July 5, 2022

Ricci Cummings, Chair
Hamden Zoning Board of Appeals
Hamden Government Center
2750 Dixwell Avenue
3rd Floor
Hamden, CT 06518

Re: Application of 1890 NEON Hamden, LLC for Variance approval regarding 1890 Dixwell Avenue, Hamden, Connecticut

Dear Chair Cummings:

On behalf of my client, 1890 NEON Hamden, LLC ("1890 NEON"), an affiliate of The Proacci Group LLC ("Proacci Group"), enclosed please find a Variance application for the property located at 1890 Dixwell Avenue (Assessor’s Map 2427/Block 158) in Hamden (the “Site”). 1890 NEON is seeking to redevelop the Site with a gas station and convenience store.

The Site and Surrounding Area

The Site is approximately 1.06 acres in size and is located in the T-4 General Urban Zone, one of the Transect Zones in Hamden. The T-4 Zone permits motor vehicle fuel sales with convenience retail uses subject to special permit and site plan approval. A relatively large (17,773 sq. ft.), two-story masonry building built in 1972 that contains the “1890 Liquor Store” and various other commercial tenants occupies much of the parcel, which is otherwise nearly entirely paved for driveways and parking. Please see the enclosed photos and survey. 1890 NEON is under contract to purchase the Site from 81 Eldridge Assoc., Inc.

Located at the corner of Dixwell Avenue and Benham Street, the parcel is mostly rectangular in shape, with the exception of an approximately 50 foot-wide strip of land that extends to Palmer Avenue. The Site, therefore, has both a unique shape as well as three street frontages – on Dixwell Avenue, Benham Street and Palmer Avenue.
The Site is situated on the Dixwell Avenue commercial corridor. Dunkin Donuts is located adjacent to the Site on the north side at the corner lot at 900 Dixwell Avenue. The Acropolis Diner is located south of the Site across Benham Street. East of the Site across Dixwell Avenue is Parkway Plaza containing Home Depot and PriceRight, among other retail establishments. Residential properties are located to the west of the Site. A number of automotive-related businesses including gas stations on the opposite side of Dixwell Avenue are present along the corridor.

Our Proposal

As shown on the enclosed site plan, 1890 NEON proposes to raze the existing building on the Site and to construct a new, 5,620-square foot convenience store with six fuel dispensers. We have also enclosed renderings of the proposed store building.

All fueling areas and operations will contain state-of-the-art controls and will be fully code compliant. Site lighting is carefully limited with modern LED fixtures. Our stormwater management plan will improve water quality over existing conditions. In addition, if this application is granted, 1890 NEON will propose to provide employee parking at 1916 Dixwell Avenue (Map 2427/Block 166) in connection with this development.

Requested Variances and Hardship

In order to design a safe, well-functioning, and attractive development that meets the demands of today’s marketplace and improves the appearance and compliance of the Site, 1890 NEON needs to request the following variances of the Hamden Zoning Regulations ("Regulations"):

1. § 360.1.b – A variance allowing surface parking lots to be masked from the frontage by plantings instead of a building or streetscreen.

2. § 360.3.b – A variance of 12 feet allowing the maximum driveway width to be 30 feet in the first layer where the maximum driveway with of 18-feet in the first layer is required.

3. § 360.4.a – A variance allowing parking areas in the first layer where parking areas are required to be in the third layer.

4. § 370.1 – A variance allowing paving in the first layer where no paving in the first layer is permitted.
5. Table 3.4 – A variance of 162 feet allowing the max lot width to be 262 feet where a max lot width of 100 feet is required.

6. Table 3.4 – A variance of 169.8 feet allowing the maximum front setback-principal along Benham Street to be 189.8 feet where a 20-foot maximum front setback-principal is allowed.

7. Table 3.4 – A variance of 38.2% allowing the minimum frontage buildout along Dixwell Avenue to be 21.8% where a minimum of 60% is required.

