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

----- X

In the Matter of

VOLKSWAGEN OF NEWBURGH
(2013-11)

Route 17K and McDonald Street
Section 95; Block 1; Lot 53
IB Zone

----- X

SITE PLAN

Date: April 3, 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
KENNETH MENNERICH
JOSEPH E. PROFACI
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: DOMINIC CORDISCO

----- X

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

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MR. PROFACI: Good evening, ladies and gentlemen. Welcome to the Town of Newburgh Planning Board meeting of April 3, 2014.

At this time I'll ask for a roll call starting with Frank Galli.

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. PROFACI: Here.

MR. WARD: Present.

MR. PROFACI: The Planning Board employs various consultants to advise the Board on matters of importance, including State Environmental Quality Review Act, otherwise known as SEQRA, issues. I ask them to introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh Code Compliance Department.

MR. HINES: Pat Hines with McGoey, Hauser & Edsall Consulting Engineers.

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MR. RUGGIERO: Paul Ruggiero, Town of Newburgh Town Council.

MR. PROFACI: Thank you. At this time I'll turn the meeting over to John Ward.

MR. WARD: Please stand to say the Pledge of Allegiance.

(Pledge of Allegiance.)

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

MR. PROFACI: The first item on tonight's agenda is Volkswagen of Newburgh, project 2013-11, located on Route 17K and McDonald Street, Section 95; Block 1; Lot 53. It's located in an IB Zone. It's a site plan. It's being represented by Dominic Cordisco.

MR. CORDISCO: Good evening all. Nice to see you again.

I'm here tonight with our full project team. We have Joseph Sarchino from John Meyer Consulting. We have Bill Clark from Claris Construction who is the project architect. We have Peter Burrack who is one of the owners of the project as well as Chris Detonnes, their representative.

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At this point I'd like to turn it over to Joseph Sarchino to update you on the plans that were submitted for tonight's meeting.

MR. SARCHINO: Thank you, Dominic.

Our submission that we made in March, the site plan, as illustrated here, there really hasn't been many changes other than answering the consultants' questions and comments that they had previously.

One thing that we did do is to eliminate -- there was a driveway along this side of the building here and we made a determination that it wasn't needed. Any time you can reduce impervious surfaces, I think that's a great thing. That's what we did, we took that out.

I was able to soften the slope here. We had a wall along this side of the building. We were able to eliminate that by creating a retaining wall here and then the building would act as a retaining wall on that side of the building. Then we made the slope up gradually there. We kept the fence that we proposed, the privacy fence. We were able to add some evergreen and deciduous trees, and that helped

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soften it as well. We kept the evergreen plantings down as you head north. And also the existing trees still remain back toward the end of the property there.

You still have 195 parking spaces proposed in this gray area here with parking up front. There's also future 51 parking spaces potentially that would be constructed in the rear.

Again, the storm drainage system as proposed in this location is designed to accommodate the impervious surfaces here as well as the future, if it is ever to be constructed.

Access is still opposite the National Guard access drive here.

We're proposing to modify the traffic signal as required. We have a letter from the DOT finding our proposed improvements acceptable.

That's basically a brief summary. If there's any questions that anybody has, I'd be happy to answer them.

With that, I will also ask Phil to come up. He's going to go over the architecture.

CHAIRMAN EWASUTYN: Can you give your

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last name for the record, please?

MR. CLARK: C-L-A-R-K. Phil Clark.

I'm a licensed architect in New York and with Claris Construction.

Basically nothing has changed since our original presentation. We did address the wall. There was a driveway on this side of the building and now there isn't, so we addressed that side and brought up our concrete wall a little higher to address the slope.

The materials all stayed the same as discussed. It's very -- this is actually a prototype design and that's what we're following. Lots of glass, single story structure, white metal panel like most car dealerships you'll see today, accent panels on the sides and rear, vertical and horizontal metal siding. Again, single story, about 23,000 square feet.

There's a small mezzanine for parts in the rear.

The front of the building is, of course, showroom.

The rear, of course, would be the service bays. There will be two overhead doors

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on the front to drive in for the service reception so you can get the clients out of the weather when they are dropping off their car to be repaired. There will be a wash bay in the very rear of the building.

I think some minor interior alterations, doors, rooms getting a little bigger, a little smaller. That's basically it.

