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SUPPLEMENTAL MEMORANDUM IN SUPPORT OF SPECIAL USE PERMIT APPLICATION

To: Town of Arlington – Zoning Board of Appeals
From: Douglas A. Troyer, on behalf of Pond Lane Realty, LLC
Re: ZBA Case # 3822
20 Pond Lane, Arlington, MA - Special Use Permit Application
Parcel Id No. 10-4-5.A
Date: March 4, 2025

Dear Honorable Members of the Zoning Board of Appeals:

This Supplemental Memorandum is submitted to the Town of Arlington Zoning Board of Appeals (hereinafter the "ZBA" or "Board") on behalf of our client, Pond Lane Realty, LLC ("Applicant") in support of its Application for Special Use Permit pursuant to Sections 8.1.1(A) and 3.3 of the Town of Arlington Zoning Bylaws (the "Bylaw") to continue the use of the existing commercial garage for commercial office use, storage of vehicles and equipment, and ability to perform minor maintenance to vehicles and equipment within the garage at the property located at 20 Pond Lane, Arlington, MA ("Property").

As the ZBA is aware, the public hearing in this matter opened on October 22, 2024 and has been continued on multiple occasions to March 11, 2025. The ZBA has requested the Applicant to provide the following additional information:

- Lot Coverage = 9,678 sq ft (48% Pre-existing non-conforming – no change).
- Yard Setbacks
  (Left) 1.5' Garage – Pre-existing non-conforming – no change)
  (Right) 3.3' Garage – Pre-existing non-conforming – no change)
  (Rear) 1.5' Garage – Pre-existing non-conforming – no change)
- Usable Open Space Area = 0 (Pre-existing non-conforming – no change)
- Landscaped Open Space Area and Percentage- 9,678-6821/9678 = 29.5% (Pre-existing non-conforming – no change)

- Number of Parking Spaces = 12 (10 inside garage) 2 (off-side parking)
- Number of Loading Spaces = 0 ((Pre-existing non-conforming – no change)

See Copy of Plot Plan of Land Prepared by Paul J. Finocchio P.L.S. of PJF & Associates, dated November 26, and attached hereto as **Exhibit "1"**).

Additionally, since the last public hearing on this matter, the Applicant has entered into a P&S Agreement with John and Karen Wheatley ("Wheatley") which a potential closing date in April 2025. The sale of the Property is contingent upon the parties' ability to obtain the necessary confirmation and/or necessary permitting for the Wheatley's use of the existing commercial garage for commercial office use, storage of vehicles and equipment, and ability to perform minor maintenance to company owned vehicles and equipment within the garage at the Property.

John Wheatley is owner of RW Shattuck and Company, Inc ("RW Shattuck") which was founded in 1857 and is the oldest business in Arlington. As I am sure the Board is aware, RW Shattuck operates numerous hardware stores in the area. Over the last decade, RW Shattuck, has acquired the Arlington Heights Wanamaker True Value Hardware store and the Lexington Ace Hardware store and now operates three (3) stores in the Arlington-Lexington areas.

Wheatley is interested in the Property for the use of its garage as a facility for the extra storage of goods and materials for RW Shattuck's locations. Primarily it is expected that the storage of palletized product or large boxes containing items such as snowblowers or lawn mowers, ice melt, salt, sand, concrete products, fertilizers, power equipment will be made within the existing garage at the Property. There will be a forklift on site which will be used to bring product in and out of the garage. The product will be delivered mostly by pickup and small commercial trucks.

Additionally, the ability to store personal and company vehicles at the site and conduct minor onsite maintenance on company owned vehicles within the garage area is sought. There is no interest to operate an auto repair shop out of the garage as it had previously been used. Also, this site is not expected to be used on a daily basis as its function is to store extra materials for the hardware business during busy seasons and employees will be onsite on as needed basis.

Thus, the Applicant has updated its original application now that the specific use and uses have been identified and provides the following updated information in further support of its application.

I. FACTUAL BACKGROUND

The Property is located in the Town's R-2 Zoning District and is classified as a residential/commercial property containing approximately 9,678 sq ft. with a 4,418 sf ft two-family residence and a 3,375 sq. ft. commercial garage located on the Property. (See Property Card attached Applicants' September 12, 2024 Memorandum in Support of Special Use Permit

Application ("Original Filing") as **Exhibit "A"**). This application continues to pertain to the use of the existing commercial garage located on the Property only.

