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

----- X

In the Matter of

CUMBERLAND FARMS
(2016-05)

270 Route 17K
Section 86; Block 1; Lots 14 & 15
AR Zone

----- X

INITIAL APPEARANCE
SITE PLAN & LOT LINE CONSOLIDATION

Date: April 7, 2016
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: RICHARD OLSON
DAVID GILLESPIE

----- X

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

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CHAIRMAN EWASUTYN: Good evening everyone. I'd like to welcome you to the Town of Newburgh Planning Board meeting of the 7th of April.

We'll call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. DOMINICK: Present.

MR. WARD: Present.

CHAIRMAN EWASUTYN: The Planning Board has consultants that will be working with us this evening. I'll ask that they introduce themselves.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

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

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

MR. WERSTED: Ken Wersted,

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CUMBERLAND FARMS

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Creighton Manning Engineering, Traffic
Consultants.

CHAIRMAN EWASUTYN: At this time I'll
turn the meeting over to John Ward.

MR. WARD: Please stand to say the
Pledge.

(Pledge of Allegiance.)

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

CHAIRMAN EWASUTYN: This evening we
have four items of business on the agenda. The
first item is Cumberland Farms. It's located on
Route 17K in an IB Zone, it's an initial
appearance for a site plan and lot line
consolidation and it's being represented by
Bohler Engineering.

MR. OLSON: My name is Richard Olson
with the law firm of McCabe & Mack. We're
counsel. Mr. Dave Gillespie is the design
engineer from Bohler Engineering. Don Anderson,
who is the regional manager for Cumberland Farms,
is here also.

We're here for an initial presentation
on the site which is on 17K and Rock Cut Road.

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Cumberland Farms is under contract to purchase a lot to the north, which is directly behind our site, to increase the bulk of the acreage to meet the requirements for that in the Town of Newburgh. The plan is to raise and rebuild both lots, putting up a brand new colonial style Cumberland Farms, 4,956 square foot with an A-position canopy. Basically an entire rebuild of the existing site.

Mr. Gillespie is here, he can give you any additional information as far as specifics.

CHAIRMAN EWASUTYN: Please.

MR. GILLESPIE: So just to --

CHAIRMAN EWASUTYN: Can you give us a visual? It said colonial. Do you have something with what the new building would look like?

MR. GILLESPIE: I do.

CHAIRMAN EWASUTYN: We'll start with that and then kind of step back into the site. The Board is in agreement? We'll get an idea of what we're working toward.

MR. GILLESPIE: I have a couple of exhibits. This is just the architectural elevations in color. So this building has two

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entrances, which is kind of nice. There's gable entrances over both doorways with pillars. There's a cultured stone along the base of the entire frontage. There's dormers with -- gable roof and dormers with windows.

MR. GALLI: Is there outside seating?

MR. GILLESPIE: There's some outside seating. That's correct. A small outdoor seating area.

I also have photos of the actual building that has been constructed in Latham, New York. This has been very well received by the Town of Colonie. It's a very popular site and everybody loves it. It's really a nice new image.

Just to compare, I have to -- I took the time to print this out so I want to show it. There's the existing site. Quite a bit different prototype from what they used to do. So it's a big improvement I think.

Do you want me to continue with any of the site information or did you want to just go into some questions?

MR. GALLI: Can I see the one from

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Colonie again just real quick?

MR. GILLESPIE: Yes. This is actually -- I don't know if you're familiar with Colonie. This is Route 2, Norwood. If you're heading down from Latham Circle, heading down there used to be a K-Mart and it's heading down into Watervliet.

MR. GALLI: That one has no outdoor seating?

MR. GILLESPIE: This does not. You know what, it does.

MR. GALLI: On the side?

MR. GILLESPIE: Yes. Towards the road. There's another exhibit.

MR. GALLI: Nice.

MR. GILLESPIE: This one only has one entrance. That's the only difference. But the style would be the same. This particular site is set up for two more entrances. It works a little better.

CHAIRMAN EWASUTYN: I think walk us through the site plan and we'll see the visuals, we'll talk about parking. Just give us a brief overview.

MR. GILLESPIE: Sure. So we're going

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to consolidate two lots. The existing Cumberland Farms in the front here is a half an acre and there's an office building behind that's about .7 acres. Both of those structures are going to be demolished and incorporate the 4,956 square foot convenience store.

I think looking at this, there are some variances that we're going to need. I think the variances we're seeking are kind of improvements -- just about every one of them are improvements from the existing condition. We're looking to improve things all around. We're pulling the canopy back off the road a little bit. The store, we give ourselves a lot more room here to work with, and then we can provide a lot more services and get a lot better facility here.

So here, this would be the outdoor seating we were talking about. In this particular site it works the best right here.

There's underground fuel storage tanks. There's a four-island canopy which gives us eight fueling positions, a position on each side of each island.

We're proposing currently a right in/

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right out at this point. This would be full access and then two full access curb cuts off of Rock Cut Road.

The delivery and dumpster area would be behind the site which would be screened by existing vegetation and buffered by the building.

We've got some proposed landscaping at various spots throughout the site. We've got some proposed trees and some lower shrubs around the free standing sign at the entrances to dress up that presentation around the seating area.

For stormwater we have two types of systems. A portion of this site is going to be redevelopment. Allowed under DEC there is an alternate practice for that particular portion of the site which is a hydrodynamic separator. And then for the newer development and things that aren't associated with the fueling portion of it, we have a bio-retention area in the back for stormwater treatment and detention. So we're going to meet -- obviously going to meet all the DEC criteria and treat the water and reduce flows.

CHAIRMAN EWASUTYN: Let's start with

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the Board Members and then we'll refer to our consultants.

MR. GALLI: Have you had any talk with the New York DOT about your entrances and exits on both sides?

MR. GILLESPIE: Not yet.

MR. GALLI: How about the County?

MR. GILLESPIE: Not yet. We have to go through that process for sure. We just haven't done it yet.

MR. GALLI: Okay.

MR. GILLESPIE: Usually they want to see -- a lot of times we talk to DOT and they ask if we've gone to the town yet. We like to get through one meeting and then we'll approach them.

MR. GALLI: That's all I have right now.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I think the building would be a vast improvement over what's there now.

I do have a little bit of a concern about the amount of parking you'll see from 17K and Rock Cut Road and whether the landscaping is

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sufficient or something else, like stonewalls,
might be used.

MR. OLSON: Are you talking here in the
front area?

MR. MENNERICH: Yes.

