

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

CARPENTER/LOPEZ HILL
(2011-10)

Decker Road & Ulster Terrace
Section 2; Block 2; Lots 22.31 & 31
RR Zone

----- X

LOT LINE CHANGE

Date: June 5, 2014
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: STEVEN PAULI

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

MR. BROWNE: Welcome to the Town of Newburgh Planning Board meeting of June 5, 2014. At this time I'll call the meeting to order with a roll call starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. DOMINICK: Present.

MR. WARD: Present

MR. BROWNE: The Planning Board has professional experts that provide reviews and input on the business before us including SEQRA determinations. At this time I'll ask them to introduce themselves.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Code Compliance Supervisor.

MR. HINES: Pat Hines with McGoey,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CARPENTER/LOPEZ HILL

3

Hauser & Edsall Consulting Engineers.

MR. WERSTED: Ken Wersted, Creighton,
Manning Engineering, Traffic Consultant.

MR. BROWNE: At this time I'll turn it
over to John Ward.

MR. WARD: Please stand to say the
Pledge.

(Pledge of Allegiance.)

MR. WARD: Please either turn off your
phones or on vibrate. Thank you.

MR. BROWNE: Our first order of
business this evening is Carpenter/Lopez Hill,
project number 2011-10. This is a lot line
change and it's being presented by Brooks &
Brooks.

Would you introduce yourself for the
record?

MR. PAULI: Certainly. My name is
Steve Pauli from Brooks & Brooks, land surveyors.

We're proposing a lot line revision
between the lands of Bill and Deborah Carpenter
and Valerie Lopez. Ms. Lopez is proposing to
convey a .05 acre parcel to be conveyed to and
combined with the Carpenter parcel.

We had last been here -- we were here before in May 2011, and at that time we needed to get some zoning variances. Since our last time here we got the variances approved in March of this year, so we're back on the Planning Board agenda for this lot line revision.

CHAIRMAN EWASUTYN: Pat Hines, Planning Consultant?

MR. HINES: We reviewed the project, and based on their receipt of the variances we have no outstanding comments. It's a very small lot line change to clean up a driveway encroachment and to put the landscaping on the lot that has the driveway. We have no outstanding comments.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: Nothing.

MR. MENNERICH: Nothing.

MR. PROFACI: Nothing additional.

MR. DOMINICK: Nothing.

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Mike Donnelly, the

action before us this evening would be?

MR. DONNELLY: First you need to take action under SEQRA. It appears a negative declaration is in order. Beyond that, it's our standard lot line resolution. We'll reference the Zoning Board decision granting variances. If the map note is not already on the plans, we'd like a map note that says that there are no buried utilities in the area to be transferred that will result in encroachments. The applicants shall submit one reproducible mylar and ten copies of the plat, properly signed, and they must file a map with the Real Property Tax Service. Copy of the Planning Board on your letter of transmittal. The same thing with the deed conveying the land to the Orange County Clerk, and two copies of the lot line change plat certified by the Orange County Clerk. The liber and page of the recorded deeds must be delivered after they're obtained. I can send a copy of the resolution to you.

MR. PAULI: Thank you.

In regards to the underground utilities, would a letter from the owners be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CARPENTER/LOPEZ HILL

6

sufficient?

MR. DONNELLY: We want a note on the map to the best available knowledge there are no underground utilities. You'll see the note -- the condition language in the resolution.

MR. PAULI: Okay.

CHAIRMAN EWASUTYN: I'll move for a motion to declare a negative declaration on the Carpenter/Lopez Hill lot line change.

MR. MENNERICH: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Joe Profaci. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So

1 carried.

2 I'll move for a motion to grant the lot
3 line change approval subject to the conditions
4 that were presented by our Attorney, Mike
5 Donnelly.

6 MR. PROFACI: So moved.

7 MR. GALLI: Second.

8 CHAIRMAN EWASUTYN: I have a motion by
9 Joe Profaci and a second by Frank Galli. Any
10 discussion of the motion?

11 (No response.)

12 CHAIRMAN EWASUTYN: I'll move for a
13 roll call vote starting with Frank Galli.

14 MR. GALLI: Aye.

15 MR. BROWNE: Aye.

16 MR. MENNERICH: Aye.

17 MR. PROFACI: Aye.

18 MR. DOMINICK: Aye.

19 MR. WARD: Aye.

20 CHAIRMAN EWASUTYN: Myself. So
21 carried.

22 Thank you.

23 MR. PAULI: Thank you very much.

24 CHAIRMAN EWASUTYN: When you do bring

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CARPENTER/LOPEZ HILL

8

in the mylar, and we'll schedule it, all we need is five.

MR. PAULI: Would you be able to sign ten if I brought them in?

CHAIRMAN EWASUTYN: Do you need --

MR. PAULI: We generally -- especially -- yes, for being able to hand out enough. That's why I was wondering if you would sign ten paper --

CHAIRMAN EWASUTYN: Ordinarily I sign one mylar and have you run off copies rather than spending the night signing papers. That being the case, if it's a necessity I'll do it.

MR. PAULI: I appreciate that.

CHAIRMAN EWASUTYN: Okay. But I do need to know when they're coming in. Call the office and we'll arrange for a day to be dropping them off.

MR. PAULI: Very good. Very good.

And Mr. Donnelly, you'll be able to send that out to us?

MR. DONNELLY: Sure. Give me an e-mail address and I can send it.

MR. PAULI: You need an e-mail address?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DONNELLY: It would be helpful.

It's a lot faster.

MR. PAULI: You can send it to --

MR. DONNELLY: Write it over here.

MR. PAULI: I'll bring it over to you.

Very good.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 7:07 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: June 30, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

BRITAIN PLAZA
(2013-13)

169 Old Little Britain Road
Section 97; Block 3; Lots 1 & 2
IB Zone
----- X

SITE PLAN

Date: June 5, 2014
Time: 7:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ROBERT DiNARDO

----- X
MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

11

MR. BROWNE: Our next item of business is Britain Plaza, project number 2013-13. This is a site plan being presented by Robert DiNardo.

MR. DiNARDO: Good evening. Robert DiNardo for the applicant. Also project engineer Dawn Kalisky from Lanc & Tully.

Very briefly, if you recall we made an application, this application was last year, and we withdrew it because we had a use that was not permitted. We subsequently made an application to the Town Board for a text change in the Zoning Ordinance to allow banks, which is one of the proposed uses, in this zone. They have drafted a proposed local law which would permit that. Mr. Taylor, the Attorney for the Town Board, indicated that there may likely be a workshop type of meeting on that next week, on the 11th, and suggested we be there. So that is in the process. We're pleased that you're allowing us to proceed at the same time with the understanding that nothing can be finalized by your Board until and unless that zoning is approved, but at the same time gives us the opportunity, gives the Town the opportunity to do

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

12

a coordinated review in terms of SEQRA. So this is a good way to proceed, and we thank you for that.

Beyond that, unless the members have any procedural type questions, I don't have really anything to add. I really couldn't add to the narrative that Dawn has prepared that's submitted. I don't know if you've had a chance to review that. I think she covers all the bases. Unless you have questions of me, I'll turn it over to Dawn for a more formal presentation of the project.

CHAIRMAN EWASUTYN: Dawn.

MS. KALISKY: Good evening. It's a pleasure to be back before the Board again. The Britain Plaza concept plan was subject or part of a recent lot line change/lot line adjustment with the Crystal Run Healthcare, CRH Realty, LLC site plan and lot consolidation plan that was before the Board and recently conditionally approved. It's at the corner of Little Britain Road and Union Avenue/Route 300. The resultant lot line change increased the acres of the project parcel to 1.27 acres in size.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

What we're proposing to do is have a mixed use commercial. As Bob said, a 2,500 square foot bank, subject to banks being permitted, 4,000 square feet of retail and 2,500 square feet of fast food. Dunkin Donuts is interested in coming in. The bank would offer a drive-through, the Dunkin Donuts would not.

In good planning practice with the Board, we -- the site is going to be accessed not from Route 300 or from Little Britain Road but from the access to the Crystal Run Healthcare facility. There are easements in place and will be finalized and filed with the filing of the lot adjustment map. So driveway access in. The three uses are proposed in a 9,000 square foot building.

We will tie into water from the water line that's being installed from Crystal Run. Once again, that easement is in place and will be filed for that. The site will also be served by the sanitary sewer connection to the manhole that the Crystal Run Healthcare will be installing, tying to the Town system. With the construction, the site plan of Crystal Run, they've provided a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

14

six-inch stub for the water and also a six-inch line into the parcel for the sanitary sewer.

As far as the stormwater goes, this site was incorporated into the stormwater pollution prevention plan prepared December of 2013, last revised in March. It accounted for stormwater quality and quantity of a 9,000 square foot building, .9 acres of total impervious, final impervious. We have a bio-retention facility that was part of that SWPPP. The drainage -- all stormwater will be directed to the bio-retention facility here and discharged into the drainage system catch basins and piping network from Crystal Run and into the stormwater pond there.

That is our overall. If there's any specific questions --

CHAIRMAN EWASUTYN: Questions from Board Members. John Ward?

MR. WARD: No questions.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: No questions.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

15

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: During our discussion earlier we talked about the location of the dumpster.

MS. KALISKY: Okay. Yes, I saw that in Pat's comment.

MR. BROWNE: That's being looked at. Have you had time to look at --

MS. KALISKY: Well, we can see where it should be -- where it can be relocated that would better suit the Board. If you could give me a little direction of what you would rather see.

