

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

128 NORTH DIX AVENUE
(2015-22)

128 North Dix Avenue
Section 73; Block 7; Lot 22.1
R-3 Zone

----- X

INITIAL APPEARANCE
SITE PLAN/ADDITION

Date: September 3, 2015
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
MARK EDSALL
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ANTHONY COPPOLA

----- 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

CHAIRMAN EWASUTYN: Good evening,
ladies and gentlemen. I'd like to welcome you to
the Town of Newburgh Planning Board meeting of
September 3rd.

At this point I'll call the meeting to
order with a roll call vote starting with Cliff
Browne.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. DOMINICK: Present.

MR. WARD: Present.

CHAIRMAN EWASUTYN: The Planning Board
has consultants that work for both the Planning
Board and the Town. I'll ask that they introduce
themselves at this time.

MR. DONNELLY: Michael Donnelly,
Planning Board Attorney.

MS. CONERO: Michelle Conero,
Stenographer.

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

MR. EDSALL: Mark Edsall, McGoey,
Hauser & Edsall Engineers.

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

128 NORTH DIX AVENUE

3

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

CHAIRMAN EWASUTYN: At this time I
would like to turn the meeting over to Ken
Mennerich.

MR. MENNERICH: Please stand for the
Pledge.

(Pledge of Allegiance.)

CHAIRMAN EWASUTYN: We have six items
on the agenda this evening and one item of Board
Business. The first item on the agenda is 128
North Dix Avenue. It's a site plan/addition
located in an R-3 Zone and it's being represented
by Coppola Associates.

MR. COPPOLA: Thank you, Mr. Chairman.

My name is AJ Coppola, I'm the project
architect for Delores Wright. We are proposing a
two bedroom -- I'm sorry, two apartments on this
single lot. The existing lot is a mother/
daughter that was approved in 2003. Basically
the configuration of the existing house is a side
by side -- two-family or side-by-side mother/
daughter right now. Delores lives in the north
half and has 971 square feet on the first floor

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

and her mother lives in the other half which has 756 square feet on the first floor.

Our proposal is basically a second floor addition. There's no expansion of the existing footprint. It's a second floor, basically raising the existing roof over this half and constructing a full second floor with bedrooms to accommodate her family. We were referred to the Planning Board by the Building Department. Again, this is an existing mother/daughter.

Now, because it does not meet the requirements for a mother/daughter because of the square footages involved, which I think are restricted to 750 square feet, now they are considering it to be a two-family.

The site plan is very simple. We basically just identified the areas for parking, the existing parking and then where we needed new parking. So there's a total of four parking spaces combined. This is also serviced by municipal water and sewer. None of that changes.

That's basically it in a nutshell.

CHAIRMAN EWASUTYN: Comments from Board

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

128 NORTH DIX AVENUE

5

Members?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: At this point I'd like to turn to Mark Edsall with McGoey, Hauser & Edsall to review Pat Hines' comments.

MR. EDSALL: The comments were prepared by Pat Hines from our office. He points out four issues.

One, obviously it needs a ZBA referral, which was acknowledged by Anthony.

Second is relative to the increased hydraulic loading, the City of Newburgh flow acceptance letter will be required.

The applicant also has noted additional parking. The details and layout for the parking should be on the site plan.

And last but not least, upon return from the ZBA, a public hearing at the Planning Board level will be required for the two-family residence. That's it.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Just a question for Anthony. The site plan notes that there's a pool

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

128 NORTH DIX AVENUE

6

and a shed that are on the site. The road to the rear is a paper road, however it still is a road. I believe that the Code Compliance Department has deemed that that pool and shed is in a front yard. There were previous applications for the ZBA. Would it be your option at this time -- would it be your idea to agree to go to the ZBA when we do the referral, to do it for -- actually, I see four potential variances, the lot area as Pat had noted, the pool and the shed in the front yard, and then also in the R-3 Zone there is a minimum dwelling unit size requirement of 900 square feet per. The existing I think is 750 something you had said.

CHAIRMAN EWASUTYN: 767.

MR. COPPOLA: I qualified that as being on the first floor because I actually didn't even go inside. She may have 900 because there is a small second floor. I'll have to document that.

MR. CANFIELD: If you do, show us that. There should only be three variances then that we're looking for.

MR. DONNELLY: Two of them were applied for and pending, they just haven't 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

128 NORTH DIX AVENUE

7

completed.

MR. COPPOLA: Two of them they didn't act on. In other words, there's an open application.

MR. CANFIELD: Right.

MR. COPPOLA: Okay.

MR. CANFIELD: I think maybe to make it cleaner, if we just do part of this referral.

MR. DONNELLY: I'll mention in the referral it should be consolidated with the two existing applications for the pool and the shed front yard variance.

MR. COPPOLA: I don't know procedurally how we do that. We'll have to do a new application for what's new and then I'll just attach it and refer to that I guess.

MR. CANFIELD: Okay. We'll figure it out.

MR. COPPOLA: Number one is it's being referred because of the lot area?

MR. CANFIELD: Lot area.

MR. COPPOLA: It's undersized. Okay. All right. So three variances. You'll do the referral.

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

Are we still required to do a second public hearing? That's my --

CHAIRMAN EWASUTYN: Site plan.

MR. DONNELLY: For site plan it's optional. Is it a special permit, the two-family home, or is it just a site plan?

MR. CANFIELD: It's not a special permit.

MR. DONNELLY: They can waive the hearing.

MR. COPPOLA: I got it.

MR. CANFIELD: Just one other comment on that, too. When you come back it will be subject to ARB review by the Board. That's Architectural Review Board.

MR. COPPOLA: Sure. Okay.

MR. CANFIELD: That's all I have, John.

CHAIRMAN EWASUTYN: Will there then be a requirement for a City flow acceptance letter?

MR. EDSALL: Because of the increased number of bedrooms. It's nominal but it should be acknowledged.

MR. COPPOLA: Okay. That goes to Jim Osborne?

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. EDSALL: Jim will take care of that.

CHAIRMAN EWASUTYN: You may want to start that early in the process.

MR. COPPOLA: Right. Good suggestion.

CHAIRMAN EWASUTYN: Michael, for the record, please, would you outline the variances required?

MR. DONNELLY: At your direction I will send a letter to the Zoning Board informing them this applicant appeared before us and that to have the two-family home requires a variance for the minimum lot area. Unless the applicant can demonstrate that the interior space satisfies the 900 square foot minimum dwelling unit size, there may be a variance required for minimum dwelling unit size. Lastly, we'll mention that there is a pool and shed front yard variance application pending and they should be considered together.

CHAIRMAN EWASUTYN: I'll move for a motion to have Mike Donnelly prepare that referral letter to the ZBA.

MR. WARD: So moved.

MR. DOMINICK: Second.

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

128 NORTH DIX AVENUE

10

CHAIRMAN EWASUTYN: I have a motion by
John ward. I have a second by Dave Dominick.
I'll ask for a roll call vote starting with Cliff
Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

Thank you, AJ.

MR. COPPOLA: Thank you.

Mark, do you have a copy of the
comments or can you send them?

MR. EDSALL: I'll e-mail it over.

MR. COPPOLA: Thank you.

CHAIRMAN EWASUTYN: Anthony, you can
have mine. I have an extra one here.

(Time noted: 7:08 p.m.)

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

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: September 23, 2015

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

MATRIX/DIBRIZZI
(2015-20)

Route 17K
Section 95; Block 1; Lots 4.12, 54.1, 69.25 & 49.12
IB Zone

----- X

LOT LINE CHANGE

Date: September 3, 2015
Time: 7:08 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
MARK EDSALL
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: KEN GRIFFIN

----- 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

CHAIRMAN EWASUTYN: The second item on the agenda this evening is Matrix/Dibrizzi, lot line change. It's located at Route 17K in an IB Zone and being represented by Langan Engineering.

Your name is Mr. Murphy?

MR. GRIFFIN: Griffin. We're back for the second meeting as requested.

Chuck Utschig from Langan is here to answer any questions on the plans.

MR. UTSCHIG: The last time we were here, Mr. Chairman, we had some minor comments from your engineering consultant and there was a mailing required. We performed the mailing in the required timeframe and we have adjusted our plan to deal with really fairly minor comments from Pat Hines relative to the proposed lot line change.

CHAIRMAN EWASUTYN: Mark Edsall, would you go through the review letter we have?

MR. EDSALL: It's rather short because, as is noted in comment 3, all the prior review comments have been addressed.

Pat notices the mailing issue has been resolved for tonight's mailing.

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

Last but not least, he makes reference to the classification under SEQRA as a Type 2 action, which Mike will follow up on.

It's complete from an engineering standpoint.

CHAIRMAN EWASUTYN: Jerry Canfield, any comments?

MR. CANFIELD: I have nothing at this time.

CHAIRMAN EWASUTYN: Board Members?

MR. WARD: Nothing.

MR. DOMINICK: Nothing.

CHAIRMAN EWASUTYN: Mike Donnelly, would you take the lead on this, please?

MR. DONNELLY: Yes. This is a lot line change under the Town of Newburgh Code. By definition it is not a subdivision. It is a Type 2 action under the Town of Newburgh Code, therefore it is not subject to SEQRA. Because it's not a subdivision it does not require a referral to the Orange County Planning Department. The resolution will be our standard one.