MR. DONNELLY: The Town has a design
guideline that requires parking in the rear.
Yours is a corner lot, that's difficult to
accomplish. But often what the Board would like
to see, and the purpose of the restriction is so
that passing motorists and pedestrians aren't
looking at a sea of parked cars. If there's a
way with landscaping, and often rock walls seem
to do the trick, they don't have to be terribly
high, that would block the perspective of seeing
that sea of cars but still allow you to see your
building. That might be a solution that would
allow the Board to waive those design guideline
provisions.

CHAIRMAN EWASUTYN: Similarly speaking,
if you look at Pilot Travel Center, they have a
stonewall, I don't remember, that's somewhere
between 24 inches to 30 inches in height, and
that helped to mitigate or offset that sea of

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cars.

The other thing we're looking at here is this area of the Town is one of the hamlets of the Town, so when you first enter the Town on 17K it's sort of a gateway to the Town. With the nice architecture of the building and some landscaping and the stonewall, that will set in the community really well.

Dave Dominick?

MR. DOMINICK: First, job well done on the new design. It's very nice. It's like night and day between the two.

How many fuel pumps does the existing --

MR. GILLESPIE: Two. So four fuel islands. Four positions, two islands right in the front.

MR. DOMINICK: Got it. My only concern is with the right in and right out from a safety standpoint. If I'm sitting at the light at Rock Cut, I'm going to see a gateway and maybe use that as a shortcut to avoid the light. I think the right in/right out is not a good idea there. I would suggest we eliminate that and just have

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the one entrance right there by the property toward the left. Yes, right there. That would go along with what John said, you know, a stonewall, landscape, really clean up and make a statement on that corner.

CHAIRMAN EWASUTYN: Stepping back for one second. Mr. Gillespie, you're removing two of the Crab Apple trees along Rock Cut Road and leaving one and then planting two Pin Oaks?

MR. GILLESPIE: Actually, I think we can -- we can save these.

CHAIRMAN EWASUTYN: My concern with saving them is compaction during construction. Once you start putting in the curbing, once they start putting soils on top of that. I would suggest that you remove all of them and then replant them, again with maybe three Pin Oaks, or whatever you decide. But I think we'd be better starting off fresh. As you look at them right now, they are just about reaching the power lines.

MR. GILLESPIE: Okay.

CHAIRMAN EWASUTYN: I'm sorry. John?

MR. WARD: I'm ditto'ing what Dave

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said. At work session I emphasized to eliminate that corner exit right there because there's accidents every date at Rock Cut and 17K. As a visual for one, it would look nice with the wall or something, guidelines looking at it and safety wise. It's definitely not -- it shouldn't be there in the first place where they have it. That's why people take shortcuts, or just cars are flying down 17K and they're nailing them. I would definitely say get rid of that. You have three entrances, that should be enough for everything. Thank you.

CHAIRMAN EWASUTYN: Pat Hines, do you want to -- should we first start by discussing and coming to an agreement on the required variances and then talk about the --

MR. HINES: Sure.

CHAIRMAN EWASUTYN: See if we're all on board on that.

MR. HINES: I identified in my comment 12 on page 2, there seems to be in the cover letter that you were looking to take credit for some existing variances that were granted to the site. Those were for a canopy in a different

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location. So I think you're going to be getting all new variances for the site.

The first one that we identified was the maximum canopy height. There's a variance that's required. I think the maximum is 15 and you're proposing 34.

MR. GILLESPIE: I just wanted to clarify. That was a typo.

MR. HINES: That sounded pretty high.

MR. GILLESPIE: That's pretty high. I actually have some pictures of the canopy. It's 21 feet. It used to be 17. What they've done now is they've added a portion of a roof line, architectural shingles, and that kind of goes pretty good with the building and it hides the fire suppression nicely. So it's a pretty nice element. That bumped it up to 21.

MR. OLSON: We still need a canopy variance.

MR. HINES: You'll need that variance.

Similarly, the canopy has a front yard setback from Rock Cut Road and Route 17K issue. I can give Mike those numbers in a memo later.

MR. DONNELLY: It will be on the

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application.

MR. HINES: It is.

The front yard landscaping requirement, Route 17K from the City of Newburgh line to Montgomery has a requirement for a 35-foot wide landscaped strip in the front of the property. However, within, I think it's 300 feet of an intersection that goes to 45 feet wide. You have basically 0 right now for that. That will be a required variance for that entire front yard landscaping.

The signage location, a 15-foot setback is required. You don't have it identified but it looks like you only have 1 or 2 feet depicted from the front yard.

The side yard for the canopy on the -- the side that fronts on the tire place next door, you have 26.9 feet where I believe 40 is required -- actually 50 is required.

Then the number of parking spaces. You've identified 34 parking spaces required and you're providing 23, 2 of which I'm assuming are going to be employee parking in front of the dumpster.

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MR. GILLESPIE: Yes.

MR. HINES: The requirement is 1 per 150 square feet which would work out to 34. You're proposing 23. We did note at work session that no credit was taken for those at the fuel islands, so you may want to look at that. I believe the Board has in the past, we were looking at a couple of the other sites, you may be able to get credit for those at the fuel island as well.

MR. GILLESPIE: Is there any credit for -- is it gross floor area or can the 150 -- the square feet of the building, is there --

MR. OLSON: Do you back out any storage?

MR. GILLESPIE: Can we subtract storage or any of that?

MR. CANFIELD: It says gross floor area.

MR. GILLESPIE: It's not customer area?

MR. CANFIELD: No.

MR. HINES: Those are the variances we have identified based on the plans and the bulk table.

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MR. GALLI: Have you calculated any of your signs yet, total signage?

MR. GILLESPIE: We haven't put together a sign package.

MR. GALLI: If you go to the Zoning Board you might --

MR. OLSON: We'll definitely include that.

MR. DONNELLY: The Town's sign area rules are found by many commercial developers to be rather restrictive. It's not uncommon that you'll need an area variance for your signs. You may want to do that so you don't have to return again.

MR. GILLESPIE: Yup.

MR. OLSON: Who would we run that by? The zoning enforcement officer?

MR. DONNELLY: That's probably the easiest way to make sure you get the right answer.

CHAIRMAN EWASUTYN: Mr. Olson, will you present that to Jerry?

MR. OLSON: If we provide you with the sign package you can tell us what variances, if

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any, we would need?

MR. CANFIELD: I was just looking at the linear footage that you have. You have credit for a corner lot. Our current sign ordinance permits 50 percent of the linear road frontage. So that's what I was just trying to figure out, what your linear frontage was. We talked about that at the work session as well. We need to see your sign package. If you can do it beforehand, we can wrap it up. If you know you're going to need a variance, we can put it in the same referral. We need to know what the total signage will be. That's inclusive of the canopy, --

MR. GILLESPIE: Yes.