MR. BROWNE: I think we would rather not see it on the corner where it's so obvious making that turn in. It's a major site.

MS. KALISKY: We of course would be proposing -- you don't have a detail sheet as this is only a concept, but the structure itself would be a nice brick face. It wouldn't be the chain link with the slats in it that a lot of --

MR. BROWNE: Just note at this time it's a concern.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

16

MS. KALISKY: Okay.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Pat will discuss it, but we talked about some fire hydrants being stuck in the landscaping bushes on the corner close to the building. We just talked about some truck movement around the site, tractor trailers have to come in and stuff like that, which Pat and Ken will discuss.

MS. KALISKY: Right.

CHAIRMAN EWASUTYN: We'll start with Ken Wersted, Traffic Consultant.

MR. WERSTED: Starting off on the truck circulation, where the dumpster is located now, a garbage truck could get over to it and it could get over to the drive-through, but when it gets down to the northwest corner, around that side of the building, the radius there might be a little too tight or the lanes might be too narrow to make it through there. If you could look at putting in a wing curb or some mountable curb. Just trying to open it up a little bit so the garbage truck can get through there.

Tractor trailer access around here will

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA 17

probably only be generated by the restaurant, and that would be really limited to coming in there. They would have to back out onto the main driveway for Crystal Run. Whether they were to use that or use smaller trucks --there might be a limitation of what type of vehicle could fit on the site, which I guess the point is that a tractor trailer won't be able to pull in and circulate around there, it will just have to pull in and back out.

MS. KALISKY: Right. Our intent would be to actually tweak to accommodate with an auto turn ensuring that it will work. If we need to limit the size, see if that is in fact conducive to the proposed restaurant/fast food use. We have looked at relocating the loading zone to accommodate a larger vehicle as well.

MR. WERSTED: Obviously in the spot that it's located with one of the landscaping islands being a little longer than the other, it might be a little difficult to get in and out. As you look at that it might change.

Kind of moving to the traffic side of things; as you had noted, the access is

consistent with how Crystal Run has presented it, and it's also consistent with how the previous application of South Union Plaza had developed that area with an access out to Little Britain Road and one out to Route 300 opposite Wal-Mart. As we looked at the application a year ago it was a much smaller development with around a 1,500 square foot bank, so the trip generation was quite low. As it moves into this proposal with a 2,500 square foot bank, a 4,000 square foot retail and 2,500 square foot fast food, the trip generation does increase kind of substantially, primarily because of the fast food restaurant. They're going to be a very high a.m. peak generator, and it will compliment the other uses which aren't generally open that early in the morning, but it will be the more significant of the uses. When Crystal Run did their traffic analysis, I don't believe they looked at anything for this parcel.

MS. KALISKY: They did not, but they did actually include the phased development of the Shoppes at Union. And even with that development, the level of service didn't go

higher than a level of service C. We were kind of hoping that consideration would be given with the Crystal Run, with the impact of the traffic from Crystal Run and the impact -- the minimum impact, or basically no impact on the level of service there at that intersection. Also coupled with their analysis with the complete build out of the Shoppes at Union, that those numbers would in fact be higher than the trip generation if in fact a full-blown traffic study would be required for this 9,000 square foot with the Dunkin Donuts use.

MR. WERSTED: I think it's close, meaning the Crystal Run with the bank and the retail would fall under that original analysis that was done for South Union Plaza. The only difference is that the fast food is such a high generator for such a small square footage that I think it would bring it above what we originally looked at. So even though the Shoppes at Union Square hasn't been built out yet, they have approvals to do so. With that use it may bring it above what we already looked at as a combination of this project, Crystal Run and, you

1 know, across the street. It may not necessarily,
2 you know, have to be a full-blown, you know,
3 traffic study, but the good thing about this fast
4 food restaurant is a lot of traffic is generated
5 from people who are already driving by the site.
6

7 MS. KALISKY: Exactly.

8 MR. WERSTED: Nobody is coming out of
9 their homes and going to get a doughnut and going
10 home. Most of them are already driving by. So
11 there may be some type of abbreviated look at it.

12 MS. KALISKY: Okay.

13 MR. WERSTED: But I think it would be
14 good just to have on record, especially
15 considering that I think the use of the two
16 properties raises it above a level that we have
17 looked at and previously approved with a project
18 from a couple years ago.

19 Kind of moving on from that, the
20 parking. We also looked at the potential peak
21 parking demand of these uses. Again, they're
22 complimentary in the sense that the restaurant is
23 going to generate their peak in the morning and
24 the bank and the retail are going to be more in
25 the afternoon when the fast food then tapers off.

1 If all of these peaks were to align, we would
2 estimate that the peak generation would still be
3 slightly less than the amount of spaces you're
4 proposing. So in general I think there's going
5 to be an adequate amount of parking there. On
6 the off chance they have a free doughnut give
7 away day or something, I think that's the only
8 time, you know, you'll run out of parking or have
9 any issues.

10
11 The only other item we had was the
12 frontage on Route 300. As with the South Union
13 Plaza project, there was a northbound right-turn
14 lane originally proposed with that. We would ask
15 the applicant to show that lane, at least in a
16 land area dedication if DOT were to require that,
17 that way the project itself doesn't build
18 anything or put anything that would preclude DOT
19 from coming back later if they found the need to
20 put a right-hand lane in there, be able to
21 accommodate that.

22 MS. KALISKY: In keeping that in mind,
23 because the development of that entire site is of
24 course totally different from what was previously
25 approved with the medical office, that has been

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

22

to the Department of Transportation. If there is a comment or hey, we need a turning lane there, although our setback is shown 80 feet from the existing, you'll notice that the building is in fact set back quite a bit further than the required setback. We're not right on it because we did take into account what that previous dedication area was if the DOT did want that. This project does not have to go to the DOT, so it would be up to their review on Crystal Run if in fact they want that. The lot adjustment, lot consolidation is still part of the overall site plan that the DOT is in fact looking at. So we've made sure that the building is setback far enough from the setback from the existing property line. If in fact that taking or dedication area is there, it would not impact the placement of the building, parking, et cetera.

MR. WERSTED: The building and the parking should all be, you know, adequate. It doesn't look like -- if they needed to put a lane in there --

MS. KALISKY: We made sure we left room for that just in case.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. WERSTED: The only thing it might affect is the actual property line. If you were to take and move the turn lane a whole lane in, there might be a sliver along that area that might be impacted.

That was all the comments that we had.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: We had talked in the work session about the outcome of the Town Board's text amendment. Although it's anticipated where they will put the banks in the IB zone, it's still undetermined as far as what setbacks they're going to use, which may greatly impact this project.

MS. KALISKY: True.

MR. CANFIELD: As anticipated by your bulk tables that you've used, it seems that it may work. Pat has a comment with respect to the overhang which is a requirement of ten percent of the yard requirement, --

MS. KALISKY: Yes.

MR. CANFIELD: -- which may send you to zoning, but at this point it's still unknown. We

consultants have cautioned the Board on moving without the Board's input -- the Town Board's input as far as what setbacks are actually going to be used.

On a fire protection note, we just request that the hydrant be moved to the east, to the rain garden area. Our philosophy is to get the hydrants away from the buildings. If the buildings are on fire, you know, we don't want to be -- we want to be back a little bit.

MS. KALISKY: Okay. And realizing with the setbacks, if this is in fact at our risk, should the Board come back and say we need X number of feet and this would no longer comply, we would have to modify that plan accordingly.

CHAIRMAN EWASUTYN: Jerry, is that all of your comments at this point?

MR. CANFIELD: Yes.

CHAIRMAN EWASUTYN: Pat Hines, Planning and Drainage Consultant?

MR. HINES: Our first comment has to do with what was discussed, that the bank is not an allowable use here so you're proceeding at your own risk.

1
2 In addition, I don't believe the lot
3 line as depicted on this map has been filed. I
4 hear there's a closing tomorrow.

5 MS. KALISKY: That's what I hear, too.

6 MR. HINES: Rumor has it. As we
7 proceed along here, both of those issues should
8 take care of themselves.

9 Compliance with the design guidelines.
10 You have parking in the front. It's a corner
11 lot. It's going to be difficult but we need to
12 identify those portions of the design guidelines
13 that aren't met, and the Board would have to
14 waive any of those that they saw fit. So you
15 need an analysis of how this doesn't comply with
16 the design guidelines. I just note the first one
17 is the parking in the front yard setbacks is an
18 issue with the design guidelines.

19 The dumpster location we've already
20 discussed.

21 The status of the easement. I'm
22 assuming that at closing tomorrow that easement
23 will also exist then for the water and sewer.

24 MR. DiNARDO: Yes.

25 MR. HINES: The drive-up canopy, you

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

26

can extend it -- under the current setbacks and regulations it can extend five percent -- ten percent of the setback, which would be 5 feet. It looks to be a little more than that.

MS. KALISKY: It's actually 4.96. I have a little leeway there.

MR. HINES: If it is in fact that, we just need to make sure when it's constructed it's constructed to that so we don't have an issue.

I did note the drive lane is 10 feet there.

MS. KALISKY: That was at the bank's request. People driving the larger vehicles now are having more and more difficulty. You'll see the paint scrape marks and mirror marks going down the drive-through.

MR. HINES: I'm fine with the 10 foot drive aisle.

