

BEATTIE & KRAHULIK

Attorneys At Law
Two Bank Street
Warwick, New York 10990
(845) 986-1156
Fax (845) 986-9421
www.hudsonvalleylaw.us

Hon. John J. Beattie (1872-1924)
Clifford S. Beattie (1899-1952)
John J. Beattie, III (1937-1984)
Emil R. Krahulik (1959-2013)

Robert E. Krahulik*
*Also admitted in FL and NJ
bob@hudsonvalleylaw.us
Karen Costanzo, Paralegal
karen@hudsonvalleylaw.us

January 19, 2024

Village of Warwick
Zoning Board of Appeals
77 Main Street
Warwick, NY 10990

Re: Variance Application M&L Equity Auto LLC

Ladies & Gentlemen:

This firm represents M&L Equity Auto LLC in connection with the enclosed variance application. M&L Equity Auto LLC is the owner of the Warwick Car Wash (SBL 210-11-16.22). Historically the Car Wash has utilized a portion of a residential lot adjacent to the south lot line of the car wash owned by Vanessa Mann (SBL 210-11-5). The car wash has utilized the Mann parcel for decades to facilitate traffic flow and in the winter months, for snow removal. Historically the rear portion of the Mann parcel has been leased by the car wash for this purpose.

M&L Equity LLC has entered into a contract of sale to purchase 5,963 sq. ft. of the Mann parcel. An area variance will be required in connection with the subdivision. The minimum lot size requirement in the Residential (R) District is 20,000 sq. ft. A subdivision of the Mann parcel will result in two lots 5,963 sq. ft. and 6,625 sq. ft. respectively. The applicant is seeking a variance allowing the creation of the two lots (5,963 sq. ft. and 6,625 sq. ft.) where 20,000 sq. ft. are required. Ultimately, the 5,963 sq. ft. parcel will be merged into SBL 210-11-16.22.

No new construction is proposed. It should be noted that the two resulting lots will be similarly sized as all other lots on both the north and south side of Orchard Street; a critical consideration when determining the applicant's right to a variance.

The Mann parcel is located in the Residential (R) District and the Car Wash is in the Light Industrial (LI) District. The Mann parcel is used for traffic flow and the stockpiling of snow in the winter time. This practice has been questioned by the building inspector

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as a possible commercial use on a residentially zoned parcel of land. As a bit of housekeeping, M&L will seek approvals to formalize the use of the parcel for commercial purposes either through a use variance or by seeking a change in the zoning classification from Residential (R) to Light Industrial (LI). The use has existed for decades so the applicant also seeks a determination as to whether the use qualifies as a pre-existing non-conforming use or requests the granting of a use variance allowing the traffic flow as well as the storage of snow in the winter months.

Thank you for your consideration.

Very truly yours,

BEATTIE & KRAHULIK



ROBERT E. KRAHULIK

REK
ENCL.

ZONING BOARD OF APPEALS
VILLAGE OF WARWICK, NEW YORK

Petition

Name M&L Equity Auto LLC

Address 18 Elm Street Tele: 845-544-4869

City &
State Warwick, NY Zip: 10990

Location of
Property 18 Elm Street / 42 Orchard Street

Zone or Lot 5 - Residential (R)
Use Lot 16.22 - Light Industrial (LI)

Section 210 Block 11 Lot 5 and 16.22


Applicant is X Owner Tenant Other
Attorney

Or
Representative Robert E. Krahulik, Esq. Tele 845-986-1156

THIS APPLICATION WILL NOT BE ACCEPTED UNLESS
ACCOMPANIED BY:

- A) Survey or Plot Plan showing street(s), set-back(s), building(s) and dimensions
- B) Any other details or exhibits applicable to the situation
- C) State the hardship and/or practical difficulty involved. (Attach additional sheets if necessary)

M&L Equity Auto LLC

Applicants Signature 
Paul LeDuc, Member

Owner Signature 
Vanessa Mania

- 1) The applicant hereby appeals to the Board of Appeals of the Village of Warwick from:
- a. ☐ An order, requirement, decision, or determination made by the Building Inspector
 - b. ☒ Other: See attached

2. Has an application been made for a Building Permit or a Certificate of Occupancy?
☐ Yes ☒ No If "Yes", attach a copy of the application and/or copy of Order, Requirement, Decision or Determination of the Building Inspector denying or revoking same.