8. § 540.3.4 (Table 5.3) – A variance of 10 feet allowing a 0 foot minimum landscape buffer (along Dixwell Avenue) where a 10 foot minimum landscape buffer is required.

9. § 591.1.15.d – A variance of 3.2 feet allowing a 1.8 foot minimum landscaped area along the perimeter of a parking area where a minimum 5 foot-wide landscaped area along the perimeter of a parking area is required.

10. § 320.1.b – A variance of 30% from the requirement that the first story of all facades be glazed with clear glass no less than 30% and at least 50% if a shopfront, to allow one wall of the store building to contain no glazing.

Although our design team has done everything possible in the development of our site plan to avoid the need for variances, the unique location and configuration of the Site make achieving strict compliance with the Regulations extremely difficult, if not altogether impossible. Specifically, as discussed above, the Site has a unique configuration with three street frontages and a narrow “tail” that runs out to Palmer Street, which makes it impossible to comply with certain of the requirements.

For example, the apparent goal of the T-4 Zone is to have buildings in the front of the site (first layer), not pave the first layer, and locate parking behind the building (in the third layer). Having three frontages on the Site makes this desired arrangement unworkable, as it is not possible to place the building between the front lot lines and the parking area so that the parking is “behind” the building.

Moreover, a gasoline station use is a permitted use in the T-4 Zone, one that by its nature requires that drive aisles around the gas pumps be located in the first layer to ensure safe and orderly circulation within the Site for customers and gasoline tanker trucks. We understand that the Board has recognized this necessity on other similar proposals.
As another example of impossibility, Table 3.4 requires a 20-foot maximum front setback-principal in the T-4 Zone. Our engineers are unable to configure a plan that meets this requirement due to the size and shape of the Site and the fact that it has three frontages.

An additional problem that we have in complying with the current Regulations is that they conflict with each other. Section 650.1.a states that each gas station lot shall have at least 150 feet of frontage on one street, but Table 3.4 mandates a maximum lot width of 100 feet in the T-4 Zone. As such, there is a conflict in the Regulations between the maximum permissible lot width of 100 feet and the minimum 150-foot frontage required for a lot used as a gas station. While our Site complies with Section 650.1.a as to minimum frontage, it is not possible for the Site to comply with Table 3.4 as to maximum lot width, as well.

Also, Section 360.3.b provides that the maximum driveway width in the first layer is 18 feet. It is not possible to comply with this regulation and provide safe ingress and egress for any commercial development. Modern life safety codes and good engineering practice require a driveway width of at least 24 feet, though for curb cuts where large truck access is needed, as in the case of our Benham Street driveway, 30 feet is necessary. It is our understanding that the Hamden Police Department shares this view.

In accordance with Connecticut General Statutes § 8-6 and Regulations Section 726.1.2, we respectfully submit that the requested variances are appropriate and should be granted because the variances are in harmony with the purposes of the Regulations and a literal enforcement of the Regulations would result in exceptional difficulty and unusual hardship. As described above, hardship exists in the unique location, size, shape and configuration of the Site, and in the Regulations themselves.

**Reduction in Nonconformities**

Separate and apart from hardship, there is an independent legal basis for granting the requested variances. That is, the variances will allow 1890 NEON to eliminate or reduce several nonconforming conditions currently existing at the Site, which are:

- As shown on the enclosed site plan, the proposed redevelopment will rectify the existing nonconformity relating to maximum lot coverage. Table 3.4 states that the maximum allowable lot coverage is 80%. Our proposed plan will replace a sizeable area of pavement on the Site with landscaping and thereby reduce the total lot coverage from the existing 98% to 78.6%, which will bring the Site into zoning compliance for lot coverage.