We have contacted the City of Newburgh

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

and expressed concerns about the ultimate drainage on the site when a project application is made. We've responded that we will certainly hear from them then. I've notified the County Planning Department as well of that fact. The applicant has seen a copy of the resolution.

The standard conditions are the addition of a map note that indicates to the best available knowledge there are no encroaching utilities. The applicant has to submit a reproducible mylar, one copy, of the lot line change plat. A map must be filed at the Orange County Real Property division. We need to see the correspondence sending that. We want to be copied on the deeds being sent to the clerk. Ultimately we'd like to get a copy of the deeds after they are recorded.

CHAIRMAN EWASUTYN: Any questions or comments on the outline presented in the resolution by Mike Donnelly?

(No response.)

CHAIRMAN EWASUTYN: Then I'll move for a motion to approve the lot line change subject to the conditions stated in the resolution by

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

MATRIX/DIBRIZZI

16

Planning Board Attorney Mike Donnelly.

MR. WARD: So moved.

CHAIRMAN EWASUTYN: I have a motion by
John Ward.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Second by Ken
Mennerich. I'll ask for a roll call vote
starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye. Motion
carried.

Thank you.

MR. UTSCHIG: Thank you, Mr. Chairman,
Members of the Board.

(Time noted: 7:12 p.m.)

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

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: September 22, 2015

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

CVS PHARMACY/STORE
(2015-23)

Corel Place (Route 52)
Section 60; Block 3; Lot 5.2
B Zone

----- X

INITIAL APPEARANCE
SITE PLAN

Date: September 3, 2015
Time: 7:12 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
MARK EDSALL
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ANTHONY MORANDO

----- 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

CHAIRMAN EWASUTYN: The third item this evening on the agenda is CVS Pharmacy/Store, initial appearance for a site plan. It's on Corel Place in a B Zone and it's being represented by Cuddy & Feder.

MR. MORANDO: Good evening. My name is Anthony Morando, I'm an Attorney with the law firm of Cuddy & Feder. I'm here on behalf of CVS and T.M. Crowley. Also with me is Shannon Rutherford, she's a professional engineer, and Tracey Roll is also here from T.M. Crowley.

Thank you for hearing us tonight. We appreciate the opportunity to get before the Board and introduce this project to you. We're very excited about it.

As you probably know from the plans, you know the Town better than I do, CVS is proposing a freestanding store with an associated drive-through component at the vacant lot located near the intersection of Routes 52 and 300. This is located directly west of the Dairy Queen and just near the Hometown Bank and the other gas station, and Joe's Pizza is across the street.

Our goal tonight is our initial

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

appearance. We submitted mostly conceptual documents to start the review process to get feedback from you, from your staff, to talk to you about the project, make sure we're following the proper procedures.

Just for housekeeping, we submitted conceptual site plans, a full EAF that will be supplemented with additional information as we proceed with the traffic report and drainage information. We also submitted the application forms, the checklist and other documents that are required. Shannon will walk you through the plans to give you an idea of what it is we're proposing, the details associated with the use.

At this point we do believe that the uses are permitted and it is in compliance with the B District, which this proposal is mostly within. Shannon can explain that a little bit further.

Again, thank you for hearing us tonight. Shannon will walk you through the plans.

MS. RUTHERFORD: This 11 by 17 matches the presentation board that I'll be using. This

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

document is the same as the site plan that was submitted as part of the application package, it's just done in color for ease of reference for the discussion this evening.

As Anthony mentioned, my name is Shannon Rutherford, I work with VHB in their Wethersfield, Connecticut office, and I'm here to discuss the CVS application. From an orientation standpoint, we are at the southwest corner of 52 and 300, located between the Dairy Queen and the Valero gas station with frontage on 52. The zoning district boundary line that Anthony made reference to is -- the majority of the site is in the B Zone, the purple line that is shown on your map. You can see the zoning designation and you can see that the line runs through. There's a small triangle at the rear of the lot that is in the IB Zone. Per the plan and as Anthony mentioned, we've applied the B bulk requirements to the site plan layout. We also applied the provision of extending the B Zone parameters thirty feet into the portion of the lot that's in the IB Zone. There's a very small portion then that would still be rendered IB with taking

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

advantage of that provision. We do believe that the lot is code compliant. We have a usable zoning summary chart and a parking summary chart.

The proposal is to construct a 13,600 square foot CVS pharmacy with a single drive-through. The drive-through is located on the southwest corner of the building. The entrance is located on the northeast corner of the building. So the building and the entrance are facing the intersection.

There are 91 parking spaces provided, matching the code requirement.

We have two full access curb cuts that are proposed, one onto Route 52 and the other at the south of the site, taking advantage of the access drive bringing us out to Route 300. We understand, obviously, a cross access agreement is needed in order to take advantage of the Route 300 access. I believe that's part of the real estate agreement that is already in place.

There is a notable change in the topography from the corner of the property, from corner to corner. There's over twenty

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

foot of elevation differential, thus necessitating retaining walls. So there is schematically shown some retaining walls. We have done some preliminary grading based on a survey that's already been completed. The survey was included in your package so you can see, and I also have it with me this evening if we want to run through any of the particulars regarding the grading. We've taken a preliminary look at it. Again, this evening the hope is to get your feedback and concurrence that we're on the right track, you agree with our zoning, and then we'll, as Anthony mentioned, embark on fully engineered plans and traffic studies with the analysis.

From an operational standpoint for CVS, the majority of the operational elements are contained to the rear of the building. There is a loading door, which is an overhead door, located in this position. There's a door at the rear of the building.

There is a compactor that's attached to the building and it is fed from the interior of the building. The compactor

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

CVS PHARMACY/STORE

takes care of any of their paper waste.
There is a dumpster located at the rear of
the building as well.

Obviously when we get into the
final design we'll be looking at things such
as the landscaping and screening that may be
required for those elements and have those be
code compliant.

The drive-through cue. You can
see we've separated this out. We created a
drive aisle access to come through and have
the drive-through cue separate so it won't
conflict with either internal site
circulation and customer access, nor does it
conflict with any main access needed for the
property itself.

There is pedestrian access that's
proposed as part of this. It's shown in the
light -- the yellowish color. Any of those
yellow colors are the sidewalks or concrete
pads proposed. You can see there's a
sidewalk that's proposed to come in from
Route 52, connect and provide crosswalks
across the drive aisles to provide access to

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 building itself. Then we extended that sidewalk south, to the neighbors to the south, understanding that there may be a need for that in the future.

With that, that hits on the highlights of the plan. Again, we welcome your feedback so that we can embark on the final design and continue this process.

CHAIRMAN EWASUTYN: Thank you, Shannon.

Jerry Canfield, do you want to respond to some questions as far as code compliance?

MR. CANFIELD: Just one thing. First I should say that we agree with how you got the use is permitted, or the determination that it is permitted. I don't agree with how you got there. I think the line taking the thirty-foot exception is permissible but I think you need to have it to the IB side if you want to deem the site as an IB Zone simply because drive-throughs are permitted in the bulk use tables in the IB Zone. So if you take that thirty feet and move it, you're at the corner of the building and then it will be permissible. Someone has done a very good job of interpreting our code, looking at 185-42 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

specifically deals with drive-throughs, parking requirements and vehicle discharge which Ken will get into later. It all complies. If you look at our code, the bulk use tables in the IB Zone is where they specifically talk about 185-42 and drive-throughs.

MS. RUTHERFORD: So it wouldn't be considered -- if we were to stay in the B Zone it would not be considered an accessory use to the primary function of the building?

MR. CANFIELD: That's correct. If you look at our tables, in the B Zone they do not mention drive-throughs. Customarily drive-throughs are affiliated, for the intent of our code, with fast food.

MS. RUTHERFORD: Sure.

MR. CANFIELD: I think you're going to be all right with the IB determination.

MS. RUTHERFORD: Okay. When I do that, then how do the setbacks get applied? That's what I was concerned with. If I recall correctly, and I don't -- I have it filed. The IB Zone has larger setback requirements. Is that -- am I remembering that correctly?

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. MORANDO: If I can just -- I think we do still comply with the IB setbacks. It was just giving us more space. I thought the way I read the code, and we can -- we're permitted. I just want to make sure we understand so when we package this together we're doing the right thing. I'm sure we can talk about this further. I thought the drive-through was treated as a component of the permitted use rather than a use itself. In other words, in the B Zone, because I think there are drive-throughs in the B Zone now, they were permitted in both zones either way.

MR. CANFIELD: Not so. In the Town of Newburgh there's a section of the code that says if it's not listed it's not permitted.

MR. MORANDO: Correct.

MR. CANFIELD: If you look at the B Zone, the bulk tables for the B Zone, they do not mention drive-through at all. IB is the only zone that it's mentioned. So that's the basis for where we're going.

MR. MORANDO: Okay.

MS. RUTHERFORD: Okay.

