



City of Somerville

ZONING BOARD OF APPEALS

City Hall 3rd Floor, 93 Highland Avenue, Somerville MA 02143

TO: Zoning Board of Appeals
FROM: Planning, Preservation, & Zoning (PPZ) Staff
SUBJECT: 151 Linwood Avenue, P&Z 21-153
POSTED: July 7, 2022

RECOMMENDATION: Deny (Hardship Variance)

Staff memos are used to communicate background information, analysis, responses to public comments, review of statutory requirements and other information from PPZ staff to the Review Board members.

This memo summarizes the Hardship Variance requests submitted for 151 Linwood Avenue, identifies any additional discretionary or administrative development review that is required by the Somerville Zoning Ordinance (SZO), and provides related analysis or feedback as necessary. The application was deemed complete on March 23, 2022, and was originally scheduled for a public hearing on June 1, 2022. Due to a lack of quorum, the Applicant agreed to move the public hearing date to the July 13 meeting. Any Staff recommended findings, conditions, and decisions in this memo are based on the information available to date prior to any public comment at the scheduled public hearing.

LEGAL NOTICE

U-Haul Center of Boston seeks multiple Hardship Variances to develop a 6-story commercial building within the Commercial Industry (CI) zoning district. The requested Hardship Variances include number of stories, building height, driveway width, driveway in frontage area, façade build out, principal entrance, curb cuts within 150', loading activities encroaching on a sidewalk.

SUMMARY OF PROPOSAL

U-Haul Center of Boston is proposing to construct a 6-story commercial building, which requires twelve (12) Hardship Variances. Design choices led the applicant to request numerous Hardship variances from the ZBA in order to execute their desired project.

The Applicant is seeking to replace an existing two-story U-Haul storage facility that is 29,432 SF. The existing uses, which consist of vehicle sales, self-storage, and consumer goods, will remain.

The Applicant seeks 12 Hardship Variances. In some instances, more than one variance is needed for each category. For example, since the Applicant is proposing

multiple driveways and each driveway violates the width requirement, a variance is needed for each driveway.

The variances required are described below (both type and the number of variances in each category). Staff reiterates this information in the Analysis section of the memo.

- Number of stories (1)
- Building height (1)
- Façade buildout (1)
- Principle entrance (1)
- Distance between two curb cuts (1)
- Driveway width (3)
- Loading activities encroaching on a sidewalk (1)
- Driveway in the frontage area (3)

ADDITIONAL REVIEW NECESSARY

151 Linwood Avenue is located within a 0.25 mi Transit Area in the Commercial Industry (CI) zoning district in the Brickbottom neighborhood represented by Ward 2 Councilor JT Scott. Commercial Buildings in the CI zoning district require Site Plan Approval. The Zoning Board of Appeals is the permit granting authority for all permits in the CI zone.

CONSIDERATIONS & FINDINGS

In accordance with the Somerville Zoning Ordinance, the Zoning Board of Appeals may grant a Hardship Variance only upon deliberating and finding all of the following at the public hearing for each requested variance:

Hardship Variance Considerations

1. Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the Commercial Industry zoning district in which the land or structure is located;
2. Literal enforcement of the provision of this Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant, U-Haul Center of Boston due to said special circumstances; and
3. Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Commercial Industry district in this Ordinance or the Ordinance in general.

ANALYSIS

The Applicant is required to provide an argument addressing the review criteria for each of the necessary hardship variances. The Applicant's argument has been attached as an appendix to this memo.

SITE ANALYSIS

This portion of the analysis relates directly to Hardship Variance Criterion 1: "Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the zoning district in which the land or structure is located." Staff do not believe unique circumstances relating to the soil condition exist that would cause a hardship or affect the Applicant's ability to comply with the SZO. In their argument the Applicant states that unique soil conditions exist on the parcel, but they do not describe those unique conditions or provide any evidence regarding how the soil conditions impact their ability to comply with the SZO. Further, the lot shape and topography does not prohibit compliance with zoning. The parcel is large and rectangular in shape; no unique aspects of shape or topography differentiate it from other parcels in the CI zoning district, and its size and shape enable a range of development and design options. The Applicant, through design choices, has chosen to not comply with the SZO.

The topography of the parcel does not impact the Applicant's ability to build a zoning-compliant project. A slope of approximately 2.95% does exist on this parcel, but that is not unique to this lot and does not qualify as a steep slope. Steep slopes are typically considered to be between 15% and 25%; Somerville only requires special permits for development on steep slopes where there is a slope of 25% or more over a horizontal distance of 30 feet or greater. There does not appear to be a significant slope at any point on this site. This parcel and the surrounding neighborhood are relatively flat, particularly when compared with other areas of the city.

Although the use will remain, the Applicant is proposing to demolish the existing building and construct a new building. Therefore, there is nothing about the existing structure that is unusual in character, or that exhibits a special circumstance that impacts the proposed development.

The purpose of a Hardship Variance is not to accommodate an applicant's design choices or to provide an alternative to complying with the ordinance. The purpose of a Hardship Variance is a means of last resort when unique conditions of a lot make compliance with the SZO impossible.

ANALYSIS OF REQUESTED HARDSHIP VARIANCES

Additional analysis regarding each requested Hardship Variance, and each respective argument, is below.

Number of stories (1 variance)

The SZO states a commercial building in the CI district is allowed to have a maximum of four (4) stories. Any additional stories require a Hardship Variance. The Applicant has proposed a six (6) story commercial building – two (2) stories beyond the permitted limit – which deviates from the character intent of the CI district which is described by the SZO as “large floor plate buildings up to four (4) stories in height.”

The Applicant's argument states that if the project was to comply with current zoning by constructing a four (4) story building, the irregular topography of the parcel and resulting mean average grade elevation as defined by the SZO creates a hardship by reducing allowable building height by approximately three (3) feet. The Applicant is not limited by topography and could build a zoning compliant building with four (4) stories, as allowed by the SZO. Additionally, the applicant is not requesting a variance for an additional three (3) feet of height, but an additional two (2) stories, far beyond their argued hardship. As previously stated, Staff have not found any unique characteristics of the topography that impact the ability to construct a zoning-compliant four (4) story building.

The Applicant's argument also states that the additional two stories will allow them to accommodate more parking on site by using part of the first floor as structured parking. This parcel is located in a quarter-mile transit area and has no minimum parking requirements. The Applicant's reason for wanting additional stories to accommodate parking is a design choice and has no relation to an actual hardship created due to unique circumstances related to the soil condition, or to the shape or topography of the parcel.

Staff believes that this requested relief does not meet any of the criteria for a hardship variance. A variance for the number of stories is not necessary for the viability of this site and runs counter to the intent of the SZO. The Applicant's desire to construct a six (6) story commercial building instead of a zoning complaint four (4) story building is a design and function choice. Neither the requirements of the SZO nor any characteristics of the lot prevent the Applicant from constructing a zoning-compliant commercial building with the Applicant's intended use and function; the Applicant's desire for a more stories than what is permitted by the SZO does not, on its own, cause a hardship that is sufficient to grant a Hardship Variance.

Building height (1 variance)

The SZO states a commercial building in the CI district is allowed to have a maximum height of sixty-five (65) feet. The Applicant proposes to build a seventy-five (75) foot structure, 10 feet beyond the maximum height, which deviates from the character intent of the CI district and requires a Hardship Variance.

The Applicant's argument related to height is the same as their argument for the number of stories. There are no unique circumstances related to the soil condition, or to the shape or topography of the parcel that impact this design choice.

The additional height is not being requested to accommodate a unique four-story building, but instead to enable two additional stories and 10 feet in height beyond the permitted maximum. The request for this variance is stemming from the Applicant's choice to propose a noncompliant 6-story building and not from an actual hardship created by irregular topography, lot shape, or unique soil conditions.