CHAIRMAN EWASUTYN: Okay. We'll take questions first, if there are any, from the Members on the site plan.

MR. GALLI: No.

MR. MENNERICH: Would you point out again where the service area entrance is going to be on this plan?

MR. CLARK: This is the front of the building facing the main road. You'd be on the left side.

MR. MENNERICH: Okay.

MR. CLARK: A much better idea site plan. Here's 17K. It would be towards this side of the building.

MR. GALLI: How tall is the building?

MR. CLARK: 22 feet.

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MR. MENNERICH: I guess what's confusing is the diagram shows cars pulling in there and then going out the back wall there.

MR. CLARK: Back here?

MR. HINES: They go out the side by the landscaping.

MR. SARCHINO: I have to apologize for that. What I did is I left the old floor plan on there. I should probably just take it off and have all the references to the latest architectural plans.

MR. CLARK: They come in and they're directed straight into the back by the repair shop. There's a large overhead door in the back. They exit the rear.

CHAIRMAN EWASUTYN: Any other questions or comments from the Board Members on Mr. Clark's presentation on the ARB or the architectural?

MR. WARD: I had one.

CHAIRMAN EWASUTYN: You had something on the site plan.

MR. WARD: With the car pads in the front, the concrete pads, do you have anything to stop the cars from going off?

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MR. SARCHINO: Yes, sir, we do. As requested by the Board at one point, there is a concrete curb.

MR. WARD: I was trying to read it. Thank you.

MR. SARCHINO: Yes, we did that.

CHAIRMAN EWASUTYN: Any further questions from the Board Members on the site plan?

(No response.)

CHAIRMAN EWASUTYN: Then we'll take the opportunity to comment or question on the ARB.

MR. GALLI: Nothing on that. It's a prototype building.

MR. MENNERICH: In going with the prototype building you're still going to use the white stockade fence on the western --

MR. CLARK: Yes.

CHAIRMAN EWASUTYN: Back to the site plan. Do you want to talk about the location of the sign in the road, if that's in compliance. Jerry, Pat?

MR. SARCHINO: The location of the sign, Mr. Chairman, is in this location here, and

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it is proposed to be a 20 foot high -- 25 foot high sign at this moment now.

CHAIRMAN EWASUTYN: The sign out front, is that within the required setbacks?

MR. HINES: Yeah. One of our comments is that there's a 15-foot requirement from the front lot line.

MR. SARCHINO: Yes. All the comments that we received from Mr. Hines we are in agreement with and will make the corrections.

CHAIRMAN EWASUTYN: Comments from our consultants. Jerry Canfield?

MR. CANFIELD: Yes. Joe, on the site plan it displays a six-inch water service for the sprinkler line and then your domestic. It's approximately 270 feet with no hydrant for fire protection. We would request that you put a hydrant in there, probably in the island closest to the fire department connection where the point of service goes in to the building. That will also serve as a flushing valve as well for that dead end main there.

The signage we talked about, we discussed that. That's Pat's comment as well.

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Also, just for the Board's benefit, with the elimination of the drive-through on the west side of the site, because of the building's height, which is less than 30 feet, road widths are required to be 20 feet. They provided 24. So accessibility for the site is fine.

That's all I have.

CHAIRMAN EWASUTYN: Pat Hines, anything in addition?

MR. HINES: We have some technical comments that the applicant's representative has. I think the main one that we need to discuss is the City of Newburgh flow acceptance letter has not been received, so that's going to restrict the Board's ability to issue any final approvals.

The other one, in response to one of my previous comments they've relocated the outlet to the stormwater pond which may trigger the need for a DEC permit. You may want to evaluate locating that back where it was or addressing that issue also.

The rest are technical in nature and I know the applicant's representative has those.

CHAIRMAN EWASUTYN: Dominic Cordisco,

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is there anything you want to add at this time?

MR. CORDISCO: Not at this time.

CHAIRMAN EWASUTYN: I'll turn to Mike Donnelly, Planning Board Attorney.

MR. DONNELLY: You can't grant final approval because there's no flow acceptance letter. You could give it preliminary approval conditioned upon the adjustments that are necessary to address Pat Hines' comments. The other choice would be if the only thing awaiting final approval is the flow acceptance letter, simply -- I'll go through the resolution but hold it until a letter is obtained and then add it to the agenda for the ministerial act of approving it.