MR. CANFIELD: Additionally, a non-

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

zoning issue, the Town of Newburgh has a more stringent fire protection requirement when it pertains to sprinkler systems. The building will be required to be sprinklered. I see that you have shown possibly a sizable main to service that. I ask that you take a look at and into consideration of the elevation difference as you had mentioned. Potentially there could be about a twenty-five plus or minus foot elevation difference, you know, from where the service comes in to the property to the top of the building for where the sprinkler heads would be.

MS. RUTHERFORD: Sure. So the pressure differential.

MR. CANFIELD: The hydraulic analysis can verify you'll have enough pressure to facilitate a system.

MS. RUTHERFORD: Certainly we'll make sure that the building engineers, mechanical engineers typically size that. We'll make sure they are aware and we'll get the pressure information at the street so that they can do that calculation.

MR. CANFIELD: And basically as 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

project progresses we'll see another level of detail and then we can make more comments.

That's all I have at this time.

CHAIRMAN EWASUTYN: Thank you. Mark Edsall, would you read Pat Hines' comments?

MR. EDSALL: Yes. I have an extra copy for you.

MR. MORANDO: Thanks.

MR. EDSALL: Pat's initial review pointed out some concerns. First, under comment one he's bringing to the fore the Newburgh design guidelines for site plans. The site as designed may comply with zoning but some of the orientation features, such as parking in the front yard, site landscaping and lighting, are all requirements and outlined in the design guidelines of the Town. The applicant should look at those and appropriately consider them, comply where possible, and if you have specific waivers that you are desiring because of the particular site features, you should enumerate those and request those waivers from the Board.

MR. DONNELLY: Just to interrupt a second. For the parking in the front yard, 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

Board has looked favorably upon a stonewall or some kind of a landscape berm or something. The idea is for passing cars not to have to look at a sea of cars parked in the lot. If they can be blocked in some fashion, that might lead to a waiver, but you need to come forward with a proposal.

MS. RUTHERFORD: Understood.

MR. EDSALL: Comment two deals with the southerly access that you referenced in the presentation. You indicated that was part of the existing agreement, real estate agreement. That should be submitted to the Town and the attorney for review to verify the conditions of the access and authorization.

Obviously DOT access to Route 52 will be an issue. Ken will review that in much greater detail.

We note that you are heading toward determining your stormwater management requirements. We'll await the stormwater pollution prevention plan submittal to continue that review.

Next, the Board generally looks to

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

evaluate potential pedestrian connections. You've provided some sidewalks. One area that the Board has considered in the past is adjacent or along the State highways from site to site. That's something that you have to look at, the potential for that. The Board will discuss the desirability of adding additional sidewalks for that purpose.

Potable water and the sewer lines will require further review as the details are added to the plans.

The Board generally looks carefully at the type of layout and detail you have for non-curbed sidewalks to the parking areas here. It appears that the sidewalk is flush with the pavement with wheel stops. The concerns generally are the overhang of the vehicle encroaching on the available sidewalk, so that should be further considered.

Secondly, a series of bollards are required. Generally the Board looks at those bollards and the aesthetic appearance of those elements as well. So that's something that will require further review.

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

A City of Newburgh flow acceptance letter will be required, and the applicant should submit the flow calculations.

This will require Orange County Planning referral under 239.

Landscaping we spoke about. We'll look for that and the lighting plan.

Sidewalks we discussed.

Architectural review will be part of a future review.

That's the initial evaluation. Thank you.

CHAIRMAN EWASUTYN: Shannon, Anthony, we'll have Ken Wersted from Creighton, Manning discuss the impacts of the proposed 13,000 square foot building and the busyness of Route 52 and Route 300.

MR. WERSTED: Through my comments I tried to give the Planning Board kind of a context of how much a site like this might generate in terms of traffic. We had done an initial trip generation estimate where we estimated about 50 trips will be generated in the morning peak hour and between 130 and 110 on 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

weekday afternoon and Saturday peak hour.
Roughly fifty percent of those are generated from traffic that's already driving by the site. Somebody is coming home, they know they have a prescription to pick up, they stop in and continue home or to the prior destination.

We had noted that a DOT approved entrance will be needed. I did reach out to them and they did say their involvement early on is best. They have a new permit process to initiate those initial contacts. They did give me a SEQRA number for you, so I'll forward that on tomorrow. You can use that in your correspondence with them.

They would be looking for a copy of the site plan, the EAF, a survey. Any of the materials that you've submitted to us they would appreciate to further their review.

You have a truck circulation plan on here which is great because we never really see those when we are first looking at a concept plan. It does demonstrate the ability for a truck to get around the site. There are some encroachments into the oncoming lanes on 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

site, but that's typical of, you know, a site this size.

If you could provide any other details of where the trucks are originating from, where they're destined. Will they have to make a right turn onto 52? Will they use the rear access road to go to Route 300? If you have any additional details, we'd appreciate it.

We also looked at the parking. The Town has gone through an exercise similar to this a number of years ago where the pharmacy land use doesn't fit into any specific land use code, meaning the parking code doesn't have pharmacy as a listed item so it falls under retail which pulls you into a requirement for parking more than you generally need to. So we looked at the IT parking generation and estimated that you'd need between 30 and 40 parking spaces at the peak demand. There may be an opportunity to reduce that number. The Board has, through the laws that govern it, the ability to require more or less parking based on what the zoning provides. So if that is something you want to pursue, I think you would approach the Board with your

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

proposed number and then they can review it.

To that extent, that was the majority of our comments.

I did talk at work session about the access road to the south and how it appeared to connect over to Corel Place. I was surprised when I drove through that there's a gate there that separates the two access points. I don't know the history of that, and maybe it's two different property owners. Perhaps the gate was put up because of the traffic congestion at the Route 52/300 intersection such that people may have been using that connection to bypass it and ultimately the owners decided to put up a gate to relieve that. Given the site layout, that still could occur based on this layout. People could find traveling northbound they decide to make a left-hand turn onto this rear access and cut through the CVS and try to make a left turn onto 52. That may be difficult for them because Route 52 doesn't have a lot of capacity in the southbound direction so traffic will often backup to that driveway. It may be difficult for them to make that maneuver

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

CVS PHARMACY/STORE

36

regardless. With those things in mind, there was a study of this intersection several years ago by another large development that is kind of ongoing currently. They did identify some capacity constraints there. So it would be well worth having an updated traffic study of that area.

MS. RUTHERFORD: Of course.

MR. WERSTED: That was the extent of our comments.

CHAIRMAN EWASUTYN: Would you like a copy of --

MS. RUTHERFORD: I think we have --

MR. MORANDO: I don't think we received a copy.

MS. RUTHERFORD: Is it a memo dated August 31st? That came in via e-mail. Thank you.

May I ask a couple of follow-up questions?

CHAIRMAN EWASUTYN: Tomorrow.

MS. RUTHERFORD: Okay. You've got a long agenda. This is your meeting, not mine.

With respect to doing a traffic study,

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

I noted in your memo you took a look at the morning peak hour as well as the evening peak and the weekend. When we typically do an analysis for CVS we do not look at the morning peak, we look at the evening and the Saturday. Will that be acceptable or will you be looking for us to take a look at the morning? We typically don't do it because the volume is so much less than the p.m. If you're going to want it, then we'll just do it upfront.

MR. WERSTED: On the service I tend to agree with that. I don't know what the volumes are actually on Route 52 and 300, how those compare to the afternoon and Saturday. I'm guessing that they are lower in the morning, therefore the Saturday and the p.m. peak hours would be the primary ones to concentrate on.

Along those lines, as you start to form a scope, you can certainly reach out to me and I can help --

MS. RUTHERFORD: Okay.

MR. WERSTED: -- define that scope for you.

In addition, we have other development

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

projects that you can include as background.

MS. RUTHERFORD: Certainly.

MR. WERSTED: When you reach out to the Board, they'll probably direct you to myself and I can help you locate that data.

MS. RUTHERFORD: Standard practice, we would do that to get information on the background traffic and the incremental percentage we should use for the background growth rate. We will absolutely do that.

One more question. It had to do with the flush sidewalk at the front and the car overhang. CVS has studied this at great length and this is, I'll say, a relatively new change for them in the last three to four years, going to the flush sidewalk with the car stops. They have the car stops -- from the edge of sidewalk to the front of the car stop I believe is three feet to allow for that car overhang and not have any encroachment into the sidewalk. It's done purposefully for that reason. They found going to the flush sidewalk reduces the tripping hazard of customers coming and going from the store. So obviously if there's a strong objection to 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

it would be helpful to know that now because it does influence grading for the site. It is just six inches but it does make a difference with respect to the grading for the site. CVS is very conscientious regarding the ADA access and all the ADA parameters. They have all their consultants pretty much re-up annually an in-house training with respect to their ADA concerns.

CHAIRMAN EWASUTYN: I think that's a question for the Board. We'll get their opinion on that now, Shannon.

Cliff Browne?

MR. BROWNE: Actually, I was going to suggest possibly pulling the wheel stops back the three feet for that particular purpose. As far as flush goes, I've been at enough places where I agree with their analysis personally.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think the three feet is more than adequate for all vehicles.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: I agree. Especially maybe in the wintertime it would be easy to clean

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

CVS PHARMACY/STORE

40

up and easy access and maybe not be a hazard with snow and ice.