Staff believes that this requested relief does not meet any of the criteria for a Hardship Variance. A variance for the number increased height is not necessary for the viability of this site and runs counter to the intent of the SZO. The Applicant's desire to construct a 75-foot-tall commercial building instead of a zoning complaint 65-foot-tall building is a design and function choice. Neither the requirements of the SZO nor any characteristics of the lot prevent the Applicant from constructing a zoning-compliant commercial building with the Applicant's intended use and function; the Applicant's desire for a taller building than what is permitted by the SZO does not, on its own, cause a hardship that is sufficient to grant a Hardship Variance.

Façade buildout (1 variance)

The SZO states that building façade(s) must be built parallel to the front lot line for the minimum façade build out specified for each building type; this is measured as a percentage of the lot width, measured at the maximum front setback line. The minimum façade build out for a primary frontage in the CI district is 80% of the lot width. The applicant intends to have a façade buildout of 77% along the site's Linwood Street frontage, falling below the minimum requirement by three percent (3%) and requiring a Hardship Variance.

The Applicant's argument does not address the Hardship Variance criteria; they only address the façade buildout in the context of their proposed building and site design. There are no unique circumstances related to the soil condition, to the shape or topography of the parcel that impact this design choice.

Staff believes that this requested relief does not meet any of the criteria for a Hardship Variance. A variance from the minimum façade buildout requirement for a primary frontage is not necessary for the viability of this site and runs counter to the intent of the SZO. The Applicant's desire to not meet the requirements of the SZO is a design choice. Neither the requirements of the SZO nor any characteristics of the lot prevent the Applicant from constructing a zoning-compliant commercial building with the Applicant's intended use and function; the Applicant's desire for a façade buildout that is not what is permitted by the SZO does not, on its own, cause a hardship that is sufficient to grant a Hardship Variance.

Principal entrance (1 variance)

The SZO states that buildings must have at least one (1) principal entrance. Principal entrances must be located on the façade, provide both ingress and egress, and be operable at all times. The Applicant is proposing to place the principal entrance on the

interior of the parcel along the side of the building, which deviates from the SZO and requires a Hardship Variance.

The Applicant's argument does not address the Hardship Variance criteria; they only address the principal entrance in the context of their proposed building and site design. There are no unique circumstances related to the soil condition, to the shape or topography of the parcel. There are ways to address this issue through site and building design that will not require a Hardship Variance.

Staff believes that this requested relief does not meet any of the criteria for a Hardship Variance. A variance from having a principal entrance on the front façade is not necessary for the viability of this site and runs counter to the intent of the SZO. The Applicant's desire to not meet the requirements of the SZO is a design choice. Neither the requirements of the SZO nor any characteristics of the lot prevent the Applicant from constructing a zoning-compliant commercial building with the Applicant's intended use and function; the Applicant's desire for a principal entrance not located on the front façade and not permitted by the SZO does not, on its own, cause a hardship that is sufficient to grant a Hardship Variance.

Curb cut within 150' of each other (1 variance)

The SZO states a site with multiple curb cuts providing access to the same lot must design curb cuts to be at least one hundred and fifty (150) feet from one another. The Applicant is proposing two curb cuts within 150 feet of each other along the Joy Street frontage, which requires a Hardship Variance. The existing curb cuts on Joy Street are 129.1 feet from each other. The Applicant wants to reduce that distance to 96 feet, increasing the existing nonconformity by 33.1 feet.

The Applicant's argument states that each curb cut is necessary for the development of the planned facility and to provide parking and storage within the facility, rather than on the exterior of the parcel or on-street parking. The Applicant is proposing to increase the pre-existing nonconforming curb cuts to provide customer vehicular access to the parking lot and vehicular access to the interior of the facility.

The Applicant's argument does not address the Hardship Variance criteria; they only address the curb cuts in the context of their proposed building and site design. There are no unique circumstances related to the soil conditions, or the shape or topography of the parcel that appear to impact the proposed design.

Staff believes that this requested relief does not meet any of the criteria for a Hardship Variance. A variance for curb cuts within 150 feet of each other not necessary for the viability of this site and runs counter to the intent of the SZO. The Applicant's desire to not meet the requirements of the SZO is a design choice. Neither the requirements of the SZO nor any characteristics of the lot prevent the Applicant from constructing a zoning-compliant commercial building with the Applicant's intended use and function; the Applicant's desire for curb cut distance that is less than what is permitted by the

SZO does not, on its own, cause a Hardship that is sufficient to grant a hardship Variance.

Driveway width greater than 24 feet (3 variances)

Driveways are not permitted to be wider than twenty-four (24) feet. The Applicant is proposing three (3) driveways greater than twenty-four (24) feet wide, which requires a Hardship Variance for each driveway. The Applicant is proposing two driveways along the Joy Street frontage, one proposed at 83.2 feet wide, and the other 56 feet wide. The Applicant is also proposing a 36-foot-wide driveway along Linwood St.

The Applicant's argument does not address the Hardship Variance criteria; they only address the driveway widths in the context of their proposed building design. There are no unique circumstances related to the soil condition, to the shape or topography of the parcel that impact driveway width.

Staff believes that this requested relief does not meet any of the criteria of a Hardship Variance. A variance for driveway's greater than 24 feet in width is not necessary for the viability of this site and runs counter to the intent of the SZO. The Applicant's desire to not meet the requirements of the SZO is a design choice. Neither the requirements of the SZO nor any characteristics of the lot prevent the Applicant from constructing a zoning-compliant commercial building with the Applicant's intended use and function; the Applicant's desire for driveways with widths wider than what is permitted by the SZO does not, on its own, cause a hardship that is sufficient to grant a Hardship Variance.

Loading activities encroaching on a public sidewalk (1 variance)

The Applicant is proposing loading and unloading activities in the frontage area of the site along Joy Street. Per the SZO, loading and unloading activities may not encroach on or interfere with the use of sidewalks. A Hardship Variance is required where interference occurs with the use of a public sidewalk. In their plan set the Applicant depicts trucks coming and going from the site that will interfere with the use of the public sidewalk along Joy Street on the southeast portion of the lot (see Hardship Variance Key Sheet in the attached submittal documents).

The Applicant has provided plans that depict WB-40 trucks fully contained on the lot for loading and unloading activities. However, both Mobility and PPZ Staff foresee the loading and unloading activities related to trucks coming and going to the site will interfere with pedestrians' ability to use the public sidewalk along Joy Street. The movement of cars exiting the site onto Joy Street with trucks entering and exiting for loading/unloading could create backups that would lead to blockages of the public sidewalk and interfere with pedestrian movements along the sidewalk.

The Applicant's argument does not address the Hardship Variance criteria; they only address the loading area in the context of their proposed building and site design. There

are no unique circumstances related to the soil condition, to the shape or topography of the parcel that impact the proposed loading activities.

Staff believes that this requested relief does not meet any of the criteria for a Hardship Variance. A variance for loading activities encroaching on a public sidewalk is not necessary for the viability of this site and runs counter to the intent of the SZO. The Applicant's desire to not meet the requirements of the SZO is a design and function choice. Neither the requirements of the SZO nor any characteristics of the lot prevent the Applicant from constructing a zoning-compliant commercial building with the Applicant's intended use and function; the Applicant's desire for the location of loading activities which is not permitted by the SZO does not, on its own, cause a hardship that is sufficient to grant a Hardship Variance.

Driveway in frontage area (3 variances)

The frontage area is defined as the area of a lot between the façade of a principal building and any front lot line(s), extending fully to each side lot line(s). The façade is defined as any exterior of a building oriented in whole or in part toward a front lot line, or civic space, excluding the exterior walls of any roof elements. Driveways in the frontage area are not permitted by the SZO. The Applicant is proposing three (3) driveways in the frontage area; a variance is required for each of these proposed driveways.

