

TOWN OF NEWBURGH PLANNING BOARD

NEWBURGH, NEW YORK

COPY

-----X
In Re:

BC&N - CARPET ONE (2004-25)
-----X

Thursday - 7:52 p.m.
May 6, 2004
1496 Route 300
Newburgh, New York

B E F O R E:

TOWN OF NEWBURGH PLANNING BOARD

PRESENT:

JOHN P. EWASUTYN, Chairman
KENNETH MENNERICH, Board Member
J. LEO GLYNN, Board Member
EDWARD T. O'DONNELL, Board Member
JAMES WINSLOW, Board Member
FRANK GALLI, Board Member
NORMA JACOBSEN, Planning Board Secretary
EDWIN GARLING, Planning Consultant
PATRICK HINES, Engineering Consultant
KAREN ARENT, Landscape Architectural Consultant
KENNETH WERSTED, Traffic Consultant
MICHAEL H. DONNELLY, ESQ., Planning Board Attorney

JAMES RAAB
Representing the Applicant

COVENANT REPORTING
Certified Shorthand Reporting
26 Fleetwood Drive
Newburgh, New York 12550
(845) 564-7477

1
2 CHAIRMAN EWASUTYN: The next item this
3 evening is BC&N-Carpet One. It's located on South
4 Plank Road. It's in a B zone. It's a site plan and
5 is being represented by Jim Raab.

6 MR. RAAB: Thank you very much. This
7 is a 10,250 square foot warehouse located on Route
8 52 right in front of the Showtime Cinemas, and also
9 to the west of the diner located next to the Tarsio
10 lanes. Basically it's an office warehouse showroom.
11 We've done it pretty much the same thing we did with
12 Affordable Floors. We show, we are prepared to put
13 in enough screening and shading behind the building
14 because the parking from the cinemas is right up
15 against the back of this. We're prepared to
16 landscape the front of that.

17 We have the drainage worked out but
18 since we've submitted the plan to the board there's
19 been so many changes to the building because of the
20 rising cost of the steel that we didn't have an
21 elevation to bring here tonight and I apologize
22 because I know you would have liked to see what the
23 building was going to look like. It's still in the
24 process of the change. The biggest change we've had
25 since we submitted the plan is we've taken out the

1
2 loading dock in the back and squaring off the
3 building completely. That was one of the reason why
4 we didn't submit a drainage report to Pat because we
5 had it done but we would have had to change it for
6 this anyway. As soon as Darren Doce is finished
7 with doing the calculations for the additional
8 impervious surface we'll be submitting those numbers
9 to Pat.

10 What we have done is over the past year
11 we've worked out a drainage situation with the
12 state, Department of Transportation whereby, and the
13 Town of Newburgh, whereby we're going to pick up our
14 drainage after it comes through our underground
15 detention area. We were going to run it across the
16 Disciglio property which is just west of the old
17 Cocossa building. It's actually the Cooper's
18 building now. We'll be running across the Disciglio
19 property into Old South Plank Road and up Waring and
20 the outlet stream. It was either this or run it 600
21 feet down Route 52 because there's no drainage
22 between 52 and our site and I believe Noto's Deli is
23 the first catch basin. Rather than do that in an
24 interstate right-of-way for that period of time,
25 what I was told by Rich Burns and Glen Bushay

1
2 (phonetic) of the DOT, was that if I could get an
3 easement across the Disciglio property and get the
4 town to go along with it, they'd let me open cut the
5 road. It's a substantial saving on my client's part
6 if he could open cut the road.

7 I've met with Jim Osborne and Darryl
8 Benedict. He's supplying two catch basins on Old
9 South Plank Road that will pick up some drainage
10 that is necessary to do right now and pick that up
11 as we go along. That was one of the conditions of
12 letting us do that. We are going to have a holding
13 tank, just for a little while longer I guess. The
14 paperwork has been submitted to the town board and
15 will probably be reviewed on the 17th of May.
16 That's pretty much it for now.

17 CHAIRMAN EWASUTYN: Okay. Turn it over
18 to our consultants for their comments. Start with
19 Pat.

20 MR. HINES: As Mr. Raab said we're
21 awaiting the stormwater report. It does require a
22 waiver for the sewer. And also permits from the
23 DOT, Mr. Raab addressed each our comments and we're
24 awaiting that information.

25 CHAIRMAN EWASUTYN: Ed?

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. GARLING: We had a couple of questions. The diner parking lot appeared to be on this site.

MR. RAAB: It's encroaching by about three feet. Mr. Angelis is aware of it. I've discussed it with him and that will be worked out when we do the landscaping. I don't think it's that big of a deal. It's right in the front, right here in the front (indicating).

MR. GARLING: Right. It would have to be cut out, right.

MR. RAAB: Yeah.

CHAIRMAN EWASUTYN: How would we manage that in a legal sense?

MR. DONNELLY: They can allow the encroachment to exist. I take it it's been there for a period of time. Are you going to allow it to stay?