The Applicant purchased the Property from Edward C. Simonian, Trustee of the Philip Simonian Realty Trust on October 26, 2015. (See copy of Deed recorded with the Middlesex South Registry of Deeds in Book 66280, Page 526 attached to the Original Filing as **Exhibit "B"**). From 1963 to the present, the garage located on the Property has been used for commercial purposes. The Applicant has entered into a P&S Agreement with the John and Karen Wheatley and prior to filing this application the Applicant was instructed by the Inspectional Services Director that a special use permit from the ZBA may be necessary. Thus, the Applicant supplements this application to clarify that the use of the commercial garage for office, storage of vehicles and equipment, and ability to perform minor maintenance to vehicles and equipment within the garage at the Property is a legal current use of the commercial garage, and if necessary, to request a special use permit for the continuance of the pre-existing non-conforming commercial use. No changes are being made to the Property or to the existing buildings located on the Property.

A copy of the existing conditions Plot Plan is attached to the Original Filing as **Exhibit "C"**.

HISTORY OF THE COMMERICAL USE OF THE PROPERTY

1. In June of 1961 Philp and Margaret Simonian purchased the Property, which at that time only contained the residential structure.

2. Mr. Simonian was the owner of State Coal & Oil Co., and from the summer of 1961 to 1963 used the Property to store commercial vehicles and equipment for his business.

3. In or around May of 1963, Mr. Simonian sought a variance from the ZBA due to a decision of the then Inspector of Buildings concerning the Inspector's refusal to issue a building permit for the construction of a commercial garage at the Property as such use was in violation of Section 14 of the Zoning Bylaws in effect at that time. Mr. Simonian was seeking to construct the garage to house his commercial vehicles and equipment and operate his business from the garage.

4. Public hearings were held in May of 1963 and the ZBA issued a decision in ZBA Case #779 permitting the construction of the commercial garage for his business and to be used for storage of commercial vehicles and equipment of Mr. Simonian's fuel business on the Property. (See **Exhibit D** attached to the Original Filing).

5. Subsequent to the ZBA's decision, Mr. Simonian constructed the commercial garage on the Property. The garage consists of a flat-roof cinder block structure that is 45' wide and 75' long (3,375 sq. ft.) and 14' in height. The garage contains a large storage space area, office for business operations, a mezzanine storage area and two bathrooms for employees.

(Copies of photos taken in 2011 attached to the Original Filing as **Exhibit "E"** show the garage as originally constructed).

6. In July of 1965, Mr. Simonian filed a petition with the ZBA seeking permission to further rent the commercial garage located on the Property for business use. At that time, Mr. Simonian was using a small portion of the garage for his company's business office but was no longer using the remainder of the space in the garage. Mr. Simonian sought permission to rent the remaining space in the garage to a commercial business involved in industrial truck batteries and battery charging devices for the operation of their business and storage of their vehicles and equipment. The ZBA granted the petition permitting the requested use at the Property. (See ZBA Case #959 attached to the Original Filing as **Exhibit "F"**).

7. Subsequent to 1963, the ownership of the Property was conveyed amongst Mr. Simonian's family. In 1978 Mr. and Mrs. Simonian conveyed ownership of the Property to the Philip Simonian Realty Trust. In 1990 and again in 2004 the Property was conveyed to the Successor Trustees of the Philip Simonian Realty Trust.

8. From 1963 to 2015, the Simonian Family continued to rent out the garage for commercial uses and an auto body shop and auto mechanic business operated out of the garage during the majority of this time period. (See **Exhibit E** attached to the Original Filing).

9. On October 26, 2015, the Applicant purchased the Property. (See **Exhibit B** attached to the Original Filing). At that time the auto body shop stopped operating out of the garage and Arlington Motor Mart remained as a tenant of the Applicant and continued to perform auto repair work at the Property until 2020.

10. Additionally, from October 2015 to end of 2022, the Applicant's prior property management company, Barrington Management Company and Brigs LLC, used a portion of the garage for its maintenance division for the storage of materials, use as a woodworking shop, and parking for commercial vehicles. The Applicant further rented the garage to Flagship Cleaning Services, later renamed Syntegra, a commercial cleaning company who also used the garage for storage of materials and supplies, storage of commercial cleaning vehicles and used the office in the garage for its main office for operations.