The Applicant's argument does not address the Hardship Variance criteria; they only address the driveways in the frontage area in the context of their proposed building and site design. There are no unique circumstances related to the soil condition, to the shape or topography of the parcel that impact the location of the driveways.

Staff believes that this requested relief does not meet any of the criteria of a Hardship Variance. A variance for driveways in the frontage area is not necessary for the viability of this site and runs counter to the intent of the SZO. The Applicant's desire to not meet the requirements of the SZO is a design choice. Neither the requirements of the SZO nor any characteristics of the lot prevent the Applicant from constructing a zoning-compliant commercial building with the Applicant's intended use and function; the Applicant's desire for driveways in the frontage area, which is not permitted by the SZO does not, on its own, cause a hardship that is sufficient to grant a Hardship Variance. standards, including the location of driveways.

SomerVision and Neighborhood Context

Current planning efforts for the Brickbottom neighborhood aim to produce a Small Area Plan for the development of the area, which will inform infrastructure investments by the City while serving as a precursor to specific zoning changes that will enable new development. Brickbottom is identified as an area to transform by SomerVision, the City's comprehensive plan. The City is therefore considering how to re-envision the area in its entirety and how to approach new possibilities for housing, commercial development, civic spaces, and mobility.

Feedback received during the public planning process establishes that the community envisions this area as predominantly mixed-use in character with light-industrial, small floor-plate commercial buildings woven into the existing urban fabric. The community would like to see the Linwood and Joy Street blocks maximize residential density as this section of the neighborhood is in close proximity to the future East Somerville MBTA Greenline Station.

The information mentioned above is not part of the criteria for granting of a variance and should not be used to make a formal decision. This information strictly serves to provide greater context into the planning process for the Brickbottom neighborhood, which will eventually undergo zoning changes, after formal plan adoption by the Planning Board.

RECOMMENDATION

Staff strongly recommends that the Board deny all requested Hardship Variances.

As previously stated, the ZBA may only grant a Hardship Variance only upon deliberating and finding the application meets all of the criteria for a Hardship Variance. Upon analysis of the material submitted by the Applicant, PPZ Staff do not believe that the application meets any of the criteria for a Hardship Variance; therefore, Staff do not believe granting the requested Hardship Variances to be possible.

Regarding criterion 1, PPZ Staff have not found any special circumstances relating to the soil conditions, shape, or topography of the parcel of land that might create a hardship. The Applicant has not provided any compelling evidence to support their claim that there is anything unique about the site, and instead have repeatedly argued needs centered around their site and building design. As stated above and multiple times throughout this analysis, the Applicant has chosen to deviate from the SZO because of voluntary design choices.

Regarding criterion 2, PPZ Staff would like to emphasize that the site is still clearly developable within the parameters of the SZO. The SZO permits significant development options on this site, and Staff do not believe that literal enforcement of the SZO would create any form of genuine hardship. This project stems from a desire by the Applicant to replace the existing building, which currently houses their self-storage use, with a larger building that houses the same use; clearly, this new non-compliant building is not essential to the continued operation of their proposed use and is a voluntary undertaking.

Regarding criterion 3, PPZ Staff believe that the granting of the requested Hardship Variances would cause a substantial detriment to the Commercial Industry district, and would substantially degrade from the broader intent of the SZO, including, but not limited to, the following:

- To protect the social, environmental, and economic benefits provided by a walkable development pattern.
- To permit development and redevelopment according to plans that are collaboratively developed with the Somerville community.
- To discourage thoroughfares and intersections that limit connectivity, discourage walking, induce traffic congestion, and increase vehicular air pollutant emissions by reducing the number of possible routes of travel and adding unnecessary distance between destinations.
- To develop and maintain complete, mixed-use, walkable, transit-oriented, and environmentally sustainable neighborhoods that foster a strong sense of community throughout the city.
- To resolve design conflicts between vehicular and pedestrian movement in favor of the pedestrian.
- To capture a fiscal return on investments made in transportation infrastructure by locating higher intensity development, employment opportunities, and a broad mix of uses along major corridors and within walking distance of transit stops.

Massachusetts courts have stated that variances will naturally deviate from the intent and purpose of a zoning ordinance to some degree and that the discretionary approval of a variance is defensible only if the deviation is not substantial or significant in comparison to the intent and purpose for the district in appraising the effect of the proposal on the entire neighborhood, including future impacts and other development approved or denied in the general vicinity of the development site. Staff find that the proposed deviations are substantial and significant, and run counter to the intent and purpose of the district and the broader SZO.

PERMIT CONDITIONS

PPZ Staff do not recommend approval of any of the requested Hardship Variances. However, should the Board approve one or more of the requested Hardship Variances, PPZ Staff recommends the following as standard conditions for any Hardship Variance:

Permit Validity

- This Decision must be recorded with the Middlesex South Registry of Deeds.

Public Record

- A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation & Zoning Division for the public record. One (1) physical copy of the original application materials and one (1) digital and (1) physical copy of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record.

ANTHONY T. PANEBIANCO, ESQUIRE
APANEBIANCO@DARROWEVERETT.COM

BOSTON OFFICE
One Boston Place, Suite 2600
Boston, MA 02108
Tel: 401.453.1200
Fax: 401.453.1201

May 11, 2022

VIA ELECTRONIC MAIL AND REGULAR USPS

City of Somerville Zoning Board of Appeals
c/o Sarah Lewis, Director of Planning/Zoning and
Andrew Graminski, City Planner
93 Highland Avenue, City Hall Third Floor
Somerville, MA 02143

**Re: Variance and Special Permit Application
U-Haul Center Boston
151 Linwood Street, Ward 2, Somerville, MA**

Dear Ms. Lewis and Mr. Graminski:

As you know, this firm represents U-Haul Center Boston (the “Applicant”) relative to the Application for Hardship Variances with the City of Somerville (the “City”) Zoning Board of Appeals (the “ZBA”). The Applicant had requested Hardship Variances pursuant to Section 15.2.3. of the Somerville Zoning Ordinance (the “SZO”) and a Special Permit pursuant to Sections 15.2.1, 14.6.c. and 6.3.11. of the SZO. The Applicant has had two (2) Neighborhood Meetings and after productive discussions with the community, City Planner Andrew Graminski and City Councilman J.T. Scott, on December 20, 2021, the Applicant submitted a Supplemental Narrative, expanding on the Hardship Variances requested. Thereafter, after additional discussions with City Planner Graminski, the necessary Hardship Variances were narrowed to the twelve (12) sought herein. Further discussions concluded that a Special Permit is not required. Accordingly, the Applicant takes this opportunity to submit an updated narrative.

I. Variances Requested

a. First Variance - Building Stories - Section 6.3.7.c.(E)

The Applicant seeks a Variance from Section 6.3.7.c.(E) of the SZO, which restricts the maximum stories of a building to four (4) stories. The Applicant is seeking to construct a new six (6) story transport and storage facility (the “Facility”) to replace the current building. The property currently consists of an existing two-story U-Haul Storage Facility with a 29,432± ft² footprint. The structure was constructed in 1940 and has become rundown over the years. The existing uses of the Facility include, vehicle sales (rental), moving and/or self-storage, and consumer goods. The existing Facility is undersized for the current and anticipated operational needs of the Applicant. The Applicant

proposes to revitalize their property by demolishing the existing two-story structure and constructing of a new six-story U-Haul Facility with a GFA of approximately 249,298± ft² (the “Project”). The Project will feature indoor climatized secured self-storage units, truck and trailer rentals, U-Box, and associated retail sales in response to consumer demands. The Project also includes off-street parking, extension of new utility surfaces, stormwater management improvements and landscape features to replace portions of the existing impervious surfaces on site. The first floor of the Facility will consist of a showroom, climatized storage, loading/unloading area, a trash and recycling area, indoor structured parking, and a maintenance room.