MR. RAAB: I think it's going to stay because it's going to be in this -- it's right here in this landscape area over in here (indicating). What we'll do is we'll work something out with him, either cut it out or leave it alone. I discussed it with him and we'll work it out.

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

MR. DONNELLY: As long as it doesn't affect anything here in terms of the ability to provide parking, setback, lot size, something like that. It's really a private matter.

MR. RAAB: You're talking this much right here in the front (indicating). Just before it hits the state right-of-way. I'm not really worried.

MR. GARLING: Looking at the hydrant, it is sitting out there, if you got the hydrant shown correctly and the lines, it looks like it was overlapping a lot more than three feet.

MR. RAAB: I'll check it out but I think, as I recall, it was only like, I thought it was only like three feet. I don't think it's any more than -- I don't think it's any more than five, if any. I thought it was around three feet.

MR. GARLING: I think my point is, if you're putting in a retaining wall and you're putting in shrubs right on the property line, you would certainly have to eliminate that pavement.

MR. RAAB: Yes. You see, he knows where his property corner is because he's got a spike on the property corner in the pavement. It's

1
2 been glossed over but we know where it is because we
3 located it years ago when we were doing some survey
4 work for the cinemas. I know where it is. I don't
5 recall exactly what the encroachment is but he's
6 aware of it.

7 MR. GARLING: All right. We wanted to
8 get some more information on whether uses in the
9 surrounding area, the driveway across the street;
10 another question was, is the DOT going to allow you
11 to put the driveway where it is with the radius
12 going in front of the other lot?

13 MR. RAAB: I wanted you to ask that
14 question so that I could -- yes, because of one
15 reason. Is that we are, as soon as this property is
16 sold next door, which the closing is next week, my
17 client and the new owner of this property is going
18 to enter into an agreement to share this driveway,
19 our drive, our proposed drive, and they'll be
20 responsible for any improvements that the planning
21 board, the planning board would require when and if
22 they bring a site plan before this board. But
23 they're going to share in the drainage, drainage
24 cost of the off-site drainage in return for this
25 driveway. And Rich Burns and Zebby Sackaria

1
2 (phonetic) both agreed they would have no problem
3 with that curb going in front of there. They're not
4 going to allow another driveway on Route 52 for that
5 parcel anyway. They have access from the cinemas
6 drive. They have a curb cut in the cinema driveway
7 to get into that drive. But they want a second
8 access.

9 CHAIRMAN EWASUTYN: Do we show the
10 shared driveway?

11 MR. GARLING: It could be shown.

12 MR. RAAB: If I knew what they were
13 going to do I would show it. He has no plan for the
14 site as of right now.

15 MR. GARLING: Yes, but is he willing to
16 have the driveway, shared driveway going right down
17 the property line?

18 MR. RAAB: I think so. We can work on
19 it, yeah. Yeah.

20 MR. GARLING: Because that would change
21 things. Otherwise the guy next door has the access
22 and just has to come off of it. It's not on his
23 property. He's getting a big benefit.

24 MR. RAAB: He's willing to do that.
25 And so is our client. We're willing to do that.

1
2 We'll check it out. If it's a better situation to
3 move the driveway onto the other property -- I just
4 don't want to get into a conflict with the DOT
5 because they don't want to give that site another
6 access.

7 MR. GARLING: That answers the question
8 but since you're not going to get approval tonight
9 and probably not for another month or so, and this
10 guy is going to do a deal next week, that could all
11 be resolved before we approve the plan.

12 MR. RAAB: Right.

13 MR. GARLING: I had just a few
14 comments. I had a comment about garbage trucks
15 going in the back and other vehicles but do you know
16 if they use anything larger than a box truck?

17 MR. RAAB: Yeah, they're going to have
18 some 48 footers going through there.

19 MR. GARLING: This will have to be big
20 enough for that.

21 MR. RAAB: We have it big enough for
22 that. That's one of the reasons why we took the
23 loading dock out because to get him in and in there
24 and out was going to be a little difficult. I mean,
25 besides the steel costs. We had an issue.

1
2 MR. GARLING: We had some other
3 comments. I think the major one is the 52 foot
4 setback. You're going to have to demonstrate with
5 the depth of the other buildings within 300 feet in
6 either direction.

7 MR. RAAB: I will demonstrate it. I'm
8 prepared to do that.

9 CHAIRMAN EWASUTYN: All right. Just so
10 you know, okay. Let's move along.

11 MR. RAAB: We will do that.

12 CHAIRMAN EWASUTYN: Karen, you had
13 comments on the plan?

14 MS. ARENT: Yes. I was looking for any
15 possible way to increase the amount of green space.
16 One of the planning board members mentioned that
17 you're over the parking calculations, so perhaps
18 there's a way we could get some green space in front
19 of the building along Route 52. Because you're very
20 close to the property line and it would be nice to
21 see a little bit more green. So anything that you
22 could figure out to get more green space, especially
23 in front of the building, will be helpful.

