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January 27, 2021

By Email

Michael Wrinn

Director of Planning and Land Use Management

Town of Wilton

238 Danbury Road

Wilton, CT 06897

Re: Jennifer Gabrielson (Lucci Electric) Application for Variance - 52 Nod Hill Road, Wilton, CT

Dear Michael,

I am writing to advise you that I have been retained to represent Jennifer Gabrielson, the owner of 52 Nod Hill Road, Wilton, CT, in connection with her amended application to the Zoning Board of Appeals for a variance of the side yard setback requirements of Section 29-5.D. The requested variance, if granted, would allow the owner to locate a generator and four (4) associated propane tanks within 25' and 20.5', respectively, of the side lot line, in lieu of the required 40', as detailed on the amended application that has been filed with your office. The Application is scheduled for consideration at the February 16, 2021 hearing of the Zoning Board of Appeals.

As you know, an earlier version of this application was considered at the meeting of the Zoning Board of Appeals on January 19, 2021, but was withdrawn for amendments to add specific reference to the propane tanks to the variance application and the survey's zoning information block. I understand that the amended application materials were submitted to your office yesterday.

I note that you already added me (patti.frisch@icloud.com) to the list of Zoom Meeting attendees wishing to be heard at the February 16, 2021, and request that you include me in any communications from your office regarding this Application.

I would also like to submit the attached memorandum to the members of the Zoning Board of Appeals prior to the February meeting in support of the application. Please let me know if I should provide you with hard copies.

Very truly yours,

Patricia Frisch

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Jennifer Gabrielson
Lucci Electric

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MEMBERS CT & NY BARS

Memorandum

Date: January 27, 2021

To: Chairman and Members of the Zoning Board of Appeals
Director of Planning and Land Use Management
Town of Wilton
238 Danbury Road
Wilton, CT 06897

From: Patricia Frisch, Attorney for Jennifer Gabrielson

Re: Jennifer Gabrielson (Lucci Electric) Application for Variance - 52 Nod Hill Road, Wilton, CT

I submit this memorandum in support of the application of Jennifer Gabrielson (Lucci Electric), for a variance of the 40' side yard setback requirements of Section 29-5.D applicable to properties in the R-2A District, which, if granted, would allow Mrs. Gabrielson (the "Owner") to locate a generator and four (4) associated propane tanks within 25' and 20.5', respectively, of a side lot line at her home at 52 Nod Hill Road (the "property"), as detailed on the amended application that has been filed with your office (the "Application"). The Application is scheduled for consideration at the February 16, 2021 hearing of the Zoning Board of Appeals.

The property is a legal non-conforming lot (0.681 acres) with an unusually narrow shape and significant hilly areas in the rear portion of the property. Because of this size, shape and topography, significant portions of the residence, built in 1920, and the entire garage, lie within the 40' side yard setback requirements of Section 20-5.D. These conditions were not created by the owner.

The owner would like to have the security of a stand-by generator, much like many other Wilton property owners who suffered through the extended power outages of the past year, and the only viable place on the Property for the generator and associated propane tanks is in area behind the existing garage. Locating the generator behind the garage and placing the propane tanks a reasonably short distance away in the corner of an existing stone foundation, as suggested, places the generator close enough to the residence to provide for its efficient operation, and far enough from living areas to provide important safety protection for the residents, the generator and the tanks, and appropriately screens both the generator and the tanks from the living areas of the house and from the neighbor's view. No other location is feasible.

The Owner considered whether the generator and tanks could be installed without a variance, but the only area that would comply with the 40' setback requirement is a narrow lane of property (10-15'

wide) that sits squarely in the center of the back yard and directly in front of the rear patio--essentially an outdoor living area of the house. Placing the generator in such a location would be unreasonably detrimental to the Owner's use and enjoyment of her property and would be contrary to the safety recommendations of generator manufacturers. Norwal Power Systems advises that, for efficient and safe operation, generators should be placed in an area that will keep the exhaust, which contains deadly carbon monoxide, away from the home and living areas and fairly close (but not too close) to the home's electrical service entrance. See <https://blog.norwall.com/generator-information/locating-standby-home-generator-installation>. No other location satisfies these safety and operational concerns.

The requested variance meets all of the legal criteria. It is necessary for the Owner's reasonable and safe use of her property; it is necessary because of unique and special conditions and characteristics of the Property's size, shape and topography; if granted, it would be harmonious with the neighborhood, the general purpose and intent of the Zoning Regulations and the Town's Plan of Conservation and Development; if granted, it would not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare of the neighbors; it is the minimum variance necessary to address the unique hardships of the Property; and the need for the variance is not based on financial or economic hardship or any nonconformity of neighboring lots.

In sum, this variance is necessary to enable the Owner to protect her home and family during power outages in a manner that is safe and not unreasonably detrimental to her use of her Property. We note that this Board granted a variance to the owner of 60 Nod Hill Road (Variance #16-04-03) which allowed placement of a generator within 21' of the side property line.

We respectfully request that the Application be granted.

Sincerely,

Patricia Frisch

Patricia Frisch