOR THE WORK CONCERNED HEREIN  
 PROSPECTIVE TENANT  
 OTHER (Describe) \_\_\_\_\_

2. LOCATION OF THE PROPERTY 1465 & 1471 Union Road, 798 Center Street and 150 Fremont Avenue

3. State in general the exact nature of the permission required, A description of the proposed redevelopment project and the requested area variances is provided at Exhibit "2". A reduced size Site Plan is provided at Exhibit "4" and a full size copy is also attached.

N/A 4. PREVIOUS APPEAL. No previous appeal has been made with respect to this decision of the Building Inspector or with respect to this property, except the appeal made in Appeal No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_.

5. REASON FOR APPEAL.

A. A Variance to the Zoning Ordinance is requested because strict application of the ordinance would produce undue hardship, or the hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district, or the variance would observe the spirit of the ordinance and would not change the character of the district because: \_\_\_\_\_

A description of the requested area variances for the proposed redevelopment project is provided at Exhibit "2" and justification for for the two requested area variances pursuant to the balancing test and five criteria set set forth in NYS Town Law Section 267-b(3)(b) is provided at Exhibit "3" of this Variance Application.

B. Interpretation of the Zoning Ordinance is requested because: \_\_\_\_\_

C. A Special or Temporary Permit or an Extension thereof Under the Zoning Ordinance is requested pursuant to Article \_\_\_\_\_, Section \_\_\_\_\_, Subsection \_\_\_\_\_, Paragraph \_\_\_\_\_ of the Zoning Ordinance, because: \_\_\_\_\_

A completed Short Environmental Assessment Form prepared pursuant to SEQRA with Attachment "A" is provided at Exhibit "1".

Sean Hopkins  
Sean Hopkins, Esq. Signature

### TO BE COMPLETED BY THE BUILDING INSPECTOR

1. Provision(s) of the Zoning Ordinance Appealed, including article, section, subsection or paragraph of the Zoning Ordinance \_\_\_\_\_

2. Zoning Classification of the property concerned in this appeal \_\_\_\_\_

3. Type of Appeal:

- Variance to the Zoning Ordinance.
- Interpretation of the Zoning Ordinance or Zoning Map
- Special or Temporary Permit or an extension thereof under the Zoning Ordinance.

4. A statement of any other facts or data which should be considered in this appeal. \_\_\_\_\_

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**Exhibit 1 - Short Environmental  
Assessment Form dated January 7, 2022**

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# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. 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.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: Proposed Office Building and Restaurant with Drive-Through Facility			
Project Location (describe, and attach a location map): 1465 and 1471 Union Road, 798 Center Road and 150 Fremont Avenue			
Brief Description of Proposed Action: This redevelopment project includes a proposed two-story, 6,160 sq. ft. office building [Parcel 1] and a restaurant with drive-through facility [Parcel 2]. Construction will also include all related site improvements including parking spaces, storm water management, landscaping, site lighting and on-site utility improvements and connections. The project has been defined broadly to include all required approvals from the municipal boards of the Town of West Seneca and all required approvals and permits from involved agencies including area variances needed from the Zoning Board of Appeals. The redevelopment project is an Unlisted Action pursuant to the SEQRA Regulations. On November 15, 2021, the Town Board issued a negative declaration pursuant to the State Environmental Quality Review Act ("SEQRA") based on its determination that the redevelopment project will not result in any potentially significant adverse environmental impacts and for the purpose of amending the zoning classification of a portion of the Project Site from C-1 to C-2(S) and granting a Special Use Permit for a restaurant with a drive-through facility. A copy of the resolution adopted by the Town Board issuing a negative declaration pursuant to SEQRA, and amending the zoning classification of a portion of the Project Site and granting a Special Use Permit is provided at Exhibit "5" of the Variance Application.			
Name of Applicant or Sponsor: Julius Aebly c/o Sean Hopkins (attorney for applicant)		Telephone: (716) 510-4338 E-Mail: shopkins@hsr-legal.com	
Address: 5500 Main Street, Suite 343			
City/PO: Williamsville		State: NY	Zip Code: 14221
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: ZBA - Area Variances, Planning Board - Site Plan Approval, ECWA - Backflow, ECDSM - Sewer, ECDPW - Highway Work Permit,			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		1.2 acres	NYSDOT - Highway Work Permit and NYSDEC - SPDES
b. Total acreage to be physically disturbed?		1.2 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.2 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. 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?  b. 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?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