24 One thing I am concerned about is the
25 park encroachment, because the one area where you

1
2 show shrubs is only six feet wide so if it doesn't
3 encroach as much as five feet there's no room for
4 any landscaping. So we better look at that closely

5 MR. RAAB: Like I said, if it has to be
6 ripped out Mr. Angelis is prepared to do that so
7 we're allowed to put our landscaping in.

8 MS. ARENT: When your look at the site
9 if you could try to figure out a way to minimize the
10 asphalt or get some more green space in, that would
11 be welcome.

12 MR. RAAB: As long as it's agreed that
13 we have excessive parking. That's --

14 MS. ARENT: I'll defer that to
15 Mr. Garling.

16 MS. ARENT: The trash enclosure, a
17 section view was shown of the trash enclosure and
18 you should show an enlarged view, also some steel
19 bonds. And the retaining wall needs to be shown and
20 fencing on top of the wall needs to be shown. And
21 then some landscaping comments, street trees,
22 location for sod. If you are probably sharing a
23 driveway, I would ask that you consider, if he's
24 going to have a driveway in his site also on the
25 adjacent site, that if the driveway could go along

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 property line you could also get green space around the building, which might be nice.

MR. RAAB: Okay.

MS. ARENT: That's it.

CHAIRMAN EWASUTYN: Any other comments from the members. Jim?

MR. WINSLOW: No.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: The easement across the private property for the drainage, do you say you have that?

MR. RAAB: Yes, we do.

MR. MENNERICH: Thanks. That's it.

MR. RAAB: That will be submitted on our next submission.

MR. O'DONNELL: Just to speed this process along, would it be worthwhile for you to sit down with these folks to get all your ducks lined up so your next trip back here might be your last?

MR. RAAB: Yes.

MR. GARLING: May 25th.

CHAIRMAN EWASUTYN: You want to make a motion for that?

MR. O'DONNELL: I'll make that motion

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

that Jimmy goes to that meeting.

CHAIRMAN EWASUTYN: We have a motion to set this up for consultant's meeting. Do I have a second on the motion?

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a second by Frank. I'll ask for a roll call vote starting with Jim.

MR. WINSLOW: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. GALLI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself, so carried. Frank, do you have any additional comments?

MR. GALLI: No.

CHAIRMAN EWASUTYN: Leo?

MR. GLYNN: Jim, you indicated you were going to close off that little cut back in the back for loading zone and square off the building. Does that mean the only access into the warehouse will be where it shows there's a loading area now?

MR. RAAB: Yes. It may be moved down a

1
2 little but there will only be the one loading area.
3 The only thing that will change, it may change in
4 location in the rear of the building.

5 MR. GLYNN: You're going to use
6 trailers for deliveries?

7 MR. RAAB: They're going to unload them
8 with forklifts. Not backed into a dock.

9 MR. GLYNN: Right, because you don't
10 have 80 feet. You'll block traffic.

11 MR. RAAB: The trucks come in the time
12 of the day when there wouldn't be any problem with
13 that but you're right.

14 MR. GLYNN: Thank you.

15 CHAIRMAN EWASUTYN: I move for a motion
16 from the board to declare our intent for Lead
17 Agency.

18 MR. O'DONNELL: So moved.

19 MR. MENNERICH: Second.

20 CHAIRMAN EWASUTYN: I have a motion by
21 Ed and a second by Ken. I'll ask for roll call vote
22 starting with Jim.

23 MR. WINSLOW: Aye.

24 MR. MENNERICH: Aye.

25 MR. O'DONNELL: Aye.

MR. GALLI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: And myself, so
carried.

(Time noted: 8:08 p.m.)

* * * * *

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

I, Charlene Koehler, a Certified
Shorthand Reporter and Notary Public 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.



Charlene Koehler

Dated: June 23, 2004

COPY

1

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

BC&N - CARPET ONE
(2004-25)

South Plank Road
Section 60; Block 3; Lot 14.2
B Zone

----- X
CONCEPTUAL SITE PLAN

Date: September 16, 2004
Time: 10:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
KENNETH MENNERICH
J. LEO GLYNN
CLIFFORD C. BROWNE
FRANK S. GALLI

ALSO PRESENT: NORMA A. JACOBSEN
MICHAEL H. DONNELLY, ESQ.
EDWIN GARLING
PATRICK HINES
KAREN ARENT

----- X
COVENANT REPORTING
26 Fleetwood Drive
Newburgh, New York 12550
(845)564-7477

2 CHAIRMAN EWASUTYN: The next item
3 of business this evening is BC&N - Carpet One.
4 It's a conceptual site plan located on South
5 Plank Road in a B zone. It's being represented
6 by James Raab.