When I measure the roof there, the 4.9, if it's scaled properly, doesn't show up. That needs to be labeled. I just caution it doesn't get constructed so it needs a variance if in fact it does need it.

The water line to the structure needs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

27

to be per the Town of Newburgh requirements that the potable water is terminated if the sprinkler system is turned off.

I have a comment regarding the grease trap. I didn't coordinate with your architectural plans and know it was a Dunkin Donuts. There may or may not be a requirement for a grease trap as it moves forward. I don't believe there's any food preparation or minimal food preparation at a Dunkin Donuts establishment.

Access and stormwater agreements need to be submitted to Mike Donnelly's office. I hear they might have just occurred recently. That needs to be done.

We're just looking for more detailed design plans as it moves forward.

That's our comments to date.

CHAIRMAN EWASUTYN: Any additional comments or questions from Board Members? Frank Galli?

MR. GALLI: No additional.

MR. BROWNE: Nothing more.

MR. MENNERICH: Concerning the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

28

landscaping and the guidelines along Route 300, whatever you propose there, it would be good if it could be consistent with what's going to be at Crystal Run.

MS. KALISKY: Okay. That's very easy to do. We did the Crystal Run as well. We'll just follow the same pattern, same types.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Nothing else.

CHAIRMAN EWASUTYN: David Dominick?

MR. DOMINICK: Nothing.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'm going back to the tractor trailer truck going in there. I think you should really look at a smaller type truck going in. A tractor trailer truck, you're blocking traffic going out. No matter what they do it's not --

MS. KALISKY: Absolutely. In fact, I'll need to speak with Mr. Danza to see if he can restrict. Because of the size of the Dunkin Donuts proposed and the fact that it doesn't have a drive-through, perhaps there is a way he can include that in a lease, nothing larger than X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

29

number of foot box truck for delivery.

MR. WARD: Thank you.

MR. GALLI: John, I do have a question.
On the fast food part, are they thinking
something like a Subway or something like that?

MS. KALISKY: Dunkin Donuts.

MR. GALLI: On the one side. Isn't
there --

MR. DONNELLY: Retail.

MR. GALLI: Okay.

MS. KALISKY: Retail in the middle.
4,000 square feet, possible division into two
2,000 square foot.

MR. GALLI: What kind of retail?

MR. DiNARDO: We don't know at this
time. Two corners but not the middle.

MR. HINES: The only thing there is the
parking is going to limit that. The retail -- we
experienced this with Palmerone Farms where many
of the retail stores have now become food
establishments and have taken up a lot of the
parking. The parking count is going to control
whether that 4,000 square foot could become some
other retail type use.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

30

MR. DiNARDO: I'll pass that along.
Thank you.

CHAIRMAN EWASUTYN: Michael, the
Planning Board's review is solely at the risk of
the Old Britain Group, LLC?

MR. DONNELLY: That's correct. There
is a step that you need to take. There are
multiple agencies involved, perhaps the Zoning
Board, certainly the Planning Board and the Town
Board. The Town Board can not act on the zone
change petition until SEQRA is closed out. This
Board I think should be the lead agency, and I
suggest that you issue a notice of intent this
evening to serve as lead agency.

In the meantime, whatever level of
traffic study or analysis is needed can be
delivered. The Board, hopefully in the near
future, will be in a position to issue a
declaration of significance. After that is done,
assuming it's negative, the Town Board can act on
the zone change, they can return here, and if a
variance is needed it can go to the Zoning Board.

CHAIRMAN EWASUTYN: In declaring our
intent for lead agency this evening, will we also

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

31

be asking the applicant to submit plans to Pat Hines to circulate to the Orange County Planning Department?

MR. DONNELLY: That makes sense as well.

CHAIRMAN EWASUTYN: Having heard from our Attorney, Mike Donnelly, I'll move for a motion to declare our intent for lead agency and to have the applicant's representative present plans to Pat Hines to circulate to the Orange County Planning Department under 239-M of the Municipal Law.

MR. WARD: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward. I have a second by Dave Dominick. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I would like to move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BRITAIN PLAZA

32

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

Thank you.

MS. KALISKY: Thank you.

MR. DiNARDO: Mr. Chairman, may I just
ask you a question? In terms of the local law,
the one I reviewed has proposed setbacks, I
assume they're still in flux, for the bank?

MR. HINES: Whatever they decide.

MR. DiNARDO: They're not resolved?

MR. DONNELLY: The Town Board --

MR. DiNARDO: I understand that. Is
the Town Board considering revising those?

MR. HINES: We have no knowledge of
that.

MR. DiNARDO: Thank you.

(Time noted: 7:28 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: June 30, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X
In the Matter of

WEBB PROPERTIES
(2014-10)

Route 17K & Auto Park Place
Section 97; Block 2; Lots 35 & 43
IB Zone

- - - - - X

SITE PLAN & LOT LINE CHANGE

Date: June 5, 2014
Time: 7:28 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: KEN SYVERTSEN &
RONALD BARTON

- - - - - X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BROWNE: The next item of business we have is Webb Properties, project number 2014-10. This is a site plan and lot line change. It's an initial appearance.

Would the applicant please pronounce their name for the record?

MR. BARTON: Ron Barton.

MR. BROWNE: The name I have is --

MR. BARTON: That's Diachishin. Diachishin isn't here tonight. He had a public hearing that he had to go to. My architect Ken is here. So between the two of us, hopefully we can answer whatever questions you have.

CHAIRMAN EWASUTYN: Ken, do you have a business card for the Stenographer?

MR. SYVERTSEN: I have one in the car. I'll bring it back.

So you have -- you received a copy of the site plan. This is the same thing but a little easier to read. This is 17K. The existing dealership is back here. So he's looking to move -- Mr. Barton owns these two parcels of property. We're looking to make a slight lot line adjustment of approximately 48

1 feet to move it towards the west, a new 26,000
2 square foot dealership with car display in the
3 front and a new arterial shared drive opposite
4 the existing one on 17K. The building is
5 proposed to be about 26,000 to 28,000 square
6 feet. Generally the roof is 25 foot high. It
7 bumps up to 28, 29 with the mansard and the
8 branding is two stories. It will be steel
9 construction, sprinklers.
10

11 Phase 2 is a proposed -- the proposal
12 to move the automobile repair component to the
13 dealership to the west -- or to the south side of
14 the proposed building, which would be phase 2.

15 MR. BARTON: And it's looking more like
16 it's going to be a single phase. The service is
17 going to move up at the same time. We're going
18 to be looking to get the entire -- it's more like
19 40,000, 45,000 square foot by the time the -- so
20 it would be similar to the showroom that I
21 currently have and two of the service boxes that
22 I have, moving them on to 17K.

23 MR. MENNERICH: Has the size of the
24 building changed from the plans we were given?

25 MR. BARTON: I don't think so.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MENNERICH: We have 18,000 and 18,600.

MR. SYVERTSEN: First floor/second floor. That's the building footprint. It's a two-story building.

MR. MENNERICH: All right. So the both sections are or just the front --

MR. SYVERTSEN: There's a handout. If you look at this, this is the first floor which is the 18,000. These areas are two story spaces so when you're inside you can see cars actually displayed on the second floor. That's why you see -- they're not exactly stacked on top of each other.

CHAIRMAN EWASUTYN: Comments from Board Members?

MR. GALLI: You have two entrances now on 17K, and of course with DOT you have to improve the one you want to put in. Have you talked to DOT or anything yet?

MR. BARTON: No. We wanted to come before the Planning Board to take -- there's been a lot of changes since the last time I built in the Town. One of the requirements is the

1 parking, no parking in front of a commercial
2 building. Well, that would kind of shoot me in
3 the foot as far as a car dealer goes. We're
4 looking to display our product up against 17K.
5 The other car dealerships on 17K are up against
6 the property line, whether it's the Pontiac
7 dealership or the Chrysler dealership. So the 35
8 foot setback -- there is still lawn area.
9 There's 20, 30 feet of lawn area between edge of
10 pavement and the property line. So when you look
11 at it, we're looking to bring the display area up
12 to the property line. So there's certain
13 variances, or changes, or modifications that
14 we're looking for in order to accommodate a
15 retail automobile dealership on 17K. Before we
16 did any of the drainage design we needed to
17 identify where for the building and the size of
18 the building. We believe DOT will have no
19 problem with this entrance, just in preliminary
20 conversation. It's the perfect place for it.
21 The turning lane is in play, it's directly across
22 from the Shortline bus terminal, the parking
23 garage over there.

24
25 MR. DOMINICK: Is there any future

1
2 intent to have parking or displaying on top of
3 the roof?

4 MR. BARTON: No, no. So with the
5 existing building, that always became a challenge
6 getting the cars up there. The existing building
7 actually is covered with solar panels now, so we
8 don't park up there anymore. This building has a
9 ramp to get up to the second story there. It
10 actually comes out the back of the building.
11 It's going to go through the parts department.
12 So we'll be driving up so it won't be an elevator
13 system. The elevator system was very challenging
14 for the automobiles, or at least the one we had
15 was.

16 MR. WARD: John.

17 CHAIRMAN EWASUTYN: John Ward.

18 MR. WARD: I'm going to emphasize we've
19 had Toyota, Volkswagen. Since Nissan is parking
20 all over the place, we've taken -- asking to like
21 keep it minimal and displayed nicely. It helps
22 you. At the same time you look at Toyota, the
23 display how they do their trucks and cars, that's
24 what we're trying to do in the Town now. You
25 know, with what I see here is great, but I also

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WEBB PROPERTIES

40

see grass there that you might pull cars up, like Nissan. So I'm emphasizing that point because we pushed the issue for that reason.