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**Exhibit 2 - Description of Redevelopment  
Project and Area Variances Requested from  
the Zoning Board of Appeals**

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**EXHIBIT 2 OF VARIANCE APPLICATION**

**PROJECT DESCRIPTION AND DESCRIPTION OF THE TWO REQUESTED AREA  
VARIANCES - PROPOSED PROFESSIONAL OFFICE BUILDING AND  
RESTAURANT WITH DRIVE-THROUGH FACILITY  
1465 & 1471 UNION ROAD, 798 CENTER ROAD AND 150 FREMONT AVENUE**

**I. Description of Proposed Commercial Redevelopment Project:**

The proposed project consists of the redevelopment of approximately 1.2 acres of land located at 1465 Union Road, 1471 Union Road, 798 Center Road and 150 Fremont Avenue (the “Project Site”) a commercial project.<sup>1</sup> The redevelopment project includes a two-story office building with a footprint of approximately 3,080 sq. ft. to be located on the northern portion of the Project Site [Parcel 1] that will be occupied by the Applicant’s insurance business, Aebly & Associates, as well as a future a commercial building to be located along the Union Road frontage of the Project Site that will consist of a restaurant with a drive-through facility [Parcel 2]. The redevelopment project also includes all related site improvements depicted on the full-size Site Plan prepared by Anthony Pandolfe, P.E., of Carmina Wood Morris DPC attached to this Variance Application. A reduced size copy of the Site Plan is also provided at Exhibit “4”.

During its meeting on November 15, 2021, the Town Board adopted resolutions for the purpose of issuing a negative declaration pursuant to the State Environmental Quality Review Act (“SEQRA”), amending the zoning classification of approximately .99 acres of the 1.2 acre Project Site from C-1 to C-2(S) and granting a Special Use Permit for the proposed future restaurant with a drive-through facility on Parcel 2. A copy of the resolutions adopted by the Town Board on

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<sup>1</sup> The Project Site includes a former convenience store and gas station on 1465 Union Road that has been closed for many years.



November 15, 2021 is attached as Exhibit "5".<sup>2</sup> A completed Short Environmental Assessment Form prepared pursuant to SEQRA is provided at Exhibit "1" of this Variance Application.

The redevelopment project requires two area variances from the Zoning Board of Appeals as described below in Part II also requires Site Plan Approval from the Planning Board. It is also important to mention that the redevelopment project has been designed based on the Union Road Design Corridor standards as set forth in Section 120-70 of the Zoning Code.

## **II. Description of Requested Area Variances:**

The Applicant is seeking two area variances from the Zoning Board of Appeals in connection with the proposed commercial redevelopment project as follows:

- 1. The eastern rear yard setback of the proposed two-story professional office building to be located on Parcel 1 is less than required pursuant to Section 120-31 B(2) of the Zoning Code [30 ft. required vs. 22 ft. proposed].**

[**Note:** Section 120-31 B(2) of the Zoning Code states that in any C District the rear yard setback, abutting an R District boundary, shall be 30 feet or the distance equal to the height of the principal building, whichever is greater. The proposed building height is less than 30 ft. and as such the 30 ft. rear yard setback requirement applies.]

- 2. The total number of parking spaces to be provided on Parcel 1 (Professional Office Building) is less than permitted pursuant to Section 120-41 D(1) of the Zoning Code [62 spaces required vs. 8 spaces proposed]**

[**Note:** Section 120-41 D(1) of the Zoning Code states that professional offices are required to provide one (1) parking space for every 100 square feet of gross floor area. The Applicant is the owner of both Parcel 1 and Parcel 2 and a reciprocal access easement and parking easement for the benefit of Parcel 1 will be recorded at the Erie County Clerk's Office.]. The total number of parking spaces for the overall project will be 47 spaces and the Applicant anticipates needing approximately 13 parking spaces for the use of Parcel 1 as a professional office building to be occupied by Aebly & Associates.

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<sup>2</sup> The proposed redevelopment project was reviewed by the Planning Board during its meeting on October 14, 2021 and it adopted a resolution by a unanimous vote recommending approval of the rezoning of a portion of the Project Site and issuance of a Special Use Permit by the Town Board.

