

ZBA MEETING – MAY 24, 2012

(Time Noted – 7:03 PM)

GAS DEVELOPMENT LEASE LLC

1413 ROUTE 300, NBGH  
(60-3-40.2) I B ZONE

Applicant is seeking area variances for a gasoline station to be constructed within 1000-feet of another existing gasoline station and the 200-foot required separation to a place of public assembly and the maximum amount of allowed signage to build a gasoline station, tire service business and a bank.

Mr. McKelvey: The first applicant is Gas Development Lease LLC.

Ms. Gennarelli: The Public Hearing Notices for all the new applications being heard this evening were published in The Sentinel on Tuesday, May 15<sup>th</sup> and in the Mid-Hudson Times on Wednesday, May 16<sup>th</sup>. This applicant sent out twelve registered letters, ten were returned. All the mailings and publications are in order.

Mr. McKelvey: This is an area variance for a gasoline station to be constructed within a 1000 feet of another existing gasoline station and the 200-foot required separation to place of public assembly and the maximum amount of allowed signage to build a gasoline station, tire service business and a bank.

Mr. Donovan: And before you start for...for this applicant and everyone in the room tonight. We just...there's four Members of the Board present. The Zoning Board of Appeals is a seven Member Board and what that means is that you will...you need four Members to vote yes to have your application approved which means tonight you would need to have every Member up here to vote in the affirmative or in favor of your application. So in the interest of fairness when this occurs, as it does from time to time, we offer each applicant the opportunity to defer a vote this evening to a time when there is a full complement or five or six Members of the Board present before the vote takes place. So I just wanted everyone to be aware that you need all four Members to vote in favor of application for it to pass tonight, a three to one vote would be a denial of your application. So everyone could have the opportunity should you wish to ask the Board to defer making a decision tonight and make it at the next meeting when they have a full Board.

Mr. Wolinsky: Good evening, Mr. Acting Chairman and Members of the Board that are present this evening, my name is Larry Wolinsky a...I am from the law firm of Jacobowitz and Gubitz. I'm actually covering this application for one of my partners John Cappello who prepared it and submitted it. With me this evening are a... Lisa Davis of Lisa Davis Associates who is our project planner sitting in the back and a...Timothy Onderko from Langen Engineering and Environmental Services who is the a project engineer. And they're both available to answer a...whatever questions you may have. Just like to start out by giving some background on the property, the proposed use of the property and the I'll get into a...the a...variances. So this property is located at 1413 Route 300, its adjacent to the northern boundary of the Newburgh Mall. It consists of

3.07 acres a...it's in the IB Zoning District. It's currently occupied by two vacant buildings, 9500 sq. ft. building and a 1000 sq. ft. building. The prior use as I'm sure you're all aware was a trucking terminal and warehouse facility which primarily operated out of the larger building and then a smaller building which was utilized as a maintenance garage. The site is presently covered by those existing buildings a concrete a truck pad, asphalt paving and...and gravel parking areas and in fact only, currently only 5% of the site has any kind of...of vegetation on it. It's proposed that this site a...a...will first have its existing building demolished with the removal of all existing asphalt and concrete and gravel and then a...adaptively reused for the construction of three new buildings. A...one would be a (10) ten position fueling facility operated by a Stop and Shop. A...that includes a (116) hundred and sixteen foot a...a...square foot attending kiosk, a...a Somerset Tire Service which we all know is STS in a building of (5600) fifty-six hundred square feet and a bank building a...yet to be determined of approximately (6050) six thousand nine hundred and fifty square feet. A...there are two existing curb cuts a...to the property, they're proposed to be closed and a new curb cut would be installed which would be a...aligned a...with the a...a...shopping center across the street that includes the Dunkin Donuts and the a...Auto Zone. In terms of the variance requests as a...as the a...Acting Chairman a...has said a...the primary variance request is from Section 185-28-G which requires a separation of a 1000-feet between facilities that dispense fuel. A...this proposed facility a...a...is approximately (465) four hundred and sixty-five feet from a...the Mobil Station a...which you're all familiar with and a...that's the reason we need an area variance with regard to that a...typically a...a...as...is the case in these situations we also need a...a sign variance a...a...under the existing restrictive Code provision we would only be a permitted a (144) hundred and forty-four square feet of signage. A...between building and pylon signage a...we would require approximately (520) five hundred and a...twenty feet. In terms of justification for issuance of the variances we've submitted a complete package which I...I'm sure you received in advance. It's a...all laid out there. I just wanted to go over a...a...a...and highlight a couple of points and then I'll open it up for your questions and the public. A...obviously a...this is the commercial use of this is...is consistent with the neighborhood a...I don't think we need to dwell a...too much time on...on that. It's a proposed use that is in fact a...a...arguably and in fact, less intense from the prior use which was the trucking terminal and a...as a...we'll...we can discuss in a second less intense from a traffic generation a...standpoint particularly with regard to other permitted uses that are a...a...would be permitted under zoning on this site and other uses that exist in this a...particular a...a...corridor. I'm...you've...you've granted these thousand foot variances in these situations a...a...before where an applicant has been able to demonstrate to your satisfaction that a...the proposed use would not create a...a...a significant issue with respect to a...traffic impact in the corridor. We have in fact prepared a...a...all the analysis a...for traffic impact and I can tell you that it...it's...it does show that there will be no significant adverse impact on the corridor. We can present that tonight, we have boards if you're interested in us presenting that a...or we can a...a...provide you in a...a deferral situation and I think we are going to opt to defer tonight a...a...a...an actual traffic report for your...for your review. I believe that's all I want to say. Again with the signage a...with regard to the signage I would just say that the amount of signage is a...consistent with what has been permitted in other similar