MR. CANFIELD: -- all sides and of course anything that's on the building as well.

MR. OLSON: We'll have that submitted to you before we move on to the Zoning Board.

MR. CANFIELD: I think the submittal should go to the Planning Board. cc me.

CHAIRMAN EWASUTYN: I think to simplify things, they'll come to the Planning Board, you'll cc Jerry Canfield, you'll cc Pat Hines and

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you'll cc Mike Donnelly so everyone will know exactly what we're working from.

MR. DONNELLY: Are you inclined to refer it to the Zoning Board now and let that catch up or do you want to wait until the next meeting?

CHAIRMAN EWASUTYN: That's Mr. Olson's decision.

MR. OLSON: If we can get the referral to the Zoning Board, I'm sure we'll have the package.

MR. CANFIELD: Rough calculations, Pat just figured it, you have allowable 227 square feet.

MR. HINES: That's quite a bit.

MR. DONNELLY: The only other thing I was going to say on the Zoning Board referral is it may be after you speak to the County DPW and the DOT that your driveway configurations are going to be changed. That might give you some ability to increase your parking, conceivably even to adjust the location of the canopy or the building to do away with any of the need for variances, although I suppose as long as you're

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getting variances and you only need less. What if you move something to a spot that required yet a different variance. You don't really want to go there twice. Might it make sense, it's your choice, to get referred now or wait until after you've spoken to the DOT and the DPW to see whether they are going to impose changes?

MR. GILLESPIE: I'm almost thinking even with this gone, this layout is probably not going to change.

MR. DONNELLY: Okay. I suspect you may have a difficulty with the County as well. Unfortunately I've seen circumstances where each one points to the other and says we're not giving you that. The likelihood of getting four I think is pretty slim from what I've seen in the past. If you're pretty confident that you wouldn't amend it and you want to go to the Zoning Board now, we can certainly accommodate you.

MR. GILLESPIE: I think we can do that, yeah.

MR. DONNELLY: With the Board's direction, I will refer it to the Zoning Board. You'll, of course, have to fill out an

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application and apply directly. Again, the variances needed are maximum canopy height; front yard setback for the canopy from both Rock Cut Road and Route 17K; the front landscaping requirement, and that I will specify is 45 feet because it's different distances at different locations; the signage setback location in the front yard; side yard setback for the canopy; the number of required parking spaces; and sign area. If you don't need any of those, then you won't apply for them.

MR. OLSON: Okay.

CHAIRMAN EWASUTYN: Pat, while you have the floor, are there any bullets that you want to hit on now in your overall review that should be considered?

MR. HINES: One of the things you're going to need is a City of Newburgh flow acceptance letter for tying into the Town's sanitary sewer collection system. That often takes some time. The process there is that you'll calculate your hydraulic loading based upon the square footage, send a letter to Jim Osborne, the town engineer, documenting that and

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he will forward that on to the City of Newburgh for acceptance. This Board can't take any action until we hear back from the City of Newburgh based on the agreement.

An Orange County Planning referral is required. We would probably do that once the layout has -- if you are going to modify the layout for the access roads, we'll refer that when that gets back modified.

We just question whether the four driveways are going to be approved by either of those two agencies. Typically they have a one driveway standard. You'll have to work out those issues with the County DPW and the DOT. As Mike Donnelly said, often times we see them pointing fingers at each other, saying that's going to be your access point. That's going to be something you'll have to work out.

The fourth comment has to do with the design guidelines. The Town in 2007 adopted design guidelines. They are available online.

MR. OLSON: We have that.

MR. HINES: If you don't need any of those, the Planning Board has the ability to

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waive them. Typically they require some form of mitigation to waive those guidelines, similar to what we heard tonight regarding the stonewalls for the front yard parking. It has control of the site lighting and other things in those design guidelines.

We'll await submission of the stormwater management report. We did see a design here, we just don't have the stormwater pollution prevention plan.

The sanitary pump station will need an engineering report, the detailing of how it's going to tie into the existing force main and how it's going to function based on the pressure in there.

Also, the service lines took kind of a circuitous route across the site. We're recommending they not do that. Take a look at those. They kind of snake through the site. I don't know why, but --

MR. GILLESPIE: They are avoiding a lot of -- we try not to -- we don't want to run it through the canopy. We'll take another look at it.

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MR. HINES: More right angles. If anyone has to dig on that site, future digging is going to drive them crazy.

As we were saying, the Town of Newburgh has it's own sprinkler ordinance for fire suppression.

MR. GILLESPIE: Is that new or --

MR. HINES: No. This building is of the size where it would require it to be sprinklered.

MR. GILLESPIE: The smaller -- what is the size?

MR. HINES: 2,500 square feet.

MR. CANFIELD: 2,500 only applies to office occupancy. This is retail so there is no exemption. Town of Newburgh has a more stringent sprinkler requirement. They have since 1992.

MR. GILLESPIE: Really?

MR. CANFIELD: It's more stringent than the State fire code.

MR. GILLESPIE: I thought it was the City. I didn't realize the Town had that.

MR. HINES: The Town.

MR. CANFIELD: It's the Town. It's

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also in our code online, chapter 107.

MR. HINES: Standard water and sewer notes will be required on the plans. I don't know if my office provided those to you. They were going to be attached to this. I don't know if you have them. Your office may have, you've done some projects in Town. Those need to be on there.

Demolition notes will be required for the two existing structures as well as the tank. Each of those will require a separate permit from code enforcement, and notes on the plans will have to state that.

You're showing 10 by 20 parking spaces. The Town's standard is 9 by 19. I don't think the Board, based on work session, had a concern that they were bigger. Just that it's on your own. They are required to be double striped.

MR. GILLESPIE: I saw your standard. You're okay with the dimensions?

MR. HINES: The Board seemed okay at the work session with the larger ones.

CHAIRMAN EWASUTYN: I think it's easier for people to get in and out of a larger space.

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MR. HINES: We have done that. The Home Depot requested larger spaces because of the size of the vehicles. The Board is generally okay with the larger spaces.

You have a grease trap on the site. We'll need sizing data for that.

You show 12-inch pipe. The Town standard requires on site plans 15 inch. Those will have to be upgraded.

Then we have some comments on the initial stormwater management that you can address. That's what we have for now.

CHAIRMAN EWASUTYN: Mr. Olson, thank you. I know you mailed directly to Ken Wersted, and I appreciate that.

Ken, your comments on the site plan before us?

MR. WERSTED: We first started with a comparison of the existing store and the fuel positions to the proposed. If you were to look at the two sites as brand new, the existing store would generate somewhere between 75 and 90 trips, and it is a smaller store. The proposed store would generate somewhere between 200 and 250.

