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## ZONING BOARD OF APPEALS TOWN OF CLARKSTOWN

### NARRATIVE SUMMARY

#### DPM SELF STORAGE, LLC Tax Lots 58.17-1-41 and 42

This application arises in the context of a proposed amended site plan for the former Huffman Koos furniture store on North Middletown Road, Nanuet.

The applicant, DPM Self Storage, LLC, wishes to convert the existing two-story building into a mini-warehouse facility pursuant to the provisions of the Zoning Local Law of the Town of Clarkstown, §290-15A and §290-17S. The RS zone provides for the granting of such Special Permit by the Town Board, a Petition for which has been separately submitted to the Town Board.

#### ***Existing Conditions***

The site is the former Huffman Koos furniture store located on the East side of North Middletown Road, north of New York State Route 59. The intersection of North and South Middletown Roads and Route 59 is a major commercial center for both the Town of Clarkstown and the County of Rockland.

The parcel consists of two tax lots, with a combined lot area of 2.37± acres (103,265sf). The easterly portion of the parcel is in the flood plain of the Nauraushaun Brook, reducing the net lot area to 74,022sf for zoning purposes. It is located in an RS (Regional Shopping) zoning district. The site has approximately 441.6 feet of frontage on North Middletown Road, and is served by three existing access driveways to North Middletown Road. The site abuts St. Anthony's Church to the East.

There is an existing two-story, 21 foot tall building on the site, originally built as a Huffman Koos furniture store. The interior of the building contains a main selling floor at grade level, and a partial mezzanine on the upper level. The building has a footprint of 40,100 square feet, yielding a gross floor area of 66,450sf (main level plus mezzanine).

Most of the remainder of the site is paved and used as a parking area or vehicular access. Loading areas are located at the rear (East) of the building.

The building is surrounded on three sides by commercial/retail uses, consistent with the RS zoning district. To the North are two small strip shopping centers. Across North Middletown Road is Rockland Plaza, a large regional shopping center, a small strip center and a gas station. South of the site is a single tenant retail building, beyond which is the town's Korean War Veteran's Memorial, at the corner of Route 59. East of the site is St. Anthony's Roman Catholic Church and Cemetery.

The Nauraushaun Brook, a county-regulated stream, passes to the South of the site, through the Korean War Veteran's Memorial. The western half of the site is within the 100 year flood plain of the Brook.

The area is served by Transport of Rockland bus routes 93 and 59, as well as commuter bus services. There are sidewalks throughout the area. All utilities are available in North Middletown Road.

The site was originally approved for a furniture store (then known as Huffman & Boyle) in the mid-1960s. In 1969, an addition was approved in connection with Building Permit application #69-504. The addition required, and received, variances reducing the rear yard from the required 50 feet to 15 feet, and reducing the number of required parking spaces. The addition was built to conform to the approved variances, and there have been no additions or demolitions since that time.

The site has been largely vacant or underutilized since Huffman Koos closed the store in July 2004. Since then, it has been used primarily for seasonal businesses, such as Halloween costume sales and a farmer's market.

### ***Proposal***

The applicant, DPM Nanuet Self Storage, LLC, is a unit of DealPoint Merrill, LLC, a Los Angeles-based developer and manager of commercial properties. It currently has over two million square feet of office and retail assets around the country. The applicant has a contract to purchase property from the current owner, Nanuet Management, Inc.

The applicant proposes to convert the building into a mini-warehouse. Mini-warehouses are allowed in the RS district by special permit of the Town Board.

No exterior construction, other than erection of a garbage enclosure and repairs of the driveways and parking areas as needed, is proposed. The configuration of the site will remain exactly as it is now. All construction will be interior to the building, although the facade will be renovated and updated, and new entry doors will be added. The applicant intends to create a full second level, increasing the total building floor area to 80,200sf, of which approximately 78,500sf will consist of storage units (along with corridors and stairwells). There will be a 2,300sf office/reception area on the lower level.

Mini-warehouses are low-intensity uses. The applicant does not expect a significant number of vehicle trips to be generated by this use, and certainly far fewer trips than would be generated by retail usage. In its experience, a facility of this size will generate an average of 20

trips per day, with more on weekends and fewer on weekdays. This expectation is reflected by the Zoning Code, which requires no parking spaces for that portion of the building attributed to storage. (§ 290-17.S[10]). For this reason, the applicant does not intend to submit a traffic study.