types of a...situations. It's not excessive and...and we'll show you a...the boards a...that depict that. So what I'm going to do is a...turn it...

Mr. Donovan: Can...can I interrupt for...

Mr. Wolinsky: Yes, yes sir.

Mr. Donovan: ...just one second before you step away? Did we resolve...? I'm reading a...Mike Donnelly's letter of referral to us, the 195-28-F?

Mr. Wolinsky: Is that the 200-foot...?

Mr. Donovan: It's the 200-foot.

Mr. Wolinsky: Yes we did. I'm going to ask Tim to a...address that.

Mr. Donovan: The Chairman mentioned it in the a...

Mr. Wolinsky: Yes.

Mr. Donovan: ...in his announcement...

Mr. Wolinsky: Yes, yes, yes.

Mr. Donovan: (Inaudible)

Mr. Hughes: Is that the public assembly reference?

Mr. Wolinsky: The public assembly a...Tim you're prepared to address that, correct? Yeah, so I'll have Tim address that and he'll show you how that's been resolved. It's been determined we don't, you know, we...we're not in need of a variance for that.

Mr. McKelvey: Before we go any further I'd just like to mention that all Members of the Board have been to all these sites for inspection.

Mr. Wolinsky: Okay, thank you sir. Tim...

Ms. Gennarelli: You can tilt that up towards you that needs to be close. Thanks.

Mr. Onderko: Okay, Tim Onderko...

Ms. Gennarelli: Tim you're going to have to get closer.

Mr. Onderko: Sure, Tim Onderko, professional engineer with Langen Engineering and Environmental Services. Just following up on...on Larry's point, we'll start with the...the place of public assembly. So after some research to identify the definition in...in

a...the only place that actually defined it was New York City, the State of New York didn't define it. A...but it...it...it's used in a number of places in the New York State Code. But the...the definition that we found was a place of assembly is where (75) seventy-five or more members of the public may gather indoors or (200) two hundred or more members of the public may gather outdoors for religious, recreational, educational, political or social purposes, to consume food or drink, await transportation, or other similar group activities. A...the...the only thing in that description that we think may come close to us would be the...to consume food or drink of (75) seventy-five people or more...a...the two uses that are closest to us would be the Dunkin Donuts across the street and the Wendy's which is two properties up north on Route 300. Both of those are in excess of a...(200) two hundred feet, I believe the Dunkin Donuts is...the Dunkin Donuts is (310) three hundred and ten feet away from us, the Wendy's would be (400) feet away from us and to add to the list there is a McDonald's in the front parking field of the mall and that would be over (400) four hundred feet. So a...based on our research and the distance to those eating establishments a...we...we think we're clear on the a...the potential conflict with the place of public assembly.

Mr. Hughes: Have you been on site, sir?

Mr. Onderko: I have.

Mr. Hughes: Okay, so you're saying that the oil change place...

Ms. Gennarelli: Ron, can you pull your microphone in? Is it on? Pull it in closer, thanks.

Mr. Hughes: You're saying that the oil change place is (200) two hundred feet wide?

Mr. Onderko: I...I believe on the...its actually from the pumps to the use so I believe the...the Valvoline lot, the tax map is (178) a hundred and seventy eight feet or so, that plus the distance of the building plus the...the spread across our site to the southern side would be on the order of (400) four hundred feet.

Mr. Hughes: And so you're trying to persuade us to understand that the oil change place is a public assembly?