MS. RUTHERFORD: Okay.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I agree. I was just going to ask about pylons in certain areas.

MS. RUTHERFORD: The pylon sign?

CHAIRMAN EWASUTYN: Bollards?

MS. RUTHERFORD: Bollards or the pylon sign?

MR. WARD: Bollards.

MS. RUTHERFORD: Okay. There will be bollards at the rear of the site to protect gas meters and of course the transformer. At the front of the site there will be bollards for the ADA signs. By New York State code there's the sign that has to be posted for the space itself indicating that it is an ADA accessible space, and there also has to be a sign posted in the striped aisle indicating that no one should park there. Those are the only bollards that would appear at the front of the building. Typically we use a blue cover on them. So it's a bollard and then the sign is mounted on the bollard 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

CVS PHARMACY/STORE

41

that a vehicle comes up and would tap the bollard then. So that bollard then acts as a preventative for overhanging into the sidewalk.

MR. WARD: Okay.

CHAIRMAN EWASUTYN: Shannon, is there a seasonal display of merchandise on the sidewalks?

MS. RUTHERFORD: No. They don't -- occasionally there's a Red Box or propane or something to that effect, but I believe those come in as a separate permit. That's not part of a standard practice. So they are there on occasion. You drive by some and they are there, but it's not necessarily a standard practice for them.

CHAIRMAN EWASUTYN: And the requirement for parking, can you reduce it from 91 to a lesser number?

MS. RUTHERFORD: We could reduce from 91. CVS likes to have in the 70 to 75 range because of inclement weather, snow, inevitably some of the snow gets piled within the parking area. To a certain extent sometimes we like to have that so that the snow melt is on the parking -- any of the salt, sand, whatever, the debris

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

CVS PHARMACY/STORE

42

that gets picked up with snowplowing stays on the parking lot and doesn't end up into the landscaping. Also for shift changes, employees, back to school time. So they do certainly need more than the 40 that had been noted. I understand that's just one benchmark. But yes, I believe they would be agreeable to a reduction.

CHAIRMAN EWASUTYN: Does CVS use supermarket carts or push carts?

MS. RUTHERFORD: Internal to the store. They aren't regularly taken out of the store. I don't believe they have a lock on the carts. I think they implemented that in perhaps more urban areas so that they're not chasing carts a couple of city blocks away. They do have them internal to the store but I don't believe they're regularly taken outside of the store.

CHAIRMAN EWASUTYN: Hours of operation?

MS. RUTHERFORD: Tracey, I believe this is a standard. The standard hours -- it's not a twenty-four hour store. So the standard, like the flexibility for 6 a.m. to midnight. It would not be a twenty-four hour store. In all likelihood it would be something less than 6 a.m.

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

CVS PHARMACY/STORE

43

to midnight but they would -- they'd like the flexibility to be able to adjust that. To see how the market is and adjust that accordingly for the market when they're ready to open the store.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: I have two questions. I mentioned to one of the previous developers I think it would be a great idea to interconnect the two properties. So CVS, in this case, and like a pedestrian walkway and an opening. That's going to probably reduce any type of -- reduce traffic for one but then also connect the two properties. So if I'm at CVS, maybe I want a Dairy Queen, vice versa.

MS. RUTHERFORD: While you're waiting for a prescription to be filled.

MR. DOMINICK: Can we look at that? I would say the northwest corner there -- northeast corner.

MS. RUTHERFORD: Somewhere in here?

MR. DOMINICK: Yes.

MS. RUTHERFORD: We can. You'll note that there's a retaining wall here, so that's -- again, that is the lowest corner of the site and

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

this is the highest corner of the site. There is roughly a twenty-five foot elevation difference. So we will look at it. We can probably accommodate some type of access. We'd have to look as to whether or not we could make it ADA accessible or if we'd have to introduce stairs in order to provide that kind of activity. It's something that can be considered.

MR. MORANDO: Just to add a point to that, too. Certainly considering it from a design standpoint. The other side is we don't own that property, so easement agreements and things like that are things that get a little uncertain as to what we can be required to get from somebody we don't control. Certainly from a design standpoint we can absolutely look at that.

MR. DONNELLY: Make the overture. They may be interested too if you can do it.

MR. MORANDO: Yes.

MR. DOMINICK: Now what's going to happen if I'm a patron at either establishment, I'll just walk across the lawn and then you've got, you know, landscape issues. So this way it kind of forces traffic in a certain -- forces

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

pedestrian traffic in a certain area.

MS. RUTHERFORD: We can look into it. I think the only stipulation I have with respect to that are the elevations. I also think there's a small retaining wall in this area. But absolutely it's something that can be looked at and perhaps a compromise reached.

MR. DOMINICK: And then the second question was can you look at how -- I think the Dairy Queen has a sidewalk in front, how that would fit into your concept and your design if you put a sidewalk in front of that, east to west right along Route 52 there?

MS. RUTHERFORD: Okay. Typically has it been your experience that those sidewalks are in the DOT right-of-way or does the DOT in this area want them on our property and an easement granted?

CHAIRMAN EWASUTYN: Ken Wersted.

MR. WERSTED: I think historically it's been a little bit of a mix because over the years I believe the philosophy was a little more of put it on private property. As DOT has changed their perspective on it and becoming more complete

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

streets and accommodating the pedestrian, more recently I think it's been allowed within the State right-of-way. So I would approach it from that perspective of starting in the right-of-way and then going from there.

MS. RUTHERFORD: Okay.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I'm going to ditto about the access. We were talking at the back parking lot of Dairy Queen because all the traffic with the drive-through and everything else, too.

MS. RUTHERFORD: So back here?

MR. WARD: Yeah. Right there. This way nobody gets hit going to Dairy Queen.

The other thing with the shortcut, I mentioned put speed bumps even along that area. If they are going to take a shortcut you're not going to stop them but you can slow them down from hurting somebody.

MS. RUTHERFORD: What we can do, too, we can start to take a look at grading and take a look at traffic volumes. Speed bumps can be a little challenging from a maintenance standpoint. We can look at speed tables. It accomplishes 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

same thing, creates that elevation difference. It's nice, it puts the sidewalk -- that pedestrian crosswalk up and elevated that six inches which helps. We can even, you know, use some striping on the ramps up to help accent that. We can certainly look at that.

MR. WARD: Thank you.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I was going to mention the same thing but John just mentioned the last thing about the cut through. I would ask you to try to look at something either further and redesign your through area, if you will, to really mitigate that because I don't know if that's going to be a cut through. For myself, I never slow down for those speed things you're talking about.

MR. DONNELLY: You should see his car.

CHAIRMAN EWASUTYN: He drives all over the country so he's being honest.

MR. MORANDO: Put spikes on it.

MR. BROWNE: When it was first mentioned we talked at work session that we would like you to look at -- what do 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

MR. WERSTED: Design guidelines.

MR. BROWNE: The guidelines, the planning guidance.

MR. MENNERICH: Design guidelines.

MR. BROWNE: If you look at that and you look at the design guidelines with the possibility of changing the way that circulation works to really deter people from driving through. It's going to happen because that intersection is extremely busy. If somebody can cut ten seconds off, they're going to take it. Look at it real good. We're not saying it's a show stopper but if you can.

MR. MORANDO: Absolutely.

MS. RUTHERFORD: And just a different point of view for you. Understanding human nature is going to be to try to cut through, and whether it's as you're heading northbound and you're going to cut to then head westbound, or perhaps more likely in this direction, the right turn makes it very easy. There's two schools of thought. We can try to reposition the building, or even, quite honestly, eliminate this driveway and maybe cut it open here. It doesn't have to

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

come straight through. That would force them to come through the lot. The concern is people -- just as you said, people are going to do it anyway. Right. People are going to do it anyway. So now we've got these people that are in a hurry, late for soccer practice, a dentist appointment, blah, blah, blah, and now they are cutting through the CVS parking lot where the customers are coming and going.

MR. DONNELLY: And people with their ice cream cones.

MS. RUTHERFORD: So to designate an area that separates that from that CVS traffic, the customer traffic coming and going, parents walking with kids, et cetera. You get the point that I'm making. So we'll certainly look at the design guidelines, a valid point, and we'll see if we can hit a compromise that's kind of a happy medium.

MR. MENNERICH: Right now people cut through the Dairy Queen to avoid the light.

MS. RUTHERFORD: Sure they would. And it dumps them right out into the middle of the intersection. That's even worse. Human nature

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

unfortunately. It's just human nature.

MR. WERSTED: John, to John's comment about the speed bumps, as a point of reference we have The Loop which has several crossings from the parking lot to the buildings where we have speed tables at those crosswalks. So it would be a feature that is going to be similar to that one.

MS. RUTHERFORD: And familiar to the community then as well.

MR. WERSTED: The Loop hasn't been constructed yet.

MS. RUTHERFORD: Okay.

MR. WERSTED: It will still be new.

MS. RUTHERFORD: I wasn't familiar with the term The Loop one way or the other. Okay.

CHAIRMAN EWASUTYN: Any additional questions or comments?

MR. EDSALL: One confirmation. The vehicle side of the sidewalk to the vehicle face, --

MS. RUTHERFORD: Correct.

