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January 4, 2021

West Haverstraw Zoning Board of Appeals
130 Samsondale Avenue
West Haverstraw, NY 10993

Re: BRB Garnerville, LLC – 170 West Railroad Avenue

Dear Members:

We have received the Rockland County Planning Department's GML review letter dated December 23, 2020. It should be noted, that, except for comment 18, which addresses the requested special permit and is exclusively within this Board's jurisdiction, the Department's recommendations to this Board and to the Planning Board are identical. The applicant has given identical responses:

1 A review must be completed by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

Agreed.

2 The applicant must comply with all comments made by the Rockland County Highway Department in their letter of December 17, 2020. It is worth noting that the recommendation to reduce the driveway width to the standard 24 feet will have the added benefit of reducing the required variance for distance from an intersection.

The applicant has been working with the Highway Department with respect to the proposed driveway widths. The widths shown are designed to accommodate trucks for deliveries and fueling operations. They cannot be safely reduced. We ask that the Board override this comment, and allow the applicant and the Highway Department to reach a solution.

This comment should be overridden.

3 A review must be completed by the County of Rockland Division of Environmental Resources and any concerns addressed.

No objection.

4 As per the August 28, 2017 letter from the Rockland County Drainage Agency, the property is within the jurisdiction of the RCDA, and subject to the permitting requirements of the Rockland County Stream Control Act. Furthermore, the site has been in violation of Stream Control Act for unauthorized construction activities. The Village must condition the granting of a certificate of occupancy upon notification by the RCDA that all violations have been resolved.

Pursuant to this firm's letter dated December 16, 2020, the Board was advised that the alleged activities that gave rise to the violation notice occurred prior to the applicant's contact with the site. The applicant has been in contact with the Drainage Agency and advised the Agency that the proposed site plan will include remediation of any violations that are outstanding.

5 The applicant must provide as-built drawings and other documentation to New York State Department of Environmental Conservation, Region 3, that illustrate the design and installation of the petroleum bulk storage tanks, as per code. These tanks must also be registered with them.

Agreed.

6 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Village of West Haverstraw Fire Inspector, or the West Haverstraw Fire Department to ensure that there is sufficient maneuverability on site for fire trucks in the event an emergency arises.

Agreed.

7 As the proposed parking and accessway are located within the utility easement, a review must be completed by Orange and Rockland Utilities and their comments considered.

The applicant has already been in contact with Orange and Rockland Utilities, Inc., and the proposed site plan will conform to that company's requirements for the easement area.

8 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.

Agreed.

9 There shall be no net increase in the peak rate of discharge from the site at all design points.

Agreed.

10 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.

Agreed.

11 All proposed signage shall be indicated on the site plan and shall conform to the Village's sign standards.

Agreed, provided, however, that the applicant reserves the right to seek variances as it may deem necessary or appropriate.

12 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by customers,

As set forth in the Narrative Summary dated October 26, 2020, p. 3, “[s]now storage can be located within the yellow striped area shown on the plan, adjacent to the South end of the building.” A note will be added to the plan.

13 The lighting plan shall be amended to demonstrate that the intensity of the candle lumens is less than 0.1 at the property line.

The applicant has revisited its proposed lighting plan and, together with this letter, submits a revised plan (revision date 01-04-2021). The new plan specifically addresses light spillage:

- Along the Northern lot line (at the neighboring residence) – There is no spillage into the neighboring property and 0.1 FC is maintained beyond the property line in the ROW.
- Along Central Hwy – The spillage is limited to 0.4 FC. This area would be difficult to reduce any further, as the pole is already shielded and some of the spillover is a result of the standard gas canopy lighting.
- Along W Railroad Ave – By adding another light pole and solely using single heads with shields, we significantly reduced the spillage. However, it would

be very difficult to meet the 0.1 FC request, without compromising site safety and 7-Eleven standards. The maximum intensity shown is a small area ranging from 0.5 to 0.9 along the sidewalk (above the word "Railroad" on the drawing. Light intensity diminishes to 0.1 to 0.2 within the roadway.

The off-site areas in which light intensity exceeds 0.1FC are all within the road rights of way and illuminate the sidewalk and a portion of the travelway. Such higher intensities are not necessarily detrimental or harmful, and may enhance safety. Further, the area in question is part of a commercial district, so the small increase of light intensity above the 0.1F standard is consistent with the neighborhood.

This comment should be overridden.

14 The map notes shall contain district information.

Agreed.

15 The Supplemental Narrative, dated November 23, 2020, notes that the ownership of the land between the fence and the northern lot line is contested. For this reason, the applicant has requested a conditional side setback variance in the event there is a successful claim for this area, However, in the absence of such a claim, a landscaped buffer must be provided along the northern property line. The landscaping plan must be amended to include an adequate buffer at the northern property line, should the disputed area ultimately be deemed to belong to the applicant.

The area between the existing fence and the northern lot line is already heavily vegetated. The applicant has no plans to remove the existing vegetation, except to the extent necessary for construction and utility purposes. Therefore, there is nothing to show on the landscaping plan.

The applicant will agree to add the following map note to the General Notes:

#. A vegetated area shall be maintained between the existing fence (as shown on the plans) and the northern lot line. Any vegetation removed by the Owner shall be replaced by the Owner within the same growing season.

16 Backup generators should be provided for the proposed gasoline station so that in the event of power outages due to storm-related incidents, the fueling stations are operable for public use.

Agreed.

17 The site plan indicates there is an area for CO2 (Carbon Dioxide) and NO2 (Nitrogen Dioxide) tank storage. Nitrogen Dioxide is generally used for industrial processes. It has been classified by the EPA as an Extremely Hazardous Substance and is considered hazardous by OSHA. If the applicant intends to store Nitrogen Dioxide on site, the applicant must clarify for what purpose it will be used. By State Law, the applicant must register with the local fire inspector using Form 209U for the proposed chemical bulk storage materials. Under Title 3 of the Superfund Amendments and Reauthorization Act (SARA), the applicant must register the tanks with the Rockland County Fire Training Center. If this notation is in error, the site plan must be revised to either remove the tank or revise the notation for this tank.

Agreed.

18 The Village shall be satisfied that the proposal complies with the general standards for special permit uses outlined in Section 250-75.C, as well as the specific standards for gasoline stations in Section 250-14.B(2)(b).

Comment noted. In its Narrative Summary dated October 26, 2020, the applicant submitted an extensive review of the cited special permit requirements and this project's compliance with those requirements.

19 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

Comment noted.

20 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Comment noted.

Based on the foregoing, the applicant asks that the Board override comments 2 and 13.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ira M. Emanuel', with a long horizontal flourish extending to the right.

Ira M. Emanuel

CC: Client