Mr. Onderko: Yes, per...per the definition that I found regarding a...educational, recreational or...or to consume food and drink. I don't think the oil change falls into that category.

Mr. Hughes: I thought that we had addressed this and that the situation came up with the Orr Avenue. The same thing went on; there was a gas station across the street, public assembly with the one on the corner of 17K and 300 as well.

Mr. McKelvey: Which one are you referring to Ron?

Mr. Hughes: A...there were several of these that went on because of the 1000 foot restriction and the public assembly. One was at the corner of 300 and 17K; another one was at 300 and Orr Avenue on the east side of the Thruway.

Mr. McKelvey: That second gas station never got built across the street.

Mr. Donovan: Well just for clarification what they're here for...they're here for the (1000) thousand feet because there's another facility that dispenses gasoline pursuant to 185-28-G. My question with regard to 185-28-F was generated because when I read the transcript from the Planning Board a...session Mr. Canfield indicated that you may in quotes "may" need a variance and that you should evaluate that. And Mr. Donnelly's letter says the same thing. In your application you...you don't seek that so I just want it for clarification purposes since it's in...was in the Notice that...your evaluation is that you don't need it and you haven't applied for it?

Mr. Wolinsky: That is correct.

Mr. Donovan: So from our point of view we'll look at the variances they applied for.

Mr. Hughes: Okay.

Mr. Donovan: I mean, if they get back to the...

Mr. Hughes: It showed in my package that it...that it was one of the things that were required.

Mr. Donovan: Right, and if you read the transcript of the Planning Board which I'm sure you did but...but Mr. Canfield indicates that you may need it, you may not, evaluate it, if you do apply for it.

Mr. Onderko: And a...and during that hearing the question was how far away is Dunkin Donuts. Across the street, we weren't sure right away widths and all that kind of stuff. We had an aerial plan but actually wanted to scale real dimensions to make that go away, so we did that.

Mr. Hughes: On the...I have a further question on those distances if you could verify for me? Is that (143) one forty-three?

Mr. Onderko: Yes.

Mr. Hughes: And then that's the distance between your property and the place of public assembly?

Mr. Onderko: I...it...its not a property line to property line measurement, its from a...a use measurement.

Mr. Hughes: No, I understand that but I'm saying that property is (143) a hundred and forty-three.

Mr. Onderko: Yes.

Mr. Hughes: So you're looking to get another (67) sixty-seven out of that...to the pumps?

Mr. Onderko: Right, I think we have on the order of...our...our frontage is around (288) a two hundred and eighty-eight feet, we're on the southern side, we've got a probably another (150) hundred and fifty feet across the property so I think we're...we're well out side the...even getting close to the (200) two hundred distance.

Mr. Hughes: Thank you for answering those questions.

Mr. Onderko: You're welcome.

Mr. Wolinsky: Do you want to talk about traffic?

Mr. Onderko: Love to. Was...was there any other questions about the existing conditions out there? I'm assuming if you walked the site you may know of that.

Mr. Hughes: Is this a brown field site of any sort?

Mr. Onderko: I don't know if it meets the classification of a brown field.

Mr. Hughes: Was there a Phase One done on the land?

Mr. Onderko: We have...we have not gone that far in the investigation yet.

Mr. Hughes: I see.

Mr. Onderko: I'll...I'll dive into a little bit of the a...discussion on traffic here. I have a number things so a...we have to date completed traffic counts at Route 300 and Meadow Hill and Meadow Ave, at Arbor Post side driveway, Route 300 and the existing Dunkin Donuts driveway, the north driveway to the mall which is currently signalized and the south driveway of the mall which is not signalized but may someday in the future be signalized a...as part of the Marketplace development. So a...we...we looked at the regulations regarding the separation of a1000-feet between gas station uses and from...from my standpoint gas stations aren't traffic generators in the sense of a traditional retail. You don't leave your house to go to the gas station to come home. Its...its something that you usually get when you're on the roadway network and the Institute of Traffic engineer says that number of a car passing a gas station, the number of people that actually (inaudible) off the road and use that gas station that are already on the roadway network could be on the order of seventy to eighty percent. Very high number, cars are already on the roadway network, you're not creating new traffic by...by bringing a gas station in. So the...the separation distance based on the...the guise of