MR. EDSALL: -- that should be more than enough.

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: Mike Donnelly, do you have anything to add at this point?

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: Okay. Thank you, Shannon, Anthony.

MS. RUTHERFORD: Thank you very much for your time.

CHAIRMAN EWASUTYN: At this point I'll move for a motion to declare ourselves lead agency and to circulate to the Orange County Planning Department.

MR. MENNERICH: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich, a second by John Ward. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

Mark, I don't remember if I had given an additional copy to your office for circulation

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

CVS PHARMACY/STORE

52

to the Orange County Planning Department. If not, Anthony will get a copy to you.

MR. EDSALL: I see the transmittal letter from August 17th. I'm not quite sure if it's just our file copy or if it's been sent over.

CHAIRMAN EWASUTYN: Anthony, would you follow up on that, please?

MR. MORANDO: Absolutely.

MS. RUTHERFORD: It's easy enough to get another copy out.

MR. DONNELLY: The EAF and the map.

MR. EDSALL: This has gone out, Mr. Chairman.

CHAIRMAN EWASUTYN: They sent it out?

MR. EDSALL: Yes. It went out to Orange County Planning on August 17th.

CHAIRMAN EWASUTYN: Then I did mention that to you. Good.

MR. MORANDO: Okay. So we don't need it?

MR. EDSALL: It looks like Pat took care of that.

MS. RUTHERFORD: Fantastic.

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. MORANDO: If I may ask one more question before we leave. The process. So we're going to go back, take all these comments, prepare a submission and then we'll file our revised materials to you. For that next appearance is there a notice?

CHAIRMAN EWASUTYN: Anthony, the notice -- the informational notice --

MR. MORANDO: Yes.

CHAIRMAN EWASUTYN: The informational notice, speak to Pat Hines tomorrow and he'll advise you on how to prepare it. We'll get a list of people within the 500 feet radius from the assessor's office and when you're ready to mail you'll contact Cindy Martinez at the Town Hall.

MR. DONNELLY: Pat will walk you through it.

CHAIRMAN EWASUTYN: That will be certified for the mailing.

MR. MORANDO: Great. Thank you very much.

MS. RUTHERFORD: Thank you.

(Time noted: 7:51 p.m.)

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

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: September 22, 2015

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

MAVIS/MIXED USE
(2015-03)

1413 Union Avenue
Section 60; Block 3; Lot 40.2
IB Zone

----- X

SITE PLAN/ARB

Date: September 3, 2015
Time: 7:51 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
MARK EDSALL
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ROBERT OSTERHOUDT

----- 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

CHAIRMAN EWASUTYN: The fourth item on the agenda this evening is the Mavis/Mixed Use site plan. It's located on Union Avenue in an IB Zone. It's being represented by Bohler Engineering.

MR. OSTERHOUDT: Good evening. Rob Osterhoudt with Bohler Engineering. We're back before the Board this evening to give the Board an update on the most recent plans that were submitted and to update the Board on a few other items we had been working on from a technical perspective with the various agencies involved with the project.

The plans that you see before you are the same plans that you had seen at our last presentation in early August. We have fully detailed the plans. We have revised the plans to address a construction sequencing matter that we had discussed previously with the Board. We had broached the subject of phasing the project and maybe seeking different approvals at different times, however we reconsidered that approach after the consultant workshop meeting and revised the plans accordingly to show that the project is

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

being presented as a single phase project from a permitting perspective. In other words, we're seeking site plan approval from the Board for the entire project with the three buildings, however from a construction-ability perspective the project will be constructed in two phases. We had revised our environmental assessment form to indicate that phasing. On these plans that have been submitted to the Planning Board we've indicated a construction sequencing line to identify where those construction phases would take place, and we've also incorporated a construction sequencing plan relative to grading for the site because we had some previous discussions about how that would be implemented. Those were the major items that we had addressed on the site plan.

We have also been able to secure the sewer flow acceptance letter from the City of Newburgh. I believe the Planning Board has that at this point.

We were before the Zoning Board of Appeals last week and secured variances for signage for the project. That is another box

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

that we've been able to check in the meantime.

We have continued to work with Town staff, Town consultants on the review of not only the site but utilities, access with New York State DOT, et cetera, et cetera.

With me tonight -- I should have said this at the beginning -- I have Michael Manes from Rhinebeck Realty/Mavis and Paul Going with Atlantic Traffic with us this evening so we can talk through and address any further comments you may have.

Ultimately if the Board agrees with us, we would like to ask the Board to consider ARB review of the office building this evening. We have previously gone through the ARB for the Mavis Tire and for the Buffalo Wild Wings restaurant. We have one building left to consider. Ultimately if everybody agrees, we would like to possibly entertain a SEQRA determination and consideration of an action on the site plan review. Again, if the Board is so inclined.

So with that I guess I will open it up to any questions you may have and take it from

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

there.

CHAIRMAN EWASUTYN: Okay. Before you get into questions, let's look at the ARB on the office building, and then if we take an action on that we'll get back to the site plan. Do you know who your proposed tenant might be?

MR. OSTERHOUDT: We don't have an inked deal right now for a tenant. I say we. Bohler Engineering is not involved in the negotiations. Our client is negotiating with some different entities to try to fill the space. We do feel confident that the building as presented is going to work for the tenants that they are discussing a lease with. We've made the choice to request ARB review for the building. With that I guess is there anything else to share? I think that sums it up.

CHAIRMAN EWASUTYN: Do you want to describe the building? Do you have anything on a larger scale? If not, let's walk through it.

MR. MANES: I have to reacquaint myself with this. It's been awhile. Michael Manes, Mavis Tire/Rhinebeck Realty. Many of the materials carry over from the other two buildings

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

on the site. This one, the tenant's signature element is an arched opening. The other buildings have bases, building masses and then a cornice molding. We tried to maintain the same height for all of the buildings. Buffalo Wild Wings has a much higher element. Otherwise the cornice line carries through. There is a base on the three buildings and a center element. The materials are EIFS, hardy board, clapboard siding. Actually, I don't see that on this one. Anyway, the other characteristic element is a metal fascia that carries through on all three buildings. The base would be a CMU masonry decorative unit.

CHAIRMAN EWASUTYN: Questions, comments from Board Members?

MR. BROWNE: The materials and what you're showing there, do you have the detail for the materials and the colors and all that? When it's approved Code Compliance will be looking at your plans. If the building isn't the way you dictate it for the particular material, model and all that kind of stuff, it won't be accepted. All that has to be identified.

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. MANES: We do. The trim boards are Benmore windswept. The cement board siding is tan and concrete with a white. It's natural stone veneer. I guess we do have --

CHAIRMAN EWASUTYN: Jerry, what would you suggest you'd like to see as part of the approval for ARB and samples or written information?

MR. CANFIELD: Typically, John, we have -- it's part of the Planning Board packet, a cut sheet or a sheet where the applicant or the design professional can specify what materials and colors are to be used. I think if we maintain consistency with that, that will suffice.

CHAIRMAN EWASUTYN: There is an ARB sheet that needs to be satisfied.

MR. MANES: Okay.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: It's fine, what's being proposed.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: I have a site plan question. I'll hold.

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: The ARB?

MR. DOMINICK: ARB is fine.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: That allows the screening for the air conditioning units and everything else on top; right?

MR. MANES: We haven't gotten quite that far. I believe it does. The parapet is at twenty-two feet. I am thinking the roof line would be a few feet below that.

CHAIRMAN EWASUTYN: I'll move for a motion to -- do you want to name this third building, the retail building?

MR. MANES: Medical office.

CHAIRMAN EWASUTYN: Medical office building. Okay.

I'll move for a motion to approve the ARB for the medical office building.

MR. MENNERICH: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich and a second by Dave Dominick. I'll ask for a roll call vote starting with Cliff Browne.

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: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

Dave, you had a site plan question?

MR. DOMINICK: Yes. Could we go back
to the site plan? On the north part where we
suggested connecting the two properties, am I
right by saying that's also to the right there
where you're going to locate the dumpster?

MR. MANES: We do have a masonry
enclosure for the dumpster.

MR. DOMINICK: When I first proposed
that idea I didn't envision walking past a smelly
dumpster to go from site to site. Is there a
place we can move that dumpster? I envisioned a
nice manicured, landscaped area to connect the
two, not what you have there.

MR. MANES: The dumpster was in this
area.

MR. OSTERHOUDT: On the previous plan
we had the dumpster located behind this building

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

and then when we went to the office use we wound up pushing it back because the setback changed. So when we did that, given the configuration of the property here, the front setback pushed the building back further onto the site in order to comply with zoning requirements there. So we weren't able to fit the dumpster on the back of the building anymore. That's when we looked at putting it here as the next most convenient place. We obviously didn't want to put it out in the front anywhere here. That was our next best solution. You might not be able to see it from where you're sitting but we don't have landscaping on either side of that sidewalk. Like Michael said, we have a masonry enclosure. Between that masonry enclosure and the sidewalk we have some landscaping, so that helps to screen that enclosure and still create that environment, that pedestrian environment we were looking for.