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Recognizing a lot of that traffic is coming from people already driving by the site, 60 to 70 percent or so would be traffic that's already driving by but stopping to get gas.

We did note that there are four other convenience/gas stations in that corridor. You have the Valero at the Town border to the west, you have the Mobil, the Pilot and you also have the Shell station on the other side of the highway. Most recently the Shell station did undergo a very similar type of renovation. They had a smaller facility, fewer gas pumps and they expanded. They added a drive-through Dunkin Donuts. One of their arguments was that they aren't necessarily going to be generating a lot more traffic but they'll be selling more to their customers that do come to the facility. They might get gas and then they might also buy some convenience items that they might not otherwise get at the smaller store. I would anticipate that would somewhat be the operation here as well. You know, you have an existing Cumberland Farms, it's smaller, you probably have less on the shelves, less services that you can offer,

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but as it expands to nearly 5,000 square feet you'll have more to offer.

We did comment about the access. The DOT will have to review the two driveways to Route 17K. The County will have to review the two driveways to Rock Cut Road. If you have any truck access issues that may need one of these driveways over the other, that might help you when you do a truck turning. We can see what's needed based on that. We did note that on Rock Cut Road the southern driveway is moving further to the north. Right now it's a pretty wide open curb cut. You kind of come and go anywhere along there today. This does channelize it, it narrows it, and also pushes it a little further away from Route 17K. I think that is a benefit there.

We also noted that none of the landscaping, at least at this time, appears to impact any of the sight distance. Any driver pulling out should be able to see fine as it's proposed today. As you start to look at the design guidelines and if you're incorporating any stonewalls or different landscaping, just keep that in mind, you know, not to block the drivers'

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sight lines.

We have a couple of comments about some of the parking. There's parking proposed over the gasoline storage tanks. There's some parking proposed in front of the dumpsters. So if you have operational plans, perhaps delivery, gas deliveries are at an off-peak time and you're not at your peak parking period at the time.

It appears that the site has a curbed sidewalk around the building but then there's also bollards around that.

MR. GILLESPIE: Yes.

MR. WERSTED: I think the other example in the Town is QuickChek that has those bollards around it but they have their pavement -- their parking lot is flush with the sidewalk up to the parking lot. I didn't know if that was the case here or if there was actually a curb.

MR. GILLESPIE: Their standard is to curb it and the bollards. So they want that extra protection. You would be surprised how many people drive into convenience stores. It's unbelievable.

MR. WERSTED: We had a couple other

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comments about some of the striping and some of the signing as you get more into the details, where the stop sign is.

That was the extent of the comments that we had.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance?

MR. CANFIELD: Nothing additional. Just one comment that I had at the work session was on the lot consolidation, we'll need documentation on that.

I just thought of a question. At this point do you own that lot?

MR. OLSON: We're under contract at this point.

MR. CANFIELD: Do we need a proxy?

MR. HINES: You have that.

MR. OLSON: I believe I spoke with your attorney that we would simply do this with a deed consolidation.

MR. DONNELLY: As a condition of approval.

MR. CANFIELD: You can do that through the assessor's office. Okay.

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CHAIRMAN EWASUTYN: So at this point we're referring them to the ZBA. We'll make a motion for that.

Can we declare our intent for lead agency.

MR. DONNELLY: I might want to hold off because you're not in a position to give a negative declaration. We can recommend to the Zoning Board they do their review on an uncoordinated basis. Their SEQRA review would -- it doesn't involve the drainage issues for which we don't have reports yet. We may want to wait on that and let them do that uncoordinated review.

CHAIRMAN EWASUTYN: At this point I'll move for a motion to refer Cumberland Farms to the ZBA for the necessary variances that were discussed this evening.

MR. DOMINICK: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick. I have a second by John Ward. Any discussion of the motion?

(No response.)

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Mr. Olson, anything else?

MR. OLSON: I think that's it this
evening. Thank you.

MR. GILLESPIE: Thank you.

(Time noted: 7:29 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 23rd day of April 2016.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

DEPEW ENERGY
(2016-04)

5182 & 5184 Route 9W
Section 43; Block 5; Lot 41.22
B Zone

----- X

INITIAL APPEARANCE
AMENDED SITE PLAN

Date: April 7, 2016
Time: 7:30 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: ROSS WINGLOVITZ

----- X

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

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DEPEW ENERGY

35

CHAIRMAN EWASUTYN: The next item of business this evening is Depew Energy. It's an amended site plan located on Route 9W in the B Zone. It's being represented by Ross Winglovitz.

MR. WINGLOVITZ: Good evening. Ross Winglovitz with Engineering & Surveying Properties, here with Paul Depew, Depew Energy.

What we're asking for is an amendment to the approved site plan that was approved about a year ago or so. What Paul would like to do is add a single 8,000 gallon tank to the site to hold seal coat emulsion. That's really the only change to the plan from the approved plan by this Board.

CHAIRMAN EWASUTYN: Paul, it's a beautiful site.

MR. DEPEW: Thank you.

CHAIRMAN EWASUTYN: You paved it. Congratulations. It's really top shelf.

MR. DEPEW: I appreciate that. Thank you.

CHAIRMAN EWASUTYN: Really.

Frank Galli, comments?

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MR. GALLI: The storage of that tank and the product that's in it, is that for personal use or are you going to sell it to contractors?

MR. DEPEW: It's for personal use. We might sell it to contractors but that's not our goal.

MR. GALLI: You're going to have --

MR. WINGLOVITZ: His goal is to keep his guys busy in the summertime.

MR. DEPEW: That's my main goal. It's not really a lot to supply people with but, you know --

MR. GALLI: The site does look pretty.

MR. DEPEW: Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Is that a water based?

MR. DEPEW: Yes.

MR. MENNERICH: Okay.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: Like John said, nice job. Nice job.

No additional comments.

MR. WARD: Nice job again. Thank you.

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CHAIRMAN EWASUTYN: Would you know if it's at all possible to somewhat color coordinate the tank with your building? I mean it's such a handsome site now, if I can use that word. Just to sort of --

MR. DEPEW: Paint it? It comes black.

CHAIRMAN EWASUTYN: That's fine.

MR. DEPEW: You know, if you want me to paint it red, I'll paint it red.

MR. DEPEW: I think once you start adding materials to other materials, before you know it you're going to have something flaking.

MR. HINES: If you spill black seal coat on black paint it's not such an issue.

CHAIRMAN EWASUTYN: You're following the whole thing.

MR. DEPEW: I think that's why it comes in black.

CHAIRMAN EWASUTYN: Comments from our consultants. Pat Hines?

MR. HINES: The only issue here I think is it needs to go to County Planning as an amended site plan.