7 MR. RAAB: We've done considerable
8 work on this project since we last met with
9 your consultants earlier this year. One of the
10 things that -- one of the main things that
11 changed is we are now sharing our entrance with
12 the parcel to the west, K&M Realty Company
13 which owns the parcel that's directly adjacent
14 to the Show Time Cinema entrance.

15 We've made considerable changes to
16 the landscaping. There's more that needs to be
17 made as per Karen's comments.

18 The drainage seems to be in order
19 and most of the other things that we had
20 discussed at the consultants' meeting are
21 pretty much -- have been taken under
22 consideration.

23 The attorney for the applicant is in
24 the midst of preparing the necessary cross
25 easement between K&M and BC&N Carpet.

1
2 We have sent our plans off to the
3 design section of the New York State Department
4 of Transportation under the direction of Ms.
5 Zachariah, the permit engineer for the Newburgh
6 district. We had originally submitted our
7 plans. When we submitted the revised plans to
8 the Planning Board we had submitted our plans
9 to Ms. Zachariah. She had not given us a
10 review on it as per yet. We had a site
11 inspection with her last week to discuss an
12 issue that we had covered.

13 Mr. Ewasutyn, in a letter regarding
14 the drainage, we're going to take our drainage
15 across Route 52 through the property that was
16 previously owned by Distiglio into Old South
17 Plank Road and into Bushfield Creek. Due to
18 some unforeseen circumstances at this present
19 time the easement across the former Distiglio
20 property is off the table. We don't know
21 whether it's coming back on the table or what
22 the situation is. We've tried a numerous
23 amount of times to discuss it with the new
24 property owner. A relative to the Distiglios
25 had previously owned the property. She had

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

agreed to give us an easement across the property and now she has sold it to Christopher Notto who we, through the client and his attorney, have tried to contact him any number of times. The last time we did make contact with him he had told us that the easement is now off the table. We let the DOT know through a letter to Bill Gordon of the design department that that's the situation that we're confronted with right now. What we could do and what we plan on doing if that's off the table is to basically put a rip-rap swale out to the corner of Route 52 and see if that's acceptable to the DOT. Other than that issue right there and the comments of the consultants, we're pretty much -- we pretty much think everything else is in place.

CHAIRMAN EWASUTYN: Okay. Let's stay with that in mind. Pat, you had a comment that we needed the DOT approval for the drainage, the water, the sewer and the access.

MR. HINES: I also had a comment saying the stormwater management was okay.

MR. RAAB: That's going to change.

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. HINES: What's going to change?

MR. RAAB: That's what's going to have to be reviewed by the DOT.

MR. HINES: We need to see that revision. We sign off on the drainage report and --

MR. RAAB: We ran a plan for Gordon because we just found out about this.

MR. HINES: That discussion was all news to me.

MR. RAAB: We cc'd you but you probably didn't get a chance to read it.

MR. HINES: All that needs approval from the DOT.

The other comment is the notes pertaining to the sewer moratorium and the timing. Right now you show it connected. You need to have those notes.

MR. RAAB: Like I said, we'll check with Jim Osborne as to what they need to see and we'll do whatever everybody else is --

CHAIRMAN EWASUTYN: Let's go through what needs to be done, that way --

MR. HINES: Right now the sewer line

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 guess the method -- you're going to want to install the sewer line I guess as far as you can. Typically we require it to be a dry sewer line.

MR. RAAB: Yes, it is.

MR. HINES: You're showing it connected to the manhole, connected to the holding tank.

MR. RAAB: Okay. Like I said, --

MR. HINES: That has to be revised.

MR. RAAB: -- we'll revise it.

MR. HINES: Somewhere there needs to be a break. I don't know if it's as simple as capping a pipe or what Jim Osborne would say.

MR. RAAB: We'll do whatever Jim Osborne wants.

MR. HINES: The other comment regarding water is probably not an issue now that the drainage has changed significantly.

That's what we have. We'll wait for the revised drainage and an indication from the DOT and the sewer provisions.

CHAIRMAN EWASUTYN: Ed, you had some comments.

1
2 MR. GARLING: You show a sewer line
3 and you show plantings over it. Some of those
4 plantings probably aren't a problem. In some
5 cases of trees --

6 MR. HINES: That's here.

7 MR. GARLING: Okay. That's not a
8 problem.

9 You were also going to demonstrate
10 earlier this spring something about the
11 building being back 53 feet.

12 MR. RAAB: I apologize for that. I
13 know Darren has done it because it's in the
14 file folder. We will be submitting it with the
15 new plan.

16 MR. GARLING: I know we discussed
17 it. You said you had already done it.

18 MR. RAAB: We located all the
19 buildings.

20 MR. GARLING: The others were pretty
21 minor. The sign width, show it so it doesn't
22 overhang the curb. Would the sign be visible
23 with the plantings surrounding it? Just show
24 the height and how that's going to relate to
25 the trees.

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. RAAB: Sure.

MR. GARLING: The sewer, that's been -- landscaping and architectural review has to be addressed.