traffic a...at least from my standpoint of this...is slightly odd but we recognize that your...your previous decisions and discussions on the matter of separation a...significant attention has been paid to traffic and we thought it was a...appropriate to...to start our study before we go back to Planning, before we a...are peer reviewed by the...the Town traffic consultant so a...we did, we kind of started at the beginning and...and realized that there's a significant amount of information out there from the Marketplace study. A...they had done traffic counts a...in September of 2005 and so we...we had a base map to start on with existing volumes. They've plastered this whole corridor, I think they studied fifteen intersections a...so we had that as a base, we then went out and did our own annual traffic counts of the...the movements of the various intersection and a...saw a...quite a trend, September of 2005, our first counts were completed in November of 2011 and then again in February of 2012. A...at the time the Marketplace did their study, the volume of traffic on Union Ave was significantly higher than it is today. The...their study identified that on a Friday northbound you see around (1500) fifteen hundred cars traveling up Union Avenue. Our study from November and February found that that number is closer to (1200) twelve hundred so that's on the order of a (25) twenty-five percent reduction in northbound traffic on a Friday PM peak. Southbound numbers were in their study around (950) nine hundred and fifty, we found it around (920) nine hundred and twenty, so fairly close on a southbound movement that didn't seem to change much. The northbound movement was significantly different. The Saturday numbers were more of the same. Their Saturday saw around (1350) thirteen hundred and fifty, thirteen hundred and fifty cars head northbound and about (1215) twelve hundred and fifteen head southbound. We were down below (1200) twelve hundred and below basically (1000) a thousand so another (15 to 20%) fifteen to twenty percent reduction in seven years since that first study was done. A...I'm not that familiar with traffic in the area but I understand it may have something to do with the...the...the construction of the interchange between 84 and 87 and I think those...those changes are reflective of that so a...when the Marketplace study was done even without our analysis a...they showed that even with the additional volume and the couple of hundred cars they anticipated entering their site, on Route 300, they didn't have a detrimental impact. So that was a good place for us. We did an existing count to see how those numbers fell. We have, you know, more current numbers that we were able to look at. We a...then plugged in the Marketplace assuming full build out, assuming they constructed their signal and adding the...the new cars from...from our driveway and again we...we have Route 300 operating as a...a level B or a level C. Very good flow through here compared to some of the C's and D's that they saw, or expected a...back in 2005, 2007. A...again we didn't have a...a full study, you know, prepared with a book to let you see each percentage but big picture was a...Route 300 operates well. A...our uses are a little bit different than your standard retail a...the...the tire shop is a very low generator of traffic, its not a...its not a Jiffy Lube, its not an in and out in fifteen minutes a, you know, it might be ten to fifteen cars in a peak hour actually there to get their tires changed. And even that number may be high for...for what they can actually turn over in...in usage. The proposed bank credit union again is...it's a traffic generator; it's not a retail generator. You're traditionally limited in the traffic you generate by the number of drive-thru lanes you have a...the current plan proposes two. So you're...you're numbers are reduced to about thirty to...to forty cars in the peak hour that can actually be processed through the drive-

up so a...its not a...a five lane ATM and two lanes of teller. So that...that keeps that generation low a...and really the...the biggest a...in and out bound traffic for the site would be from the fueling facility. A...I'm not sure if you're familiar with...with Stop and Shop's program but their fueling facility is...is a little bit different than the traditional model. There's no convenience store, there's no oil changes, there's no service, there's no car wash. Its unleaded gasoline only, it has five pumps that are double sided so you're allowed...so you...we can process ten cars at one time. The...there's (115) a hundred and fifteen square foot attendant kiosk, the back half is an eighty accessible bathroom, the front half is a cashiers booth with...with his electronic equipment and a cash drawer. He doesn't sell milk out of it, yeah, there...there's no room to...to store convenience items or sell convenience items. They do sell washer fluid at the end of the pump islands but this is not a place where you pull in, you park, you run inside, you buy a coffee, grab a gallon of milk; you head back to your car. A...we found that a typical transaction is over in five to six minutes, sometimes quicker than that so it's a...an operation very different than some of the other gas stations in the corridor and that people are just there to get gas and move on so there's...there's not lingering, there's not a significant queuing because we have the pumps to handle it. So...a...those uses compared to what's out there existing on the roadway network are...are not big traffic generators. When we were in front of the Planning Board a...the...the one concern they have about traffic was I go to Dunkin Donuts today and the left hand turn out of there is the one thing that's tough. You're crossing two lanes, there's a...a...a center turn lane and you're trying to...to get into the...the southbound lanes so basically crossing three lanes of traffic to head southbound and a...the request was when we come back we want you to have looked at that and...and provide some insight on how you think you can make that easier, better whether it be a signal, whether it be a, you know, some other change to the intersection. So as part of our counts we looked at it and the perception may be that it's...it's difficult to get out of the Dunkin Donuts drive but the cues aren't more than one or two cars waiting at any time to get there. You've got fantastic sight distance in both directions and you're in pretty close proximity about four hundred feet to the signal that serves the Mall's northern driveway which is a great place to create a gap in northbound traffic in order for you to make that left hand turn. So we, we understood that, we took that into consideration and one of the unique aspects of the property and I'm...I'm not sure if you noticed it on the site plan but a...the property actually holds a fifty foot easement off the...the rear of the lot that connects to the Mall access road that heads up to...to Meadow Hill. So a...what we're currently investigating is providing an interconnection to the Mall access road so that we can still provide the...provide the...the left and the right hand turn at our driveway and the left hand turn would probably function fine ninety percent of the time. You know peak hour might be the...the point when you...you have some concern about making that left hand movement across two lanes but we think we can accommodate that with an interconnection to the Mall access road which gets you northbound to the Meadow Hill signal and on to the network without that perceived concern of crossing the lanes of traffic. So, a...we think we have a...a good handle on traffic, we have a good understanding of the traffic volumes out there. We understand that we're not a big generator compared to a...a, you know a typical retail use and the...the one thing that may be of concern and all of the other uses along the road have a...a, you know a...an unprotected left hand movement across two lanes of traffic