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**Exhibit 3 - Narrative Providing Justification  
for Requested Area Variances Per the  
Balancing Test and Five Criteria Contained in  
NYS Town Law Section 267-b(3)(b)**

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### **EXHIBIT 3 OF VARIANCE APPLICATION**

#### **JUSTIFICATION FOR REQUESTED AREA VARIANCES PURSUANT TO THE STATUTORY MANDATED BALANCING TEST AND FIVE CRITERIA CONTAINED IN NYS TOWN LAW § 267-b(3)(b) - PROPOSED PROFESSIONAL OFFICE BUILDING AND RESTAURANT WITH DRIVE-THROUGH FACILITY 1465 & 1471 UNION ROAD, 798 CENTER ROAD AND 150 FREMONT AVENUE**

NYS Town Law §267-b(3)(b) sets forth a statutorily mandated balancing test to be considered by a zoning board of appeals in connection with its review of a request for area variances. The statutorily mandated balancing test requires a zoning board of appeals to balance the benefits that will be realized against the resulting detriments to the health, safety and welfare of the community.

The granting of the two requested area variances for the proposed commercial redevelopment project to be located on approximately 1.2 acres of land located at 1465 Union Road, 1471 Union Road, 798 Center Road and 150 Fremont Avenue (the “Project Site”) as depicted on the full size copy of the Site Plan [Drawing C-100] prepared by Carmina Wood Morris DPC attached to this is Variance Application will result in substantial benefits to the Applicant without any resulting detriments to the health, safety and welfare of the community.<sup>1</sup> The benefits that will be received by Applicant if the Zoning Board of Appeals (“ZBA”) grants the two requested area variances include the following:

1. The Applicant will be able to construct a two-story professional office building consisting of 6,160 sq. ft. of space that will be occupied by Aebly & Associates, the Applicant’s insurance business, on the southern portion of the Project Site [Parcel 1]. In the absence of the requested rear yard setback of the two-story professional office building on Parcel 1, the square footage the professional office building would not be large enough to accommodate the Applicant’s insurance business.

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<sup>1</sup> A reduced size copy of the Site Plan [Drawing C-100] is also attached as Exhibit “4”.

2. The Applicant will be able to provide a suitable number of parking spaces in connection with the proposed redevelopment project. There will be a total of 47 parking spaces provided for the overall redevelopment project. The parking requirement per strict application of Section 120-41 D(1) of the Zoning Code for the two-story professional office building to be located on Parcel 1 is excessive since it would require 62 parking spaces to be provided. The Applicant anticipates needing approximately 13 parking spaces for the use of Parcel 1 as a professional office building to be occupied by Aebly & Associates.
3. The Applicant will be able to develop the Project Site in a manner consistent with the project layout that has been presented to both the Town Board and the Planning Board in connection with the approved rezoning of a portion of the Project Site and the issuance of a Special Use Permit for a restaurant with a drive-through facility.<sup>2</sup>

In applying the statutorily mandated balancing test set forth above, NYS Town Law §267-b(3)(b) requires a zoning board of appeals to consider the following five criteria:

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 requested area variance.**

The granting of the two requested area variances by the Zoning Board of Appeals will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. Instead, the granting of the requested area variance will accommodate the proposed redevelopment project that will result in desirable changes to the character of the Project Site. The Project Site is properly zoned C-2(S) per the decision of the Town Board on November 15, 2021.

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<sup>2</sup> During its meeting on November 15, 2021, the Town Board adopted resolutions for the purpose of issuing a negative declaration pursuant to the State Environmental Quality Review Act (“SEQRA”), amending the zoning classification of approximately .99 acres of the 1.2 acre Project Site from C-1 to C-2(S) and granting a Special Use Permit for the proposed future restaurant with a drive-through facility on Parcel 2. A copy of the resolutions adopted by the Town Board on November 15, 2021 is attached as Exhibit “5”.

The redevelopment project will require Site Plan Approval from the Planning Board based on its review of fully engineered plans.