CHAIRMAN EWASUTYN: Which way would the Board like to go. Frank Galli?

MR. GALLI: What was the last one again, Mike?

MR. DONNELLY: You could either give preliminary approval tonight or give final approval as soon as the flow acceptance letter is received. I don't think the applicant would even need to come. In the past when you had something

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that simple you just put it on for Board
Business.

MR. GALLI: We can do preliminary and
when they get the flow acceptance do the final.

MR. MENNERICH: Is there any advantage
to the applicant to have a preliminary approval?

MR. CORDISCO: Well, I think that
there's some advantage to having preliminary
approval. I mean certainly it helps us when
we're dealing with Volkswagen, to show them that
we're progressing through the process. That
would be helpful to have preliminary approval.
You might want to consider taking both actions in
the sense that if the only outstanding item would
be the sewer acceptance letter, which by way of
background -- I mean we don't have it but it's
not as if we haven't been asking. We have been
asking for that. In any event, the Board could
then, as Mr. Donnelly suggests, put it on as
ministerial for Board Business final approval
once that's received. We would, to answer your
question, appreciate preliminary approval.

CHAIRMAN EWASUTYN: Mike?

MR. DONNELLY: I'll go through the

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conditions of the resolution then. We'll need a sign-off letter from Pat Hines on the issues raised in his memo of April 1st. We will make reference to the Zoning Board of Appeals' decision and incorporate its conditions into this resolution of approval. A DOT highway work permit will be required. The resolution reflects that they have issued their conceptual approval by letter dated February 24th. Demolitions will be required from Jerry Canfield's office. Unless you change the plans, you'll need a DEC class A stream discharge permit for the stormwater --

MR. HINES: Stream disturbance.

MR. DONNELLY: -- stream disturbance permit. I'm sorry. Let's see. You'll need the flow acceptance letter. We will include the Architectural Review Board approval at this time if you wish or defer that until the time of final. There was mention of the possibility that some retaining walls will be in excess of four feet. Any retaining walls applied for that are in excess of four feet will require sealed -- stamped plans by a licensed engineer. There will be a requirement of a landscape security and

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inspection fee. I don't know the amount of the inspection fee but that will have to be computed. A stormwater improvement security and inspection fee.

I don't think there's a water main or a sewer main, these are just laterals to the existing.

MR. HINES: They're just laterals.

MR. DONNELLY: So neither of those will be required.

Is there any offer of dedication for what's going to be done on 17K or the right-of-way is adequate there?

MR. SARCHINO: The right-of-way is adequate.

MR. DONNELLY: Then our standard condition that says you can not build anything that's not shown on the approved site plan without amended Planning Board approval.

CHAIRMAN EWASUTYN: Jerry, do you have anything to add to that?

MR. CANFIELD: Nothing.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: Nothing.

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CHAIRMAN EWASUTYN: Before we move for a motion to grant preliminary approval subject to the conditions that our Planning Board Attorney, Mike Donnelly, presented to us this evening, which one of them included ARB approval, I think I'll move for that motion which then would be listed in the preliminary approval.

So Mike, would you describe to, or Pat Hines, describe to the applicant the necessary information that will have to accompany the ARB.

MR. DONNELLY: The ARB requires -- there's a specific application, I don't know if it's been filled out, and then a listing of all of the materials that are shown on the renderings by manufacturer, part number or whatever the appropriate description is.

MR. CORDISCO: I believe that there was a preliminary draft submitted with the original application package. You're absolutely correct, the final materials were not specified. So we would need to provide that.

CHAIRMAN EWASUTYN: Any questions from anyone in reference to moving to grant ARB approval?

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(No response.)

CHAIRMAN EWASUTYN: Okay. I'll move for a motion to --

MR. CANFIELD: John, one question. I'm sorry. The ARB, did they -- screening the rooftops -- did we talk about rooftop screening?

MR. CLARK: We did not. We did not discuss them. There will be a metal screen, the same material that we have for the metal panels on the back and sides. We'll screen all rooftop units, anything that can be seen.

CHAIRMAN EWASUTYN: Okay.

MR. PROFACI: Is that a parapet type thing?

MR. CLARK: There's a parapet already in the front which we believe will screen most of them. You're probably going to see some coming up the side from the entrance, so they'll have to be screened.