I'm ready for a negative dec but presumably Pat needs the other drainage before we can do that.

MR. RAAB: Okay.

CHAIRMAN EWASUTYN: Karen, do you want to bring us along on whatever outstanding comments between now and when we get the revised drainage plan Mr. Raab will be looking at.

MS. ARENT: I asked for some aravities up in the rear to screen the roof of this building from the cinema parking area. I also noticed that the wall is going to be about seven feet high at some points. If you're planning to put a fence on that you need to show that fence detail and specify it. Hopefully it will be a PVC coated chain-link or something nicer than that.

MR. RAAB: Okay.

MS. ARENT: You have the rest of my

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

comments. I asked for a tree here and there.

Another thing was that anywhere where there's big areas without planting, either label lawn or add more planting because I don't know whether you want to cut lawn here.

MR. RAAB: I saw Darren's mocked up plan of your comments.

MS. ARENT: Okay. That's it.

CHAIRMAN EWASUTYN: Mike, do you have anything you would like to add at this point?

MR. DONNELLY: No.

CHAIRMAN EWASUTYN: Cliff?

MR. BROWNE: Nothing more.

MR. MENNERICH: Nothing.

MR. GALLI: Nothing.

MR. GLYNN: No.

CHAIRMAN EWASUTYN: Okay. So you're going to be supplying a revised drainage plan to Pat. We'll wait to hear back from the DOT. You'll re-submit.

MR. RAAB: We'll submit those plans to Pat right away and take care of this as quickly as we possibly can.

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: Gordon works pretty quickly, does he?

MR. RAAB: Yes, he does. We're going to try to follow up immediately with him tomorrow to see what his feeling is about what we want to do now.

MS. JACOBSEN: John, are we going to have a public hearing in time or do you want to see if they're going to waive it?

CHAIRMAN EWASUTYN: We haven't discussed that yet. I don't know if the Board wants to discuss it now.

Norma wants to know or is advising us does the Board think we'll be having a public hearing on this?

Thank you, Norma.

At this point I'll take the opportunity to poll the members.

Cliff?

MR. BROWNE: No.

MR. MENNERICH: No.

MR. GALLI: No.

CHAIRMAN EWASUTYN: Leo?

MR. GLYNN: I see no need really.

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, would it be appropriate to waive that now or wait until later on?

MR. DONNELLY: I think if you're planning ahead and you want to give the applicant some idea of whether he'll need one --

CHAIRMAN EWASUTYN: We can make a motion now to do that.

MR. DONNELLY: I think so.

CHAIRMAN EWASUTYN: I would move for a motion from the Board to waive the public hearing on the BC&N site plan.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No verbal response.)

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

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. GALLI: 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. GLYNN: Aye.

CHAIRMAN EWASUTYN: Myself aye. So
carried.

Thank you.

MR. RAAB: We have initiated SEQRA?

CHAIRMAN EWASUTYN: We declared
intent for lead agency on the 6th of May.

MR. RAAB: That's what I wanted to
make sure.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 10:35 p.m.)

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

1
2
3
4
5
6
7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
16
17
18
19
20
21
22
23

Michelle Conero

24 DATED: September 28, 2004
25

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

BC&N - CARPET ONE
(2004-25)

South Plank Road
Section 60; Block 3; Lot 14.2
B Zone

----- X

SITE PLAN

Date: April 21, 2005
Time: 7:38 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
EDWARD T. O'DONNELL, JR.
J. LEO GLYNN

ALSO PRESENT: NORMA A. JACOBSEN
MICHAEL H. DONNELLY, ESQ.
EDWIN GARLING
PATRICK HINES
KAREN ARENT

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

COVENANT REPORTING
26 Fleetwood Drive
Newburgh, New York 12550
(845) 564-7477

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

BC&N - CARPET ONE

2

CHAIRMAN EWASUTYN: The next item of business this evening is BC&N - Carpet One. It's a site plan located on South Plank Road in a B zone. It's being represented by Jim Raab.

MR. RAAB: Thank you, Mr. Chairman. We have been going for quite some time, since I believe last September, and what we have been trying to resolve is the issues we had with getting the drainage off the site. We had made arrangements for an easement across -- an easement that would cross what was then the Mansfield/Distiglio property which was sold to Christopher Notto just about the time right after we came here to the Planning Board. The easement deal seemed to fall apart at some point. We tried a couple of different ways of trying to divert the drainage to accomplish the same effect. We went over with the State we were going to do level spreaders along the side and we couldn't seem to come to a conclusion that was satisfactory to us and the adjacent owners, and so I went back to Mr. Notto and we worked out a situation where we have the easement that we originally planned on getting.