MR. WINGLOVITZ: Because it's an

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DEPEW ENERGY

38

amended plan, is there any way to waive that since it's already been to the County in substantially the same form as it is now?

MR. DONNELLY: Did they leave it for local determination?

CHAIRMAN EWASUTYN: I'm sure they probably did.

MR. HINES: When we did the 30,000 gallon propane tank it was a local determination.

MR. DONNELLY: The Orange County Municipal Planning Federation has met several times with David Church to try to find out the answer to that question, would they require referrals in all cases on an amended. We've never gotten a straight answer. As minor as it is, if the Board felt comfortable with that, I don't think there's a likelihood of either a lawsuit or the County being bent out of shape about not referring it. It's a minor amendment in terms of the scale of the overall site.

CHAIRMAN EWASUTYN: We'll poll the Board Members. John Ward?

MR. WARD: I'm for it.

CHAIRMAN EWASUTYN: As far as making it

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a minor --

MR. WARD: Waiving it. Yes.

MR. DOMINICK: I agree. No objections.

MR. MENNERICH: No problem.

MR. GALLI: How about the DOT part of
it?

MR. HINES: Last time we didn't send it
either. There are no modifications to those
driveways.

MR. GALLI: I don't have a problem with
it.

MR. HINES: Especially since it's only
going to be utilized by the owner. There's not a
lot of commercial traffic in and out.

MR. GALLI: No problem.

CHAIRMAN EWASUTYN: Let the record show
that the Planning Board Members were polled, they
considered the addition of the 8,000 gallon tank
as being a minor change to the amended site plan.
That being agreed upon, we will not be referring
this under 239-M of the Municipal Law to the
Orange County Planning Department.

I guess the only action left before us
tonight, Michael, would be --

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MR. HINES: A negative dec of the --

MR. DONNELLY: A SEQRA consistency determination. You issued a negative declaration originally.

CHAIRMAN EWASUTYN: Do you want to word that for us for the record, Michael?

MR. DONNELLY: Sure. The present proposal falls within the negative declaration which was issued for the original site plan in as much as no new significant adverse environmental impacts are presented.

CHAIRMAN EWASUTYN: Having heard the verbiage for a consistency determination presented by the Planning Board Attorney, Mike Donnelly, I'll move to adopt that motion.

MR. MENNERICH: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by John Ward. Roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

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DEPEW ENERGY

41

CHAIRMAN EWASUTYN: Myself. So
carried.

Michael, the last condition, site plan
approval.

MR. DONNELLY: I will just carry over
all of the conditions of the original resolution
and include the final condition that nothing may
be built, other than this tank, based upon this
approval.

CHAIRMAN EWASUTYN: Thank you. With
that, I'll move for a motion to grant final
approval for the amended site plan for Depew
Energy.

MR. CANFIELD: John, just one second.
A carry over from the other one. Take a look at
that closely because the other one was a much
different tank, a different product, and there
were other conditions.

MR. DONNELLY: All of those are being
carried. They are all being carried over.

MR. CANFIELD: They're being removed
because they don't apply to this tank. The other
one, the product was the propane.

MR. DONNELLY: I didn't realize it was

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DEPEW ENERGY

42

a replacement. I thought it was an additional tank.

MR. WINGLOVITZ: This is additional. I think what you're saying is that everything that was applied to the site in general still applies to the site in general.

MR. HINES: There were conditions like a fire protection report.

MR. CANFIELD: Exactly. The owner put in different water bladders.

MR. DONNELLY: Make sure that doesn't apply to this tank.

MR. CANFIELD: All those fire protection comments need to be removed.

MR. DONNELLY: Well no. You still have that tank so they have to be there. They are not applicable to this tank; correct?

MR. CANFIELD: Correct. Not to this resolution.

MR. DONNELLY: Okay.

CHAIRMAN EWASUTYN: Do you want to reword that?

MR. DONNELLY: I will recite that all of the other conditions continue, however the

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DEPEW ENERGY

43

fire protection conditions related to the earlier tank do not apply to this one.

CHAIRMAN EWASUTYN: That being said, I'll re-move for that motion.

MR. WARD: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by John Ward and a second by Frank Galli.

Jerry, thank you.

I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

On or in about sixty days you'll write a letter that the balance of the money in the escrow account be released to you.

MR. DEPEW: All right.

CHAIRMAN EWASUTYN: That just allows for people to process their bills. Okay?

MR. DEPEW: Terrific. Thank you.

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(Time noted: 7:38 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 23rd day of April 2016.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

FRISCHKNECHT
(2015-06)

2 Chevy Lane
Section 70; Block 3; Lot 1
R-3 Zone

----- X

TWO-LOT SUBDIVISION

Date: April 7, 2016
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
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

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

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FRISCHKNECHT

46

CHAIRMAN EWASUTYN: The third item of business this evening is the lands of Frischknecht.

MR. CELLA: Close enough.

CHAIRMAN EWASUTYN: Thank you. It's a two-lot subdivision located on Chevy Lane in an R-2 Zone. It's being represented by Jonathan Cella.

MR. CELLA: Thank you. Good evening.

We were last before the Planning Board in March 2015, at which time we got referred to the Zoning Board for some required area variances for the existing residence on lot 2 of the subdivision. We received them in October 2015.

In obtaining the variance the plans have not changed at all. There were just some questions with the existing residence that we satisfied the Zoning Board and received them.

The proposal is a two-lot subdivision. It has one existing residence on lot number 1 -- I'm sorry, on lot number 2 and a proposed residence on lot number 1 which will front along Fifth Avenue.

There will be a new driveway at the

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FRISCHKNECHT

47

location that was the original driveway location for the home.

We received the flow acceptance letter from the City of Newburgh and a driveway approval letter from the Town DPW.

We're looking to get -- requesting a public hearing for this application.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: All of our previous comments have been addressed, as Mr. Cella said.

We would recommend a negative declaration and the scheduling of a public hearing.

CHAIRMAN EWASUTYN: Is the Board in agreement?

MR. MENNERICH: Yes.

MR. DOMINICK: Yes.

CHAIRMAN EWASUTYN: Then I'll move for a motion to declare a negative declaration and set the 5th of May for a public hearing.

MR. DOMINICK: I'll make the motion.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick. I have a second by John Ward.

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FRISCHKNECHT

48

I'll have a roll call vote starting with Frank
Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye. Motion
carried.

You'll work with Pat Hines as far as
the mailing list and the postings.

MR. CELLA: Okay. I work directly with
Pat?

CHAIRMAN EWASUTYN: Yes. When you're
ready to do the mailing you'll contact Cindy
Martinez as far as bringing the envelopes in and
such.