11. The Applicant has replaced the roof on the garage and performed some interior work to clean-up the garage storage area, office, and restrooms. In 2019, the Applicant painted the garage while doing renovation work to the residential structure on the Property. (See photos attached to the Original Filing as **Exhibit "G"**).

12. In or around late 2022 to the Spring of 2023, the Applicant continued to perform maintenance work to the Property and contacted the Director of the Recreational Commission concerning the creation a buffer area between the Property and the abutting Town Property. The Town currently rents its land to Arlington/Belmont Crew organization who uses the Town's property to store its recreational boats and equipment. In the Spring of 2023, the Recreational Commission approved work allowing the Applicant to remove certain pavement and install a

landscape buffer consisting of stone gravel, and several hedges and trees on the boundary line separating and creating a buffer area between the properties. (See **Exhibit C** and copies of photos of the existing conditions at the site along with photos showing the interior of the garage attached to the Original Filing as **Exhibit "H"**).

13. From 2022 to December 2023 the garage was used by Buffington, LLC, a real estate management company for use as a maintenance facility, site of operations and parking of commercial vehicles and equipment. The Applicant is currently considering placing the Property on the market and is considering his options concerning the continued commercial operations for the garage.

14. Thus, from the garage's initial construction in 1963 to the present, the garage has been used for commercial operations for office use, storage of and maintenance of vehicles and equipment by the owner of the Property and by its tenants. The Applicant seeks permission to continue such uses and further seeks clarification that should the Property be sold that any subsequent owner would be able to use the garage in the same historical manner.

I. REQUEST FOR SPECIAL USE PERMT AND FINDING THAT THE PRE-EXISTING NON-CONFORMING USE OF THE GARAGE FOR STORAGE OF COMMERCIAL VEHICLES AND EQUIPMENT AND LIGHT CONSTUCTION WORK SHALL NOT BE SUBSTAINALLY MORE DETRIMENTAL THAT THE EXISTING NON-CONFORMING USE TO THE NEIGHBORHOOD.

Relevant portions of Section 8.1.1(A) of the Bylaws provides as follows:

> Except as provided in this Section, this Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this Bylaw (December 14, 2017)… Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure or use to the neighborhood.

It is the Applicant's position that the proposed continued use of the garage at the Property shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. Furthermore, the Applicant states that as provided in more detail below, its pending Application for Special Use Permit meets the criteria set forth in Section 3.3.3 of the Bylaw as follows:

1. The Requested Use is Essential or Desirable to the Public Convenience and Welfare:

Since its construction in 1963 the commercial use of the garage on the Property has been for the storage of commercial vehicles and equipment along with office use, auto body work and auto repair work. The Applicant's request to continue the use of the garage for the storage of commercial vehicles and equipment, office use, and perform minor maintenance to owner vehicles and equipment within the garage at the Property is consistent with the historical use of the garage and is in fact less intrusive than when the garage was used as an auto body shop and auto repair shop. The use is consistent with other uses in the neighborhood as the abutting Town property is being used for the storage of recreational equipment for the Arlington/Belmont Crew organization who stores their vehicles, trailers, crew boats, and other equipment on the Town property.

As the Property is fully developed - there are no changes proposed to the garage structure, driveway, drainage, utilities or other infrastructure servicing the Property - and the requested use is consistent with what has historically been used at the Property, the requested commercial use of the garage will continue to fit seamlessly with the community and neighborhood.

2. The Requested Use Will Not Create Undue Traffic Congestion, or unduly Impair Pedestrian Safety:

The Applicant states that the proposed project will not involve any changes to the driveway or parking area on the Property. Additionally, there are no proposed changes to the traffic flow, access, parking and pedestrian circulation that has been in existence at the Property for over 61 years. The Applicant anticipates that in additional to 2 vehicles parking in the driveway for the residential use for the Property, that 2-3 employees will be on site when needed and small commercial vehicles and pickup trucks will be used on site with ample storage and up to 10 parking spots available inside of the garage.