MR. MANES: The grade does rise, so it's likely set into a little --

MR. DOMINICK: You have the dumpster on the right. It looks like a transformer on the left --

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. OSTERHOUDT: Yes.

MR. DOMINICK: -- going through an alley of utilities. You're going to have a consumer or patron go through a dumpster smelly area. I don't find that appealing, especially if you are going to or from the restaurant. Can we agree to relocate that dumpster do you think? Move it?

CHAIRMAN EWASUTYN: What they are proposing are evergreens. The ones they're putting in will be about three feet high. It basically has a mature height of somewhere in the neighborhood of four to five feet. That's what they're proposing for landscape material, just as a point of conversation.

MR. MANES: Can we move the transformer anywhere?

MR. OSTERHOUDT: To address the question of can the dumpster be relocated, really the only place that we could locate it would be possibly in line with this drive aisle, and that would involve losing a couple of parking stalls. This tenant or the tenant that's interested in leasing here has actually expressed 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

over the number of parking spaces. So we were trying to maintain as much as we could from a parking perspective for the tenant.

MR. DONNELLY: Can you move the walk?

MR. DOMINICK: Can you move the walk to maybe the other side of the transformer? To the left of the transformer where that -- I can't see the number, where that parking space number is.

MR. OSTERHOUDT: We could probably do something like that so that we -- what you're saying is bunch the transformer and dumpster on one side?

MR. DOMINICK: Yes. I mean it just gives it a little bit of clearance.

MR. WARD: Give enough space between it. God forbid if there's bees or something, they have sweet so soda or something.

MR. OSTERHOUDT: I think we did entertain that. When you look at the aerial photograph here and how we lined up with the adjoining property, that walkway I guess -- let's just look at where that comes through. We're roughly halfway on our site here, so -- yeah. So we're lined up to come through the back of 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

oil change here. We'll just push it back a little further on their site.

There was a representative of Valvoline at the Zoning Board meeting last week. They haven't been at the Planning Board yet but he did come in to the Zoning Board to see what was being proposed. I specifically talked to him about the pedestrian connection to their site. They didn't have any issue with it or concerns with it. I don't think changing that ten feet in either direction would be an issue. We can certainly look at that.

MR. WARD: If anything, further back is better for Valvoline anyway because they're lining up the cars.

MR. OSTERHOUDT: All right.

CHAIRMAN EWASUTYN: Let's move on.

Jerry Canfield, any questions or comments as far as the site plan?

MR. CANFIELD: Nothing on the site plan.

The sequencing, we've spent a lot of time on that. Getting it to the point it's at, I think it's functional. I'm satisfied with it.

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

It's enforceable. I have no issues.

CHAIRMAN EWASUTYN: Mark Edsall?

MR. EDSALL: Pat Hines' review notes. His prior revisions that were requested have all been accomplished relative to drainage, sewer, water mains and the like.

He notes that the stormwater pollution prevention plan has been revised in response to his comments, as well the construction phasing plan which now provides for all the grading to be accomplished initially with sequencing the improvements to the site as Jerry indicated. All those elements he's reviewed and he's satisfied with.

His only indication as far as conditions of any approvals that would be considered is relative to the DOH condition, if needed, for the water main onto the site.

CHAIRMAN EWASUTYN: Thank you.

Ken Wersted, you'll speak to us on traffic and conditional approval being the approval by the DOT.

MR. WERSTED: We had reviewed the submission and provided two comment letters. One

1
2 was in the beginning of August and one in the
3 beginning of September. Our August comments had
4 to do with some of the assumptions and getting
5 clarification on some of the discussions of the
6 traffic impact study. We also referred that NYS
7 DOT would have the ultimate approval whether the
8 left turn would be allowed coming out onto the
9 site on 300. The last September comment letter
10 was a little more oriented to aspects on the site
11 relative to the crosswalk sizes, some details of
12 the signing, et cetera.

13 The proposal changed the retail use to
14 office use, and we had noted that if there's a
15 business style office, that the traffic study
16 would -- has already analyzed the traffic impact
17 adequately and that an office would be marginally
18 smaller in terms of trip generation. I would ask
19 if it becomes anything other than the business
20 office, depending on what your tenants are, if
21 it's a single tenant or multi-tenant space, just
22 to verify if that land use changes anything with
23 the traffic study.

24 The applicant's engineer did send over
25 some responses to those comment letters as well

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

as the DOT comment letter this afternoon. We haven't had the opportunity to really review them at this point but we will do so.

Ultimately the access point will require DOT's approval. So anything that occurs tonight would have to be conditioned upon that.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: One other thing. Ken made me think of it. In your presentation you mentioned that the third building, you were talking to a prospective tenant that is involved with medical.

MR. MANES: Mm'hm'.

MR. BROWNE: What type of medical are you looking at?

MR. MANES: Optometrist, dental. That sort of thing.

MR. BROWNE: Does that drive anything different from your end, Ken?

MR. WERSTED: It has the potential. If that were a potential tenant, they would need to just double check the trip generation from that type of use versus what's been included in this traffic study as retail. If it was a medical/

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

dental type of office and it generated an equal or less amount, then we have everything covered with the study that they have produced. If it changed to a fast food restaurant in that size space, then it hasn't been accounted for in that assumption.

MR. BROWNE: So your possible prospective tenant possibly being medical, would you look at the use that Ken just mentioned and verify that the numbers are going to work?

MR. OSTERHOUDT: Paul can address that.

MR. GOING: Paul Going, Atlantic Traffic. I did look at what the trip generation would be on the basis of medical office, which is a land use in the ITE's publication trip generation. It's about one trip in each peak hour lower than the retail assumption. So the retail assumption is a conservative assumption.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: Any additional questions or comments?

(No response.)

CHAIRMAN EWASUTYN: Mark, would you say at this point that the Board can make a SEQRA

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

MAVIS/MIXED USE

72

determination and declare a negative declaration based upon Pat Hines' review?

MR. EDSALL: Yes. Based on all the information I've seen in the file, I believe you're well within the appropriate time to move forward on SEQRA.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to declare a negative declaration for the Mavis/Mixed Use site plan.

MR. WARD: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward, a second by Ken Mennerich. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to present to us the resolution for conditional site plan approval for the Mavis/Mixed Use.

MR. DONNELLY: The resolution will 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

site plan as well as the three ARB approvals already granted, one in June, one in July and one tonight.

First, on the issue of relocating the walkway, we'll include a condition, and I'll volunteer Pat Hines because he isn't here, that the plans won't be signed until a letter is received from him showing that there has been a relocated pedestrian access to the adjoining property, you moved it away from the dumpster enclosure. I'm sure we can communicate with him exactly what that's supposed to mean. We will reflect the fact that two variances were granted by the Zoning Board, one in April and one last month. Any conditions they imposed are incorporated as conditions into this proposal. Next is what we spoke of earlier, it's conditioned upon the DOT approving the driveway configuration. If they impose any changes to the site plan, you'll need to come back to this Board for an amended approval. Similarly, the Health Department will need to approve the water main and hydrant connection, and, if not, a letter from them that they have no jurisdiction over it

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

would be fine. The construction phase that we spoke of earlier. I think our intent was that this approval is granted on the final basis and it is the intent that there will be construction phasing entitling you to receive a building permit or permits for buildings in a given phase. Upon posting any required performance security, you'll be entitled to receive certificates of occupancy for each building upon completion without having to complete the entire project.

Is that okay, Jerry?

MR. CANFIELD: Yes.

MR. DONNELLY: The resolution will reflect that you've already received your sewer flow acceptance letter from the City of Newburgh. We'll have our standard condition regarding Architectural Review Board approval. I will add to it the need for you to submit the ARB application material checklist before the plans are signed. You will need to post landscaping security and an inspection fee in the amount of \$2,000. A stormwater improvement security and inspection fee. You will need to execute and deliver to the Town a stormwater control and

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

maintenance plan. You can get a copy of that from Mark Taylor, the Town Attorney. Finally we have a condition that's uniform that says the approval allows you to construct only that which is shown on the site plans. No other amenities or accessory structures or outdoor fixtures can be constructed on the site without an amended approval from the Planning Board.

CHAIRMAN EWASUTYN: Any additions or comments from Board Members?

(No response.)

CHAIRMAN EWASUTYN: Having heard the conditions presented by Planning Board Attorney Mike Donnelly for the site plan and ARB for Mavis/Mixed Use, I'll move for that motion.

MR. WARD: So moved.

CHAIRMAN EWASUTYN: Motion by John Ward.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: A second by Dave Dominick. I'll ask for a roll call vote starting with Cliff Browne.

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. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Thank you.

MR. OSTERHOUDT: Thank you.

MR. MANES: Thank you very much for
your time this evening and over the past several
months.

(Time noted: 8:14 p.m.)

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

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: September 22, 2015

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

COLANDREA SUNSHINE FORD LINCOLN
(2015-24)

40 Route 17K
Section 99; Block 4; Lot 23.2
Section 99; Block 1; Lot 17.2
Section 99; Block 4; Lot 1
IB Zone

----- X

INITIAL APPEARANCE
SITE PLAN/ADDITION

Date: September 3, 2015
Time: 8:14 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
MARK EDSALL
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: GREGORY SHAW

----- 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

CHAIRMAN EWASUTYN: The next item on the agenda is Colandrea Sunshine Ford Lincoln. It's a site plan for an addition located on Route 17K in an IB Zone. It's being represented by Greg Shaw.