The mini-warehouse will operate 24 hours per day, 7 days per week. The office is typically open from 9:00am until 6:00pm, 7 days per week. Staffing is typically 1 manager, 1 assistant manager and 1 maintenance person.<sup>1</sup> At all times, unit renters may enter the building by entering their personal identification numbers (“PIN”) in a key pad at a building entry door. The use of PINs allows the operator to know who has entered the building, and when. In addition, there is video surveillance of the entire building.

Interior lights in the main hallways are always on. In secondary hallways, the lights are triggered by motion sensors, and are extinguished after 20 minutes without detected movement. Exterior lights are on timers, to go on 30 minutes before dark and to go off 30 minutes after daybreak.

As of this writing, the applicant has identified the following needed variances:

<u>Dimension</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Floor Area Ratio	0.50	0.90	1.08 (resulting from completion of the second level)
Buffer (Residential)	30ft	2.1ft	2.1ft (existing condition; variance needed because of change of use)

Criteria for Variance

One of the purposes of a zoning board of appeals, and of the ability to grant variances, is to provide a “safety valve” where the strict application of a zoning code cannot allow an otherwise appropriate use of property because of the peculiar circumstances applicable to that property. For this reason, any municipality that adopts a zoning code must also establish a board of appeals. *See*, 2 Salkin, *New York Zoning Law and Practice* (3d ed.), §§27:07 – 27:10; *McKinney’s Town Law*, Practice Commentary to § 267-a; Town L. § 267.2; *McKinney’s Village Law*, Practice Commentary to § 7-712-a; Village L. § 7-712(2).

In making a determination to grant an area variance, a board of appeals “shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.” Town L. § 267-b.3(b); Village L. § 7-712-b.3(b). The board must also consider five questions when engaging in this balancing test. The questions, and the applicant’s responses, are set forth below:

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<sup>1</sup>Each employee works 6 days a week: for 3 days there will be 2 full time employees; for 4 days all three will be on site.

*(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”:*

The requested variances reflect the adaptation of existing conditions to the proposed use. The applicant proposes no new exterior construction. Thus, the outside shell of the building will remain as is (subject to cosmetic upgrades and additional entry doors). The interior of the building is essentially a two-story high hall, with an intruding mezzanine.

In order to effectively use the building as a mini-warehouse, the existing mezzanine must be extended to create a full second floor. This increases the gross floor area and therefore the FAR. While an increase in FAR for a retail store may lead to additional traffic and the need for additional parking spaces, mini-warehouses are extremely low-intensity uses. The additional floor area will not increase traffic above that which would be experienced for a conforming retail store.

The buffer variance is technical in nature. The Zoning Code requires a buffer against a residential district. The abutting residential use is St. Anthony’s Church. The nearest church building is approximately 200 feet from the subject building and protected by woods. Again, there is no new construction that triggers the need for this variance. The building exists. However, because the use is changing from a retail (of right) use to a mini-warehouse (special permit) use, the Building Inspector has opined that a variance is required.

The net result of the variances is to allow better utilization of a commercial building without increasing the size of the building.

*(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”:*

The variances all relate to the adaptation of an existing building to a new use. The variances cannot be avoided without adding additional lot area or abandoning the use of one half of the building.

*(3) “whether the requested area variance is substantial”:*

Whether a requested variance is “substantial” is more than simple arithmetic. It requires an understanding of the general area and of the existing conditions. *See*, 2 New York Zoning Law and Practice, § 29:15.

The buffer variance is an existing condition, but under a new use. Since it is unchanged from the current use, it is not substantial.

Similarly, the FAR variance, while large in magnitude, also reflects an existing condition. The additional floor area will be used exclusively for household storage. The amount of traffic generated by this additional floor area is negligible, and will be less than the full retail use of the existing building. Given the proposed use, the variance is not substantial.

(4) “whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district”:

There will be no increased impact on the area. The amount of traffic to be generated by the facility will be less than if the building was fully utilized for retail.

(5) “whether the alleged difficulty was self-created”:

The difficulty results from the applicant’s desire to re-use the existing structure on the site.

On balance, therefore, the requested variances are beneficial to both the applicant and the community.

Relief requested

Accordingly, the applicant requests the following variances:

<u>Dimension</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Floor Area Ratio	0.50	0.90	1.08 (resulting from completion of the second level)
Buffer (Residential)	30ft	2.1ft	2.1ft (existing condition; variance needed because of change of use)

Dated: December 11, 2014  
New City, New York



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Ira M. Emanuel, attorney for applicant