3. State whether the applicant has made an application for a prior variance of any kind affecting the premises:

☐ Yes ☒ No

4. The names and addresses of all owners, including husband and wife, as the case may be, of property abutting that is held by the applicant and all other owners within 300 feet from the exterior boundaries of the property set forth above, as the names of said owners appear on the last completed assessment roll of the Village of Warwick, are annexed hereto. These property owners must be notified by Certified Receipt Mail at least five (5) days prior to the Public Hearing in accord with Article IX, Section 9.3.3 Village of Warwick Zoning Ordinance as amended.

5. Has this Board rendered a decision upon a request for the same or similar relief sought herein for this property?

☐ Yes ☒ No

If Yes when? _____

6. If the lands or buildings are within five hundred (500) feet of any of the following five items, circle the applicable number:

- 1) Boundary of the Town of Warwick
- 2) Boundary of any existing or proposed State or County Park or other Recreation area
- 3) Right-of-Way of any existing or proposed State or County Parkway, Thruway, Expressway, Road or Highway
- 4) Right-of-Way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines
- 5) Boundary of any existing or proposed State or County owned land on which a public building or institution is or is proposed to be situated.

AREA VARIANCE

The following information is submitted to support of the application (the law does not require that all of the questions be answered in the negative to obtain a variance)

- 1) Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the variance(s) you request
 Yes ☐ No ☒

State the reason for your answer: No new construction or use is proposed.

- 2). Can the benefit you seek be achieved by some feasible method, other than the variance(s) _____ Yes _____ x No

State the reason for your answer: There is no other land available.

- 3) Is the requested variance(s) substantial? X Yes No

State the reason for your answer:

- 4) Will the proposed variance(s) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? Yes X No

State the reason for your answer: No new construction or use is proposed.

- 5) Is the alleged difficulty self-created? X Yes No State the reason for your answer:

USE VARIANCE

You must prove unnecessary hardship to obtain a use variance. In order to prove unnecessary hardship, you must prove all of the following:

- 1) You cannot realize a reasonable return on the property. The lack of return must be substantial and demonstrated by competent financial evidence. Can you show a lack of a substantial return? ☒ Yes ☐ No

What financial evidence are you presenting? See attached

- 2) The alleged hardship relating to the property in question must be unique and not applicable to a substantial portion of the district or neighborhood. Is your hardship unique and not applicable to a substantial portion of the district or neighborhood? ☒ Yes ☐ No

State the reason(s) for your answer: The Warwick Car Wash is located in the Light Industrial Zoning District and is immediately adjacent to the Residential District. This use has been ongoing for decades.

- 3) The requested use variance, if granted, will not alter the essential character of the neighborhood. ☒ Yes ☐ No

The requested use variance, if granted, will alter the essential character of the neighborhood. ☐ Yes ☒ No

State the reason(s) for your answer: The use and improvements have existed for decades.

- 4) The alleged hardship cannot be self-created.
Is your hardship self-created? ☐ Yes ☒ No

State the reason(s) for your answer: The use of the property by Warwick Car Wash has been ongoing for decades and long before the applicant acquired title.

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.

Part 1 – Project and Sponsor Information			
Name of Action or Project: M&L Equity Auto LLC Lot Line Change			
Project Location (describe, and attach a location map): 18 Elm Street/42 Orchard Street			
Brief Description of Proposed Action: Applicant seeks to acquire a portion of 42 Orchard Street to facilitate traffic flow through car wash lot.			
Name of Applicant or Sponsor: M&L Equity Auto, LLC		Telephone: 845-544-4869	
		E-Mail: akleduc@yahoo.com	
Address: 18 Elm Street,			
City/PO: Warwick		State: NY	Zip Code: 10990
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 checked="" type="checkbox"/>
			YES <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:			NO <input checked="" type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		<u>3</u> acres	
b. Total acreage to be physically disturbed?		<u>0</u> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<u>2</u> acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<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,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<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?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input checked="" type="checkbox"/>	<input 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?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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?	<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?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ Wawayanda Creek _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>M&L Equity Auto LLC</u> Date: <u>5/8/2023</u> Signature: <u>[Signature]</u> Title: <u>Member</u>		