MR. CELLA: Okay. Thank you very much.

(Time noted: 7:41 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 23rd day of April 2016.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

FIDANZA
(2011-24)

56 North Plank Road
Section 80; Block 7; Lot 7
B Zone

----- X

AMENDED SITE PLAN

Date: April 7, 2016
Time: 7:42 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: MARK DAY

----- X

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

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FIDANZA

51

CHAIRMAN EWASUTYN: Item number 4 and the last item on the agenda this evening is Fidanza. It's an amended site plan located on North Plank Road in the B Zone. It's being represented by Day Engineering.

MR. DAY: Good evening. Mark Day, Day Engineering, representing Fidanza.

The Board I'm sure is familiar with the site. It's on North Plank Road. It's a site that was approved a number of years ago I believe. We were not involved, we were not the original engineers. We became involved during the installation of the retaining wall. We're here tonight to help get this thing passed over a hump.

A couple issues have come up during the construction of the site. As I mentioned before, the retaining wall, which I believe the Board has already seen. We've amended it to come up with a gravity wall. One of the issues was there was a slight bellow in the topo which required a much higher wall than was originally shown. The wall has been installed. I was involved in the inspection of it. It has been installed in

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accordance with the design we prepared.

In doing that there was some slight regrading that had to be done to the site in order to make the drains work. It required some of the catch basins be slightly relocated, however the storage system that was originally approved was installed. Some of the catch basin runs may be slightly shorter and/or longer.

However, everything was installed in accordance with the plan -- I'd say the spirit of the plan.

There is still a discharge point that runs to the stream out of this as an overflow. That was installed.

Secondly, I'm sure everybody knows about the sidewalk. The sidewalk was installed, I want to say per plan at the time. However, due to the topography situation we ran up against, there's a considerable drop in grade at the end of the wall. The contractor that had done the entrance work had the inspections done by the State, Zibby, you may know her. She came out and really raised the concern about the sidewalk. One of the things we proposed, if the Board thought it best, we would cover it and use it as

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part of the landscaping island, covering it with say six inches of seed mulch if you will. The other option would be to remove it. The problem with removing it is in order to get our DOT acceptance letter we had to finalize the grading and the seed and mulch in the front. In taking out the wall we're going to have to saw cut it because the stonewall that's adjacent to it is actually resting on a piece of it. So we would have to take that material out and pretty much redo that. So one of the things I was asking the Board tonight is if they would see the way clear to possibly just covering that with six inches of material.

The other options that were -- one of the other points that were made was a guardrail. Because of the fact that these islands -- sorry, the parking stalls are at an angle, we'd like to propose a bollard in front of each one of the bumper blocks because it allows -- it's just going to be difficult to build a guardrail on top of this wall. You won't have enough structure to attach a guardrail of any substance. So if we could, we'd like to propose bollards that would

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FIDANZA

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be right in front of the bumper block so that a car, if it did exceed the limits of the parking space, would hit the block, not the fence, because we are proposing a fence here to block some of the lighting which we also proposed on this plan. These are the amendments.

We did propose an amended landscaping plan because the original plan called for a lot of landscaping back behind here. Because of the difference in grade you wouldn't see it. It would be behind the wall. I mean you'd have to almost step on the wall and look down to see it. What we have done is moved a lot of it to the side, to the front, brought it back around where it would be seen.

So these are some of the changes we've made.

CHAIRMAN EWASUTYN: Let's start with the front of the building and work our way along the sides.

The first question the Planning Board will discuss right now is do they want to have the existing sidewalk covered with six inches of material or does the Planning Board desire to

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FIDANZA

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have the sidewalk removed entirely, realizing that we weren't responsible for the change in grade.

Frank Galli?

MR. GALLI: The problem with just covering it is it's never going to grow grass on it. Constantly in late fall it's going to be brown all the time. Personally I'd rather see it taken out.

MR. MENNERICH: I agree with Frank.

MR. DOMINICK: Yeah. This project seems to have been a cavalcade of errors from the beginning. To come in again this far along in the process and do more shortcuts to try to fix the solution is going to create more problems. I strongly suggest ripping up and removing the sidewalk.

MR. DAY: Okay.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I say remove the sidewalk. You're saying because of the retaining wall, the support?

MR. DAY: No. There's a stonewall that was put there. They actually rested it on it.

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FIDANZA

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MR. WARD: You could chop it out. So
remove the sidewalk.

MR. DAY: Okay.

MR. HINES: Also, by removing the
sidewalk I don't think that return on the
stonewall that you're proposing wouldn't be
required either.

MR. DAY: It would go away.

CHAIRMAN EWASUTYN: The next item then
is Pat Hines suggested a railing along, that
would be the easterly property line.

Pat?

MR. HINES: I actually like that idea.
I think --

CHAIRMAN EWASUTYN: Why do you like
that idea?

MR. HINES: Because of the difficulty
in attaching the guide rails to that surface. I
think the bollards will meet the same. It's a
protection issue. It's a nine-foot high wall.
The concern was that vehicles would go over it.
I think a bollard would serve that.

MR. WARD: With the bollards going
there, now suppose -- you're saying they're going

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FIDANZA

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to park where the parking spot is and have it in the middle. Suppose they go in between them.

MR. DAY: You'd have nine feet. As you know, your spacing is nine feet. You're coming in at an angle.

MR. HINES: You'd have to line it right up.

MR. WARD: I'm just throwing it out there.

MR. DAY: There's people out there that can do it.

MR. HINES: There's a Darwin issue out there.

CHAIRMAN EWASUTYN: Do you have a color you're proposing for the bollards?

MR. DAY: I can paint them any color the Board wants.

CHAIRMAN EWASUTYN: What were you thinking?

MR. DAY: We can paint them black so they would blend in.

MR. HINES: They should be a little more reflective than black.

MR. DAY: We can put the tape on them.

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FIDANZA

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CHAIRMAN EWASUTYN: What would the Board like to see? Does the Board have an opinion?

MR. GALLI: What color is the fence?

MR. DAY: Actually we're going to go with a brown slat.

MR. HINES: We're going to get to the fence.

MR. GALLI: If it blends in with the fence and you put the reflective tape around it.

MR. HINES: I think that's fine. As long as they are reflective. I don't want them to be that dark color.

As we're talking about the fence, I think maybe now is the time to lead that in. The Board at the last meeting suggested rather than a chain link with slats, I think it was more solid. The idea was to block headlights from going into the two adjoining parcels.

MR. GALLI: That was the back lot.

MR. HINES: The back is a residential lot. It does look right into the adjoining commercial, too. I don't know if the Board is okay with the chain link fence.