**2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance.**

It would not be possible for the Applicant to redevelop the Project Site in manner that would result in the Applicant receiving the benefits described above without the granting of the two requested area variances. The requested rear yard setback for the two-story professional office building to be occupied by the Applicant's insurance business is essential to ensure the building has adequate square footage and the area variance for the number of parking spaces is needed to avoid the installation of excessive parking spaces on the Project Site.

**3. Whether the requested area variance is substantial.**

The requested area variances are not substantial given the fact that the granting of the requested area variances will not result in any significant adverse impacts. The granting of the two requested area variances will not result in a project that is inappropriate for the Project Site.

The reason the magnitude of the variance is relevant is that, generally, the larger the difference the more likely it is that a negative effect would be generated. See Matter of Human Development Services of Port Chester v. Zoning Board of Appeals of the Village of Port Chester, 110 A.D.2d 135, aff'd, 67 N.Y.2d 702. However, in any particular case, the facts may demonstrate that while a variance may seem noteworthy on paper, no negative effect would be produced and, accordingly, the sought-after variance should be granted.

For example, in Matter of Frank v. Scheyer, 227 A.D.2d 558, 642 N.Y.S.2d 956 (2d Dept. 1996), the parcel was 19,983 square feet. However, the zoning code required a minimum lot size of one acre or 43,560 square feet. The variance at issue was more than 54%. Nevertheless, based

the facts presented, no harm would befall the community and the Court directed the zoning board of appeals to grant the application. The Court took similar action in Matter of Shaughessy v. Roth, 204 A.D.2d 333, 611 N.Y.S.2d 281 (2d Dept. 1994), in which the premises contained 50 feet of frontage and 5,000 square feet of area. The zoning code required 80 feet of frontage and a minimum lot size of 10,000 square feet. Accordingly, the application concerned a 50% reduction in lot area coupled with a second area variance seeking a 62.5% reduction from the required frontage. Nevertheless, based on the facts in the record, the Court directed the respondents to issue the variances. Additionally, in Matter of Sasso v. Osgood, 86 N.Y.2d 374 (1995), the applicant sought area variances for a 60% reduction in lot area and a 50% reduction in lot width. Based on all of the facts presented, the Court of Appeals, our State's highest court, overturned the holding of the appellate court and directed that the requested area variances be granted.

Merely because a variance may seem noteworthy on paper does not mean that any "harm" would be generated on the surrounding community, and it is "harm" that is balanced against the interest of the applicant according to the Town Law §267-b(3) test. As mentioned previously, the two requested area variances will not result in any "harm" on the surrounding community. It is the position of the Applicant that if the requested area variances are properly viewed as required by the cases discussed above, it is clear that the requested area variances are not substantial since the granting of the two requested area variances in furtherance of the proposed commercial redevelopment project will not result in any harm to the community.

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.**

The granting of the requested area variances will not have any adverse effects or impacts on physical or environmental conditions in the neighborhood. A completed Short Environmental

Assessment Form prepared pursuant to the declaration pursuant to the State Environmental Quality Review Act (“SEQRA”) is attached as Exhibit “1”. During its meeting on November 15, 2021, the Town Board adopted resolutions for the purpose of issuing a negative declaration pursuant to the State Environmental Quality Review Act (“SEQRA”). A copy of the resolution adopted by the Town Board issuing a negative declaration is provided at Exhibit “5”. It is also important to mention that the Planning Board will be required to review the future request for Site Plan Approval, which will ensure compliance with applicable technical standards including stormwater management, landscaping and screening, lighting, etc.

**5. Whether the alleged difficulty was self-created.**

Town Law §267-b(3)(b) expressly states that the issue of whether an alleged difficulty is self-created cannot be utilized as the sole criteria in determining whether to grant requested area variances. It is the Applicant’s position that the area variance for the number of parking spaces to be provided is not self-created since the parking requirement for office space per Section 120-41 D(1) of the Zoning Code requiring one (1) parking space for every 100 square feet of gross floor area is excessive. Given that the Applicant has knowledge the Zoning Code, the two requested area variances could be viewed as being self-created. Nonetheless, if the ZBA determines that the alleged difficulty resulting in the need for the requested area variances is due to a self-created difficulty, such a finding would not lessen the strong justification for the granting of the two requested area variances per the balancing test and the other four criteria as discussed above.