CHAIRMAN EWASUTYN: Okay.

MR. CANFIELD: Okay. Thank you.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: The sign. Has a detail been provided for the sign, the 25 foot high?

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MR. HINES: No. That's one of my
comments.

MR. CLARK: Not yet.

CHAIRMAN EWASUTYN: So that would be
part of the condition for final approval then.

MR. DONNELLY: I was taking notes.

MR. HINES: The sign detail.

MR. DONNELLY: The sign detail.

MR. HINES: It is included in my
comments.

MR. DONNELLY: I did hear that earlier.
It's referred to in Pat's letter so it would need
to be complied with there.

MR. MENNERICH: I think the Board
should see what that is though, right, before we
give final approval?

MR. DONNELLY: You're going to be back
then.

MR. CORDISCO: Sure. We'll make that
as part of our final submission package.

CHAIRMAN EWASUTYN: All right. Then
I'll move for a motion to grant ARB approval for
Volkswagen of Newburgh.

MR. WARD: So moved.

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MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward. 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. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

The next motion before us this evening is to grant preliminary approval subject to the conditions that were presented to us by Planning Board Attorney Mike Donnelly.

MR. PROFACI: So moved.

MR. WARD: Second.

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

(No response.)

CHAIRMAN EWASUTYN: I'll move for a

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roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

Thank you.

MR. CORDISCO: Thank you all very much.
Good night.

(Time noted: 7:17 p.m.)

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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: April 21, 2014

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

----- X

In the Matter of

MAGYAR SERVICE CENTER
(2010-25)

5465 Route 9W
Section 9; Block 1; Lots 3 & 6
B Zone

----- X

AMENDED SITE PLAN

Date: April 3, 2014
Time: 7:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
JOSEPH E. PROFACI
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: FRANK VALDINA

----- X

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

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MR. PROFACI: The next item on tonight's agenda is the Magyar Service Center, project 2011-04. It's located at 5465 Route 9W, Section 9; Block 1; Lots 3 and 6. It's located in the B Zone. It's an amended site plan being represented by Frank Valdina.

MR. VALDINA: Good evening. There hasn't been any revision to the plan. There was a question pertaining to submittal to County Planning with their approval.

I had furnished a copy of the ZBA resolution of decision pertaining to the authorization for the Magyars to do truck rental on the site which dated back to `89 which was prior to any zoning as far as limitations and so on. Way back then they just referred to them as gas stations or service centers which included rental and so on. They did have permission from the ZBA to utilize this site for truck rental, as I mentioned. The only stipulation was that all the trucks had to be stored behind the fence. There isn't any evidence of a fence. No one knows where it is. All vehicles are stored

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behind the fence that's been constructed in conjunction with the approved site plan.

The request is, in addition to the truck rental, is to rent automobiles. Their intent is to start with two or three automobiles, building up to a maximum of ten. I've shown ten parking spaces for the automobiles. It's behind the building, within the limits defined within the fence.

The only other change they're proposing is on their existing sign. This is a rough sketch of what their sign is. As you can see, they're going to add the two words "Car and" in front of "Truck Rental." That's the only change that's proposed.

CHAIRMAN EWASUTYN: At this point I'll turn to our Attorney, Mike Donnelly.

MR. DONNELLY: I have seen a copy of the ZBA decision. It's somewhat unusual because it purports to grant a use variance but it doesn't talk about the use variance criteria. That isn't the issue here. Clearly Mr. Valdina is correct, the decision reads, "It is the finding of this Board that the restriction

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against the combined uses of a gas station and truck rental business set forth in" a certain section number "may be varied in this instance where the re-siting of a gas station would be in the public interest and safety." So I agree, certainly, that use was authorized by this, but the decision doesn't say anything about the amount of space or parking that could be dedicated to that rental business, which is really the issue before us.

I know your argument, Frank, is that because a particular plan was before the Zoning Board they must have authorized that. While that's probably not an unfair inference, I don't think it's the only inference from the decision. I think clarification of that should come from the Zoning Board.

MR. VALDINA: The zoning back in '89 did not have any limitation.

MR. DONNELLY: Exactly. That's why the decision doesn't address the issue, it had no reason to.