1
2 All the drainage is pretty much the
3 same with the exception of one item. During the
4 process of re-reviewing the drainage on site we
5 were using infiltrators. We now switched to
6 solid pipe. One of the reasons we decided to
7 switch to solid pipe is because there's a clay
8 layer in the ground that we believe would -- that
9 may, and this is a big question, may have
10 affected at some point Mr. Angelus who owns the
11 Town & Country Diner next door. It may have
12 affected his lower level. So we went to a solid
13 pipe retention system/detention system. That's
14 really the only difference between what we had
15 proposed last September and what we have now.

16 We believe we've taken care of all of
17 the issues that we had with your consultants. We
18 believe the landscaping has been brought up to
19 snuff. We have no problem with Karen's
20 suggestion about the walls around the sign and
21 the little curvature wall down through here. I
22 like it myself and my clients have no issue with
23 that at all. So here we are.

24 CHAIRMAN EWASUTYN: Thank you. I'm
25 going to turn to Pat. Can you bring us along 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

far as the satisfaction on the drainage?

MR. HINES: Yeah. Jim Osborne previously identified a concern regarding the potential conflict with the water lines and the drainage pipes.

MR. RAAB: Yeah. We did exactly what Jim Osborne asked us to do. We actually went out there and we did -- we hydrovac'd the holes to the water lines, got the exact elevations, submitted it to Jim Osborne who then issued a letter that said he was fine with it.

MR. HINES: Okay. I didn't get that letter. We need an indication from Jim that that's been done.

MR. RAAB: Fine.

MR. HINES: The status of the sewer waiver, I believe you have it.

MR. RAAB: Yes.

MR. HINES: We didn't get an updated drainage report.

MR. RAAB: Darren is in the process -- actually he has it changed already. He'll have it to you soon.

MR. HINES: Those are the outstanding

1 items I have.

2
3 CHAIRMAN EWASUTYN: Karen, Jim Raab
4 responded to your comments.

5 MS. ARENT: That's great. Just to get
6 the wall on another commercial building to let
7 that whole corridor have a sense of place so to
8 speak.

9 MR. RAAB: Lynn Warren said he would
10 chip in because he's the one who started this.

11 MS. ARENT: You'll need to submit a
12 landscape bond amount.

13 MR. RAAB: We've submitted the amount
14 already.

15 MS. ARENT: Okay.

16 MR. RAAB: Are you saying we need to
17 adjust it for the wall?

18 MS. ARENT: It should have the wall in
19 it, yes. I have it. Okay.

20 And also you'll need architectural
21 approval. I did look at the drawings relative to
22 the site plan. The site plan doesn't need any
23 changes according to the architecture.

24 MR. RAAB: We're prepared to adjust
25 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

BC&N - CARPET ONE

6

MS. ARENT: If you could just forward to me the revised landscape bond with the wall on it, that would be great.

MR. RAAB: Okay.

CHAIRMAN EWASUTYN: Ed, I know you had a question about some of the flooding.

MR. GARLING: There seems to be right in front of the sign -- I'm just wondering if you could relocate the pear tree back further. If you put in a regular pear tree, unless that sign is very low, there's going to be interference.

MR. RAAB: We have no problem with that but we want to know what Karen has to say.

MS. ARENT: It depends on the -- the pear tree grows fifteen feet wide, so I think --

MR. RAAB: Are you answering the question?

MS. ARENT: Also we have to just change you to Cultra vara pears. I just realized you have Bradford pears. You'll have to change to Cultra vara pears.

MR. RAAB: Okay.

MS. ARENT: You can put it right in line with the sign if you want to because they

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 very narrow plants.

MR. RAAB: That's what we'll do.

CHAIRMAN EWASUTYN: Questions from the Board Members. Frank?

MR. GALLI: Not at this time.

MR. BROWNE: I'm good.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: No questions.

MR. O'DONNELL: Nothing.

CHAIRMAN EWASUTYN: Leo?

MR. GLYNN: Nothing, thank you.

CHAIRMAN EWASUTYN: Pat, one of the actions before us this evening would be to declare a negative declaration on the site plan. How would you advise us without having --

MR. HINES: They have shown the method of controlling the stormwater on the site. They can always fall back to the other method. They have given us that drainage report. I need a report to support it. I wouldn't have any problem issuing a neg dec.

CHAIRMAN EWASUTYN: Mike, is there anything you would like to add at this time?

MR. DONNELLY: No. You need to decide

whether or not you will waive the public hearing.

CHAIRMAN EWASUTYN: We didn't do that, did we? On 9/16/04. September 16th we waived the public hearing on that. Thank you, Mike.

Having heard from Pat Hines, and that's the one outstanding issue, I would move for a motion from the Board to declare a negative declaration on the site plan for BC&N - Carpet One.

MR. GALLI: So moved.

MR. O'DONNELL: Second.

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

(No verbal response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. O'DONNELL: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

1
2 Jim, you still have to do architectural
3 approval on this; correct?

4 MR. RAAB: I'm prepared to do it
5 tonight if you'll allow me.

6 CHAIRMAN EWASUTYN: We're not ready for
7 it tonight because we have no submissions on
8 that.

9 MR. RAAB: We submitted to Karen.

10 MS. ARENT: The reason you submitted it
11 to me is so that I could check the site plan and
12 make sure the site plan didn't have to have any
13 changes.