The Applicant seeks relief from Section 6.3.7.c.(E) of the SZO to exceed the Maximum Number of Stories allowable within the CI Zoning District from 4-stories and to 6-stories. Strict compliance with Section 6.3.7.c.(E) of the SZO has a detrimental effect on the proposed use of Facility due to the inability to construct sufficient on-site parking at grade.

i. Special Conditions Affecting Parcel.

The Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.¹

The Parcel’s unique topography and location significantly burden the Parcel as compared with other Parcels in the CI zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel’s eight-foot (8’) differential between the Parcel’s high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel’s location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian. Currently, the Parcel has vehicular street access points on both Linwood Street and Joy Street. The proposed development will further improve traffic flow patterns along Linwood Street and Joy Street. Additional evidence of the Parcel’s unique traffic and transportation characteristic is found in the Inner Loop Brickbottom Plan which identifies the Parcel

¹ The Parcel is also located in the proposed Quarter-Mile Transit Area.

has having high importance as a movement corridor, for vehicular, pedestrian and bicycle traffic because of the block's exceptional length and its proximity to transportation including the future Washington Street Station on the Greenline Extension and the McGrath O'Brien Highway. The plan identifies the Parcel as the best location for a "high importance" pedestrian and bicycle corridor allowing for passage through the lot from Joy Street to Linwood Street and vice versa. The Parcel's location close to the intersection of Linwood Street and Washington Street where there is a sharp curve in the Street is another condition unique to the Parcel which impacts the traffic flow into and out of the Parcel.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the stories of the proposed building and limiting the ground level surface area available for on-site parking and equipment storage that is required to support the day-to-day operations of the Facility. First, the subject property drops an average of 6'+/- in elevation across the site from Joy Street to Linwood Street. If the Applicant were to comply with the current Zoning Ordinance by constructing a four-story structure, the irregular topography and resulting mean average grade elevation as defined in the Zoning Ordinance creates a hardship by reducing allowable building height by approximately 3 feet. Second, the transportation requirements of the district, the block and the traffic flow of the Parcel require a significant portion of the Parcel's surface level to be dedicated to transportation needs. As a result, the ground level surface area available for parking is significantly reduced from the existing surface area available for parking. Currently the Parcel has proximately 42,747 sf of paved surface area available for parking. In order to bring the Parcel into closer compliance with current zoning regulations, the proposed redevelopment of the site would significantly reduce the ground-level paved surface area available for parking. After making adjustments to comply with setbacks, green score requirements, fire lane requirements, and incorporating traffic corridors into the design, the total area for ground level parking is reduced to 1,920 sf. from the current total of 42,747.

To address these site constraints and in order to comply with SZO required "screening" of on-site parking, the Applicant proposes to dedicate portions of the first two-stories of the new Facility to a combination of transportation corridor access and interior structured parking while maintaining four-stories for the primary operation of the Facility as self-storage. The required two-stories of interior parking and transportation features that are proposed will result in an increase in the overall stories of the Facility, in order to compensate for the floors and floor space lost to parking and transportation, evidencing the need for a Variance based on this hardship.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.7.c.(E) of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use of four-stories of the new building for self-storage and facility operations as allowed by right within the CI Zoning District. The facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. By providing indoor structured parking and van/trailer storage within the first two stories of the building the proposed project minimizes burdens on municipal on-street parking, maintains available parking capacity for surrounding area businesses and use of public transportation and improves the visual impact of the site by providing adequate screening to enhance customer privacy and screen parked and stored vehicles. Additionally, the relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance (allowing a slightly taller building with additional floors) should be balanced against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks. The Project complies with the parking requirements under the SZO for the CI District, which requires two (2) parking spaces. By providing additional interior parking in the Parcel, the Project will alleviate customer on-street parking.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship

Variance under Section 6.3.7.c(E) of the SZO to build a six-story building.

b. Second Variance - Building Height – Section 6.3.7.c.(F)

The Applicant seeks a Variance from Section 6.3.7.c.(F) of the SZO, which restricts the maximum height of a building to sixty-five (65) feet. As indicated above, the Applicant is seeking to construct a new six (6) story transport and storage Facility to replace the current building. The Facility will have a total maximum height of seventy-five (75) feet and eleven (11) inches, approximately ten (10) feet above the restrictions of the SZO. Similar to the First Variance request, strict compliance with Section 6.3.7.c(F) of the SZO has a detrimental effect on the proposed use of Facility due to the inability to construct sufficient on-site parking at grade.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel’s unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel’s eight-foot (8’) differential between the Parcel’s high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel’s location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian. Currently, the Parcel has vehicular street access points on both Linwood Street and Joy Street. The proposed development will further improve traffic flow patterns along Linwood Street and Joy Street. Additional evidence of the Parcel’s unique traffic and transportation characteristic is found in the Inner Loop Brickbottom Plan which identifies the Parcel as having high importance as a movement corridor, for vehicular, pedestrian and bicycle traffic because of the block’s exceptional length and its proximity to transportation including the future Washington Street Station on the Greenline Extension and the McGrath O’Brien Highway. The plan identifies the Parcel as the best location for a “high importance” pedestrian and bicycle corridor allowing for passage through the lot from Joy Street to Linwood Street and vice versa. The Parcel’s location close to the intersection of Linwood Street and Washington Street where there is a sharp

curve in the Street is another condition unique to the Parcel which impacts the traffic flow into and out of the Parcel.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the height of the proposed building and limiting the ground level surface area available for on-site parking and equipment storage that is required to support the day-to-day operations of the Facility. First, the subject property drops an average of 6'± in elevation across the site from Joy Street to Linwood Street. If the Applicant were to comply with the current Zoning Ordinance by constructing a four-story structure, the irregular topography and resulting mean average grade elevation as defined in the Zoning Ordinance creates a hardship by reducing allowable building height by approximately 3 feet. Second, the transportation requirements of the district, the block and the traffic flow of the Parcel require a significant portion of the Parcel's surface level to be dedicated to transportation needs. As a result, the ground level surface area available for parking is significantly reduced from the existing surface area available for parking. Currently the Parcel has proximately 42,747 sf of paved surface area available for parking. In order to bring the Parcel into closer compliance with current zoning regulations, the proposed redevelopment of the site would significantly reduce the ground-level paved surface area available for parking. After making adjustments to comply with setbacks, green score requirements, fire lane requirements, and incorporating traffic corridors into the design, the total area for ground level parking is reduced to 1,920 sf. from the current total of 42,747.

To address these site constraints and in order to comply with SZO required "screening" of on-site parking, the Applicant proposes to dedicate portions of the first two-stories of the new Facility to a combination of transportation corridor access and interior structured parking while maintaining four-stories for the primary operation of the Facility as self-storage. The required two-stories of interior parking and transportation features that are proposed will result in an increase in the overall stories and height of the Facility, in order to compensate for the floors and floor space lost to parking and transportation, evidencing the need for a Variance based on this hardship.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.7.c.(F) of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use of four-stories of the new building for self-storage and facility operations as allowed by right within the CI Zoning

District. The facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. By providing indoor structured parking and van/trailer storage within the first two stories of the building the proposed project minimizes burdens on municipal on-street parking, maintains available parking capacity for surrounding area businesses and use of public transportation and improves the visual impact of the site by providing adequate screening to enhance customer privacy and screen parked and stored vehicles. Additionally, the relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance (allowing a slightly taller building) should be balanced against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks. The Project complies with the parking requirements under the SZO for the CI District, which requires two (2) parking spaces. By providing additional interior parking in the Parcel, the Project will alleviate customer on-street parking.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance under Section 6.3.7.c(F) of the SZO to build a seventy-four (74) foot building.