MR. VALDINA: That's right. I'm not disputing that. In a sense I would think since

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2 there wasn't any limitation on what they -- the
3 number of vehicles that they could rent from this
4 site, that they're grandfathered in because
5 everyone else -- I'm not an attorney. The zoning
6 in 1991 went into motor vehicle rental which was
7 subsequent to their allowance to utilize the site
8 for rental, and that just says motor vehicles.
9 Again, the only limitations put back in '91 were
10 on vehicles in conjunction with repair, going to
11 be worked on, repaired.

12 MR. DONNELLY: I don't disagree with
13 you, Frank. I think you clearly do have what
14 appears to be a use variance. What I don't think
15 is the only inference to be drawn from the ZBA is
16 that you're allowed to use all of the area you
17 want for the storage. That might be a very fair
18 inference and that may be indeed what the Zoning
19 Board tells us was the intent of their decision.
20 I think that clarification needs to come from
21 them.

22 So with the Board's permission, if they
23 want to follow that advice, I'll write a letter
24 to the Zoning Board asking them to clarify that
25 decision to tell us whether or not you're

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permitted to operate this site with that amount of space set aside for trucks.

MR. VALDINA: Cars.

MR. DONNELLY: I'm sorry. Yeah.

MR. GALLI: What would be the total number on the site, or it doesn't matter?

MR. VALDINA: There's no limit. No limit on trucks. Under the code it refers to --

MR. DONNELLY: If I want to be picky, the decision referred to a truck rental business, it didn't say a car rental business. I'm not saying that that means you can't rent cars, but if there's to be a clarification as to what was intended by this granted variance, I think that clarification should come from the Zoning Board and not for us to just infer based upon what looks to be most likely.

MR. VALDINA: Well, of course you don't have ---

MR. DONNELLY: If the Board is comfortable with the inference, that's not a problem, we can move forward.

MR. VALDINA: I don't know if there's any Zoning Board members around from when that

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decision was made.

MR. DONNELLY: It's still the same board. It may have different people on it.

MR. VALDINA: I see. I see.

CHAIRMAN EWASUTYN: What would be the Board's position?

MR. WARD: With this letter going to the Zoning Board, the usage is for the rental of cars, not car repair; right?

MR. VALDINA: That's right. There's no intent to repair cars.

MR. WARD: Thank you.

MR. VALDINA: It's strictly rental. Similar to the truck rental. The only thing we're doing with the truck rental is washing them and maybe oil changes. No repairs. The trucks and whatever was proposed with this site.

CHAIRMAN EWASUTYN: Okay.

MR. GALLI: I don't have a problem with the letter to the ZBA.

CHAIRMAN EWASUTYN: For the interpretation?

MR. GALLI: The interpretation. Does he have to go back to the ZBA?

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MR. DONNELLY: He'd have to.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I think we need the interpretation.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: Yes.

CHAIRMAN EWASUTYN: The majority of the Board is in favor of Mike Donnelly preparing a letter to be forwarded on to the ZBA for an interpretation.

MR. VALDINA: No recommendation from the Planning Board?

CHAIRMAN EWASUTYN: We never make recommendations. Mike Donnelly will speak on behalf of that.

MR. DONNELLY: I think while the Planning Board has the opportunity for a referral to report to the Zoning Board, I told the Board I don't believe that means there should be a recommendation either in favor of or against the granting of a variance. However, the Board has, on occasion, brought matters to the attention of the Zoning Board, both in favor of, perhaps, and against what might be relevant considerations for

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the Zoning Board. I don't know if there are any
that you wish to bring to the Board's attention
here.

MR. VALDINA: Thank you.

(Time noted: 7:24 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: April 21, 2014

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

----- X
In the Matter of

CASSARA SUBDIVISION
(2014-06)

442 Fostertown Road
Section 17; Block 2; Lot 32.12
AR Zone

----- X

SITE PLAN - INITIAL APPEARANCE

Date: April 3, 2014
Time: 7:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
JOSEPH E. PROFACI
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: LAWRENCE MARSHALL

----- X

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

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MR. PROFACI: The next item on tonight's agenda is the Cassara Subdivision, project 2014-06, located at 442 Fostertown Road, Section 17; Block 2; Lot 32.12. It is in the AR Zone. It's a site plan, initial appearance. It's being represented by --

MR. MARSHALL: Larry Marshall.

MR. PROFACI: Gary Marshall.

MR. MARSHALL: Larry.