14 MR. RAAB: Okay.

15 MS. ARENT: It was my understanding
16 that I was to look at the architectural but we
17 were going to do that at another meeting.

18 CHAIRMAN EWASUTYN: That's really how
19 the Board is set up. Generally what the Board
20 prefers to do is do the architectural first and
21 the site plan. That's fine. You get in touch
22 with Karen. We have no renderings or sketches.
23 We'll have to reset this up for architectural.
24 At the same time we'll just close out the site
25 plan on 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

MR. RAAB: Okay.

CHAIRMAN EWASUTYN: All right. At that point Pat will be able to finalize the drainage and all that and advise us.

MR. RAAB: Good.

CHAIRMAN EWASUTYN: We'll make that for the 17th of May.

MS. JACOBSEN: John, I believe it's May 19th.

CHAIRMAN EWASUTYN: Thank you, Norma. Work with Karen as far as what she finally needs as far as all the colors and renderings for the building. Okay?

MR. RAAB: Mm'hm'.

CHAIRMAN EWASUTYN: That's what I was hoping you would be coming up with. Then get us copies of that also for the Planning Board to see prior to the meeting so we can look that over.

MR. RAAB: Okay.

CHAIRMAN EWASUTYN: All right.

(Time noted: 7:47 p.m.)

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

1
2
3
4
5
6
7 I, Michelle Conero, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify
10 that I recorded stenographically the
11 proceedings herein at the time and place
12 noted in the heading hereof, and that the
13 foregoing is an accurate and complete
14 transcript of same to the best of my
15 knowledge and belief.
16
17
18

19 Michelle Conero
20
21
22

23 DATED: May 5, 2005
24
25

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

BC&N - CARPET ONE
(2004-25)

South Plank Road
Section 60; Block 3; Lot 14.2
B Zone

----- X

SITE PLAN
ARCHITECTURAL REVIEW

Date: May 5, 2005
Time: 8:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH
JOSEPH E. PROFACI
J. LEO GLYNN

ALSO PRESENT: NORMA A. JACOBSEN
MICHAEL H. DONNELLY, ESQ.
EDWIN GARLING
PATRICK HINES
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

COVENANT REPORTING
26 Fleetwood Drive
Newburgh, New York 12550
(845) 564-7477

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 of business that we're going to take up this evening and we're going to fill that in is BC&N - Carpet One. Tonight we'll be acting on the architectural approval and the site plan. We're going to start with the architectural first.

Karen, would you come forward so we can review this, please?

MS. ARENT: We requested the applicant to submit the architectural drawings for the project. They were very cooperative in doing some of the suggestions that we had -- that I had. For example, adding a rock face border along the bottom of the building to help keep the building clean and also give it some more architectural interest. They have some additional trim work than they originally showed. This is an overhanging canopy that has canopies underneath it. The consultant changed the plantings to more shade plants. They are proposing irrigation underneath the overhang to try to help these plants live. So basically they have made all the changes that were requested.

I also reviewed the landscaping bond

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

BC&N - CARPET ONE

3

estimate and asked Jim to increase a few line items. He increased those items so I sent a letter to the Town Board recommending that they --

MS. JACOBSEN: What was the recommendation?

MS. ARENT: It's \$19,121.

CHAIRMAN EWASUTYN: I'll turn to the Board Members for their comments. Frank?

MR. GALLI: Is there going to be a sign on the building?

MR. RAAB: No. Not at this time.

MR. GALLI: Okay.

MR. RAAB: There's no sign proposed at this time at all.

MS. ARENT: We did discuss this with the Planning Board Attorney and the Planning Board during work session. If there will be a sign this will have to come back for amended architectural approval.

MR. RAAB: Correct. We know that. Just one free standing sign that meets the zoning requirements.

MR. GALLI: No further questions.

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: Cliff?

MR. BROWNE: No, I don't have anything. I don't particularly like the design or whatever but I guess I don't have to at this point.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: Joe?

MR. PROFACI: Jim, the idea of the landscaping underneath this overhang, we talked about there's going to be irrigation to that. Is that something that you believe that they're going to actively maintain?

MR. RAAB: Yes, I do.

MR. PROFACI: You do believe that?

MR. RAAB: Yes. If I can say one thing about my client, he's about one of the most conscientious people I've ever dealt with.

MR. PROFACI: I'm only going to say if not I would eliminate the whole thing. I know underneath that overhang you're not going to get anything to grow.

MR. RAAB: I think what we've done is we've chosen -- Karen has chosen -- the two of us together have chosen plants that I believe

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

will --

MR. PROFACI: Without water they're not going to survive.

MR. RAAB: Not without water, no.

MR. PROFACI: That's what I'm saying. Unless he is going to put this thing on some sort of automatic system, I can't see a guy running a carpet place going out and watering the plants every day.