but we have the...the benefit of a...an existing easement that can connect us to the Mall access road. So we're a...we're pursuing that and a...that's where we stand on traffic so...

Mr. McKelvey: Is there a possibility you could make a...a dart into the parking lot area road of the Mall?

Mr. Onderko: To...to the Mall? Yeah, it was...it was something we've looked at. The fact that the Mall had...property owner had granted that easement already, it's already in place there preference is to not try and relocate it to the...to the Mall parking lot because now with the relocation of an easement we're now going through the process of talking to tenants who may have protective parking areas and a...common areas so the...the hope is to try and use that existing easement that...that's in place. We run into a...a place where that's not possible we're going to...we'll open up the conversation again about relocating to the...to the Mall a...circulating drive. It...it's...it's really closer to be more convenient certainly but the...

Mr. McKelvey: Plus if you went out you'd have the light there.

Mr. Onderko: Right, but at this point the conversation wasn't moving just because they've already...they...they've granted one and the process of relocating it would be significant. Not impossible but a...significant.

Ms. Drake: Do you have room to do a road through there with the wetlands?

Mr. Onderko: We...we would have some wetland filling a...in order to make that connection but the...the significance of the wetlands are actually a...further south closer to and basically right up against the edge of the Mall ring road there. So it's a...it's slightly higher through here. We will be working with the Army Corp on...on that process but our hope is a...that the filling would be minor. It's essentially a...an existing drain...they're drainage swales a...that we'd be looking to cross over as opposed to a...a, you know a swath filling through a...a middle of a wetlands area. But something we're...we're going to be working with them on and a...

Mr. Hughes: That whole Mall is a wetland.

Mr. Onderko: I...I understand, yes.

Mr. Hughes: That whole thing was filled in.

Mr. McKelvey: Any other questions from the Board? Does anybody in the audience have any questions?

No response.

Ms. Drake: Can you address the signs or are you...are you...I don't know if you were just asking about the wetland thing but I'd like to see about the signs.

Mr. Onderko: So I...I...I'll start from the beginning with the a...the signs. So I do know the regulations permit one half square foot of sign for every one linear foot of road frontage. We are a lot with about (288) two hundred and eighty-eight feet of frontage along Route 300 a...and actually a depth of between (550) five hundred and fifty and (600) six hundred feet if you count the little angle point there so we're...we're allowed (144) a hundred and forty-four square foot of signage for three tenants plus each side of a pylon sign a...a number that is really low for multiple building and a pylon on a road of five lanes with...with speeds of (45) forty-five miles an hour. So a...what we talked about was one looking at some of the precedent for other signs in the...in the...in Town and a...one of the studies that a...my office had prepared and an application that was filed was for the Home Depot plaza and instead of using the road frontage they looked at a percentage of the square footage. That's beneficial when you're talking about a hundred and fifty thousand square foot Home Depot to spread over the center but with (7000) seven thousand square foot bank and a...a (5000) five thousand square foot tire shop, the two percent doesn't do very much to...to help our...our argument here. So we looked at the...the definition and relative to frontage and we have (288) two hundred and eighty-eight feet of frontage along Route 300 but we also have a significant portion of frontage along the ring road of...of the Mall drive which could be considered public access as well as a...the Mall drive that goes up to Meadow Ave at about (250) two hundred and fifty feet. So...