Welcome. I know you have to catch a plane and get back down south.

MR. SHAW: For the record, my name is Gregory Shaw from Shaw Engineering. Tonight I'm representing Colandrea Sunshine Ford Lincoln.

Before I get into the project before you tonight, I think maybe I ought to touch on a little history of this parcel of land. We came before the Town about three years ago for a zoning change and we petitioned the Town Board to move the zoning line, which was an R-3/IB Zone, in a northerly direction so it's final disposition would sit in the middle of Putnam Street. The idea at that time was with that relocation Mr. Colandrea, who is with us tonight, would be able to construct on his property a car storage area and a stormwater detention area to detain the stormwater which would be generated by that construction. At that time the property

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

consisted of approximately 3.9 acres and a building of about 17,500 square feet. We negotiated with the Town Board with respect to that zoning change and they implemented some safeguards with respect to the neighbors. Again, they didn't want the neighbors impacted by the visual of the cars. They had us install a four-foot high berm along Putnam Street and a six-foot high PVC vinyl fence. Also with respect to the lands of Fayo, they had a concern about what she would visually see, and they had us install again an eight-foot high PVC vinyl fence, again to mitigate her visualization of the site. Upon that the agreement was signed and Mr. Colandrea built and installed all the improvements. As you ride up and down Putnam Street it looks quite well.

Oh, one final thing. In the developer's agreement the two parcels of land, okay, that fronted on Boulder Road and Boulder Road itself, which was owned by the Town, was conveyed to Mr. Colandrea. So he owned the two lots. The piece of Boulder Road between the lots was conveyed by the Town to Mr. Colandrea. So

1
2 now his parcel area went from 3.9 acres to 4.4
3 acres. The line of the R-3/IB is now in this
4 particular area. So it comes along Putnam, drops
5 down and goes along the line, the common line
6 between Fayo and Colandrea, which brings in the
7 separation distances with respect to buffers and
8 commercial and residential property. If you come
9 up to this blowup which I prepared, you'll see
10 the setbacks that are required with respect to
11 the buffer landscape setback and commercial
12 residential setbacks. We're close but we've
13 maintained them.

14 So what we're proposing is to construct
15 two additions, one is on the southwest corner
16 which is going to be a second story addition of
17 3,434 square feet. That is going to be for
18 offices. Mr. Colandrea is expanding his offices
19 and also relocating his offices. The office
20 space down below is going to be utilized for a
21 showroom. The addition, which is going to be on
22 the east and the north, is going to be for
23 service and new car preparation. That's going to
24 be a total of 8,503 square feet. That is exactly
25 as I've described, it will service the cars as

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

they come in.

So now we have to look at the lands of Granato. We are obligated to maintain a rear yard setback of sixty feet and we are not providing that. We are providing forty feet. So with that we have to go to the Zoning Board of Appeals. I may point out that twenty feet may sound substantial but when you figure the amount of area that is within that sixty-foot setback, the amount of area of the building, it's only 602 square feet. So that's going to be our pitch to the ZBA, not this Board, obviously, because you don't grant variances. It really is not substantial.

We need a secondary variance which is the front yard setback with respect to the building on 17K. The building was built somewhere in the late '80s. The front yard setback at that time was fifty feet. It was built to fifty feet. The zoning was changed to sixty feet since then. Because of this portico which they are putting in, they're encroaching out another five feet. So now we are not conforming and we're going to need another

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

variance for that.

So what we're looking for tonight is very simple, to address SEQRA, to address a referral to the County and to address a referral to the Zoning Board of Appeals to let us go before them and to begin our process for the two variances.

CHAIRMAN EWASUTYN: Mike Donnelly, would you give us the referral letter to the ZBA?

MR. DONNELLY: There are two variances required, a front yard variance for forty-four feet where sixty is required and a rear yard variance of forty feet where sixty is also required. I'll send that at your direction.

MR. SHAW: Could you also send a copy to Dominick Cordisco of Drake, Loeb? He'll be representing us on the application. Thank you.

CHAIRMAN EWASUTYN: Mark Edsall, do you want to give a brief overview of Pat Hines' review?

MR. EDSALL: Sure. The first comment reiterates Greg's identification of the variances that are required and called out on the plan.

Pat also speaks in the comment letter

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

relative to the buffer areas and is pointing out that there's a separation with also providing a vinyl fence six-foot high along the common property line to provide additional buffering.

Pat feels no additional stormwater management is required as there was no more impervious area.

One issue that Mr. Shaw could submit to the Board, I believe in letter form with a letter report, is just verifying that the relocation of the office area and provision of the additional prep areas and showroom would not result in any additional flow from a sewer standpoint which would give this Board, if this is accepted by Pat and the Board, the ability to not require that it be referred to the City of Newburgh for a flow acceptance letter because it would be no change.

MR. SHAW: Understood.

MR. EDSALL: Orange County Planning has acknowledged, obviously, the need for that referral.

Pat is looking for some details for any site parking modifications and lighting modifications or landscaping that might 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

anticipated.

One item that was identified as part of the discussions with the Board in workshop, and perhaps, Greg, you know the history, you can help us out, is the no access restriction to Boulder Road. There appears to be an emergency access and a restriction for the site to access Boulder Road.

MR. SHAW: If you look at the approved plans on the site plan for the parking and detention area, there's an emergency access gate that has yet to be installed, all right. That is part of the no access will be provided. That has not been installed yet but that will be installed, all right. That's all part of the no access will be provided.

MR. DONNELLY: Was that a condition of the Town or of that property owner?

MR. SHAW: That was a condition of the Town.

MR. DONNELLY: The question we had earlier is is it enough that it's on the site plan or should there be some type of recorded instrument? Did the developer's agreement call

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

for any recorded instrument?

MR. SHAW: I don't know. I wasn't part of that. It's on the approved stamped site plan, if that answers your question.

MR. DONNELLY: It may be just a condition that the gate needs to be built before any certificate of occupancy.

MR. CANFIELD: Right.

MR. DONNELLY: I'm sure they could have required a recorded instrument then if the Town wanted it. If they didn't, they didn't. If they did, it's there already. We want it to be built.

MR. EDSALL: That would seem adequate.

MR. SHAW: I had something else with the consultants that I'd like to bring up to the Board -- if the consultants are done that I'd like to bring up to the Board.

CHAIRMAN EWASUTYN: Okay.

MR. SHAW: A couple of things. One, with respect to Granato. We are building this six-foot high fence similar to what we built with Fayo, all right, to again mitigate the proximity that we're going to be to his property. Let's talk about this buffer area. Maybe between now

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

and the next time we return back to this Board you'll take a ride out there. We have this eight-foot high fence, then we have this buffer area behind it. All right. If we bring -- obviously we're going to put grass in there. If we bring shrubs and trees and create a buffer area, who is it for? It's not for Fayo. She's got an eight-foot wall in front of her. Is it for Colandrea? I was thinking maybe we could bring in some small shrubs and a few trees and some picnic benches and make it more for the benefit of the employees of Colandrea, because she's not going to be able to enjoy it. Granato is not going to be able to enjoy it because he's going to have a six-foot PVC vinyl wall around his property, the same as Fayo does.

MR. DONNELLY: Greg, I think the Planning Board has the authority to waive the landscape requirement if they feel that the existing vegetation is adequate. I don't think they have the authority to essentially grant a variance. I would think the Zoning Board does. Since you're going there anyway and you make a reasonable argument, why don't you ask them to

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

consider it.

MR. SHAW: Because what's in that buffer area right now are homes, a macadam driveway, stone driveways, concrete pads, another residence and then the macadam pavement of Boulder Drive. That's in your buffer area right now. We're going to take all that out and what do we put in there?

MR. DONNELLY: We can certainly include it in the referral to the Zoning Board.

MR. SHAW: I mean if they are the only ones that can grant us relief --

MR. DONNELLY: I believe so. I'm not reading it but in my memory we can not require new landscaping if there's a determination that the existing landscaping is adequate to satisfy the intent of the buffer. But you're asking for --

MR. SHAW: I guess what I'm saying is if I put some landscaping in, okay, is that within this Board's jurisdiction that it's adequate? I'm not saying I won't put any in. I'd rather not go back to the ZBA and wrestle with them on no landscaping at all. I'm saying

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

yes, we'll put some in.

MR. DONNELLY: It would be this Board's call, but I think you have to show us what you propose.

MR. SHAW: Fine. Why don't we do that. I'd really rather not go to the ZBA and wrestle with them about no landscaping. That's an awful tough sell.

MR. CANFIELD: Mike, 185-21 C(4) talks about that. The Planning Board at it's discretion may determine preservation and maintenance of existing vegetation. It's quite a lengthy paragraph but I think it does authorize the Planning Board to make that determination on existing conditions if it's acceptable.

MR. DONNELLY: Show us what you propose.

MR. SHAW: That's what I'll do. Thank you.

CHAIRMAN EWASUTYN: Any additional comment or questions?

