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## TOWN OF CLARKSTOWN ZONING BOARD OF APPEALS

### NARRATIVE SUMMARY

WALD REALTY CO. #2, LLC and  
WALD REALTY CO. #3, LLC  
Tax Lots 64.06-1-9 and 10  
(25 and 28 Smith Street, Nanuet)

This is an application for relief from the parking requirements imposed on the subject properties.

25 Smith Street was developed in the 1980s. At the time it received its land use approvals, the Planning Board required the applicant to provide additional parking on land it controlled across the street, at 28 Smith Street. The only use at #28 is parking. The two lots are in separate ownership, and are physically separated from each other by Smith Street.

According to the applicant, at no time was the additional parking at #28 ever needed by the tenants or visitors to #25, nor was it ever used for the benefit of #25. Instead, and because it was unused, the owner leased #28 to Schultz Ford, which has been storing vehicle inventory on the site continuously since 2004.

The applicants now wish to separate the uses of the two lots. Under the current approvals, one lot cannot be used without the other.

### ***Existing Conditions***

25 Smith Street (Tax Lot 64.06-1-10) has a lot area of 2.02 acres. It is located on the West side of Smith Street, approximately 1022 feet North of N.Y.S. Route 59. It is improved with a five-story building with basement. The building has a gross floor area of 55,289 square feet and a rentable floor area of 41,400 square feet.

28 Smith Street (Tax Lot 64.06-1-9) has a lot area of 1.52 acres. It is located on the East Side of Smith Street, directly opposite #25. The only improvement is

paving for a parking area. It is bound by the right of way of N.Y.S. Route 304 (main line and exit ramp) on the East and South.

Both lots are located in the RS zoning district.

Based upon the approved site plans for #25, a total of 276 spaces were required. 145 spaces are on #25, and 135 are on #28 for a total of 280 parking spaces.<sup>1</sup>

Then, as now, the required parking ratio for office use in the RS district was 1 space for each 150 square feet of floor area.

***Proposed Condition***

The applicant wishes to relieve itself of the requirement that 28 Smith Street be reserved for use as parking for 25 Smith Street. The amount of parking needed by #25 is far less than that required by the RS regulations.

A review of the Clarkstown Zoning Code reveals that the required parking regulations for office uses vary widely between zoning districts:

<b>Zoning District</b>	<b>At least 1 parking space for each:</b>
LO	200 SF gross floor area
PO	150 SF gross floor area
LS	150 SF gross floor area
CS	150 SF gross floor area
RS	150 SF gross floor area
MRS	300 SF of floor area exclusive of any floor area devoted to enclosed malls, common service corridors, outdoor selling area, utility vaults, space principally devoted to electrical, mechanical, heating or cooking facilities or any incinerator room
LIO	300 SF gross floor area
M	200 SF gross floor area
PED	300 SF gross floor area
CO	300 SF gross floor area
COS	300 SF gross floor area

As the above chart shows, the parking ratio for office use (and, in some cases other uses permitted in the district), varies from 1:150 all the way to 1:300. The

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<sup>1</sup> Information obtained from the approved site development plan drawing entitled “Nanuet Pavillion” prepared by Atzl, Scatassa & Zigler, P.C., dated May 7, 1999, last revised October 21, 1999, and signed by the Planning Board Chairman, Richard Parris, on January 10, 2000.

chart below shows what this 55,289sf building would require in each of the zoning districts.

<b>Zoning District</b>	<b>At least 1 parking space for each x square feet:</b>	<b>Req'd spaces</b>
LO	200	277
PO	150	369
LS	150	369
CS	150	369
RS	150	369
MRS	300	185
LIO	300	185
M	200	277
PED	300	185
CO	300	185
COS	300	185

Thus, depending upon where this building was located, it would require between 138 and 369 parking spaces.<sup>2</sup>

The applicant commissioned a parking study from Harry Baker and Associates, a well-known local traffic consultant. The study, which is attached, reviewed the actual parking usage at 25 Smith Street on two work days: Monday April 24, and Thursday April 27, 2017, between the hours of 7:00am and 7:00pm.

During the study period, the building had an 80% occupancy rate. Mr. Baker found that the greatest vehicle occupancy rate was only 51.7%<sup>3</sup>. Extrapolating that finding to a full occupancy condition, Mr. Baker estimated that the peak vehicle occupancy would be 64.8%. According to Mr. Baker, “[a] parking lot is not considered filled until the occupancy reaches 85%.”

The relatively low occupancy rate (compared to the Zoning Code’s requirements) reflects changes in office occupancy and technology. The introduction of office computers and other technologies has made office workers far more efficient

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<sup>2</sup> The MRS district allows the exclusion of “floor area devoted to enclosed malls, common service corridors, outdoor selling area, utility vaults, space principally devoted to electrical, mechanical, heating or cooking facilities or any incinerator room” from the parking calculation. Effectively, then, the MRS district measures parking based on rentable, rather than gross floor area. 25 Smith Street has 41,400sf of rentable space. This would yield a required parking complement of only 138 spaces.

<sup>3</sup> On April 27, 2017 at 11:00am.

and productive. The number of people required to operate an office in the 1970s was far higher than the number needed today.

It should be noted that this parking study involved *only* the parking area at 25 Smith Street. It did not count parking at 28 Smith Street, which is used to store vehicle inventory for a local car dealership. Should 28 Smith Street be developed, then this vehicle inventory would be stored elsewhere.

Based on the foregoing, there is no factual basis for requiring the continued use of 28 Smith Street to provide off-site parking for 25 Smith Street. This off-site parking has never been actually used for the benefit of 25 Smith Street, as it has never been needed. The Baker study shows that it will not be needed in the future.

Therefore, the applicant asks that the condition requiring off-site parking be eliminated, and that the required number of parking spaces for 25 Smith Street be reduced to the existing 145 spaces.

Dated: June 6, 2017  
New City, New York

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

Ira M. Emanuel, P.C.  
Attorney for applicant