

June 15, 2026

Hon. Chairperson Gary Bell and  
Members of the Zoning Board of Appeals  
Village Hall  
236 Tate Avenue  
Buchanan, NY 10511

**Re: 3222 Albany Post Rd.  
Second Supplemental Variance Application**

Dear Chairperson Bell and Members of the Zoning Board of Appeals,

As you know, this Firm represents Steve Giordano Builders, Inc. (“Applicant”) in connection with the proposed development of the property located at 3222 Albany Post Road, further identified on the Village of Buchanan Tax Map as Section/Block/Lot 43.11-1-6 (“Property”), for the creation of an 11-unit condominium development (“Proposed Development”). The Property is located within the Village’s C-1/C-2 Overlay Zoning District, where multifamily dwellings are permitted by Special Use Permit from the Planning Board.

We make this second supplemental submission to include an additional variance regarding the proposed retaining walls with fencing. After our initial meeting with your Board on June 10th, we learned from your Board that another minor variance is required from the requirement that accessory structures comply with yard requirements, for portions of the proposed retaining walls with fencing up to 15 feet at their highest point. Enclosed herewith, and in support of this application, please find a second supplemental Zoning Board of Appeals Application Form.

**Additional Requested Variance**

Chapter 211 (“Village Zoning Code”) Supplemental District Regulations requires that all accessory structures shall conform to the minimum yard regulations. Particularly, Section 211-19(A)(3) provides that the provisions of this chapter shall not apply to fences or walls less than six feet in height above the average natural grade. Portions of the proposed retaining walls with fencing would reach up to 15 feet in height at their highest point. Therefore, the Applicant respectfully requests a variance from the requirement that those portions of the retaining walls with fencing comply with minimum yard regulations for all retaining walls with fencing of up to 15 feet at their highest point.

The retaining walls would be stone-faced or constructed with boulders with a see-through black fence on top. The retaining walls are necessary to support the site and would meet the grade of the parking area with the fencing located on top for safety purposes.

### **ZBA Should Grant the Requested Variance**

In addition to the two front yard setback variances and the variance regarding the number of three-bedroom units, the ZBA should grant this additional requested variance based on the 5-factor balancing test under N.Y. Village Law Section 7-712-b because the benefit to the Applicant outweighs the absence of any detriment to the community.

*First*, granting the requested variance would not result in an undesirable change in the character of the neighborhood or a detriment to nearby properties. The east-facing retaining wall with fencing is located across from commercial and industrially zoned properties and thus would have no impact on the commercial and industrial zoned properties. The north and westerly facing retaining walls with fencing would also not have an undesirable change in the character of the neighborhood because they face undeveloped and forested industrial zoned properties. The variance for the retaining walls with fencing would bring portions of the retaining wall with fencing up to the easterly property line, however, this would also not result in an undesirable change in the character of the neighborhood because the retaining walls with fencing would still be approximately 30-35 feet from Albany Post Road and Bleakley Avenue. Furthermore, there would be no retaining walls directly facing the single-family homes located across Bleakley Avenue and all of the retaining walls could be stone-faced or constructed with boulders, the fencing would be see-through black material and would be more than adequately landscaped. Respectfully, any impacts from the requested variance for the retaining walls with fencing would be *de minimis* and the Proposed Development would still enhance the residential character of the neighborhood and would not be a detriment to nearby properties.

*Second*, there is no feasible alternative to achieve the benefit sought by the Applicant. The benefit to the Applicant is the ability to construct the 11-unit condominium development. Due to the grading of the Property the project requires retaining walls, and due to the size and orientation of the site, further requires these retaining walls be within setbacks from the property line. This can only be achieved with a variance from your Board.

*Third*, the requested additional variance is not substantial. While the Applicant seeks a 150% increase in the height of retaining walls with fencing that do not have to comply with yard requirements, New York courts have held that simply relying upon the percentage deviation alone does not suffice in evaluating a variance application. The actual impact requested variances would have on the surrounding community is critical to the overall analysis.<sup>1</sup> For the reasons in this letter, the requested variance would not have significant adverse impacts on the surrounding community or the environment, particularly because the retaining walls only face industrial and or undeveloped properties, would be more than adequately landscaped, and the retaining walls with fencing would still be approximately 30-35 feet from their respective roads. Even if the variance

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<sup>1</sup> See, e.g., *Wambold v. Southampton Zoning Bd. of Appeals*, 140 A.D.3d 891, 893 (2d Dep't 2016) ("While we agree with the petitioner that the proposed variance was substantial, there was no evidence that the granting of the variance would have an undesirable effect on the character of the neighborhood, adversely impact physical and environmental conditions, or otherwise result in a detriment to the health, safety, and welfare of the neighborhood or community.").

is deemed substantial by percentage, the variances should, respectfully, still be granted because there would be no actual impact from the variance on the surrounding community, including because the retaining walls do not face neighboring residences and would be adequately landscaped and the project is designed to be consistent with and enhance the residential community character of surrounding properties and the neighborhood.

*Fourth*, there would not be adverse impacts on the physical or environmental conditions in the neighborhood. The retaining walls with fencing serve to stabilize land, manage stormwater, prevent erosion, and enhance safety and security. In this way, the retaining walls would only provide physical and environmental benefits to the site and surrounding neighborhood conditions including that they would be tastefully landscaped and constructed with stone-faced walls or boulders adding aesthetic benefits.

*Fifth*, to the extent that the alleged hardship is deemed self-created, such a determination does not preclude the granting of the requested variances under N.Y. State Village Law.

### **CONCLUSION**

We are looking forward to discussing the Proposed Development and the additional requested variance with your Board. Please let us know if you have any questions or whether any further information or documentation is required for evaluation of this application.

ZARIN & STEINMETZ LLP

By: \_\_\_\_\_



David S. Steinmetz  
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Encl.

cc: Stephanie Porteus, Esq.  
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