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

----- X

In the Matter of

WEBB PROPERTIES
(2014-10)

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

----- X

SITE PLAN & LOT LINE CHANGE

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

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

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

APPLICANT'S REPRESENTATIVE: KEN SYVERTSEN &
RONALD BARTON

----- X

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

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

~~Would the applicant please pronounce their name for the record?~~

MR. BARTON: Ron Barton.

MR. BROWNE: The name I have is --

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

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

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

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

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

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

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

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

MR. BARTON: I don't think so.

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

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

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

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

CHAIRMAN EWASUTYN: Comments from Board Members?

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

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

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

MR. DOMINICK: Is there any future

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

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

MR. WARD: John.

CHAIRMAN EWASUTYN: John Ward.

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

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

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

MR. BARTON: No.

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

MR. BARTON: Yup.

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

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

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

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

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the right thing.

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

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

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

CHAIRMAN EWASUTYN: Any other questions or comments?

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

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

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

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

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

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

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Board.

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

MR. GALLI: Right.

MR. BARTON: Okay.

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

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

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

MR. BARTON: Okay.

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

MR. BARTON: What is the setback?

MR. CANFIELD: 60.

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

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

MR. BARTON: Sure.

CHAIRMAN EWASUTYN: Is that okay with you?

Ken Wersted, Traffic Consultant?

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

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

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

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

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

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

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

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MR. BARTON: That was just a technicality.

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

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

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

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

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to do.

CHAIRMAN EWASUTYN: Are you complete with your comments?

MR. WERSTED: Yes, I am.

CHAIRMAN EWASUTYN: Pat Hines?

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

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

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

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

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

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

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

MR. BARTON: Understood.

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

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

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

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

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

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

Ken had discussed DOT.

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

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

MR. BARTON: He has them.

MR. HINES: That's all we have.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

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

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

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

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: No comment.

MR. PROFACI: Nothing additional.

MR. MENNERICH: Nothing further.

MR. BROWNE: Nothing more.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: Nothing.

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

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

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

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

MR. BARTON: That's a big one.

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

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

MR. DONNELLY: We could send those two.

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

MR. CANFIELD: It may be a moot point.

MR. HINES: I don't know what the

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

~~MR. BARTON: The landscaping one is important.~~

MR. HINES: That's huge for you.

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

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

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

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

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

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

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

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

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

MR. BARTON: Yes.

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

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

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

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WEBB PROPERTIES

58

CHAIRMAN EWASUTYN: Pat Hines, do
you --

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

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

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

MR. PROFACI: So moved.

MR. GALLI: Second.

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

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(No response.)

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

MR. WARD: Aye.

MR. DOMINICK: Aye.

MR. PROFACI: Aye.

MR. MENNERICH: Aye.

MR. BROWNE: Aye.

MR. GALLI: Aye.

CHAIRMAN EWASUTYN: Aye.

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

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

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

MR. BARTON: Thank you.

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

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

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

DATED: June 30, 2014