c. Third Variance – Façade – Section 2.4.4.a.i.a of the SZO

In discussions with Director of Planning/Zoning Sarah Lewis and City Planner Andrew Graminski, the City has opined that a Variance is required for the proposed Facility's façade(s). Pursuant to Section 2.4.4.a.i.a of the SZO, building façade(s) must be built parallel to the front lot line for the minimum façade build out. As demonstrated in the Conceptual Rendering provided in the

Supplemental Narrative of December 20, 2021, the Applicant is seeking a front façade on Linwood Street and a principal building entrance on the internal portion of the Facility on Linwood Street. Accordingly, the Applicant seeks a variance from the requirements of Section 2.4.4.a.i.a of the SZO to have a front facing façade on Linwood Street and principal building entrance on the internal portion of the Facility.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel’s unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel’s eight-foot (8’) differential between the Parcel’s high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel’s location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian. Currently, the Parcel has vehicular street access points on both Linwood Street and Joy Street. The proposed development will further improve traffic flow patterns along Linwood Street and Joy Street. A site design that limited access to just the front of Linwood Street would have a negative impact on pedestrian traffic flow. Additional evidence of the Parcel’s unique traffic and transportation characteristic is found in the Inner Loop Brickbottom Plan which identifies the Parcel has having high importance as a movement corridor, for vehicular, pedestrian and bicycle traffic because of the block’s exceptional length and its proximity to transportation including the future Washington Street Station on the Greenline Extension and the McGrath O’Brien Highway. The plan identifies the Parcel as the best location for a “high importance” pedestrian and bicycle corridor allowing for passage through the lot from Joy Street to Linwood Street and vice versa. The Parcel’s location close to the intersection of Linwood Street and Washington Street where there is a sharp curve in the Street is another condition unique to the Parcel which impacts the traffic flow into and out of the Parcel. Additionally, as concerns were raised at the Neighborhood Meetings regarding pedestrian and bicycle traffic along the sidewalks on Linwood Street, an additional façade and primary entrance in the interior of the Parcel address those concerns by routing traffic within the Parcel.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting a singular façade on Linwood Street and requiring the principal means of ingress and egress to Linwood Street. If the Applicant were to comply with the current Zoning Ordinance by placing a singular façade and entrance on Linwood Street, it would detract from the ability of pedestrians to utilize the sidewalk while the door to the Facility for ingress/egress is open.² Placing the entrance in the interior of the Facility eliminates this. Further, requiring the primary entrance and singular façade to be on Linwood Street would eliminate the ability of the Facility to have vehicle access to interior parking and utilization through Linwood Street, a primary design function of the new Facility.

The Applicant proposes to place the primary entrance and an additional façade on the interior of the Parcel to (a) provide best use of the Facility; and (b) address concerns of the community to enhance the curb appeal and walkability of the sidewalks on Linwood Street.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 2.4.4.a.i.a of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing unrestricted pedestrian access across the sidewalk on Linwood Street. The facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. Additionally, the relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance (allowing a side façade and entrance) should be balanced against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will

² The proposed door to the Facility on Linwood Street is for emergency egress only and will be minimally utilized. The proposed doors to the Facility facing Joy Street are set back from the sidewalk and similarly one door will be for emergency egress only and minimally utilized.

significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance from Section 2.4.4.a.i.a of the SZO to have an interior façade and entrance.

d. Fourth Variance – Façade - 2.4.5.b.i.a of the SZO

In discussions with Director of Planning/Zoning Sarah Lewis and City Planner Andrew Graminski, the City has opined that a Variance is required for the proposed Facility's façade(s). Pursuant to Section 2.4.5.b.i.a. of the SZO, the principal building entrance must be located on the façade and provide both ingress and egress.³ As demonstrated in the Conceptual Rendering provided herewith, the Applicant is seeking a front façade on Linwood Street and a principal building entrance on the internal portion of the Facility on Linwood Street. Accordingly, the Applicant seeks a variance from the requirements of Section 2.4.5.b.i.a of the SZO to have a front facing façade on Linwood Street and principal building entrance on the internal portion of the Facility.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial ("CI") or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel's unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The

³ The Applicant is also cognizant of Section 6.3.9.f of the SZO which request that for buildings with more than one face, the design of the base must align horizontally at the corner. The proposed facades of the building are in compliance with this Section of the SZO.

result is that the Parcel's eight-foot (8') differential between the Parcel's high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel's location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian. Currently, the Parcel has vehicular street access points on both Linwood Street and Joy Street. The proposed development will further improve traffic flow patterns along Linwood Street and Joy Street. A site design that limited access to just the front of Linwood Street would have a negative impact on pedestrian traffic flow. Additional evidence of the Parcel's unique traffic and transportation characteristic is found in the Inner Loop Brickbottom Plan which identifies the Parcel as having high importance as a movement corridor, for vehicular, pedestrian and bicycle traffic because of the block's exceptional length and its proximity to transportation including the future Washington Street Station on the Greenline Extension and the McGrath O'Brien Highway. The plan identifies the Parcel as the best location for a "high importance" pedestrian and bicycle corridor allowing for passage through the lot from Joy Street to Linwood Street and vice versa. The Parcel's location close to the intersection of Linwood Street and Washington Street where there is a sharp curve in the Street is another condition unique to the Parcel which impacts the traffic flow into and out of the Parcel. Additionally, as concerns were raised at the Neighborhood Meetings regarding pedestrian and bicycle traffic along the sidewalks on Linwood Street, an additional façade and primary entrance in the interior of the Parcel address those concerns by routing traffic within the Parcel.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

iii. Hardship.

The special conditions set forth above create a hardship by limiting a singular façade on Linwood Street and requiring the principal means of ingress and egress to Linwood Street. If the Applicant were to comply with the current Zoning Ordinance by placing a singular façade and entrance on Linwood Street, it would detract from the ability of pedestrians to utilize the sidewalk while the door to the Facility for ingress/egress is open.⁴ Placing the entrance in the interior of the Facility

⁴ The proposed door to the Facility on Linwood Street is for emergency egress only and will be minimally utilized. The proposed doors to the Facility facing Joy Street are set back from the sidewalk and similarly one door will be for emergency egress only and minimally utilized.

eliminates this. Further, requiring the primary entrance and singular façade to be on Linwood Street would eliminate the ability of the Facility to have vehicle access to interior parking and utilization through Linwood Street, a primary design function of the new Facility.

The Applicant proposes to place the primary entrance and an additional façade on the interior of the Parcel to (a) provide best use of the Facility; and (b) address concerns of the community to enhance the curb appeal and walkability of the sidewalks on Linwood Street.

iv. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 2.4.5.b.i.a of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing unrestricted pedestrian access across the sidewalk on Linwood Street. The facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. Additionally, the relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance (allowing a side façade and entrance) should be balanced against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

v. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship

Variance from Section 2.4.5.b.i.a. to have an interior façade and entrance.

e. Fifth Variance – Joy Street Curb Cut within 150 ft. - Section 6.3.14.a.iv.b. of the SZO

In discussions with Director of Planning/Zoning Sarah Lewis and City Planner Andrew Graminski, the City has opined that a Variance is required for the proposed modifications of the Facility's curb cuts.⁵ Section 6.3.14.a.iv.b of the SZO states that curb cuts to the same lot must be at least one hundred and fifty (150) feet from one another. The Applicant has proposed modification of four (4) curb cuts, two (2) each on Linwood Street and Joy Street. The current curb cuts are pre-existing non-conformities which non-conformities will either be lessened by the Project or consistent with the current pre-existing non-conformities. The current distance between the curb cuts on Joy Street is 130 ft. The distance between the modified curb cuts on Joy Street will be 96 ft. Accordingly, the pre-existing non-conformities of the curb cuts on Joy Street will be minimally increased. Overall, the proposed curb cuts will be more in conformance with Section 6.3.14.a.iv.b of the SZO than is currently situated at the Parcel.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial ("CI") or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel's unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel's eight-foot (8') differential between the Parcel's high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel's location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian. Currently, the Parcel has vehicular street access points on both

⁵ Pursuant to Section 6.3.14.a.i. of the SZO a curb cut requires a permit from the City Engineer and must be compliant with all City Ordinances. It is understood that this relates to new curb cuts. Inquiry with the City Engineer will be made to determine if the proposed curb cut modifications require a Permit from the City Engineer, or if the pre-existing non-conforming nature of the curb cuts eliminates the need for such Permit.