MR. PROFACI: Larry Marshall.

MR. MARSHALL: This is a proposed three-lot subdivision located on the northerly side of Fostertown Road in the AR Zoning District.

What we propose is the creation of two additional building lots, lot 1 being a proposed two-family residence, lot 2 would contain all of the existing structures on the parcel, and lot 3 would be a proposed single-family residence.

The owner, Mr. Cassara, intends to build a house for himself on lot 1 and house one of his children along with himself in the structure.

All of the lots meet the necessary

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zoning requirements with the exception of lot 2 as the existing dwelling is located within the front yard setback requirement.

CHAIRMAN EWASUTYN: All right.
Comments from our consultants. Pat Hines?

MR. HINES: Again, the first comment just identifies that lot 1 is proposed for a two-family home. That will require architectural review further on in the process, being a two-family home. It's a subdivision and site plan at that point.

The existing dwelling on lot 2 has a front yard setback issue which will need to be referred to the ZBA.

The driveways are fronting on the County road and need County DPW approval.

The separation distance between the septic system on lot 2 and the well on lot 3, we need you to take a look at that. It looks down gradient and less than 200 feet.

MR. MARSHALL: Okay.

MR. HINES: Percolation test data, I know you said you were waiting for the weather to clear up to do that.

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MR. MARSHALL: It's a little cold.

CHAIRMAN EWASUTYN: It's January.

MR. HINES: The Town requires a buildable area of block be shown on the plans. That can be added.

I think right now you're looking for a referral to the ZBA for that front yard setback issue.

MR. MARSHALL: Lot 2.

CHAIRMAN EWASUTYN: At the same time can Mr. Marshall present to you plans to circulate to the Orange County Planning Department?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: Nothing. We have nothing.

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: Pat, on that lot 2, the existing barns are all okay?

MR. HINES: Yes. As accessory structures they meet those setbacks.

MR. MARSHALL: I believe the one barn

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intends to stay. The barn that's within the setbacks is not in great shape.

MR. GALLI: It will be removed?

MR. MARSHALL: Yes.

MR. HINES: It only needs ten feet for an accessory structure, so it meets it. It's up to them whether they want to keep it or not.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No question.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No questions.

MR. WARD: No questions.

CHAIRMAN EWASUTYN: I'll move for a motion to have Mike Donnelly prepare a letter to the ZBA explaining the front yard variance and for Larry Marshall to present plans to Pat Hines to circulate to the Orange County Planning Department.

MR. PROFACI: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I have a second by Frank Galli. I'll ask for a roll call vote starting with Frank Galli.

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MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

MR. MARSHALL: Thank you very much.

CHAIRMAN EWASUTYN: Good to see you,
Larry.

MR. MARSHALL: Same to you.

CHAIRMAN EWASUTYN: Who was the owner
of this property before? We went through that on
the deed.

MR. MARSHALL: We have the prior deed.
I can look it up and let you know.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 7:30 p.m.)

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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: April 21, 2014

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

----- X
In the Matter of

WTF NY LOT LINE CHANGE
(2014-07)

979 & 983 Route 32
Section 2; Block 1; Lots 42 & 48
RR Zone

----- X

LOT LINE CHANGE

Date: April 3, 2014
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
JOSEPH E. PROFACI
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: CHARLES BROWN

----- X

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

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MR. PROFACI: The next item on tonight's agenda is WTF New York Lot Line Change, project 2014-07, located at 979 and 983 New York State Route 32, Section 2; Block 1, Lots 42 and 46, located in the RR Zone. It's a lot line change with an initial appearance by Charlie Brown.

MR. BROWN: Thank you. These are two existing lots. They did at one time contain viable residences. Both residences are in severe disrepair and will be torn down.

They front on a gravel lane called Griffins Lane which goes to Route 32. The proposal is to transfer an area of roughly 125 feet by 200 from lot 46 to lot 42. The purpose of that is twofold; one, to give lot 42 enough acreage so that it meets the two acres required for this zone; and the other is to provide a viable septic area for that lot.

Both lots will be served by individual wells and septics, which we have done the soil testing on those.

There will be access off that existing gravel lane.

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We do have a meeting set up for Tuesday with the DOT. We do intend on doing some upgrades to the intersection of this lane with Route 32 because sight distance to the south is actually miserable right now. We've got to take down a little bit of the hill to create the sight distance. The sight distance will be good once that work is done. Again, we've got a meeting with Zibby out in the field on Tuesday for that.