Mr. Maher: Because it wouldn't be...

Mr. Onderko: ...so we're not...we're not trying to take credit for that. That was just kind of a genesis of...of our thinking for a justification for a number. So we...we said okay well if we were able to take credit for that what would the number work out to be a...and if we were to add up all those a...frontages I think we'd come to (1068) a thousand and sixty-eight feet of frontage which is a...a substantial number. At half of foot that would allow about (534) five hundred and thirty-four square feet of signage. For three tenants plus a double sided pylon sign that sounded like a good number that we could adequately provide a sign package for the three buildings as well as get us a pylon that could have the tenants on it. So from there my goal was to...to come below that, look at the...a typical sign package for the tire shop, understand the prototypical signage for a fueling facility and look at what a typical bank would be. One of the examples that I used was the a...Mid Hudson Valley Credit Union that's in the Home Depot plaza. So a...looking at those plus a...looking at the sizes of the pylon signs along Route 300, their height, the individual panels a...really a...a...example that would probably be very close to us is directly across the street where they have four panels, I believe, the...the tire shop, the Auto Zone, the paint shop and Dunkin Donuts. So I thought that we were in line with that so by using the what we would consider maybe the true frontage or what we would try to argue for frontage we were able to...to back off that number and come down to (520) five hundred and twenty square feet. Less than what we would argue if we could argue for all the frontages but a number that we think is reasonable for three buildings plus the double

sided pylon sign. And I, in your packet you have an example a...the signage is a...we don't think ostentatious for the...the retail uses a...especially because the STS Tire and the bank will be set back fairly far from Route 300, the fueling facility will be up close which has the...the smallest sign and then a pylon sign that was of similar size and scale to what's also on the border.

Mr. McKelvey: Your signage, you're figuring the signage on the buildings too?

Mr. Onderko: Yes, that...that total number was what you see on STS a...a block for a tenant when until we know what the real signage is for the bank, the...the two sides of the canopy and then both sides of the pylon sign. So it's all...all there a...and that was how we came up with that number which we...which I tried to get below what we could theoretically argue for frontage.

Ms. Drake: Could you explain like the STS sign which wall that would be on this plan that's up on the board there?

Mr. Onderko: Absolutely.

Ms. Drake: In other words what road? Where do you see the signs?

Mr. Onderko: Yes, so a...we anticipate that the STS signage to be along to be their front doors along the internal circulating drive so STS signs would be here above their garage bays. The bank sign without a, you know, a true tenant with a pro-typical sign package I would anticipate being over their front door that faces Route 300 and the two signs for Stop and Shop would be along the long end so a...the north and south side of the canopy. And the pylon sign we're proposing a...just north of the...the driveway basically in line with the existing corner of the a...or basically the north east corner of the existing building.

Ms. Drake: Thank you.

Mr. Onderko: You're welcome.

Ms. Drake: So basically from the road from Union Avenue you're not going to even see the STS sign?

Mr. Onderko: You're right, you would only...you would only see the STS building sign after you probably had passed Valvoline were around the bank building and could look into the front of the STS, that's the reason for the...the pylon. I mean we're...this is five hundred...that's almost two to three hundred feet set off Route 300 so a good distance back from the road. The Stop and Shop sign on either side of the canopy would be more visible a...and the bank signage you would be kind of limited to a narrow window along 300 till you're actually able to see that, the front face of the building.

Ms. Drake: The freestanding pylon sign that's (240) two hundred and forty square foot.

Mr. Wolinsky: Yes.

Mr. Onderko: Yes, a (120) hundred and twenty on each side.

Ms. Drake: So that sign alone exceeds the allowable.

Mr. Onderko: Correct. The...the half...half a foot per linear really works for strip malls not for (600) six hundred foot deep lots, unfortunately that's what we have here.

Mr. Hughes: So I'd like to refresh your memory a little bit here you have me a bit confused. When you were talking about the number of keys and how not difficult it is to come out of Dunkin Donuts it was three lanes wide, when it was looking at the distance of the sign it was five. So it seemed...

Mr. Onderko: Say again you lost me.

Mr. Hughes: ...like you exaggerated a little bit, how far back that sign was across five lanes of highway when it's the same description that you gave earlier in your conversation that it wasn't that hard to get out of there because there's three lanes of traffic. Which is it?

Mr. Onderko: Well, you would...you would cross three lanes of traffic to get into the...so if you're in Dunkin Donuts driveway you would have to cross three lanes to enter the south bound lanes. There's five lanes of traffic out there.

Mr. Hughes: I see where you're getting at now, okay.