Linwood Street and Joy Street. The proposed development will further improve traffic flow patterns along Linwood Street and Joy Street. A site design that limited access to just the front of Linwood Street would have a negative impact on pedestrian traffic flow. Additional evidence of the Parcel's unique traffic and transportation characteristic is found in the Inner Loop Brickbottom Plan which identifies the Parcel has having high importance as a movement corridor, for vehicular, pedestrian and bicycle traffic because of the block's exceptional length and its proximity to transportation including the future Washington Street Station on the Greenline Extension and the McGrath O'Brien Highway. The plan identifies the Parcel as the best location for a "high importance" pedestrian and bicycle corridor allowing for passage through the lot from Joy Street to Linwood Street and vice versa. The Parcel's location close to the intersection of Linwood Street and Washington Street where there is a sharp curve in the Street is another condition unique to the Parcel which impacts the traffic flow into and out of the Parcel.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

iii. Hardship.

The special conditions set forth above create a hardship by limiting the size, location, and scope of the curb cuts on the Property. The Applicant is proposing modifying the pre-existing non-confirming curb cuts on Joy Street and Linwood Street to provide (a) customer vehicular access to the parking lot; and (b) vehicular access to the interior of the Facility. Each curb cut is necessary for the development and planned Facility and to provide parking and storage within the Facility, rather than on the exterior of the Parcel or on-street parking. The Facility would not be able to be utilized for the intended betterment of the Parcel with strict compliance with Section 6.3.14.a.iv.b. of the SZO.

iv. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.14.a.iv.b. of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing proper vehicular access to the property in accordance with Sections 6.3.13 and 6.3.14 *et seq.* of the SZO. The proposed modified curb cuts cannot be placed further from each other and are necessary for the proposed vehicles to access the Property. The Facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. Additionally, the relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance should be balanced against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in

permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve. More specifically, the proposed modifications of the curb cuts minimally increase the current non-conformity on Joy Street, while significantly reducing the current non-conformity on Linwood Street. The proposed modifications will assist in alleviating on-street parking by customers of the Facility.

v. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance from Section 6.3.14.a.iv.b of the SZO to modify the existing curb cuts as requested.

**f. Sixth Variance/Driveway – Western Joy Street Driveway greater than 24 ft. -
Section 6.3.13.c.iv. of the SZO**

In discussions with Director of Planning/Zoning Sarah Lewis and City Planner Andrew Graminski, the City has opined that a Variance is required for the proposed modifications of the Facility's curb cuts.⁶ Section 6.3.13.c.iv. of the SZO states that driveway curb cuts must be no greater than 24 ft. The Applicant has proposed modification of the curb cuts on Linwood Street and Joy Street, including the rear storage entrance curb cut on the Western side of Joy Street. The current rear storage entrance curb cut is 22.2 feet. The proposed rear storage entrance curb cut on Joy Street will be 83 feet.

⁶ Pursuant to Section 6.3.14.a.i. of the SZO a curb cut requires a permit from the City Engineer and must be compliant with all City Ordinances. As noted above, it is understood that this relates to new curb cuts. Inquiry with the City Engineer will be made to determine if the proposed curb cut modifications require a Permit from the City Engineer, or if the pre-existing non-conforming nature of the curb cuts eliminates the need for such Permit.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel’s unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel’s eight-foot (8’) differential between the Parcel’s high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel’s location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian. Currently, the Parcel has vehicular street access points on both Linwood Street and Joy Street. The proposed development will further improve traffic flow patterns along Linwood Street and Joy Street. A site design that limited access to just the front of Linwood Street would have a negative impact on pedestrian traffic flow. Additional evidence of the Parcel’s unique traffic and transportation characteristic is found in the Inner Loop Brickbottom Plan which identifies the Parcel has having high importance as a movement corridor, for vehicular, pedestrian and bicycle traffic because of the block’s exceptional length and its proximity to transportation including the future Washington Street Station on the Greenline Extension and the McGrath O’Brien Highway. The plan identifies the Parcel as the best location for a “high importance” pedestrian and bicycle corridor allowing for passage through the lot from Joy Street to Linwood Street and vice versa. The Parcel’s location close to the intersection of Linwood Street and Washington Street where there is a sharp curve in the Street is another condition unique to the Parcel which impacts the traffic flow into and out of the Parcel.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the size, location and scope of the driveway curb cuts on the Property. The Applicant is proposing driveway curb cuts on Joy Street to provide (a) customer vehicular access to the parking lot; and (b) vehicular access on Joy Street necessary for U-Haul vehicles to gain access to the loading area. Each driveway curb cut is necessary for the development and planned Facility and to provide parking and storage within the Facility, rather than on the exterior of the Parcel. Further, the rear storage entrance curb cut is necessary for access to the overhead doors on Joy Street to facilitate entry into the building.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.13.c.iv. of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing proper vehicular access to the property in accordance with Sections 6.3.13 and 6.3.14 *et seq.* of the SZO. The proposed driveway curb cuts are the necessary width for the proposed vehicles to access the Property. The Facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. Additionally, the relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance should be balanced against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing

detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance from Section 6.3.13.c.iv. of the SZO to have the modified rear storage entrance curb cut as requested.

**g. Seventh Variance/Driveway – Eastern Joy Street Driveway greater than 24 ft. -
Section 6.3.13.c.iv. of the SZO**

In discussions with Director of Planning/Zoning Sarah Lewis and City Planner Andrew Graminski, the City has opined that a Variance is required for the proposed modifications of the Facility's curb cuts.⁷ Section 6.3.13.c.iv. of the SZO states that driveway curb cuts must be no greater than 24 ft. The Applicant has proposed modification of the driveway curb cuts on Linwood Street and Joy Street, including the current driveway curb cut on the Eastern portion of Joy Street. The current driveway curb cuts include pre-existing non-conformities. The current driveway curb cut on Joy Street is 79 ft. The proposed driveway curb cut on Joy Street will be 56 ft. As such, there exists a pre-existing non-conformity for the driveway curb cut, which will be reduced by the planned non-conforming driveway curb-cut on Joy Street.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial ("CI") or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel's unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel's eight-foot (8') differential between the Parcel's high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the

⁷ Pursuant to Section 6.3.14.a.i. of the SZO a curb cut requires a permit from the City Engineer and must be compliant with all City Ordinances. As noted above, it is understood that this relates to new curb cuts. Inquiry with the City Engineer will be made to determine if the proposed curb cut modifications require a Permit from the City Engineer, or if the pre-existing non-conforming nature of the curb cuts eliminates the need for such Permit.