CHAIRMAN EWASUTYN: Jerry Canfield, any comments?

MR. CANFIELD: Nothing at this time.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We had a discussion at work session. We're struggling with whether this is truly a lot line change and not a subdivision. We question where you measured your lot width, but because the existing lot width is not getting less conforming, it may be just a lot line change and not a subdivision.

MR. DONNELLY: Charlie, you're familiar with the position of the Newburgh Code and the interpretation by the Zoning Board that says if you have a noncomplying condition, be it building

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or lot, unless on a proposal to do something different you make it less nonconforming, meaning it's not enough to keep it the way it is, you need to get a variance. However, the lot line definition takes a slightly different approach and says that a lot line is something different than a subdivision, and you're eligible for consideration of lot line approval when ever you do not make an existing nonconforming lot more nonconforming. So it's a little bit different than the approach of the rest of the section. So my recommendation to the Planning Board is, after saying all that, that this is truly a lot line change despite the nonconformity of that lot.

However, there is an issue with the status of that roadway and whether you have demonstrated to us rights to use it and whether it has the requisite status under Section 280-A. That would require that at some point in time it was shown on a filed map as a roadway, not necessarily a Town road but a roadway of some sort. And you also need to demonstrate for us that you actually have the right to use it.

MR. BROWN: I did go back through the

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deeds. The deeds do clearly indicate that we have a right to use it. Both of those existing houses I referred to did have access to that. As far as the filed map showing that as a road, there is none.

MR. DONNELLY: Okay. Then you have what's called a Town Law Section 280-A difficulty that says your access -- you must have access to a roadway of qualifying status. I'll send you an explanation of this by e-mail. You can not access a lot by easement. You must have access to a qualifying street, and essentially a qualifying street is one shown on a filed map. It doesn't necessarily have to be improved. You get into the issue of whether it's suitably improved as part of the 280-A review. In a case where you do not have access to a qualifying roadway, you would need to get what's called open development area approval from the Town Board. Again, I'll send you that article. It explains that. You can call me if you have any questions. You can chart out your course from there.

MR. BROWN: Okay. The other thing is, as Pat mentioned, we would be looking for a

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variance on this. The lot just barely makes the 200 foot width at this point right here. We're about 205 there. It doesn't really give us a buildable area because of the large setback required in this particular zone. So there would be no real essential building envelop based upon that.

MR. DONNELLY: That's different then.

MR. HINES: You show a building envelop.

MR. BROWN: I do based upon 150 foot lot depth, not 200.

MR. DONNELLY: That's a different story.

MR. BROWN: That's why I put it on the table. That's why I said a variance was required.

MR. HINES: We're saying that the lot width is not getting any worse.

MR. BROWN: Okay.

MR. DONNELLY: That's okay for the lot width. If the buildable area -- it's supposed to be based on the lot width or the required --

MR. HINES: You don't have the required

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buildable area.

MR. BROWN: We don't have the required buildable area if we use the 200 foot. We have virtually no buildable area.

MR. HINES: Then they're going to need a variance.

MR. BROWN: We certainly don't make the 15,000 square feet required in the RR Zone.

Would it be premature to request a referral to the Zoning Board, because --

MR. DONNELLY: You can go both to the Town Board and Zoning Board at the same time I would think.

MR. BROWN: Okay. I do know my client has been talking to the owner of the lot in the back, so that essentially may get revised or resolved.

If we provide an additional 26 feet we need for a 50 foot right-of-way, and I show it on this map, would that be sufficient or would that have to be upgraded to private road specs.

MR. DONNELLY: You're saying you're going to get a fee interest in the roadbed or you're going to get the co-application of the

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other landowner?

MR. BROWN: We would have to give that to the guy in the rear to provide a 50 foot right-of-way.

MR. DONNELLY: In other words, if he became a co-applicant in your subdivision and showed his land as a 50 foot roadway, would that satisfy the 280-A problem?

MR. BROWN: He would have 24 feet, we would have the 26 feet.

MR. HINES: It's going to trigger the need to construct a private roadway. We've allowed existing private roadways to remain but any new private roadway --

MR. DONNELLY: One of the problems is I don't know that this is an existing private roadway. It's merely a driveway.