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CHAIRMAN EWASUTYN: I think at that point we had an agreement it would be a six-foot high fence that would be going in and it would be similar to what the Board had chosen for South Plank Road. Do you remember what that actual -- was it a vinyl fence?

MR. DOMINICK: I think six-foot vinyl.

MR. DAY: So a solid vinyl?

MR. HINES: Solid.

MR. DAY: With slats?

MR. HINES: No slats.

MR. DAY: A vertical slat. It's not the ones you put in, it's the vertical vinyl slat; is that correct?

MR. GALLI: Yeah. You can't see sideways through it.

MR. DAY: It's solid.

MR. GALLI: It is a slat design.

MR. DAY: Got you.

CHAIRMAN EWASUTYN: We're carrying that --

MR. HINES: What I think we were talking about is a solid --

MR. GALLI: It's a solid fence but it

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FIDANZA

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looks like a planking.

MR. DAY: There's no gap between them
but they are vertical.

MR. HINES: It's up to the Board.

CHAIRMAN EWASUTYN: That's what we had
worked with. What were the people's name?

MR. HINES: They actually proposed a
solid fence.

MR. GALLI: That's what this is.

MR. HINES: It's a complete panel.
There's no slats whatsoever.

MR. GALLI: It looks like a slat. It
looks like a panel. The design is a panel.

MR. DAY: What color does the Board
want to go with?

MR. DOMINICK: White.

MR. WARD: White.

MR. DAY: Do we want white bollards?

MR. MENNERICH: No. Black might be
good.

MR. GALLI: As long as they reflect.

MR. DAY: So we could go with a
sandstone color to match the building?

CHAIRMAN EWASUTYN: Let's not make it

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FIDANZA

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too much like a lollipop.

MR. DAY: I think we should stick to black because you've got blacktop.

MR. HINES: As long as it has contrast. I don't want black fence and a black bollard.

CHAIRMAN EWASUTYN: You have a white fence with a black bollard.

MR. GALLI: That's six-foot high?

MR. DAY: Six-foot high vinyl solid fence. We'll go with black bollards with reflective tape.

CHAIRMAN EWASUTYN: You realize that the landscaping that hasn't been completed has to be completed before a certificate of occupancy is issued?

MR. FIDANZA: Well, the time is okay now. Our issue was the wintertime, and that's what we're trying to -- we couldn't do nothing in the winter. I'm sure we can get plants and trees right now. We did a lot of it. We did place -- we kind of took the back part of it. We want to address it and bring it towards the side and utilize more of the separation between Mavis Muffler there. You can see the new trees around

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FIDANZA

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the bend there, coming around towards the front
and actually --

CHAIRMAN EWASUTYN: What you're showing
there has basically been a one-and-a-half inch
caliber tree. What you're proposing on your
landscape plan is a two-and-a-half inch caliber
tree. So again, you have to be consistent with
what's shown on the plan as far as what you plant
in the field. There is a difference of about
approximately an inch in the caliber size from
what you have now planted. Just for a matter of
conversation.

MR. FIDANZA: Okay.

CHAIRMAN EWASUTYN: Stick to the plan.
That's why we're at the point that we are now,
because the project has had a history of not
sticking to the plan. Now in the final lap,
let's give all effort to stick to the plan.

MR. FIDANZA: No problem.

CHAIRMAN EWASUTYN: Thank you.

Pat, let's go to the plan itself as far
as how satisfied are you, what's missing.

MR. HINES: We've talked through a lot
of the major issues. I would just like the

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applicant's representative to give us the certification of the stormwater. It was put in -- nobody saw that going in because of the history of the project and the length of time. We're looking for the certification.

I think Jerry's office is looking for the retaining wall certification.

If we can get a certification that the stormwater management is in subsubstantial compliance. There were some slight modifications with the capacity of the stormwater system.

MR. DAY: I think we did provide a retaining wall. I think you have that. It actually was part of the submittal for tonight's meeting. I believe you do have the retaining wall.

MR. CANFIELD: We'll follow up on that.

MR. HINES: We'll leave it as a condition. Otherwise the other issues in my letter, we've gone through them as we talked about each of these issues.

CHAIRMAN EWASUTYN: Jerry Canfield, do you have anything to add to the discussion?

MR. CANFIELD: Just one thing. I'm not

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FIDANZA

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certain it belongs here. On the as-built, Pat was looking for elevations.

MR. HINES: For the stormwater. I just want to make sure that the plan --

MR. DAY: Jerry Rich, the surveyor of record now, he went out there and he was just unable to get them at the time because of the weather. I'll ask him to pick them up.

MR. CANFIELD: That's all I have.

CHAIRMAN EWASUTYN: Final questions from Board Members. John Ward?

MR. WARD: No.

MR. DOMINICK: Just like John said, we're in the final stretch here. Stick to the plan. Don't deviate. Do you have any questions tonight that we can --

MR. FIDANZA: No. Again, I just don't want to feel that -- you're saying I'm deviating from the plan. It started with an architect and that's where it all got to this point. That's why we were back for the signage last time. I don't want to be the person saying I deviated from trying to not do the right job because that's not my intention.

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FIDANZA

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The plants that I ordered are from Manza Farms. Now, the size -- I gave them the blueprints, they shipped me the plants. If they're two-and-a-half, they're two-and-a-half. I can go back to Tom Manza. If he gave me something smaller than that, he'll take them back and give me what he's supposed to give me because I paid for that. On his bill it says what the plants were. I'm not going to him and saying give me a smaller ball to put here to save ten bucks. That's not the plan here. If that's what he gave me, then he can pull them all out and we can ship them all back and he'll send me what he has. I do enough business with him to justify if there's a mistake here. I just --

CHAIRMAN EWASUTYN: Looking at them in the field, they look less than two-and-a-half inches.

MR. FIDANZA: Okay. And I'll be more than happy to go back to Tom Manza. His word is gold. If he says that they are wrong, I'll tell him to take them back, the Board will not approve that, and give me the right trees because that's what I paid for.

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FIDANZA

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CHAIRMAN EWASUTYN: They're in. We're not saying pull them out. What we're saying is, and Dave supported me, whatever happens from here on out, let's make sure they meet what's on the plan.

MR. FIDANZA: I will make sure on that. I'll talk to Tom about it and make sure that he handles that. Yup. Absolutely.

CHAIRMAN EWASUTYN: Michael, I think -- excuse me. Any comments?

MR. MENNERICH: No.

MR. GALLI: No.

CHAIRMAN EWASUTYN: Michael, do you want to give us conditions?

MR. DONNELLY: We would issue a SEQRA consistency determination. We'll need a sign-off letter from Pat for the changes to the plans. I think we also need an as-built plan given the confusion that has occurred here. A further condition is that the sidewalk be removed and that bollards be placed in front of a white vinyl fence.