Therefore, because there no changes proposed to the structure or facilities on the Property and due to the fact that the requested use is consistent with the historical uses of the garage, it is the Applicant's position that its requested use of the garage will not create any undue traffic congestion, or unduly impair pedestrian safety.

3. The Requested Use Will Not Overload Any Public Water, Drainage Or Sewer System, Or Any Other Municipal System To Such An Extent That The Requested Use in the Immediate Area Or Any Other Area Of The Town Will Be Unduly Subjected To Hazards Affecting Health, Safety Or The General Welfare:

As provided above, the garage was fully developed in 1963 and there are no changes being proposed to the drainage, utilities and other infrastructure servicing the Property as they

are all more than adequate to accommodate the continue commercial use of the garage. Additionally, no hazardous materials will be stored on Property.

4. The Special Provisions For The Requested Use Under the Bylaw Are Fulfilled.

As provided above, the garage structure and commercial use of the garage was permitted by the ZBA in 1963. The commercial use of the garage is proposed to be that of storage of commercial vehicles and equipment, office use, and perform minor maintenance to owner vehicles and equipment within the garage at the Property. Pursuant to Section 8.1.1(A) of the Bylaw, the ZBA may granted the requested use if it finds that the use shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. As provide above, it is the Applicant's position that the ZBA has the necessary facts to make such a finding under the Bylaw.

5. The Requested Use Will Not Impair The Integrity Or Character Of the District Or Adjoining Districts, Nor be Detrimental To the Health or Welfare.

The Applicant directs the ZBA's attention to its statements provided for in Paragraph 1-4 above. Additionally, the Applicant states that the requested use is consistent with the historical commercial use made at the Property since 1963 and permission to continue such use will not impact the integrity or character of the R-2 district or adjoining districts nor be a detriment to the health or welfare of the community.

6. The Requested Use Will Not, By Its Addition To The Neighborhood, Cause An Excess Of the Use That Could Be Detrimental To The Character Of Said Neighborhood.

It is the Applicant's position that the proposed used is consistent with the historical use of the garage and that the proposed use is a significant decrease in uses conducted at the site over the years and that the proposed use will not be detrimental to the character of the neighborhood.

III. CONCLUSION

For all of the above reasons, the Property has historically been used for both residential and commercial purposes. The continuance of the requested commercial use of the garage on the Property will fit seamlessly with the existing use at the Property and neighborhood as there will essentially be no change to the uses of the garage on the Property that have been continuously and consistently made since 1963.

Furthermore, as provided above and in the supporting materials submitted in support herewith, it is the Applicant's position that it has shown sufficient evidence to support a finding from the ZBA that the requested use of the garage on the property for the storage of commercial vehicles and equipment, office use, and perform minor maintenance to owner vehicles and

equipment within the garage at the Property will not be substantially more determinantal than the existing nonconforming use to the neighborhood and that its application complies with all applicable criteria set forth in Section 3.3 of the Bylaw to grant the special use permit requested by the Applicant.

Therefore, the Applicant respectfully request that the ZBA grant the Applicant's application for Special Use Permit.

Thank you for your attention to this matter and should you have any questions or require any additional information concerning this Application, please do not hesitate to contact me directly.