My other question is your intersection, are you looking to get a light there?

MR. BARTON: No.

MR. WARD: Because Shortline buses go in and out at all hours.

MR. BARTON: Yup.

MR. WARD: I know, I take the bus.

MR. BARTON: I don't believe that there will be a need for a traffic light. I think if you drive through my facilities -- I've never been a fan of the way some of the competition displays their vehicles. We typically don't do that.

MR. WARD: I'm asking. I'm not saying --

MR. BARTON: As far as driving around my property, you know, tractor trailers, I have places in my parking lots for tractor trailers, I have designated areas where they unload. I know a lot of the automobile dealers don't. I see them unloading on 17K. We've always tried to do

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the right thing.

And frankly, I would be staying right where I was if it wasn't for General Motors pushing me to invest a lot of money into the existing facility. For 25 years I've been hesitant as to what buildings I've allowed in the front. Back when, before Lowes came into Town, some of the other buildings, even the pet store over in Kohl's, the big boxes, you know, they see that front area and that's where they want to go. It would have been a problem for me being behind them blocking it. So, you know, as I move on and the kids come on board, my son and daughter, you know, I'm looking to eliminate that anxiety. If I've got to spend the money, I want to get out on 17K, then the property behind me, if a big box wants it, if somebody wants it, then so be it. That's my goal. My goal is if I'm going to spend the money, do it once and be done. That's why I don't believe this is going to be a two-phase thing. I'm looking to get the approval for the service and the showroom at the same time.

MR. PROFACI: Do you have any plans for the current facility?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BARTON: You know, that was where the phase 1 and phase 2 comes. Yeah. Initially we're going to try to rent them out if we can. If we can't, we'll try to sell them. But I do not have plans to occupy and keep them.

CHAIRMAN EWASUTYN: Any other questions or comments?

MR. GALLI: Just on the bank there on the corner, when you do your lot line change it's going to lose it's -- Jerry, what was that? Was it in the right zone or something at the time? It was changed since then?

MR. CANFIELD: Yeah. What's the variance required?

MR. HINES: I believe it's the front yard setback, it's going to lose the protection for that.

MR. GALLI: Once you do a lot line change.

MR. HINES: Because of the lot line change. The existing canopy extends well out into the front yard setback there.

MR. GALLI: If you're going to put a bank there again, you'll have to go to the Zoning

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Board.

MR. BARTON: If I took the overhang off
I probably wouldn't have to?

MR. GALLI: Right.

MR. BARTON: Okay.

MR. HINES: That's in my comments that
your applicant has -- your representative.

MR. BARTON: I didn't quite understand
them. I thought we had the right setback on it.
But again, I certainly could be interpreting it
wrong.

MR. CANFIELD: I think what the issue
is Ron, on the bulk use tables they display it as
78 but in comparison to what they're showing on
lot 1, it doesn't match. It may be just a
scaling thing, --

MR. BARTON: Okay.

MR. CANFIELD: -- that they need to
recalc or scale it properly.

MR. BARTON: What is the setback?

MR. CANFIELD: 60.

MR. HINES: This is showing as 80 and
that's certainly much closer. The line comes at
an angle.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Why don't we take the opportunity, if it's okay with you, to have each individual consultant bring forward their comments.

MR. BARTON: Sure.

CHAIRMAN EWASUTYN: Is that okay with you?

Ken Wersted, Traffic Consultant?

MR. WERSTED: The proposed site access connecting to 17K is in a logical spot, it's opposite an existing driveway. You can take advantage of the center lane that's there to create a left turn to get into the site. The question would really come down to whether DOT would allow another access kind of in that area. Given that you have Auto Park Place, you know, on the south side of the building, they may see that as really kind of a main vehicle access, you know, to the properties to the north and south of that. So it would come down to whether they'll allow that or not.

We did a trip generation estimate based on the footprint of the building, not realizing there was some second floor area. So our numbers

1 are probably a little low relative to that. We
2 were expecting around 70 to 95 trips to be
3 generated by the use as a 36,000 square foot
4 building, which would go up, obviously, as you
5 account for the total. Most of that traffic
6 would likely come in to that new entrance as you
7 could turn left and right, right from 17K, and
8 then as you exited people would probably become
9 accustomed at the time of day they're leaving and
10 whether they come over to Auto Park and use the
11 signal to get out or whether traffic on 17K was
12 light enough for them to exit directly onto
13 there. I think the traffic in general in this
14 area, particularly at the signal, has decreased
15 with the Thruway interchange reconfiguration
16 which tied in a lot of traffic from the Thruway
17 directly to 84. So my sense of 17K is that
18 things have kind of improved in that area. What
19 I'm unsure about is how traffic over at 17K and
20 300 has been affected in the last couple years.
21 I usually refer to some other studies that have
22 been done over the years but we don't have
23 anything recent that has looked at that to say
24 whether this development would kind of push that
25

1 over the limit or whether it's kind of a
2 reasonable amount that it could be accommodated.
3 I just don't have a good sense of that.
4

5 As we had talked about in work session,
6 you would be moving the business from the south
7 side to the north side of this, so at least in
8 the very short term it kind of would be a wash.
9 You wouldn't necessarily be generating -- this
10 area wouldn't be generating any new traffic.
11 However, you are building, you are creating more
12 land uses whereas the old building could then be
13 reoccupied, and once that happens there's an
14 overall increase, and obviously that would have
15 some affect on 17K and the area.

16 As you had mentioned, truck
17 circulation, you know, demonstrating that on
18 site, because there are some deliveries that take
19 place at the dealerships out on the road and what
20 not. So having that ability to circulate through
21 the site will be important.

22 We also noted that the display vehicles
23 out along the frontage over near the bank side,
24 some of those displays are inside the DOT
25 right-of-way.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BARTON: That was just a technicality.

The other thing is that line was set back when the grade was 40 foot lower than it is right now. Where the bank building is, we filled that 25 years ago. The telephone poles actually moved out some 15 feet towards 17K. So one of my requests of Central Hudson is going to be to see if I can drop those lines below grade the same way I've done through the Auto Park and get rid of the telephone poles and stuff. They have a gas line there that's still some 40 feet plus below grade and I know that they have problems with it. I know that over the years they're looking for an opportunity. Typically their deal is if I drop the boxes they'll pull the cable through and they'll run a new gas line. If they are amenable to that, then I'm hoping that that line might possibly change with DOT. If it doesn't, I mean obviously we're going to move our displays back. The reason for the displays is, as it was pointed out by one of the other Members of the Board here, you know, we want to be able to have a fixed display so you're not all over

1 the lawn and it's not haphazard where people are
2 displaying the vehicles. We want to attempt to
3 define it and then just that front row of
4 parking. I know it says customer parking here
5 but it's the front row up against 17K will be
6 display parking, not customer parking.
7

8 MR. MENNERICH: You are proposing
9 display parking in front of what used to be the
10 bank?

11 MR. BARTON: Probably not. I think --
12 the two pods, I'm looking for that so that the
13 future tenant -- you know, the pods are already
14 going to be there when they make their decision
15 as to whether or not they're going to lease it.
16 Ideally I'd like to have it all the way over to
17 the Enterprise site, the vacant site that's next
18 to where we are. Yes, over here. It's just that
19 I'm not looking to come in and get site plan
20 approval for anything over there. I kind of
21 stretched it putting these here because I was
22 doing a lot line change, you know, and hopefully
23 that would just be okay. So yeah, if I can get
24 retail behind it and just have a couple of cars
25 displayed, that would be something I would like

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to do.

CHAIRMAN EWASUTYN: Are you complete
with your comments?

MR. WERSTED: Yes, I am.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: So you do intend on
displaying cars on the bank lot, what's currently
the bank lot, or is that a drafting issue?

MR. BARTON: Two, four and this one
would move over into here. So there would be
four cars displayed on the front of that site.

MR. HINES: That wouldn't be consistent
or an allowable use for the auto sales on a lot
that small.

MR. BARTON: We're not selling from the
lot. It's display. Maybe it's the same thing.
I don't know, Pat.

MR. HINES: We're going to have to look
further at that. I don't believe those two uses
are compatible in that zone on a lot that size.
So that may be an issue. We can work through
that with your consultant.

Your narrative report, and it goes back
to the phasing plan. If in fact it's going to be

1 phased, we'll have to have two sets of plans so
2 that phase 1 stands alone should phase 2 not come
3 to fruition in the future. But if it's not going
4 to be phased it won't be an issue. The phases
5 need to stand alone so that you can get a
6 certificate of occupancy, that all improvements
7 on the site plan that was approved are done so
8 that you can be issued a certificate of occupancy
9 to use the site. So if it is going to be phased,
10 we're going to need two sets of plans that work
11 independent of each other.
12

13 MR. BARTON: Understood.

14 MR. HINES: The 35 foot front yard
15 setback and 45 within 300 feet of an intersection
16 is an issue with this plan and would require a
17 zoning variance if you do want to propose this
18 plan. The Route 17K corridor has that 35 foot
19 landscape buffer requirement from the City line
20 to the Town of Montgomery line, so this plan
21 wouldn't comply with that and would require a
22 variance. So you're aware of that. It also
23 becomes 45 feet within 350 feet of an
24 intersection, which in this case Auto Park Place
25 would be the intersection. So it may even be a

larger variance required. I did discuss that with your engineer.