Mr. Onderko: It was...it was just the actual movement not the number of lanes.

Mr. Hughes: What you said wasn't consistent.

Mr. Onderko: Sorry, sorry.

Mr. Hughes: I'm with you now. Thank you.

Mr. Onderko: You're welcome.

Mr. McKelvey: By the way we have the report from the County and its Local Determination.

Mr. Maher: You're confident that the a...(60) sixty square feet will be sufficient for the tenant in the bank.

Ms. Gennarelli: Mike can you pull your mic...?

Mr. Maher: Sorry.

Ms. Gennarelli: Thank you.

Mr. Onderko: At...at this point that's...that's what we'll have to work with. So yeah, we're...they'll make it work. I've looked the Mid Hudson Valley Credit Union I think they had a total of around (112) a hundred and twelve square feet and that was the sign over the drive-thru. They had...they had a number of signs but here would be, we'd be limited to one or a division of that...that area to make it work.

Ms. Drake: Well they get that one on the building plus they get one on the pylon signs.

Mr. Onderko: Exactly, right they'd have more than one sign on site.

Mr. Hughes: So you're here before us tonight and we have to have a real number not what you'd like to do with the collar around the Mall and all that stuff. You're allowed (144) a hundred and forty-four by the right of the (288) two eighty-eight...

Mr. Onderko: Yes.

Mr. Hughes: ...at most the way I see it realistically you could add that (50) fifty foot right of way on the back and put another (50) fifty feet on it there but because we're a review Board and we're restricted to rule on what you bring to us in deficiencies I don't want to get out into a dream there I want to get into some real numbers and tell them as the are so if we choose to approve it.

Mr. Onderko: Yes, yes, and in our...in our application package we ask for (520) five hundred and twenty square feet.

Mr. Hughes: And total including all of those buildings and all of the pylons...

Mr. Onderko: Correct.

Mr. Hughes: ...so that if you deduct (144) one forty-four from that that's what you're over?

Mr. Onderko: Correct.

Mr. Hughes: Okay, as long as everybody has got a clear signal. When you said earlier in your conversation the buildings and the pylon I didn't know if you were going to include something later on.

Mr. Onderko: No. (Inaudible)

Mr. Hughes: Okay, thank you for answering that.

Mr. McKelvey: Well you can only use the 300 corridor for the...

Mr. Onderko: Sure, right. That we...it was a...a discussion point about the others but we understand that per the reg we're...we're locked in.

Mr. Donovan: Yeah, I think...I think the point you're trying to make is if the Newburgh Mall drive was a public street...

Mr. McKelvey: Yes, yes.

Mr. Donovan: ...then you would get (530) five hundred and thirty...

Mr. Onderko: To the north.

Mr. Donovan: ...square foot of signage. So the idea is to keep underneath that.

Mr. Onderko: Correct.

Mr. McKelvey: Any more questions from the Board? Any questions from the public?

Mr. Hughes: I have a question for our attorney if I could?

Mr. McKelvey: Okay.

Mr. Hughes: I know that there's a lot...

Mr. Donovan: Am I going to have to move back to my real seat?

Mr. Hughes: No, no you're all right there. The a...the three individual buildings on a lot where they are not connected with a common wall do we have to make any special thing about that?

Mr. Donovan: With regard to which variance request?

Mr. Hughes: Well I think that they've got the setbacks and everything else, you can see the building envelop.

Mr. Donovan: Yes.

Mr. Hughes: But I know that in the past we've a...pushed that option away, putting multiple buildings on one lot.

Mr. Donovan: Well I...I think we've had issues in the past where maybe for financial reasons the applicants have come back in and said, you know, user A was going to be a long term lease but for financing purposes to get a mortgage they need to own the lot so

they've come back to us for a subdivision and the result is we've had to grant a side yard or a front yard or a rear yard setback.

Mr. Hughes: We've even had zero lot lines in the middle of a wall of a building.

Mr. Donovan: Correct. But that's...that's not...

Mr. Wolinsky: We don't have that situation here.

Mr. Hughes: You don't foresee that?

Mr. Wolinsky: No, not at present no. We don't have that situation.

Mr. Hughes: Okay. I have nothing else. Thank you.

Ms. Drake: You had requested the Public Hearing be held open, correct?

Mr. Wolinsky: I think that's probably a an appropriate thing to do particular since there are three Board Members, oh well two Board Members missing a...a...this evening. And a...a...and we would rather not risk, because the Law is so stringent that if one would vote against it's an automatic denial, we'd rather not risk that. But I would like to a...ask the Board before we a...leave tonight is there anything else, any other additional information we can get for you a...as we will be waiting until next month. So are there any other issues, things we can respond to?