MR. DAY: Do we prepare the as-built after we complete the items discussed tonight?

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FIDANZA

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MR. HINES: Yes.

MR. DONNELLY: Yes.

MR. DOMINICK: Excuse me, John.

Mike, do you have to list the height of the fence?

MR. DONNELLY: I can put six feet.

MR. HINES: That will be included in the sign-off letter. Anything discussed tonight will have to be on the plan.

CHAIRMAN EWASUTYN: Then I'll move for a motion to agree to a SEQRA consistency determination for the amended site plan for Fidanza and to approve it subject to the resolution stated by Planning Board Attorney Mike Donnelly.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

(No response.)

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

MR. GALLI: Aye.

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FIDANZA

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MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. DAY: Do we work with the consultants from this point out?

CHAIRMAN EWASUTYN: I would say that would be best.

MR. DAY: We don't come back to the Planning Board?

CHAIRMAN EWASUTYN: Work with Jerry Canfield, Pat Hines.

I stress with you, don't put pressure on Jerry Canfield. I mean that sincerely. I know you're on a timeline but we need what we need. Until that happens, Jerry doesn't need the grief.

MR. FIDANZA: I understand. Thank you.

MR. DAY: Thank you.

(Time noted: 7:58 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 23rd day of April 2016.

Michelle Conero

MICHELLE CONERO

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

----- X
In the Matter of

DRISCOLL SUBDIVISION
(2005-46)

Request for a Six-Month Extension of Approval
From March 29, 2016 to September 29, 2016

----- X

BOARD BUSINESS

Date: April 7, 2016
Time: 7:58 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
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CHAIRMAN EWASUTYN: We have three items of business this evening. We'll go through them.

The first is we have a letter for an extension, a six-month extension for the Driscoll Subdivision. It will start from the 29th of March through the 29th of September 2016.

MR. MENNERICH: I'll make that motion.

MR. GALLI: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 7:59 p.m.)

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

----- X
In the Matter of

POLO CLUB SITE PLAN
(2006-09)

Request for a Six-Month Extension of Approval
From March 29, 2016 to September 29, 2016

----- X

BOARD BUSINESS

Date: April 7, 2016
Time: 7:59 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

----- X

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CHAIRMAN EWASUTYN: The second is Polo Club Site Plan, both being owned by the same individual, is requesting a six-month extension starting from March 29, 2016 through September 29, 2016.

I'll move for that motion.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Motion by --

MR. GALLI: Me.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 8:00 p.m.)

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

----- X
In the Matter of

MATRIX BUSINESS PARK AT NEWBURGH
(2015-26)

Discussion

----- X

BOARD BUSINESS

Date: April 7, 2016
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

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

APPLICANT'S REPRESENTATIVE: KENNETH GRIFFIN

----- X

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CHAIRMAN EWASUTYN: Although it's not listed under Board Business, we are discussing it tonight in a formal meeting. There will be a Stenographer recording the notes.

I'll have Mike Donnelly, Planning Board Attorney, bring this matter up to the Board.

MR. DONNELLY: The applicant's representative is here and would like to discuss an amendment to the emergency access drive that's shown on the plans in order to accommodate the unwillingness of the adjoining property owner to allow the emergency access drive to connect to their cul-de-sac. The applicant's position is they have the legal right to do so but they are not looking for that kind of friction. I know there's been a meeting with Jerry and Pat. We're trying to see whether conceptually there's a willingness to explore this possibility.

CHAIRMAN EWASUTYN: So what's the next step from this point forward?

MR. DONNELLY: The applicant would have to apply for amended site plan approval, submit an application that would show the alternative that they propose. It would have to be

1
2 satisfactory not only to the Planning Board but
3 to Jerry as well as the jurisdictional fire
4 department. It would require an amended
5 application.

6 CHAIRMAN EWASUTYN: For the record
7 would you give your name?

8 MR. GRIFFIN: Ken Griffin from Matrix
9 Development Group.

10 We were disappointed and surprised last
11 week when we received the appeal papers from
12 NRDC. As you know, their attorney was here at a
13 couple of meetings. He made it clear to the
14 Board that NRDC didn't object to our project. He
15 raised issues about the easement. Yesterday we
16 had meetings with the principals of NRDC and they
17 basically said that they object to the project,
18 that they want to stop the project. So we need
19 to -- we need to proceed. We think that the only
20 way to do that in the near term is to apply for
21 an amended site plan. We're working on it at
22 this point.

23 CHAIRMAN EWASUTYN: When do you think
24 you would have the necessary plans and everything
25 that needs to be attached to that to submit to

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this Board?

MR. GRIFFIN: We think on Monday.

CHAIRMAN EWASUTYN: Okay. Just have someone contact me as far as what day. I have to leave a note at the window. Let's talk about that. What we've done in the past is you'll mail directly to Pat Hines, Mike Donnelly and Ken Wersted the amended site plan. We will need fifteen copies delivered to the Planning Board office. We'll set the delivery day on that.

I'll move for a motion from the Board to set this up for an agenda item for the 21st of April. Do I have a motion to approve that?

MR. DOMINICK: Motion.

CHAIRMAN EWASUTYN: Thank you.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick. A second by Ken Mennerich. Any discussion of the motion?

MR. CANFIELD: John, one question. I did receive a draft letter from Ray Aquino, representative from the project, requesting to meet with the jurisdictional fire department. If it's with the Planning Board's wishes, I will

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continue with that, with the Planning Board's authorization to do so.

CHAIRMAN EWASUTYN: Sure. I think that's essential at this point.

MR. HINES: It needs to proceed on a parallel tract there.

CHAIRMAN EWASUTYN: Okay. So I have a motion by Frank Galli. Correct?

MR. DOMINICK: Me.

CHAIRMAN EWASUTYN: Excuse me. Let's repeat that. I had a motion by Dave Dominick, a second by --

MR. GALLI: Ken Mennerich.

CHAIRMAN EWASUTYN: -- Ken Mennerich. I apologize. We had discussion with Jerry Canfield. I'll move for that motion to set it for the 21st of April.

MR. GALLI: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: Roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

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MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Thank you.

MR. GRIFFIN: We're trying to settle the differences. We're going to continue to attempt that. We don't control it. I just don't know where that's going to go.

CHAIRMAN EWASUTYN: I wish you the best of luck.

MR. GRIFFIN: All right.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of the 7th of April.

MR. GALLI: So moved.

MR. MENNERICH: Second.

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

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

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(Time noted: 8:04 p.m.)

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

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 23rd day of April 2016.

Michelle Conero

MICHELLE CONERO