Zoning compliance for the entire lot 2 is required. Right now, as you heard the previous discussion, banks are not allowed in the IB zone, so you're losing the protection of having the bank in the IB zone by reducing the lot size. That may not be an issue in a couple of days if the Town Board does act like we discussed with the applicant before you. So that's out there.

The design guidelines also prohibit parking within front yard setbacks. There are several issues. I gave your representative the link to the design guidelines. He has those so he'll now review those. There is the ability to have waivers of those design guidelines issued by the Planning Board. I told him to take a look at those and if they require waivers, as you move forward they can be addressed with the Board if the Board desires.

The vehicle display across the lot lines, I don't believe that's going to be a -- I don't think that's allowed by zoning. It's a

different use on that lot, the vehicle sales and display. So that may be an issue.

Ken had discussed DOT.

We're looking for documentation for the lot coverage. Your bulk table says that you're at the 80 percent allowable lot coverage. As the plan moves forward, just an analysis of how that works out to make sure you're at the 80 percent or less.

Stormwater management will be required. If the water quantity control was available in the original stormwater management system, that may be fine. Obviously the regulations have changed since the site was developed, so you'll have to meet at least water quality and runoff reduction requirements that are required by the DEC now. I did provide your engineer a copy of these comments.

MR. BARTON: He has them.

MR. HINES: That's all we have.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: The only thing to add, this is a conceptual plan, water, sewer details,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

sprinkler, water sizing and all of that at a future date. That's all I have.

CHAIRMAN EWASUTYN: Any further comments from Board Members? John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: No comment.

MR. PROFACI: Nothing additional.

MR. MENNERICH: Nothing further.

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Nothing.

CHAIRMAN EWASUTYN: Mike, for the benefit of the Board can you bring us along as to where we are at this point?

MR. DONNELLY: Well, again we have multiple agencies. We could issue a notice of intent to serve as lead agency. This has to go to the Orange County Planning Department. That could be done. And while we haven't fully clarified what variances are needed, we could send to the Zoning Board those that we know we need, although I don't know that it makes sense until we know all of them.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BARTON: I would -- and again, I don't know how many more there are going to be. I would be okay with going for the variance as we see it now because it's going to be important to me to have the display and be able to put the cars there.

MR. DONNELLY: We do have a variance for the 35 or 45 foot setback --

MR. BARTON: That's a big one.

MR. DONNELLY: -- from the front yard. And we have a loss of protection of the nonconforming use status of the bank. Is there a lot line here?

MR. HINES: There's a lot line change proposed. So it's the bank use which may change in the next week or so. I'm not a hundred percent certain but the canopy appears to encroach on the front yard setback.

MR. DONNELLY: We could send those two.

MR. GALLI: If they change the regulations for the zoning, then they don't need the bank one.

MR. CANFIELD: It may be a moot point.

MR. HINES: I don't know what the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

setbacks are but it depends on how that shakes out. Potentially he doesn't need that. Right now it's not a protected use because of the lot line change.

MR. BARTON: The landscaping one is important.

MR. HINES: That's huge for you.

MR. BROWNE: So his engineer should contact somebody on the Board to find out what the setbacks are when they finalize whatever they are doing?

MR. SYVERTSEN: It's going to be 45 feet.

MR. BARTON: I think he's talking about the bank.

MR. GALLI: If the Town changes the zoning, the bank would be allowed.

MR. BROWNE: So they should contact who to find out all that information after they do whatever? The Town Board?

CHAIRMAN EWASUTYN: Excuse me. Mike, why don't you describe what we know at this point. Not subject to what the Town Board adopts or doesn't adopt as far as banks, what right now

1
2 is in front of us that we would be referring to
3 the ZBA.

4 MR. DONNELLY: We'll need to send two
5 variance requests to the Zoning Board. The first
6 is a variance from the 35 foot, or perhaps 45
7 foot setback requirement of Section 185-18
8 C(4)(c). And secondly, we have to refer the loss
9 of the protection for the nonconforming use
10 status for the bank. And while it may change, at
11 this point that gets referred to the Zoning
12 Board. And we can also send it to the Orange
13 County Planning Department and issue a notice of
14 intent to serve as lead agency.

15 CHAIRMAN EWASUTYN: Since that's before
16 us, rather than spend time on the what if's or
17 probabilities, if it's all right with you we'll
18 move in that direction.

19 MR. BARTON: Yes.

20 CHAIRMAN EWASUTYN: What is your
21 timeframe for this project? I understood you
22 were trying to get a sense of what the Planning
23 Board's timeframe is. I think, Ron, with all due
24 respect, you're a greater thinker than we are.
25 In order for us to accommodate you and have a

1
2 general idea what our timeframe may be to serve
3 you, when are you looking to be breaking ground
4 on this project?

5 MR. BARTON: Well I'm not sure about
6 the variance for the landscaping. I don't know
7 how long that process will take. That's going to
8 -- that will be my starting point, once I get
9 that approval. We're going to continue with the
10 construction, architectural drawings with the
11 architect. I'm a little bit hesitant because,
12 frankly, I need to get a feel for that landscape
13 variance, because if the Town is going to hold me
14 up on that, then I won't be doing the project.
15 I'm not going to make this investment out on 17K.
16 So that's critical. What's pushing me is the
17 manufacturer right now. They have a timeline on
18 getting this done. We've spent the better part
19 of two years trying to come to an agreement on my
20 existing building. They're now giving me a
21 year-and-a-half to CO and in the building. I
22 don't know that that's possible but I think that
23 if I stay on it, if I can get my approvals
24 through the Town and get this project bid, I
25 would like to start before frost this fall.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Pat Hines, do
you --

MR. HINES: I think that could be
doable. The Board typically processes site plans
such as this in a relatively timely manner. It
goes back to your representatives producing the
details that we need. Again, I can't speak for
the zoning process. That is the unknown here
right now.

MR. BARTON: Hopefully we can get that
request soon and we'll be on the agenda. As soon
as they put us there, we'll make it.

CHAIRMAN EWASUTYN: All right. Then
I'll move for a motion to declare our intent for
lead agency, and to circulate to the Orange
County Planning Department, and for Mike Donnelly
to prepare a letter to the Zoning Board of
Appeals for the relief that Webb Properties needs
at this time.

MR. PROFACI: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by
Joe Profaci. I have a second by Frank Galli.
Any discussion of the motion?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(No response.)

CHAIRMAN EWASUTYN: Then I'd like to
move for approval of the motion starting with
John Ward.

MR. WARD: Aye.

MR. DOMINICK: Aye.

MR. PROFACI: Aye.

MR. MENNERICH: Aye.

MR. BROWNE: Aye.

MR. GALLI: Aye.

CHAIRMAN EWASUTYN: Aye.

Okay. Mike, you'll have that letter
ready --

MR. DONNELLY: Hopefully Monday. My
secretary is out tomorrow.

You will need to apply to the Zoning
Board yourself. The letter will be sent to you
and copied to the Zoning Board.

MR. BARTON: Thank you.

(Time noted: 7:56 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: June 30, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X
In the Matter of

DEPEW ENERGY
(2014-09)

5182 Route 9W
Section 43; Block 5; Lots 41.2 & 42
IB Zone

- - - - - X

AMENDED SITE PLAN

Date: June 5, 2014
Time: 7:56 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

- - - - - X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845) 895-3018

1
2 MR. GALLI: The next item of business
3 we have is Depew Energy, project number 2014-09.
4 It's an initial appearance for an amended site
5 plan, being represented by Ross Winglovitz.

6 MR. WINGLOVITZ: Good evening. Ross
7 Winglovitz with Engineering Properties here on
8 behalf of Depew Energy. This is an amended site
9 plan for their property on New York State Route
10 9W. We submitted an application, an EAF and a
11 letter explaining what we're proposing here.

12 Some time ago the Depews acquired the
13 neighboring property which was a garage.
14 Apparently they stored parts in there and use it
15 for service of some of their equipment. They
16 want to expand that. In addition, they have two
17 tanks at the rear -- one existing tank and they
18 are proposing a second propane storage tank at
19 the rear of the property.

20 We'll require grading. I saw Pat's
21 comment. This is just an initial sketch plan
22 submission.

23 What I'm trying to do with this plan
24 and what I laid out as far as the uses in my
25 letter is to bring the site into conformance with

the current zoning for our proposed use of the tanks and the service shop and identifying how the existing building is being used. We tied this up in a current site plan for the property.

I'd be glad to answer any questions you might have.

CHAIRMAN EWASUTYN: Questions from Board Members. Frank Galli?

MR. WINGLOVITZ: Pardon me, John?

CHAIRMAN EWASUTYN: I'm following your recommendation and beginning to ask Board Members if they have any questions.

MR. GALLI: Not yet.

MR. BROWNE: Not yet.

MR. MENNERICH: No.

MR. PROFACI: No questions now.

MR. DOMINICK: Nothing.

CHAIRMAN EWASUTYN: We'll turn to our Consultant, Pat Hines, Planning and Drainage Consultant.

MR. HINES: The structure on lot 42, the storage service building, doesn't meet front yard setbacks, so the addition to that will require a variance.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. WINGLOVITZ: The addition would
comply. The building doesn't.

MR. HINES: It loses that protection by
adding on to the building.

The proposed service bay on that lot
seems to cross across the septic system. You can
address that. It looks like the existing one
also does.