MR. SHAW: No.

CHAIRMAN EWASUTYN: All right. I'll move for a motion to refer to the ZBA Colandrea

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

Sunshine Ford Lincoln based upon the letter presented by our Attorney, Mike Donnelly.

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: 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 Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

At this point I'll move for a motion to circulate to the Orange County Planning Department.

Michael, will we be declaring our intent for lead agency?

MR. DONNELLY: I don't think there's any other agency.

CHAIRMAN EWASUTYN: We'll move for a motion to circulate to the Orange County Planning Department and declare our intent for lead

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

agency.

MR. DOMINICK: So moved.

CHAIRMAN EWASUTYN: I have a motion by
Dave Dominick.

MR. WARD: Second.

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

You'll contact Pat Hines, Pat Hines
will contact the assessor's office to get a list
of people within 500 feet to circulate for the
letter that needs to go out.

MR. SHAW: Okay. I think you just lost
me. Informational letter regarding?

MR. DONNELLY: It's new. You've been
away for a long time.

MR. SHAW: It's been a couple years.

MR. DONNELLY: Pat will explain it.

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. SHAW: It doesn't sound good
either.

CHAIRMAN EWASUTYN: It's a form letter
explaining the application before us, what is
being proposed. It's just a notice of
information to the public.

MR. SHAW: This happens prior to the
ZBA?

CHAIRMAN EWASUTYN: It has to happen
within ten days from when you first appear before
the Planning Board.

MR. SHAW: So this happens real fast.

CHAIRMAN EWASUTYN: Ten days.

MR. SHAW: Within the next ten days.

CHAIRMAN EWASUTYN: And the mailing
list will be -- Pat Hines will contact the
assessor's office, the mailing list will be
presented to you, you'll prepare the necessary
envelopes, contact Cindy Martinez as far as
mailing them and then you'll get a certification.

MR. SHAW: These are all certified,
John?

CHAIRMAN EWASUTYN: She'll certify that
the names that are on that list, the envelopes

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

correspond with those names.

MR. SHAW: Thank you.

(Time noted: 8:30 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: September 22, 2015

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

GOMEZ MILL HOUSE
(2009-21)

11 Mill Street House Road
Section 8; Block 1; Lot 28
AR & ARO Zones

----- X

AMENDED SITE PLAN

Date: September 3, 2015
Time: 8:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
MARK EDSALL
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

CHAIRMAN EWASUTYN: I'll ask you to present the last item on this evening's agenda, Gomez Hill House, for the amended -- for the phased parking lot plan we'll call it.

MR. CANFIELD: Do you want me to present that?

CHAIRMAN EWASUTYN: The fellow who was at the meeting called to say he works on a pro bono basis. He didn't think he wanted to offer his time.

MR. DONNELLY: The applicant came to a consultants' work session and explained as much as they would like to build all of the improvements under the improved site plan, they do not have the funding to do that. They have revisited the amount of funding they have and now propose to construct the project in two phases. Jerry can describe in a moment what those are.

In essence, they would reduce the amount of parking and I think change where they are placing asphalt versus hard packed surface. I think it's the recommendation coming out of the consultants' meeting that if we granted them 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

new amended approval, not on a true phased basis but on a construction phasing basis, allowing them to get started with the parking that they do propose and ultimately return later. Also we were going to waive the landscaping bond that had been fixed earlier but keep the \$2,000 inspection fee.

Mark mentioned during the work session that we need to include a condition that in the event we experience complaints to the Building Department that there is difficulty with the adequacy of the parking, the Planning Board reserves the right to recall the applicant to come in and discuss whether or not something, even if it isn't the complete construction of all of the full plans, something can be done by way of parking to alleviate that problem, and I'm sure they would be cooperative.

CHAIRMAN EWASUTYN: Are you satisfied with that, Jerry?

MR. CANFIELD: Yes.

In addition to that, the Gomez Foundation has submitted the landscape inspection fee. They have also submitted the \$4,000

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

stormwater management and soil erosion and control fees. What we have not yet received is the reduced dollar amount for the stormwater management facilities which the design professional was going to submit. Typically they submit it to Pat's office for review and it gets forwarded to the Town Board for approval and then the security is posted. So we're still waiting for that to happen.

MR. DONNELLY: Were we going to return the landscaping bond that was posted earlier?

MR. CANFIELD: There was never a landscape bond posted. The Board took the action to relieve them of that requirement. Again, because of stormwater management regulations and obligations to outside agencies such as the DEC, the Town took the position that we can not relieve the stormwater management bonding and securities. That's why that's still in place.

CHAIRMAN EWASUTYN: Mark Edsall, do you have anything to add?

MR. EDSALL: No. Mike represented my suggestion a hundred percent. I think it just will give the Planning Board the opportunity to

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

resolve any issues, should they develop, while they're in the middle of getting the first phase done and maybe waiting to start the second phase.

CHAIRMAN EWASUTYN: Questions or comments?

MR. BROWNE: With the addition of that comment that we're talking about putting in, does that also give Code Compliance the ability to shut it down if necessary until they do come in and revise or fix the parking problem?

MR. CANFIELD: Well, you're looking -- Cliff, you're looking at a site where there will be no building permits here, simply because there are no structures. These are parking lot and landscaping and walking path improvements, so there will be no CO. However, if something were -- this statement and this phrase enables us, so to speak -- it's a condition of approval that would authorize us. It's enforceable. A condition of approval is authorizeable by our department, if that's a word. If they are doing something, constructing something that is not on the plan, then that gives us the authority, the jurisdiction to stop 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. BROWNE: But the language, my understanding it's going to be such that once the first part is completed, done, and there are issues with parking and so on, then they're supposed to come back by the Code Compliance request to us.

MR. DONNELLY: I don't know what other authority we have.

MR. EDSALL: My experience is normally organizations are more reactive to a Board bringing them in and saying look, you're creating traffic hazards. They don't want the liability, they don't want the negative press that they've got a problem they're creating and not addressing. Is it enforceable? Can you make them do something? Probably not. Most of the time when you bring them back in they'll say maybe we can't do the whole --

MR. BROWNE: Is there any real teeth in it?

MR. DONNELLY: Recognize this place is operating now. They want these improvements for the convenience of their visitors because they recognize it's not as inviting as they'd like it

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

GOMEZ MILL HOUSE

100

to be. They have nothing but dirt and gravel and grass.

MR. EDSALL: Worst case scenario is they do nothing right now because they have no additional parking.

MR. DONNELLY: Everything is an improvement.

MR. CANFIELD: Like Mark said, on site probably becomes more of a liability to them. Keep in mind also this is serviced by a Town road, so if there's something going on vehicle wise off site, it now becomes a police department matter, Vehicle and Traffic laws.

MR. BROWNE: Okay.

MR. CANFIELD: It gives us -- I think it's the best that we can do.

MR. BROWNE: I was looking for a little teeth in there to make sure that gets --

MR. EDSALL: Site plan approval would expire anyway.

MR. DONNELLY: That doesn't solve Cliff's issue because then they don't have to do anything.

MR. EDSALL: It's like the situation

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

you have now.

MR. DONNELLY: I think in order to accommodate them and allowing it to be phased we have to recognize we can't compel them to perform all of it. I didn't get the impression that they don't want to. They want to, they just don't have the money.

MR. WARD: They are making the best of the situation.

CHAIRMAN EWASUTYN: The action we have before us tonight?

MR. DONNELLY: Amended site plan approval. That will carry forth all the conditions of the old one and will allow them to construct in those two phases.

CHAIRMAN EWASUTYN: I'll move for that motion.

MR. MENNERICH: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by John Ward. I'll ask for a roll call vote starting with Cliff Browne.

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

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

(Time noted: 8:40 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: September 22, 2015

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

BUCKEYE TERMINALS, LLC
(2014-21)

Request for a 90-Day Extension of Approval
from September 3, 2015 to December 3, 2015

----- X

BOARD BUSINESS

Date: September 3, 2015
Time: 8:40 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
CLIFFORD C. BROWNE
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
MARK EDSALL
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

BUCKEYE TERMINALS, LLC

104

CHAIRMAN EWASUTYN: The last item of business we have this evening is a letter from Buckeye Terminals, LLC for a lot line change. The applicant is requesting a 90-day approval extension from September 3rd to December 3rd. He's working out the details associated -- "Due to the lengthy delay in finalizing the road dedication documents associated with the above-referenced plan, we have exceeded 180 days without having obtained the signatures and recording and accounting. We had waited to ensure there were no issues in the road dedication documents prior to recording the plan. These documents are deemed acceptable by Mark Taylor per the enclosed letter."

So they're in the final stages of getting all the approvals on the documents. They need 90 more days to satisfy that.

I'll move for a motion to grant an extension from today through December 3, 2015.

MR. DOMINICK: So moved.

MR. WARD: Second.

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: I have a motion by Dave Dominick, a second by John Ward. I'll ask for a roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself.

The last thing is enjoy the holiday weekend. I'll move for a motion to close the meeting of September 3rd.

MR. DOMINICK: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick, a second by John Ward. A roll call vote starting with Cliff Browne.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 8:43 p.m.)

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

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: September 22, 2015