**CONCLUSION:**

The benefits that will be received by Applicant if the two requested area variances are granted clearly outweigh any resulting detriments per the statutorily mandated balancing test. The

Applicant requests that the ZBA grant the two requested area variances to allow it to move forward with seeking Site Plan approval from the Planning Board for the proposed redevelopment project as depicted on the Site Plan [Drawing C-100] attached to this Variance Application.



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**Exhibit 4 - Reduced-Size Copy of Site  
Plan [Drawing C-100] as Prepared by  
Carmina Wood Morris DPC  
[Full-Size Copy also Attached]**

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**Exhibit 5 - Copy of Resolution Adopted by  
the Town of West Seneca Town Board by a  
Unanimous Vote on November 15, 2021**

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TOWN OF WEST SENECA



AMY M. KOBLER  
TOWN CLERK

RECEIVER OF TAXES  
REGISTRAR OF VITAL STATISTICS  
NOTARY PUBLIC  
RECORDS MANAGEMENT OFFICER

TOWN SUPERVISOR  
GARY A. DICKSON

TOWN COUNCIL  
WILLIAM BAUER  
JOSEPH J. CANTAFIO  
WILLIAM P. HANLEY JR.  
JEFF PIEKAREC

November 16, 2021

TOWN BOARD PROCEEDINGS  
Meeting #2021-23  
November 15, 2021

Motion by Supervisor Dickson, seconded by Councilman Hanley, to approve the rezoning and grant a special use permit for property located at 1465 & 1471 Union Road, 798 Center Road, and 150 Freemont Avenue, being part of Lot No. 192, changing its classification from C-1 & C-2(S) to C-2(S), for construction of a 2-story office building, restaurant with drive-through facility, and all related site improvements with the following condition: no vehicular access from the site on to Freemont Avenue.

Motion by Supervisor Dickson, seconded by Councilman Hanley, to amend the prior motion to include the adoption of the following resolution issuing a negative declaration pursuant to the State Environmental Quality Review Act "SEQRA" for the proposed project:

WHEREAS, the Town Board of the Town of West Seneca, as lead agency acting pursuant to the State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, has reviewed Part I of the Short Environmental Assessment Form ("EAF") prepared by the applicant for property located at 1465 and 1471 Union Road, 798 Center Road, and 150 Fremont Avenue (SBLs 134.68-1-1, 134.59-4-28.1, 134.68-1-2.1, and 134.59-4-1.1) ("Subject Property"), for construction of a 2-story office building and restaurant with drive-through facility (the "Project"), and reviewed the draft completed Part II of the EAF analyzing the potential for the Project to result in any significant adverse environmental impacts and has otherwise taken a hard look at the identified potential environmental impacts utilizing the criteria specified in 6 NYCRR 617.7(c); and

WHEREAS, upon review of Parts I and II of the EAF and documentation and plans submitted by the applicant in connection with the review of the Project, the Town Board has not identified any potentially significant adverse environmental impacts associated with the proposed use of the Subject Property, has determined that preparation of an Environmental Impact Statement is not necessary and that the issuance of a Negative Declaration is therefore appropriate; now, therefore, be it

RESOLVED that pursuant to 6 NYCRR 617.7(a) the Town Board does hereby adopt a Negative Declaration with respect to the Project based on its determination that the Project will not result in any potentially significant adverse environmental impacts.

Ayes: All

Noes: None

Motion Carried

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS:  
OFFICE OF THE CLERK OF THE  
TOWN OF WEST SENECA

This is to certify that I, AMY M. KOBLER, Town Clerk and Registrar of Vital Statistics of the Town of West Seneca in said County of Erie, have compared the foregoing copy of resolution with the original resolution now on file in my office, and which was passed by the Town Board of the Town of West Seneca in said County of Erie, on the 15th day of November 2021 and that the same is a correct and true transcript of such original resolution and whole thereof.

IN WITNESS WHEREOF, I HAVE HERE UNTO SET MY HAND AND AFFIXED THE SEAL OF SAID TOWN THIS 16TH DAY OF NOVEMBER 2021.

TOWN CLERK AND REGISTRAR OF VITAL STATISTICS, TOWN OF WEST SENECA

TOWN HALL • 1250 UNION ROAD • WEST SENECA, NEW YORK 14224 • (716) 558-3215 • FAX (716) 558-2250

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