MR. WINGLOVITZ: This area is currently
used as a driving area and driving aisle for the
property. You currently drive overtop of that
septic system now. I can't tell you I recommend
it.

MR. HINES: The existing sign on the
neighboring lot does not meet zoning and would
require a variance. There's at least a 15 foot
separation there. So that needs to be relocated
or a variance, as that lot also is having an
expansion proposed on it.

Grading for the propane tanks you just
discussed.

The lot that's getting the propane
tank, it looks like there's a proposal to pave
some of it but not all of it. We did discuss at

1 work session whether the Board would allow the
2 gravel parking area to remain in the rear. I'll
3 leave that open for discussion with the Board as
4 they move forward. I know there's an existing
5 condition. Also, I just need to clarify if that
6 line is the limits of paving that's shown. It's
7 shown on the driveway up, limit of paving, but
8 nothing on the northern portion of the site.

9
10 MR. WINGLOVITZ: Where are you talking
11 about, Pat?

12 MR. HINES: It says proposed paved
13 surface.

14 MR. WINGLOVITZ: I'm going to add --
15 we propose it to end here. The idea was to pave
16 the more retail area where customers come in and
17 pay their bills.

18 MR. HINES: You labeled the limit of
19 pavement on the one side.

20 MR. WINGLOVITZ: I didn't on the other.
21 We'll darken it up.

22 MR. HINES: County and DOT referral is
23 required.

24 Currently outdoor storage exists on the
25 site with tanks and various other items that I

1 think they use in their business. Outdoor
2 storage needs to be addressed in compliance with
3 Section 185-30, and that needs to be stored
4 behind, fenced and opaque. There's a whole
5 outdoor storage section there. So compliance
6 with that needs to be shown.
7

8 There's a Building Code or a Town Code
9 requirement that doesn't allow for the storage of
10 flammable liquids in a zone greater than, I think
11 it's 2,000 gallons unless Jerry Canfield's office
12 and I believe the jurisdictional fire department
13 sign off on a couple of conditions that are in
14 that section. So that needs to be done.

15 There's a water line shown from the
16 rear of the parcel. We need to show easements
17 and some kind of shared agreement between those
18 two lots for that to exist. I don't know how it
19 gets here. It must go across some other
20 adjoining neighbors' lots.

21 MR. WINGLOVITZ: Neither do I.

22 MR. HINES: When this project was
23 before us several years ago I don't believe the
24 water line was there. It may be relatively new.
25 I'm not sure. That needs to be addressed as you

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

move forward.

Obviously future plans will need landscaping, grading, soil erosion control, paving, et cetera.

And then because it's on two separate lots it needs to have notes which we've done before on other uses that share lots. A unified site plan note that the uses are tied together and one of the lots is no longer in the ownership than the use is no longer valid on both lots.

That's our comments to date.

MR. WINGLOVITZ: Regarding compliance with 107-9 B and C, the zoning specifically permits it. So it's kind of at odds to each other. This is a 1980 law. Zoning specifically permits storage of this type under Section 185-39. So I guess I would refer to Mike on how to rectify -- reconcile those two issues.

MR. HINES: It permits it but limits it to 2,000 gallons in that other section. It's not a show stopper as long as you can convince the two agencies that have jurisdiction, Jerry's office and --

MR. WINGLOVITZ: It does throw it back

1
2 to Jerry.

3 MR. CANFIELD: Yes. If I can comment
4 on that. There's a previous 30,000 gallon tank
5 on the site that was permitted to be there under
6 -- Section 107-9 C is what permits liquid
7 petroleum. Providing what -- well, what's needed
8 to happen so that can be allowed, as well as the
9 last application, is that a fire service -- fire
10 safety analysis will need to be done on that site
11 which will include adding water for fire
12 protection. The previous application required
13 the applicant to put in a 6,000 gallon water tank
14 for fire protection. There's calculations that
15 predetermine that. NFDA 58 is the jurisdictional
16 document that dictates what those flows are. I
17 believe they're in the vicinity of 250 -- 250
18 gallons a minute for a duration of at least ten
19 minutes I think it is. It's all in that
20 document. You need to perform that survey and
21 submit it to our department so we can report to
22 this Board that it will or will not be
23 permissible. Again, that can be achieved in two
24 different ways. Perhaps another underground
25 tank, or, if you're able, the optimum way is if

1
2 you can secure this water line and size it large
3 enough and perhaps bring the hydrant down, that
4 would be the best of both worlds.

5 MR. WINGLOVITZ: I understand. I'm
6 familiar with that, B-58. We'll take a look at
7 that.

8 CHAIRMAN EWASUTYN: Any additional
9 questions from Pat Hines' presentation?

10 MR. WINGLOVITZ: Nope. I think I'm
11 good.

12 CHAIRMAN EWASUTYN: Okay. Any other
13 questions or comments from Board Members?

14 MR. WARD: No.

15 MR. PROFACI: No.

16 CHAIRMAN EWASUTYN: Mike, this seems to
17 be similar to the Britain Plaza. No. Britain
18 Plaza did have to go to the ZBA. Webb
19 Properties.

20 This evening we would declare our
21 intent for lead agency, circulate to the Orange
22 County Planning Department.

23 Ross, you'll have make it a point of
24 getting additional plans to Pat Hines.

25 Mike, do you want to discuss --

1
2 MR. DONNELLY: There will be a ZBA
3 referral letter for consideration of two
4 variances. First, the existing sign doesn't meet
5 the 15 foot setback. Secondly, loss of the
6 nonconforming or noncomplying building protection
7 for the existing structure on lot 2 due to the
8 building addition.

9 CHAIRMAN EWASUTYN: Having heard the
10 two reliefs that will be needed from the Zoning
11 Board of Appeals presented by Attorney Mike
12 Donnelly, then we'll move to declare our intent
13 for lead agency, circulate to the Orange County
14 Planning Department and referral to the ZBA.
15 I'll move for that motion.

16 MR. GALLI: So moved.

17 MR. WARD: Second.

18 CHAIRMAN EWASUTYN: I have a motion by
19 Frank Galli. I have a second by John Ward. Any
20 discussion of the motion?

21 (No response.)

22 CHAIRMAN EWASUTYN: I'll move for a
23 roll call vote starting with Frank Galli.

24 MR. GALLI: Aye.

25 MR. BROWNE: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DEPEW ENERGY

71

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So
carried.

MR. WINGLOVITZ: Thank you very much
for your time.

(Time noted: 8:07 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: June 30, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

- - - - - X
In the Matter of

JEHOVAH WITNESS CIRCUIT ASSEMBLY HALL
(2014-11)

Unity Place
Section 97; Block 2; Lot 42
IB Zone

- - - - - X

AMENDED SITE PLAN

Date: June 5, 2014
Time: 8:07 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: DARREN DOCE

- - - - - X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2 MR. BROWNE: The next item of
3 business we have is Jehovah Witness Circuit
4 Assembly Hall, project number 2013-11. This is
5 an initial appearance for an amended site plan
6 being presented by Darren Doce.

7 MR. DOCE: I'm Darren Doce. I also
8 have Richard Eldred. He's an engineer with the
9 Jehovah Witness organization.

10 Back in 2008 an upper extension for the
11 parking where the drive is was approved by the
12 Planning Board. At that time there were no plans
13 to light that parking area. Lighting was not
14 proposed. A condition of the approval was if
15 lighting were to be installed in the future, we'd
16 have to reappear. The Jehovah Witnesses had a
17 safety study done of the site and it was
18 suggested that for the safety of the people using
19 the upper parking area, that they provide
20 lighting and lighting along the walkway. So
21 we're proposing lighting in the upper area along
22 the roadway into it and some bollard lighting
23 along the walkway.

24 CHAIRMAN EWASUTYN: There's some
25 questions as far as the illumination of the

lights. At this point I'll turn to Pat Hines and maybe he could begin discussing his questions.

MR. HINES: We took a look at the lighting plan and it gave light levels on a grid, but it looks like there's some issues with that. I don't know if you've had a chance to take a look at that, Darren. There are some very high levels in some spots and in a similar location next to some of the other fixtures they are not similarly high, they're very low actually.

MR. DOCE: Right.

MR. ELDRED: I could address that. We had our lighting engineer take another look and he was basing his calculations on a higher pole and the original terrain of the paving of the parking area which is more even. So he's done a recalculation on it and it is getting more even. Of course the higher numbers will be right under the light fixture themselves, and then as you move out from the light fixtures the lighting level drops.

MR. HINES: Understood. It's just that they should be consistent at each pole. As long as you can address that, that's fine.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. ELDRED: We are addressing that.

MR. HINES: It looks like there's some proposed bollard type lights on the walkway, too. If those are proposed we'll need the details for those and how they're going to be installed.

MR. ELDRED: We can provide that. I checked on that. They were three foot high fixtures, 13 watts each. We'll supply the cut sheets and also add it to the lighting schedule.

MR. HINES: And then I noticed in the revision block an identified supplemental emergency and maintenance lighting was added, and I don't see that anywhere on the plans.

MR. ELDRED: Basically what was being referred to was the site lighting that was being proposed in the drive and the parking area. So we'll reword that to site lighting upper lot drive or something.

MR. HINES: I'm okay. The wording is fine. I didn't know if there was more lighting put on the building. If that's referring to this plan, that's fine.

MR. ELDRED: That's just referring to the plan.