Mr. Hughes: There's only one thing that's in the back of my mind, did it go any further about a signal device in commonality with that intersection? When you said its (400) four hundred feet?

Mr. Onderko: Yeah that's...

Mr. Hughes: Does the possibility exist there?

Mr. Onderko: A...a possibility exists for a signal. We've had the conversations with NYS DOT and they don't...they don't give you a real answer. They say, well if you can...we don't...we don't have a hard and fast number on how far away signals they can be from each other. Rule of thumb we typically use is (500) five hundred feet. We'd be under that so a...you know, we would have a I think a tough time convincing them that one, we're not...neither of the uses across the street here are...are heavy traffic generators. The left hand turn movement would really be the only thing that would maybe make them consider a...allowing a signal here but based on the separation distance and the fact that neither of these users create a tremendous volume coming from either side of Route 300 a...I think we would go through a long process and probably end up with 'no' for getting a signal and that's why we're...we want to address and...and have a good handle on the left hand turn movement and that's why we're pursuing the...the...the connection out the back. So a signal is a strong 'maybe', maybe a weak 'maybe' depending on who you get

at DOT but a...I think we'd have a very difficult time convincing them that it's a necessity for this intersection.

Mr. Hughes: Well one of the things I've observed out there are other operators having no other left turn coming out onto 300 and I don't know if they put it there or the DOT or the Town, you know, its kind of hard for us to determine all that. But there were a couple of driveways that had that no left turn. When we go out to these things we want to see what's going on and how it may affect the neighbors.

Mr. Onderko: Yeah, understood and a, you know, based on...on the study and the...and the volumes that are significantly different from what the Marketplace found seven years ago we don't think that there's...if there was a (100) hundred feet of queuing on both of these driveways because there was no gaps to get out, I would say yeah, we...we have a...a serious concern about left hand turn movement. But I sat out there for an hour today before I came here. Dunkin Donuts was busy but there wasn't queues in the driveway that, you know, take it to a point where something needs to be done here. We will be going to...to NYS DOT for a...you know, a highway-driveway connection. We're closing off two curb cuts so that's favorable for them but, you know, when we submit our analysis and they say you know what you can't one, do a gap analysis to prove to me that the left hand turn movement happens with no problem or they restrict us to a...a right turn out. If it...it came to that we would...we'd have to find a way to...to work around it but that's...

Mr. Donovan: If I could suggest only because there's...there's two Members who are not here and didn't hear the presentation relative to traffic, if you could put that into some sort of document or narrative?

Mr. Wolinsky: Yeah, we're...we're planning to a...a put the presentation into a written report that you guys will get well in advance and the other Board Members can read.

Mr. Donovan: I think that would be helpful.

Mr. Wolinsky: Okay, we'll do that.

Mr. McKelvey: Because I think the help would be and the public would probably use a rear exit a lot because they can...they can also make a left hand turn and go out in the front of the Mall.

Mr. Onderko: Or...or get to the Mall (inaudible).

Mr. Hughes: This is all recorded as well.

Mr. Wolinsky: Well if there is nothing else a...a...we're happy to defer to next month. That allows us to leave as well now.

Mr. Donovan: Well you are welcome to stay.



Mr. McKelvey: You don't need a motion.

Mr. Donovan: Yeah, you don't need a motion to continue the Public Hearing to June...

Ms. Gennarelli: 28<sup>th</sup>, June 28<sup>th</sup>.

Mr. Hughes: So are you saying you want to keep the Public Hearing open and till the next meeting?

Mr. Wolinsky: Yes.

Mr. Donovan: Correct, yes.

Mr. McKelvey: Can I have a motion?

Ms. Drake: Oh, I make a motion to hold the Public Hearing open to June 28.

Mr. McKelvey: Second?

Mr. Maher: Second.

Mr. Wolinsky: We'll see you at the end of June, thank you.

Ms. Gennarelli: Roll call.

Brenda Drake: Yes

Ronald Hughes: Yes

Michael Maher: Yes

John McKelvey: Yes

Mr. Wolinsky: Thank you and condolences on the loss of your Member.

All – Thank you.

PRESENT ARE:

JOHN MC KELVEY  
BRENDA DRAKE  
RONALD HUGHES  
MICHAEL MAHER

---

ABSENT:

GRACE CARDONE  
JAMES MANLEY

ALSO PRESENT:

DAVID A. DONOVAN, ESQ.  
BETTY GENNARELLI, ZBA SECRETARY

(Time Noted – 7:48 PM)