MR. RAAB: Again I'll speak for Brian in that I believe he's conscientious enough to do that.

MS. ARENT: That's something that I will be inspecting, too. It's part of the inspection, landscape inspection.

CHAIRMAN EWASUTYN: I know you said there was going to be a sprinkler system.

MR. PROFACI: I don't want to see something in place that's not going to work.

MS. ARENT: It's on the plans there is an irrigation system installed. I'm going to make sure it's there as part of the inspection. Before they release the bond amount it will have to be there. Also, these plants have to live for

1
2 two years. If they don't live for two years
3 we'll have to figure something out.

4 MR. RAAB: We'll be back here and
5 you'll be saying I told you so.

6 MR. PROFACI: Okay.

7 CHAIRMAN EWASUTYN: Leo?

8 MR. GLYNN: I have nothing. Thank you.

9 CHAIRMAN EWASUTYN: Then I'll move for
10 a motion to approve the ARB for BC&N - Carpet
11 One.

12 MR. GALLI: So moved.

13 MR. MENNERICH: Second.

14 CHAIRMAN EWASUTYN: I have a motion by
15 Frank. I have a second by Ken. Any discussion
16 of the motion?

17 (No verbal response.)

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

20 MR. GALLI: Aye.

21 MR. BROWNE: Aye.

22 MR. MENNERICH: Aye.

23 MR. PROFACI: Aye.

24 MR. GLYNN: Aye.

25 CHAIRMAN EWASUTYN: Myself yes. 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

carried.

Ed, what's outstanding on the site plan?

MR. GARLING: I think all the planning issues have been addressed. The one issue was the easement for the two lots.

MR. RAAB: Correct.

CHAIRMAN EWASUTYN: The common easement agreement.

MR. GARLING: The maintenance agreement. That's going to have to be prepared before we can approve the maps.

MR. RAAB: Can it be before we stamp the maps? If he hasn't also submitted it to Mike he'll be submitting it very shortly.

CHAIRMAN EWASUTYN: Mike, what happens in that case?

MR. DONNELLY: What I have been given is a contract of sale but not the easement itself. I would say the resolution could be conditioned upon my writing a letter to you approving the form of that easement, and all that would then happen is the plan would be signed. There's no reason for it to come back to 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

CHAIRMAN EWASUTYN: Anything else, Ed?

MR. GARLING: That's all.

CHAIRMAN EWASUTYN: Do you have anything outstanding?

MR. HINES: We have no outstanding comments. We received a revised drainage report with the change from the proposed galley system to an in-pipe system and we found that acceptable.

Jim Osborne has written a letter regarding the off-site drainage improvements requiring that the water department be notified when the pipes are installed so they can review the separation distances.

CHAIRMAN EWASUTYN: We will need a final signoff from the DOT, correct, although they acknowledged it?

MR. RAAB: We have that.

CHAIRMAN EWASUTYN: I'm just wondering.

MR. RAAB: I've got it right here.

CHAIRMAN EWASUTYN: Is that more recent than --

MR. RAAB: Yes. It's today. I don't mean to submit at the last minute.

1
2 CHAIRMAN EWASUTYN: I never thought
3 about it until now. That's fine. We'll make
4 that part of the resolution.

5 MR. DONNELLY: It's already been
6 delivered but I'll put it in the resolution it's
7 subject to DOT approval.

8 CHAIRMAN EWASUTYN: I'll turn to the
9 Board for their final comments for the approval
10 of the site plan for BC&N Carpet. Frank?

11 MR. GALLI: No additional comment.

12 MR. BROWNE: Nothing more, John.

13 CHAIRMAN EWASUTYN: Ken?

14 MR. MENNERICH: Nothing more.

15 MR. PROFACI: Nothing.

16 MR. GLYNN: Nothing.

17 CHAIRMAN EWASUTYN: Counsel, would you
18 give us the conditions of approval for BC&N.

19 MR. DONNELLY: The resolution will
20 require proof that an easement agreement
21 sufficient to allow the shared access exists of
22 record, and I will give you a letter to that
23 effect. This will be subject to approval by the
24 DOT, a landscape bond in the amount of \$19,121,
25 and of course the ARB condition that you

discussed earlier.

CHAIRMAN EWASUTYN: Having heard from Counsel, I move for a motion to approve BC&N - Carpet One subject to those conditions.

MR. GLYNN: So moved.

MR. PROFACI: Second.

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

(No verbal response.)

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

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

MR. PROFACI: Aye.

MR. GLYNN: Aye.

CHAIRMAN EWASUTYN: And myself. So carried.

MR. RAAB: On behalf of my client and myself, I appreciate you doing this for us tonight. Thank you very much.

CHAIRMAN EWASUTYN: We apologize for any inconvenience that may have transpired. It's

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

not an easy process.

(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.

Michelle Conero

DATED: May 17, 2005