MR. CANFIELD: I don't have it listed as a private --

MR. HINES: By providing a private roadway, that needs to meet the Town private road specs.

MR. DONNELLY: The problem is it's not an existing private roadway. It's just a

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driveway. So either way it's going to have to be brought up to private road specs, either by making it a new private road or by getting open development area and starting to treat it as one. I think you're going to have to bring it up to a private road spec. We have a private road spec. If you're an existing private road, that part that exists doesn't have to be brought up to snuff. To be a private road you have to be a roadway shown on a filed map, and you're not that. So you're now proposing for the first time that this long driveway become a private road, and that would require that you bring it up to spec. If you did that you wouldn't need the open development area.

MR. BROWN: Even though there were two houses, one on each of these lots that accessed off that?

MR. DONNELLY: I can't explain how that came about and why that is but it doesn't satisfy the --

MR. BROWN: It's in the deeds.

MR. DONNELLY: If that's an easement -- they should not be accessible that way. How that

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happened historically I don't know. It doesn't make it a private road. It means it's a shared driveway that may not have complied with 280-A but just historically exists.

MR. BROWN: I understand. So we need a 280-A waiver from the Town Board.

MR. GALLI: It was probably a driveway and when 911 came in they put a name on it.

MR. BROWN: To my knowledge it was a deed from a long, long time ago.

MR. DONNELLY: If you show it as a private road by getting the cooperation of the other landowner and show it on your map, now you've satisfied the first prong of 280-A as a qualifying roadway. The next piece is you have to either meet the Town's roadway spec or you can ask the Zoning Board of Appeals to grant you a variance from that specification at a standard called suitably improved, whether or not in their view it's adequate for the purpose of emergency vehicle access. You can do that if you showed it as a private road and you didn't want to build to the private road spec, the ZBA could grant you a variance.

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MR. BROWN: Okay.

MR. PROFACI: Mike, couldn't it be considered a shared driveway?

MR. DONNELLY: No. You'd have to straddle the fee ownership. We have shared driveways but what happens is we draw the property line down the middle just to satisfy 280-A because you both now have fee access to the qualifying roadway which is the existing street. Here it isn't that. The entire roadbed is owned in fee by someone else.

MR. BROWN: And if we change the lot line to give the rear lot a 25 foot strip to Route 32, now we're increasing the nonconformity of lot width and it now becomes a subdivision.

MR. DONNELLY: I don't think that's necessary. I think if you have the cooperation of the landowner that owns the fee to that driveway and they authorize you by adding their name to the subdivision map to show that as a roadway on a plat that will then be filed, you are now turning that into a qualifying roadway. If you propose it as a private roadway you must either meet the private roadway spec or get a

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variance from that specification from the Zoning Board to a suitably improved standard.

MR. BROWN: Okay. Do a common driveway within the private road right-of-way. Got you.

MR. DONNELLY: Whatever standard they say is adequate for the purpose of emergency access.

MR. BROWN: Okay. Based upon that I think we'll hold off on requesting referral to the Zoning Board until I talk to my client.

MR. DONNELLY: I'll send you something that explains all that.

MR. BROWN: I appreciate that.
Thank you very much.

(Time noted: 7:40 p.m.)

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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: April 21, 2014

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

----- X
In the Matter of

PATTON RIDGE
17-LOT SUBDIVISION
(2012-18)

Request for a Six-Month Extension of Preliminary
Approval from May 7, 2014 until November 7, 2014

----- X

BOARD BUSINESS

Date: April 3, 2014
Time: 7:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
JOSEPH E. PROFACI
JOHN A. WARD

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

----- X

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

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PATTON RIDGE

52

MR. PROFACI: We have one item of Board Business. It's Patton Ridge 17-lot Subdivision, project 2012-18.

The applicant is requesting a 180-day extension of preliminary approval from 7 May 2014 to 7 November 2014.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. GALLI: I'll second.

CHAIRMAN EWASUTYN: I have a motion by John Ewasutyn. I have a second by Frank Galli. 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. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

I'll move for a motion to close the Planning Board meeting.

MR. GALLI: So moved.

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PATTON RIDGE

53

CHAIRMAN EWASUTYN: I have a motion by
Frank Galli.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 7:42 p.m.)

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

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DATED: April 21, 2014