Respectfully submitted,

POND LANE REALTY, LLC

By its attorneys,

DOUGLAS A. TROYER

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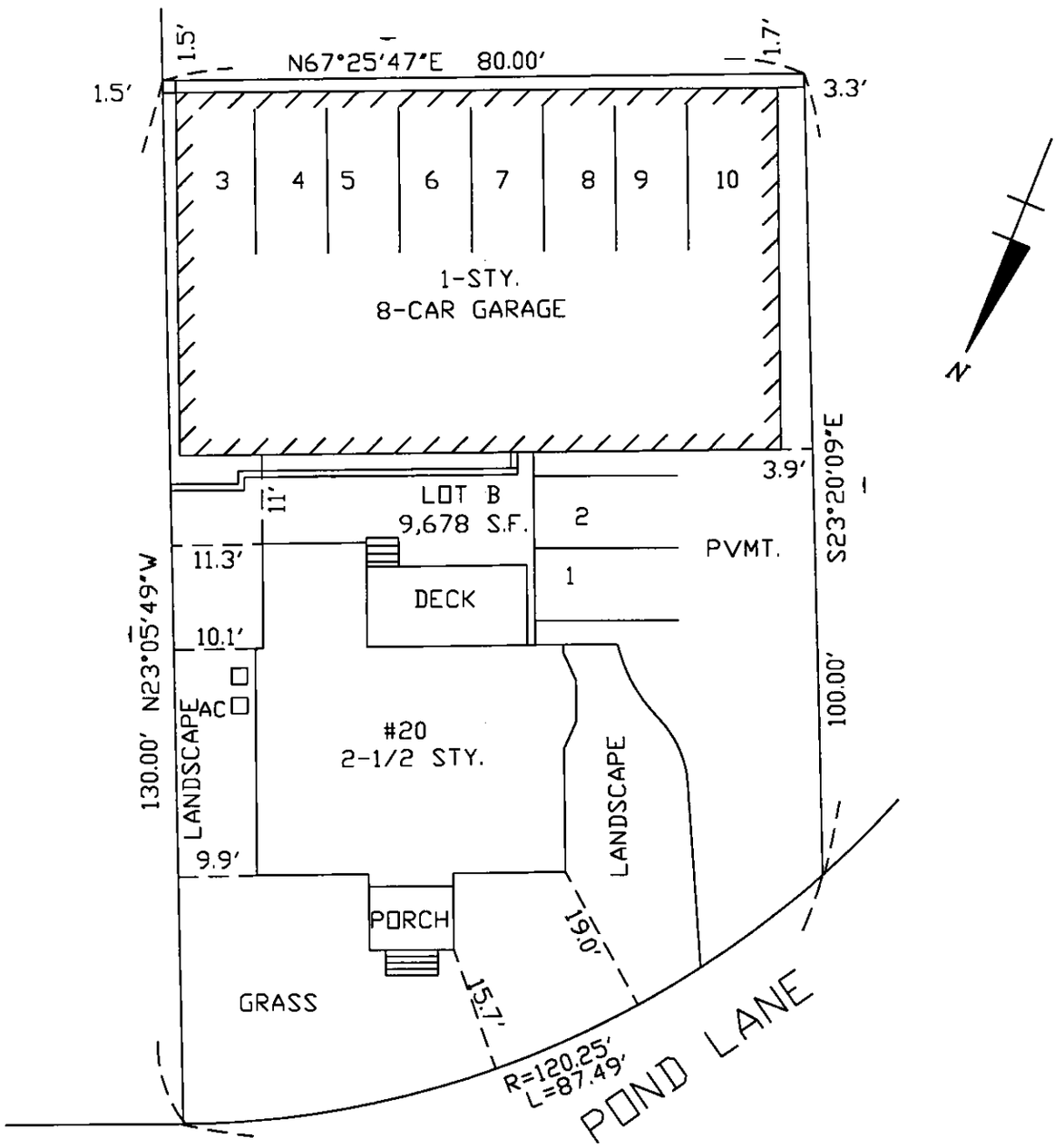
cc: Client (via email only)

EXHIBIT 1

LOT COVERAGE
9678-4954/9678 = 48.8%

LANDSCAPED OPEN SPACE
9678-6821/9678 = 29.5%

	EXISTING	REQ'D.	
SETBACKS			
FRONT	15.7'PORCH 19' HOUSE	20'	
SIDE (LT)	1.5' GARAGE	6'	
SIDE (RT)	3.3' GARAGE	6'	
REAR	1.5' GARAGE	20'	
PARKING SPACES	10		
LOADING BAYS	0		
LOT COV.	48.8%	35%	
USABLE OPEN SPACE	0 %	30%	
LANDSCAPED OPEN SPACE	29.5%	10%	



NOTE:

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED FROM AN ACTUAL ON THE GROUND INSTRUMENT SURVEY.

PAUL J. FINOCCHIO P.L.S. No.36115

11/26/24

DATE

PLOT PLAN OF LAND
IN
ARLINGTON, MA

PREPARED BY:
PJF & ASSOCIATES
4 HIGHLAND AVE WAKEFIELD, MA
PAUL J. FINOCCHIO–P.L.S.
(781)883–5473

SCALE: 1" = 20'

DEED REF.:

DATE: NOVEMBER 26, 2024

FILE No.:6953B