1
2 MR. HINES: The operation of the
3 lights, whether they'll be on sensors or manually
4 turned on or off, that's going to need to be
5 addressed. The concern here is during the
6 original approval for the expanded parking lot we
7 did have a lot of input at the public hearing
8 from your neighbors, so we want to be able to
9 address any of their comments as the project
10 moves forward. We need to provide them with that
11 consistent information.

12 MR. ELDRED: That is fine. And
13 basically the lights up in this area would only
14 be turned on when they're being used for vans as
15 you mentioned or if there's some snow plowing to
16 be taking place. The lights on the site are
17 turned off by about 6:00 in the evening when it's
18 dark enough to have lights on. So they're not
19 left on.

20 The other aspect is the lighting
21 engineer is designing so that the foot candles a
22 short distance away from the parking area would
23 be at what's called zero foot candles. Of course
24 that's not where the property line is. Where the
25 property line is there would be zero foot

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

candles.

CHAIRMAN EWASUTYN: It sounds like no impact as far as the residents abutting there.

Jerry, do you have anything to add to that?

MR. CANFIELD: Nothing.

CHAIRMAN EWASUTYN: I'll poll the Board Members first to see if they want to have a public hearing on this. Frank Galli?

MR. GALLI: I think we should.

CHAIRMAN EWASUTYN: Okay. Cliff Browne?

MR. BROWNE: Yes.

CHAIRMAN EWASUTYN: Okay. Ken Mennerich?

MR. MENNERICH: Yes.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: Yes.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: Yes.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Okay. I would like to move for a motion to set July 3rd for a public

hearing on the Jehovah Witness Circuit Assembly
for the amended site plan.

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: I have a motion by
Ken Mennerich.

MR. WARD: Second.

CHAIRMAN EWASUTYN: A second by John
Ward. I'll ask for a roll call vote starting
with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

Darren, you will work with Pat Hines.

MR. DOCE: Mm'hm'.

CHAIRMAN EWASUTYN: I think you did
give a mailing list as part of this. You'll
coordinate. We do have to send out just an
informational letter --

MR. HINES: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: -- as part of phase 1 of this, and then the follow up as far as the public hearing goes. Correct?

MR. HINES: Yes. It doesn't meet any of the County Planning thresholds so it doesn't need to go there.

CHAIRMAN EWASUTYN: Is that all right with you, Michael?

MR. DONNELLY: I don't think this was within 500 feet of anything.

MR. HINES: No.

MR. DOCE: Is that two separate mailings or one mailing?

CHAIRMAN EWASUTYN: Good question.

MR. DONNELLY: You can mail it together.

MR. HINES: It could be mailed together because it's corresponding so close. It's their initial appearance but the next appearance is going to be the public hearing.

CHAIRMAN EWASUTYN: All right, Darren?

MR. DOCE: Yes.

CHAIRMAN EWASUTYN: Then you'll coordinate that with Cindy Martinez when you're

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JEHOVAH WITNESS

81

ready to send out the mailing, and all the
certifications will be in place.

MR. DOCE: Correct.

CHAIRMAN EWASUTYN: Okay. I think that
covers that. Thank you.

(Time noted: 8:15 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: June 30, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

MONTI TIMBER HARVEST
(2014-12)

Lakeside Road
Section 28; Block 1; Lot 10
R1 Zone
----- X

CLEARING & GRADING

Date: June 5, 2014
Time: 8:15 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: CHRISTOPHER PRENTIS
----- X
MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

MR. BROWNE: The next item of business is Monti Timber Harvest, initial appearance for a clearing and grading permit, being presented by Lower Hudson Forestry Services.

Would you give your name?

MR. PRENTIS: Christopher Prentis. Good evening.

CHAIRMAN EWASUTYN: Good evening.

MR. PRENTIS: Before you is an application for a clearing and grading timber harvesting permit on parcel 28-1-10, which is owned by Anthony Monti, which is located off of Lakeside Road. The parcel is 212 acres in size of which about 12 acres is being considered for harvest. 131 hardwood trees have been marked in blue paint by a certified forester, 17 inches to 40 inches in diameter. The trees will be felled by chain saw, skidded out with mechanical skidders. All the tops and debris will be lopped to a height less than three feet.

There is a DEC freshwater wetland MB-32 that is adjacent to the project area. A small section of the wetland will need to be crossed and it will be crossed with a wooden skidder

bridge about 15 feet across. The bridge is 20 feet across, so we should have full suspension.

Any of the trails and crossing areas will be returned to basically what it is left as today, no debris anywhere near the crossing or in the trails.

The property is generally flat so erosion is not a big concern, but all skid trails will be cleaned of debris, leveled off and, if needed, erosion control devices, such as water bars, will be installed.

The landing area for the project is going to be on the adjacent property which is owned by Little League of Newburgh. There is an agreement in place with the Little League board. I know that Pat had some comments about the agreement. Currently it's just a verbal agreement. The board actually wanted to see that a permit was issued, bonds were put in place before they actually would sign a legal agreement. So that's what we're waiting for.

CHAIRMAN EWASUTYN: Michael, what comes first --

MR. DONNELLY: We can make delivery of

a written license agreement a condition of approval. It doesn't need to be in now.

CHAIRMAN EWASUTYN: Okay. Pat Hines?

MR. HINES: Our first comment just reiterates what Mr. Prentis just said. It does require a public hearing for any timber harvesting affecting greater than 5 acres.

My other comment was regarding the staging area and the need for a legal agreement.

Does the project require a DEC permit or is the logging exempt because you're bridging it?

MR. PRENTIS: Correct.

MR. HINES: I did note that you are in or near the wetland there.

The Board has previously, on other applications, received a bond or security for the Town road. I think it was \$5,000. It's kind of a standard that we've been collecting in the Town for that protection, which is released upon completion of the project. We would recommend that amount also.

MR. CANFIELD: And an inspection fee.

MR. HINES: I don't recall what that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

was either.

MR. CANFIELD: \$1,000.

MR. HINES: \$1,000 inspection fee.

MR. PRENTIS: In addition to the 2,000
that's already up?

MR. CANFIELD: In lieu of 2,000. It's
1,000.

MR. PRENTIS: There's a 2,000 one
already in place. Do you want another 1,000?

MR. CANFIELD: Not for this one.

MR. PRENTIS: Yes. I sent a check.

CHAIRMAN EWASUTYN: That's an escrow
fee for the review of the project, which, once we
grant final approval, that money would be
released to you, whatever the balance of it is.

MR. PRENTIS: Right. Do you want an
additional 1,000 on top of that?

MR. CANFIELD: Yes.

MR. HINES: It will probably be
rotated.

CHAIRMAN EWASUTYN: It could be
transferred from a T-86 account to a T-88. That
would be something internally we could find out.

MR. HINES: Otherwise the narrative

1 meets the requirements of Section 83-10 for
2 granting a permit. We don't have any issues.
3 We've seen Mr. Prentis's work in Town before.
4

5 CHAIRMAN EWASUTYN: Jerry, you referred
6 this to us. It's a referral. Now we're at a
7 point in time where the Planning Board will move
8 to set it for a public hearing. Okay?

9 MR. CANFIELD: Just one question, Mike,
10 for Chris. Has a contractor been selected for
11 this?

12 MR. PRENTIS: Yes. Klein & Sons.

13 MR. CANFIELD: It is Klein & Sons?

14 MR. PRENTIS: Yes. They did the
15 project up on Forest Road last year.

16 MR. CANFIELD: Yup, yup. Okay. Thank
17 you.

18 CHAIRMAN EWASUTYN: John Ward?

19 MR. WARD: Two questions. When you did
20 the one on -- where is it? Chapel Hill?

21 MR. HINES: Union Avenue.

22 MR. PRENTIS: Correct.

23 MR. WARD: You weren't protective of
24 the roadways and everything else when you were
25 going out. You had to be corrected by Jerry's

office. That's what I was told by one of the councilwoman. So you know.

But at the same time, what's the timing for this? You're saying about the little league field, going through there. I know they play games all the way until the end of the fall, so I'd like to know a time schedule in reference to it.

MR. PRENTIS: Well, I think the plan would be to do something probably towards the end of the summer. I don't know what the schedule is of little league. I wouldn't imagine that they play between 8:00 in the morning and 3 to 4 in the afternoon but maybe they do in the summertime. I don't know. That's typically what the workday is for the logging operation.

MR. GALLI: Monday through Friday?

MR. PRENTIS: Yes.

MR. WARD: They play travel ball plus they have fall ball. I'm just emphasizing the issue there.

MR. PRENTIS: Okay.

MR. BROWNE: In your presentation you mentioned that the erosion control would be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

implemented if needed. Who determines if needed?

Is that on your end, Pat?

MR. HINES: It will be based on a final inspection. Based on the topography, it is relatively flat. That's why the wetland area is there.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Any additional questions or comments?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a motion to set the public hearing for Monti Timber Harvest on the 3rd of July.

MR. PROFACI: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci, a second by Dave Dominick. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

Chris, you'll work with Pat Hines as
far as the information that will need to be
circulated for the public hearing.

MR. PRENTIS: Mm'hm'.

CHAIRMAN EWASUTYN: Anything else?

MR. HINES: That will similarly have
the same notice put in.

CHAIRMAN EWASUTYN: I think we'll do
similar as with Jehovah Witness.

MR. HINES: So one notice, not two.

CHAIRMAN EWASUTYN: The informational
letter along with the date and time of the public
hearing.

MR. PRENTIS: Okay.

CHAIRMAN EWASUTYN: Thank you.

MR. PRENTIS: Thank you.