block in which the Parcel is located, as well as the Parcel's location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian. Currently, the Parcel has vehicular street access points on both Linwood Street and Joy Street. The proposed development will further improve traffic flow patterns along Linwood Street and Joy Street. A site design that limited access to just the front of Linwood Street would have a negative impact on pedestrian traffic flow. Additional evidence of the Parcel's unique traffic and transportation characteristic is found in the Inner Loop Brickbottom Plan which identifies the Parcel has having high importance as a movement corridor, for vehicular, pedestrian and bicycle traffic because of the block's exceptional length and its proximity to transportation including the future Washington Street Station on the Greenline Extension and the McGrath O'Brien Highway. The plan identifies the Parcel as the best location for a "high importance" pedestrian and bicycle corridor allowing for passage through the lot from Joy Street to Linwood Street and vice versa. The Parcel's location close to the intersection of Linwood Street and Washington Street where there is a sharp curve in the Street is another condition unique to the Parcel which impacts the traffic flow into and out of the Parcel.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the size, location and scope of the driveway curb cuts on the Property. The Applicant is proposing driveway curb cuts on Joy Street to provide (a) customer vehicular access to the parking lot; and (b) vehicular access on Joy Street necessary for U-Haul vehicles to gain access to the loading area. Each driveway curb cut is necessary for the development and planned Facility and to provide parking and storage within the Facility, rather than on the exterior of the Parcel.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.13.c.iv. of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing proper vehicular access to the property in accordance with Sections 6.3.13 and 6.3.14 *et seq.* of the SZO. The proposed driveway curb cuts are the necessary width for the proposed vehicles to access the Property. The Facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. Additionally, the relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance should be balanced

against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance from Section 6.3.13.c.iv. of the SZO to have the modified driveway curb cut on Joy Street as requested.

**h. Eighth Variance/Driveway – Linwood Street Driveway greater than 24 ft. -
Section 6.3.13.c.iv. of the SZO**

In discussions with Director of Planning/Zoning Sarah Lewis and City Planner Andrew Graminski, the City has opined that a Variance is required for the proposed modifications of the Facility's curb cuts.⁸ Section 6.3.13.c.iv. of the SZO states that driveway curb cuts must be no greater than 24 ft. The Applicant has proposed modification of the driveway curb cuts on Linwood Street and Joy Street. The current driveway curb cut on Linwood Street is 33 ft. As such, the current driveway curb cut on Linwood is a pre-existing non-conformity. The proposed driveway curb cut on Linwood Street is 36 feet, a minimal increase in the current non-conformity.

⁸ Pursuant to Section 6.3.14.a.i. of the SZO a curb cut requires a permit from the City Engineer and must be compliant with all City Ordinances. As noted above, it is understood that this relates to new curb cuts. Inquiry with the City Engineer will be made to determine if the proposed curb cut modifications require a Permit from the City Engineer, or if the pre-existing non-conforming nature of the curb cuts eliminates the need for such Permit.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel’s unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel’s eight-foot (8’) differential between the Parcel’s high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel’s location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian. Currently, the Parcel has vehicular street access points on both Linwood Street and Joy Street. The proposed development will further improve traffic flow patterns along Linwood Street and Joy Street. A site design that limited access to just the front of Linwood Street would have a negative impact on pedestrian traffic flow. Additional evidence of the Parcel’s unique traffic and transportation characteristic is found in the Inner Loop Brickbottom Plan which identifies the Parcel has having high importance as a movement corridor, for vehicular, pedestrian and bicycle traffic because of the block’s exceptional length and its proximity to transportation including the future Washington Street Station on the Greenline Extension and the McGrath O’Brien Highway. The plan identifies the Parcel as the best location for a “high importance” pedestrian and bicycle corridor allowing for passage through the lot from Joy Street to Linwood Street and vice versa. The Parcel’s location close to the intersection of Linwood Street and Washington Street where there is a sharp curve in the Street is another condition unique to the Parcel which impacts the traffic flow into and out of the Parcel.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the size, location and scope of

the driveway curb cuts on the Property. The Applicant is proposing driveway curb cuts on Joy Street and Linwood to provide (a) customer vehicular access to the parking lot; and (b) vehicular access on Joy Street necessary for U-Haul vehicles to gain access to the loading area. Each driveway curb cut is necessary for the development and planned Facility and to provide parking and storage within the Facility, rather than on the exterior of the Parcel.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.13.c.iv. of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing proper vehicular access to the property in accordance with Sections 6.3.13 and 6.3.14 *et seq.* of the SZO. The proposed driveway curb cuts are the necessary width for the proposed vehicles to access the Property. The Facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. Additionally, the relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance should be balanced against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship

Variance from Section 6.3.13.c.iv. of the SZO to have the modified driveway curb cut on Linwood Street as requested.

i. Ninth Variance – 11.2.5.c.i of the SZO – Loading Activities Encroaching on Sidewalk

In discussions with City Planner Andrew Graminski, the City has opined that a Variance under Section 11.2.5.c.i of the SZO is required for the loading activities along Joy Street. Section 11.2.5.c.i of the SZO states that loading and unloading activities are not permitted to encroach on or interfere with the use of sidewalks, drive aisles, or parking areas or public thoroughfares. As indicated previously, trucks will be limited to the WB-40 size, which will not interfere with pedestrian or vehicular access. Said trucks will fit inside the Parcel while loading/unloading. Please see Turning Study, attached to the Second Supplemental Narrative as Exhibit A. The Applicant agrees to have such restriction as a condition of the Project. The loading activities for the Facility will contain the WB-40 trucks entirely within the Parcel and will not interfere with the sidewalk or Joy Street.

As such, the Applicant respectfully suggests that a Variance for the Facility is not required under Section 11.2.5.c.i of the SZO. Notwithstanding, the Applicant submits this request for a Variance under Section 11.2.5.c.i.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel’s unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel’s eight-foot (8’) differential between the Parcel’s high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel’s location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An

infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the size, location and scope of the loading facility on the Property. The loading capability on the rear of the Facility is a critical component of the overall Facility.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 11.2.5.c.i of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing proper vehicular access to the property. The loading facilities will be entirely within the Parcel and will not interfere with pedestrian or vehicular access along Joy Street. The Facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. As noted, the loading activities would not interfere with the pedestrian and vehicular access along Joy Street. Should the City consider the loading activities to interfere with pedestrian and vehicular access along Joy Street, which the Applicant respectfully suggest they will not, such interference will be exceptionally minor. The relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance should be balanced against the gains in zoning conformity that will result from the proposed project. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land

or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance from 11.2.5.c.i of the SZO to permit the loading activities in the Parcel from Joy Street.

j. Tenth Variance – 6.3.13.c.iii. of the SZO – Driveway in Frontage on Eastern Section of Joy Street

In discussions with City Planner Andrew Graminski, the City has opined that a Variance under Section 6.3.13.c.iii. of the SZO is required driveway on the Eastern section of Joy Street. Section 6.3.13.c.iii. of the SZO states that driveways are not permitted in the Frontage Area between a building and the front lot line. Frontage Area is defined in the SZO as the area of a lot between the façade of a principal building any and front lot line(s), extending fully to each side lot line(s). As noted above and on the Site Plans submitted in the Supplemental Narrative of December 20, 2021, the current curb cut on the Eastern portion of Joy Street is 79 feet and sits directly behind the existing building for its entirety.