- Our plan will improve the existing nonconformity regarding § 360.1.b of the Regulations, which requires that surface parking lots be masked from the frontage
by a building or streetscreen. Currently, there is essentially no masking along the frontage of the Site – only five trees planted in the strip of land between Dixwell Avenue and the sidewalk that runs along the property, which is in the street right-of-way and outside the property boundaries. Due to the configuration of the Site, the three frontages and the drive aisles required for a gas station, it is not feasible to mask the parking areas completely with a building or streetscreen wall. However, our proposed plan adds landscaping between the parking areas and the street frontages to better mask the parking lot. This change reduces impervious coverage by about 20 percent and provides a substantial improvement in the aesthetics and stormwater management of the Site.

- The proposed development will improve the existing nonconformity regarding § 360.3.b of the Regulations, which requires that driveway frontages not exceed 18 feet in the first layer. The existing frontage driveway width in the first layer is 35.7. Our plan reduces the frontage driveway width at Benham Street to 30 feet, which our engineers have advised is the width required to provide safe ingress and egress and comply with current life safety codes.

- The proposed plan will improve the existing nonconformity regarding § 370.1, which requires that the “first layer” not be paved. Currently, the entire first layer of the Site is paved, with no landscaping within the Site. Although our plan requires that some of the first layer be paved in order to provide drive aisles to access the fuel dispensers, our plan also provides for a good amount of landscaping in the first layer.

- Similarly, regarding the requested variance to § 540.3.4, our plan will improve the landscape buffer along Dixwell Avenue substantially over existing conditions. We are seeking a variance allowing a 0-foot landscape buffer only in a small area where the patio extends from the building to Dixwell Avenue; the remainder of the Dixwell Avenue frontage provides a much-improved landscape buffer that will reduce the nonconforming condition of the Site in this respect, as well.

- Our development plan will also improve the existing nonconformity regarding § 591.1.15.d of the Regulations, which requires a minimum 5 foot-wide landscaped area along the perimeter of a parking area. Currently, there are no landscaped areas along the perimeter of the parking lot. Our plan proposes a 1.8 foot-wide landscaped area at the northwestern corner of the parking lot, where 1890 NEON plans to place eight Tesla electric vehicle charging stations. But along the property
line with the abutting residences, we propose to maintain a compliant 5-foot setback as well as the existing vinyl fence. Our plan also reduces the amount of head-in parking facing residential properties compared to the existing Site layout.

The Board has granted variances for the Site on three prior occasions (enclosed). These variances were granted: to Section 401, to allow residential use on the second floor of the building (1/18/79); to Section 505, to permit the expansion of an already nonconforming building (7/6/89); and to Section 743, to allow 89 parking spaces where 110 spaces were required (3/17/05). All of these variances and associated nonconformities will be eliminated under our proposed site plan. As noted, these improvements in the Site’s zoning compliance constitute an independent basis for the Board to grant the requested variances.

The variances that we request are consistent with the Hamden 2019 Plan of Conservation and Development (“POCD”) and with the purposes of the Regulations, and will further a number of the goals and objectives set forth in the POCD. These include: increase the tax base with new economic development and increase local property values; increase revenues by increasing net tax revenue; provide good paying jobs/income for people; provide goods and services for people and/or businesses (POCD at p. 20); ensure a range of goods and services is available (POCD p. 10); promote property redevelopment (POCD p. 27); and increase the use of electric car charging stations (POCD p. 37).

We are submitting to you today one (1) original and nine (9) copies of this letter, the Variance application form, authorization letter from the applicant 1890 NEON Hamden, LLC, authorization letter from the owner 81 Eldridge Assoc., Inc., site plan, survey, photos of the existing and proposed buildings, prior variance approvals for the Site, Assessor’s Map of 1890 Dixwell Avenue and the properties within 100 feet, and the 100 Foot Abutters List. Also enclosed is a check in the amount of $300.00 made payable to the Town of Hamden for the filing fee, as well as stamped envelopes addressed to all property owners within 100 feet including one addressed to the applicant.

We look forward to presenting this application to the Board at its earliest possible meeting. Thank you for your time and consideration.

Very truly yours,

Joseph P. Williams