(Time noted: 8:23 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: June 30, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

LONGVIEW FARM
(2006-39)

Request for a Six-Month Extension of Subdivision
Approval from June 14, 2014 until December 14 2014

----- X

BOARD BUSINESS

Date: June 5, 2014
Time: 8:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845) 895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LONGVIEW FARM

93

MR. BROWNE: We have two items under Board business. The first is Longview Farm, project number 2006-39. The applicant is requesting a six-month subdivision extension approval which will run from 14 June 2014 to 14 December 2014.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. GALLI: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli, a second by Joe Profaci. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LONGVIEW FARM

94

(Time noted: 8:24 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: June 30, 2014

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD
----- X
In the Matter of

DISCUSSION:

TEXT AMENDMENT PERMITTING BANKS IN THE IB DISTRICT

----- X

BOARD BUSINESS

Date: June 5, 2014
Time: 8:24 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD

----- X
MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845) 895-3018

1
2 MR. BROWNE: The next item is a
3 discussion/presentation on a text amendment
4 permitting banks in the IB District.

5 CHAIRMAN EWASUTYN: Mike Donnelly,
6 would you lead us on this, please?

7 MR. DONNELLY: Mark Taylor sent a note,
8 and, as you know, there's a local law proposed,
9 or a petition anyway, before the Town Board and
10 they are asking for your comments regarding
11 whether banks should be permitted in the IB
12 Zoning District subject to site plan approval.

13 They also want to know your
14 recommendation concerning whether it's advisable
15 to have regulations for driving-through windows
16 mirroring those that exist for, and they make
17 reference to the fast food restaurant issue that
18 we spoke of before.

19 So there's two issues really. It might
20 be the appropriate time to flag the difficulty
21 the Planning Board and the Zoning Board have had
22 with the fast food use that isn't defined in the
23 code. It's a side issue but it might be an
24 opportune time to say something about it.

25 First they want to know your

1 recommendation concerning whether or not banks --
2 whether it would be advisable to allow banks as a
3 permitted use in the IB Zone; and secondly,
4 whether there should be any restriction in that
5 zone for drive-through windows.
6

7 I think one of the issues that the Town
8 Board is likely concerned with is what rationale
9 is there for allowing, and there may be one, for
10 allowing drive-through windows for banks in the
11 IB Zone but not allowing them for fast food
12 restaurants. There may be a distinction, I don't
13 really know, but I think that may be one of their
14 concerns.

15 Do any other premises' uses allow
16 drive-through windows in the IB Zone?

17 MR. HINES: Pharmacies.

18 MR. DONNELLY: Pharmacies do.

19 MR. HINES: We've had them.

20 MR. DONNELLY: So maybe the cueing is
21 the distinction --

22 MR. HINES: We've allowed them in the B
23 Zone even, pharmacies.

24 MR. DONNELLY: Those are the two
25 issues. Do you recommend the advisability of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

changing the allowable uses in the IB Zone to include banks, and, if so, do you make any recommendation regarding whether there should be a limitation on drive-through windows?

MR. HINES: People don't throw their bank envelopes out the window.

MR. DONNELLY: At least not their money. Maybe the envelopes.

MR. MENNERICH: Banks that are in the B Zone are allowed to have drive-throughs now; right?

MR. HINES: Yes.

MR. MENNERICH: You know, to me the bank drive-throughs are a lot less activity than the fast food restaurants, so --

MR. GALLI: They aren't going all night.

MR. MENNERICH: Yeah.

MR. DONNELLY: Years back you used to see bank drive-ins with five lines, so they were quite busy. I think so many people use online banking, people don't even go to banks very much anymore.

MR. MENNERICH: A lot of them have even

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

been closing their teller windows and the drive-throughs. You're just driving up to the machine.

MR. BROWNE: Other than the cueing thing, what's the negative with a drive-through at a bank? There's no negative. No reason not to have it. There's no reason why it shouldn't be there.

CHAIRMAN EWASUTYN: So what's the reason not to have it at a restaurant?

MR. CANFIELD: I don't know the answer to that. I am in favor of permitting them because it would permit us to bring things into compliance so to speak. Tonight we had one that was the Marine Midland Bank on the Webb Properties that was approved in 1990. I went back and looked at the older zoning code and it wasn't permitted back then by code but it's existing, it's there. How and what they did back then I don't know.

MR. HINES: Key Bank by Home Depot, the same thing.

MR. CANFIELD: Key Bank over by Home Depot. It's been there for a long time, so it's

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

very difficult to tell a new coming applicant that's coming in you can't come because it's not permitted per zoning, and they of course say what about this guy, and we don't have an answer.

MR. HINES: They're also allowed in commercial groups on 10 acres or larger in the IB Zone. The Stop & Shop bank, for one, is there and the bank at the Home Depot. That's how those were allowed, they were all part of that commercial group.

MR. PROFACI: What's the rationale for that?

MR. HINES: I don't know the answer to that. Your zoning permits banks in commercial groups. It may be the idea is that their entrance way isn't directly onto the State highway or something. I don't know. It certainly predates me.

MR. PROFACI: If you're going to allow a bank in an IB Zone I think you have to allow a drive-through also. They go together.

MR. CANFIELD: Yes.

CHAIRMAN EWASUTYN: Wouldn't that be true as far as a restaurant?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PROFACI: I think so.

CHAIRMAN EWASUTYN: I think the lifestyle of living in the suburbs, it's just a normal way of life.

I remember one morning -- I think I told you the story -- I was in the Starbucks that I frequent and I asked them what percentage of people walk in like myself and what percentage drive through, and I was quite surprised that, again this is just a person working there, better than 60 percent of the people are drive throughs.

MR. DONNELLY: At Starbucks, really? I would have thought that's much more of a sit down place.

CHAIRMAN EWASUTYN: So I think we're comfortable with saying we believe that drive-throughs for the bank in an IB Zone should be allowed.

MR. DONNELLY: You do not recommend any limitation on drive-through windows? Yes as to the use, no limitation on the use of drive-through windows, noting that the drive-throughs are allowed at banks in the B Zone.

With your permission I'll say that we

1
2 take the opportunity to note the difficulty
3 presented to the Planning Board and the Zoning
4 Board by the limitation on drive-through windows
5 at fast food establishments where fast food is
6 not defined in the code and not allowed as a use
7 in any zone in the Town.

8 MR. BROWNE: Shouldn't you use food
9 prep instead of fast food?

10 MR. DONNELLY: They should have. The
11 problem is what the Town has used in placing the
12 limitation that you can't have a drive-through
13 window at a fast food establishment, but they
14 don't define what that is. It's not allowed
15 anywhere anyway. Why even say you can't have a
16 drive-through at a fast food establishment when
17 fast food establishments aren't allowed? It's
18 difficult.

19 MR. HINES: We sent Maxi Dunkin Donuts
20 to the ZBA to determine whether or not it was a
21 fast food, and they said yes at that point, back
22 probably six, seven years ago.

23 MR. CANFIELD: Now they're saying it's
24 food prep.

25 MR. DONNELLY: It's a difficult

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

quandary that everyone is put in. Instinctly we think of it as fast food but fast food isn't allowed. If it's fast food, by what authorization can't it operate?

MR. HINES: The fast food is allowed. The drive-in in the B Zone is not allowed.

MR. DONNELLY: The fast food is not allowed anywhere in the Town. There's no such use listed. It doesn't exist.

MR. BROWNE: That's another thing I think we should address tonight, send a letter to the Board. But backing up to --

MR. DONNELLY: It's in the table?

MR. CANFIELD: It's not defined.

MR. HINES: There is no definition.

MR. DONNELLY: Okay. So it is allowed as an accessory use in some zones but it's not a defined term.

MR. CANFIELD: Fast foods, Mike, are permitted in the IB. Restaurant and fast food establishments in conjunction with uses of mini-malls -- excuse me, shopping centers, theaters, office and business parks in conjunction with 185-42. But that's the only

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TEXT AMENDMENT

104

place that it is.

CHAIRMAN EWASUTYN: That's back into a big mix use area.

MR. CANFIELD: In the definitions under 185-3 they don't define fast food.

MR. HINES: It's like the McDonald's at the Newburgh Mall is allowed.

MR. DONNELLY: I'll note that in the letter as a passing reference.

CHAIRMAN EWASUTYN: We went through something with the McDonald's.

MR. HINES: The tower with the sign.

MR. BROWNE: Fast food is high turnover at a restaurant. That's what we're talking about.

MR. DONNELLY: Eating and drinking are defined. Most of those shopping -- all of those things are defined. The one that isn't is fast food. How is that different from an eating and drinking establishment or a restaurant? The definitional component would tell us how it is.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Any questions or comments?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TEXT AMENDMENT

105

MR. MENNERICH: We're not commenting about changing something in the B Zone, just we're commenting about --

MR. DONNELLY: Adding the use to the IB.

MR. MENNERICH: Okay.

CHAIRMAN EWASUTYN: Then if there are no further questions, I'll move for a motion for Mike Donnelly to prepare a letter and refer that on to the Town Board as far as the text amendment permitting banks in an IB Zone and other areas of concern that the Board has.

MR. PROFACI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Ken Mennerich. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TEXT AMENDMENT

106

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

At this point I'll move for a motion to
close the Planning Board meeting of June 5th.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by
Frank Galli and a second by Ken Mennerich. Any
discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried. Thank you.

(Time noted: 8:34 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: June 30, 2014