The current driveway is a pre-existing non-conformity. The current driveway area is 12,945.25 sq. ft. The proposed driveway curb cut on Joy Street will be 83 ft. and is also the width of the driveway. The current curb cut sits directly behind the existing building and will be 22 ft. in depth. The proposed driveway will have 1,880.32 sq. representing a nearly 600% reduction in size of such area of the driveway in the Frontage Area. The proposed driveway on the Eastern side of Joy Street has a curb cut of 56 feet and will thereafter taper down to 43 feet. The driveway area will be predominantly outside the continuation of the footprint of the building in the Frontage Area.

i. Special Conditions Affecting Parcel

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel’s unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel’s eight-foot (8’) differential between the Parcel’s high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The

Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel's location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the size, location and scope of the loading facility on the Property.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.13.c.iii. of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing proper vehicular access to the property. The loading facilities will be entirely within the Parcel and will not interfere with pedestrian or vehicular access along Joy Street. The Facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. As noted, the additional driveway area in the Eastern section of the Parcel on Joy Street is necessary for the WB-40 trucks to gain access in the Property and be entirely within the Property during loading activities. The relatively minor deviation from strict adherence to the SZO that would be permitted by the requested variance should be balanced against the gains in zoning conformity that will result from the proposed project and that it will permit vehicular access to the Property to remain entirely on-site. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance from 6.3.13.c.iii. of the SZO to permit the driveway area on Joy Street to extend beyond the building into the Frontage Area.

k. Eleventh Variance – 6.3.13.c.iii. of the SZO – Driveway in frontage on Western section of Joy Street

In discussions with City Planner Andrew Graminski, the City has opined that a Variance under Section 6.3.13.c.iii. of the SZO is required for the driveway on the Western section of Joy Street that provides access to the overhead doors in the rear of the building. Section 6.3.13.c.iii. of the SZO states that driveways are not permitted in the Frontage Area between a building and the front lot line. Frontage Area is defined in the SZO as the area of a lot between the façade of a principal building any and front lot line(s), extending fully to each side lot line(s). As noted above and on the Site Plans submitted in the Supplemental Narrative of December 20, 2021, the curb cut on the Western portion of Joy Street is 22 ft and the driveway and parking spaces exist entirely behind the building having a width of 86 ft and 158 ft. for most of the parking area. The current driveway is a pre-existing non-conformity. The current driveway area is 12,945.25 sq. ft. The proposed driveway curb cut on Joy Street will be 83 ft. and it is also the width of the driveway. The current curb cut sits directly behind the existing building and will be 22 ft. in length. The proposed driveway will have 1,880.32 sq. representing a nearly 600% reduction in size of such area of the driveway in the Frontage Area.

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is located and that do not impact abutting Parcels.

The Parcel’s unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The

result is that the Parcel's eight-foot (8') differential between the Parcel's high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel's location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the size, location and scope of the loading facility on the Property. The ability to provide access to the rear overhead doors is a critical component of the overall Facility.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.13.c.iii. of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing proper vehicular access to the property. Further, the requested Variance would dramatically decrease the currently existing non-conformity. The Facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. As noted, the loading activities and access for the Western rear storage entrance would not interfere with the pedestrian and vehicular access along Joy Street. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom

Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance from 6.3.13.c.iii of the SZO to permit the driveway area on Western section of Joy Street to extend beyond the building into the Frontage Area.

I. Twelfth Variance – 6.3.13.c.iii. of the SZO – Driveway in frontage on Western section of Linwood Street

While the City has not opined on this particular Variance requirement, City Planner Andrew Graminski has opined that a Variance under Section 6.3.13.c.iii. of the SZO is required for the driveways on Joy Street. Wherefore, the Applicant takes this opportunity to request similar Variances for Linwood Street. Under Section 6.3.13.c.iii. of the SZO states that driveways are not permitted in the Frontage Area between a building and the front lot line. Frontage Area is defined in the SZO as the area of a lot between the façade of a principal building any and front lot line(s), extending fully to each side lot line(s). As noted above and on the Site Plans submitted in the Supplemental Narrative of December 20, 2021, the current curb cut on the Western portion of Linwood Street for access to the overhead doors is 108 feet. This curb cut and entrance exists entirely within the Frontage Area between the building and Linwood Street and is a pre-existing non-conformity. The proposed plan reduces the curb cut to 56.5 feet, and significantly reduces the pre-existing non-conformity. Again, out of an abundance of caution, the Applicant seeks a Variance for the Western driveway along Linwood Street under Section 6.3.13.c.iii.⁹

i. Special Conditions Affecting Parcel.

As indicated above, the Parcel is burdened by several conditions related to its shape and topography, and the unusual characteristics of the existing buildings on the Parcel, which do not affect the general zoning district, Commercial Industrial (“CI”) or neighborhood, Brickbottom, in which the Parcel is

⁹ The Applicant respectfully suggests that the entrance for the overhead doors on the Western portion of Linwood Street do not constitute a driveway and would thus be outside the scope of 6.3.13.c.iii. However, the Applicant submits this Variance request out of an abundance of caution.

located and that do not impact abutting Parcels.

The Parcel's unique topography and location significantly burden the Parcel as compared with other Parcels in the CI Zone and Brickbottom. First, the southeast corner of the Parcel is located at or near the highest elevation point in both Brickbottom and the block in which the Parcel is located, while the southwest corner of the property is located at or near the lowest elevation in Brickbottom. The result is that the Parcel's eight-foot (8') differential between the Parcel's high point on Joy Street and the low point on Linwood Street is one of the most severe elevation differentials in Brickbottom and is the largest elevation differential of any lot within the block in which the Parcel is located. Second, the Parcel has street frontage on two sides which doubles the lot surface area that is within the parking set back and significantly reduces the amount of surface area available for parking. The Parcels on either side of the U-Haul Parcel have similar elevations along at least two sides and neither of them have vehicle access points on Joy Street due to the elevation gains. Third, the length of the block in which the Parcel is located, as well as the Parcel's location within that block has particular significance because of the impact that the shape of the block and location have on traffic patterns, both vehicular and pedestrian.

Additionally, the soil conditions for the Parcel are unique. The current soil conditions on the Parcel are mostly back fill, comprised of old bricks, cobblestone, and other impervious materials. An infiltration system for storm water runoff is not feasible due to the soil conditions present at the Parcel.

ii. Hardship.

The special conditions set forth above create a hardship by limiting the size, location and scope of the driveway and parking conditions for the Parcel.

iii. No Detriment to Public Good.

The desired relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally. Granting of a variance from Section 6.3.13.c.iii of the SZO will be in harmony with the SZO and future development plans for the surrounding area by providing full use the Parcel and allowing proper vehicular access to the property. Further, the requested Variance would dramatically decrease the currently existing non-conformity. The Facility is an important complementary use to the surrounding urban area for businesses and residents requiring short/long term climate-controlled storage, moving trailer and van rentals, and complementary service offerings. The proposed plan significantly decreases the current pre-existing non-conformity. The resulting Parcel will have a significant gain in permeable surface area, better landscaping, more green space, better buffers, indoor parking, and conforming setbacks.

Granting of the variance will not be injurious to the surrounding neighborhood or detrimental to the public welfare as the subject property is surrounded by other commercial uses including automotive



dealerships to the west and south, automotive repair businesses to the north, and an Eversource electric utility yard to the east. The proposed building construction and site improvements will significantly improve the existing site with respect to what exists today and help the Brickbottom Area vision evolve.

iv. Compliance with the Variance Statutory Requirements.

Pursuant to Massachusetts General Laws, Chapter 40A, and Section 15 and Section 15.2.3 of the SZO, the ZBA has the authority to hear this application by the Applicant seeking variances, showing that: (1) special circumstances exist relating to the soil conditions, shape or topography of a Parcel or the unusual character of an existing structure, but not affecting the general zoning district in which the land or structure is located; (2) literal enforcement of the SZO for the district in which the land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and (3) desirable relief can be granted without causing detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in the SZO or the SZO generally.

Accordingly, the Applicant respectfully requests that the City grant the Applicant a Hardship Variance from 6.3.13.c.iii. of the SZO to permit the driveway area on the Western section of Linwood Street.

In ZBA's considering of this application, the Applicant asks you to weigh the numerous benefits of the project against the minimal accommodations that have been requested.

We continue to look forward to working with the City and community in this project.

Sincerely,

/s/ Anthony T. Panebianco
Anthony T. Panebianco
DarrowEverett LLP

/s/Nichole Dunphy
Nichole Dunphy
Highpoint Engineering, Inc.

/s/Cedrick Azor
Cedrick Azor
Highpoint Engineering, Inc.