

## NOTICE OF ADOPTION OF RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Babylon, County of Suffolk, State of New York, at a regular meeting thereof held on the 7<sup>th</sup> day of December, 2023 duly adopted a resolution, an abstract of which is as follows:

### RESOLUTION NO. 997 DECEMBER 7, 2022

#### **GRANTING REZONING APPLICATION OF WEST BABYLON MANOR, INC. (PB JOB #19-44ABE) FOR THE PREMISES IDENTIFIED AS P/O SCTM#: 0100-213-01-004 LOCATED ON THE N/S/O ELMWOOD RD, 330' W/O NYS RTE. 109, WEST BABYLON**

WHEREAS, West Babylon Manor, Inc. (the "Petitioner") has heretofore petitioned this Board for a change of zone of certain property which is located on the n/s/o Elmwood Rd, 330' w/o NYS Rte. 109, West Babylon, New York, identified as a p/o SCTM No. 0100-213-01-004, and further described on the annexed Schedule A, from A-Residence District to SCMR-Senior Citizen Multiple Residence; and

WHEREAS, more specifically, the proposal involves the subdivision of an existing A-Residence zoned parcel into two, in order to maintain an existing single family dwelling on Lot One and on Lot Two, maintain and legalize an existing garage and parking stalls, and rezone to SCMR-Senior Citizen Multiple Residence, in order to merge with an existing, adjacent SCMR complex; and

WHEREAS, a public hearing was held on said petition on the 7<sup>th</sup> day of December, 2022; and

WHEREAS, in accordance with Section 617.5(c)(9) State Environmental Quality Review (SEQR), this proposal involves a subdivision of an existing A-Residence zoned parcel and a rezoning of one of the newly created lots to SCMR-Senior Citizen Multiple Residence and the Board has adopted a Negative Declaration and no further action is required pursuant to SEQR; and

WHEREAS, this proposed change of zone conforms to the Town of Babylon Comprehensive Plan.

NOW, THEREFORE, be it

RESOLVED, by the Town Board of the Town of Babylon that the application of West Babylon Manor, Inc., for Job No. 19-44ABE for a change of zone from A-Residence District to SCMR-Senior Citizen Multiple Residence District for the premises described in the attached Schedule A, be and the same hereby is granted, and further that the Zone Map of the Town of Babylon be and the same hereby shall be amended to reflect the zone change subject to the following conditions:

1. Subject to final site plan and subdivision approval by the Planning Board.
2. Subject to ZBA approval for any associated variances.
3. Subject to SCPC referral.
4. Owner/applicant shall comply with the Town of Babylon Stormwater Code (Chapter 189).
  - a. An Industrial Agreement must be signed.
  - b. Stormwater application fee must be submitted.
  - c. Contain all stormwater runoff on-site to Engineering requirements.
5. Fire and smoke detection systems and carbon monoxide detectors should be installed in accordance with NFPA 72.
6. Address number, building number, or approved building identification to be placed in a position visible from the street.
7. As a minimum measure to reduce noise levels, applicant/owner to install sound insulation panels around all air-conditioning units, chillers, refrigeration units and sound insulation blankets around all air-handling units if required by the Town.
8. During construction, owner/applicant is responsible to sweep access streets and keep the roadways free of dirt and mud.
9. Sewer district and water saving plumbing fixtures to be utilized.

10. All regulatory warning signs are to adhere to the Manual of Uniform Traffic Control Devices for Streets and Highways Specifications. All signs must also be fabricated using high-intensity retro reflective sheeting.
11. Construction will be conducted between the hours of 7am and 8pm on weekdays and between the hours of 9am and 4pm on Saturdays. No exterior construction will be permitted on Sundays, only interior construction. Construction activities on site shall be in strict conformance with Chapter 156-9D of the Noise Code of the Town of Babylon.
12. Subject to the requirements of Highway, Engineering, and the Fire Marshall.
13. SCTM # 0100-213-01-003.001 & the portion of 0100-213-01-004 that is to be rezoned, shall be merged.

RESOLVED, that the aforementioned change of zone shall not be effective until there has been filed with the County Clerk of Suffolk County the following Covenants and Restrictions to run with the land, subject to the approval of the Town Attorney:

1. All site lighting to be contained on site and must conform to dark-sky lighting regulations.
2. The owner/developer is responsible for maintaining all applicable site development improvements including, but not limited to, the following: fire and smoke detection system, automatic fire sprinkler system, building, drainage, curbs, sidewalks, fencing, asphalt, landscaping, etc.
3. Owner/applicant shall comply with all NYS regulations for handicapped accessibility including, but not limited to, handicapped ramps and handicapped parking spaces.
4. All noise generating equipment on-site including, but not limited to, heating ventilation and air conditioning (HVAC), chillers, refrigeration units, and compressors shall operate in conformance with Chapter 156 Town of Babylon Noise Code. In the event that any such equipment exceeds Chapter 156 standards immediate steps shall be taken to mitigate those noise levels.
5. All buildings, structures, signs, fences, and landscaping shall be maintained in accordance with all applicable codes and ordinances of the Town of Babylon, and violations thereof may be prosecuted and enforced in the same manner as provided therein.
6. No further development of the site without Planning Board approval.
7. All refuse shall be contained within the perimeter and height of the refuse enclosure as approved by the site plan.
8. Maintenance access shall be in accordance with Section 189-9 of the Code of the Town of Babylon. The Town of Babylon shall be provided with access to the stormwater infrastructure at reasonable times for periodic inspection by the Town of Babylon and its officers to ensure that the infrastructure is maintained in proper working condition to meet design standards and any other provisions established by Chapter 189. This agreement shall be binding on all subsequent landowners.
9. Maintenance after construction shall be in accordance Section 189-9 of the Code of the Town of Babylon. Stormwater management practices installed in accordance with Chapter 189 shall be operated and maintained to ensure that the goals of Chapter 189 are fully achieved. Proper operation and maintenance includes, at minimum, the following:
  - a. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of Chapter 189. A written record of stormwater management system maintenance activities shall be established and maintained on site and be available for review by the Town of Babylon upon request.
  - b. Written procedures for operation and maintenance and training new maintenance personnel shall be prepared and maintained on site and will be available for review by the Town of Babylon upon request.
  - c. Discharges from SMPs shall not exceed design criteria or contribute to water quality standard violations in accordance with §189-8B of the Code of the Town of Babylon.

10. Upon completion of construction, any stormwater control structures impacted during construction shall be cleaned by the owner or operator. Routine maintenance of stormwater infrastructure on the site will include the following:
  - a. Monitoring of drainage inlets (catch basins) will be completed routinely, particularly after larger storm events and must be kept free from obstruction by leaves, trash, and other debris.
  - b. Drainage grates must be kept free from obstruction by leaves, trash, and other debris.
  - c. Drainage structures shall be inspected annually to determine if sediment removal is necessary to ensure that the drainage structures are properly functioning and that they permit adequate conveyance throughout the system. If applicable, the manufacturer's specifications for maintenance procedures and frequency must be strictly followed.
  - d. The drainage structures must be routinely monitored for the removal of surface sediment and trash.
  - e. Street sweeping of the parking areas shall be conducted at least four times annually to remove sediment that may impact the drainage infrastructure and additionally, as necessary due to storm events.
  - f. The grounds and parking area shall be inspected for litter monthly and any litter shall be removed as necessary.
11. The Town of Babylon is not responsible for any damage to the curbs or light poles on site in connection with solid waste pick up.
12. By virtue of this site plan approval, SCTM # 0100-213-01-003.001 & the portion of 0100-213-01-004 that is to be rezoned, are effectively merged. No parcel shall operate independent of the other parcel, since they only function conjointly as one contiguous site.

BE IT FURTHER RESOLVED, that in case of any violation or attempted violation of any of the conditions of approval or covenants and restrictions by the owners or their lessees, heirs, successors, and assigns and failure of said parties to remedy any such violation within thirty (30) days after written notice by the Town, the Town shall have the right, on its own motion and after notice, to rescind said change of zone and the subject premises shall revert from SCMR-Senior Citizen Multiple Residence to A-Residence; and be it further

RESOLVED, that if the owners hereto, or any owner, its lessees, heirs, successors, or assignees shall violate or attempt to violate any of the conditions or covenants and restrictions required by the granting of this permit, it shall be lawful for the Town of Babylon to prosecute any proceedings at law or in equity, including but not limited to enforcement by way of injunctive relief; any remedies chosen by the Town Board to enforce any condition, covenant, or restriction herein shall be cumulative and at the discretion of the Town Board as to how best to enforce such condition, covenant, or restriction; the pursuit of one method of enforcement shall not constitute a bar to pursuing any other method of enforcement permitted by law; and be it further

RESOLVED, that the Town Clerk of the Town of Babylon be and hereby is authorized to publish a notice of said change of zone in one of the official newspapers of the Town of Babylon.

**SCHEDULE A**

Legal Description

635 Elmwood Road

Lot 2

West Babylon, New York

(SCTM# District 0100 Section 213 Block 1 p/o Lot 4)

All that certain plot, piece or parcel of land, with buildings and improvements thereon erected, situated, lying and being in West Babylon, Town of Babylon, County of Suffolk and State of New York, being more particularly bounded and described as follows:

Commencing at a point at the intersection of the northerly line of Elmwood Road with the easterly line of Babylon-Farmingdale Road (N.Y. State Rte. 109) Running thence the following three courses and distances: (1) along

the arc of a 15 foot radius curve to the right an arc length of 30.44 feet, (2) South 51 degrees 09 minutes 11 seconds West 301.79 feet along the Northerly line of Elmwood Road, (3) North 42 degrees 24 minutes 49 seconds West 125.24 feet to the Point of Beginning.

RUNNING THENCE South 51 degrees 09 minutes 11 seconds West, 49.59 feet;

RUNNING THENCE North 42 degrees 13 minutes 45 seconds West, 169.64 feet;

RUNNING THENCE North 60 degrees 35 minutes 40 seconds East, 50.24 feet;

RUNNING THENCE South 42 degrees 24 minutes 49 seconds East, 161.42 feet; to the Point or Place of Beginning.

Dated: December 7, 2022, Town of Babylon  
BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON  
GERALDINE COMPITELLO, TOWN CLERK