

**NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING
THURSDAY, AUGUST 19, 2010**

The North Attleboro Planning Board held its Regular Monthly Meeting on Thursday, August 19, 2010 at 6:30 P.M. in the Planning Board Office located at 43 South Washington Street, North Attleborough, Massachusetts. Board members present were Richard Houle, Richard McCarthy, Thomas Welch, Richard Peterson and Mary Signoriello. Town Planner, Mary Burgess was also present.

Burgess: No vouchers. Need to sign the Warrant article to take out of the general fund the \$64,000 put in for Walmart. This was signed.

My name is Fred Bottomley, representing Reed Avenue.

Burgess: This is an application for site plan review. Name of applicant: 58 Reed Ave., LLC, 364 Hickory Road, North Attleboro, MA. Name of engineer surveyor: Dan Campbell, Level Design Group, 16 Manmar Drive, Unit 12, Plainville, MA. Deed of property recorded in Bristol County North, registry book 17012, page 227, assesor's plat 9, lot #23 and 433, zoning district R-10. Location and description of building proposal: the applicant desires to amend the site plan previously approved by the North Attleboro Planning board by modifying the building footprints and layout to eliminate excessive ledge removal and the need for extensive walls throughout the site. The applicant does not propose an increase in the number of units. The number of units remains at 18. The applicant asserts that the revised site plan provides more compact site development with improved units and layout for movement throughout the site. The redesign also allows for increased undisturbed woodland on the northwest portion of the site and utilizes mainly the existing disturbed environment. The changes will minimize site work and maximize the use of the existing topography to locate the buildings. 58 Reed Ave., LLC.

Fred C. Bottomley: Back a year ago the board had signed a site plan for 58 Reed Ave, July 7, 2009. We have done excessive ground testing to determine the amount of ledge that is there and also discussed with two different insurance companies who would do the homeowner review of the surrounding property. This embankment here, which you can see from 260 down to 232 or so there is almost a 30 foot drop of solid rock and it has been determined by licensed soil evaluators, etc., that this rock does in fact go all the way through to Elmwood.

There would be no blasting near any of these home right here, they would still be surveyed, etc.,

The proposal that was approved a year ago also had retaining walls to be constructed starting at the high corner at roughly elevation of 258 and terracing down, so that meant that this whole hill would have to be blasted out and you can see the contour lines which are exposed and if the Board did an inspection, then they would see all exposed rock. In looking at just these two buildings it made sense to us and to what we hope the neighbors and to the Board, to move those two buildings over here, shortening

up the roadway but primarily eliminating blasting. So, what was submitted to the Planning Board and Dan Campbell from Level Design is here and my attorney, Dave Manoogian, is here. All of the original plans that were approved stays the same. Once again, you can see that we would recontour this here, no wall, this is just dirt that would make up this topographical change and the two buildings that were here would be moved over here, still creating a substantial buffer to the abutting property. The key being no blasting here or here. The other criteria that we have met with, we met representatives dealing the handicap issue and the elderly issue and we are not changing the grading of the roadway, we are making it flatter, which is the design of the building itself, more handicapped accessible where it is strictly an over 55, elderly project, with handicap accessibility in all of the units. To us, it became a modification and at that, unless there is something to be added, I would entertain any questions from the Board.

The only letter is from the engineer.

Drainage was discussed and there was no change.

Storm water system is street drain, going through a storm center, before it goes to the existing drainage system off site. There is no retention, detention,.

Lighting question was raised.

Bottomley: We would guarantee that there would be no lumen output outside of property bounds, meaning they would be down-hooded lights directed away from any abutting property.

Houle: My only concern is whether or not this will upset the storm water and how it effects it. That's the biggest thing I would like to see done. Have you done a storm water report on this?

Bottomley: What we did was we reviewed the previous storm water reports, preexisting conditions which were specified on the Cliff side. Mr. Yarworth's (?) report, which was submitted as part of the approved application and we basically told you that there is minor increase in change in TCs going from point A to point B, so at the time of concentration that it takes water to go in a certain direction has been increased slightly with our plan, though it is slightly longer, there is less water getting to a point at a time. It is about the same amount of water but it is changing how it gets there.

Houle: It is actually increased, correct?

Bottomley: Ours is a slight increase as we said and we have added one double catch basin on the driveway. The pre-existing condition, we are still less impervious than the preexisting ones.

Houle: Any traffic review on this?

Bottomley: No, because nothing changed.

Houle: Will there be trees here?

Bottomley: Not planned, but if the Board feels in approving this that they would like to see some non-deciduous trees as a screening buffer put in, I don't have a problem with that at all.

Peterson: Was this space where you could walk around the gazebo and such, was that a selling point to begin with or???

Bottomley: Selling point? Correct me if I'm wrong, but I don't think there was any selling point, this was a settlement of a case.

Burgess: We specifically asked for that area to be (couldn't make out) when we were doing the conditions.

Bottomley: Do we have a problem? Once again, if the Board would like to see an oval walking track here, which would probably equal the same distance as shown on that, whereas keeping the gazebo, once again, I don't have a problem with that. I am just trying to make something that is less offensive from a blasting point of view predominantly for the neighborhood.

Burgess: Dick, it is 7 o'clock.

Houle: Why don't we continue this. I would like to hear Mary's comments as the town planner, do you have anything to add?

Burgess: I was just concerned about the storm water because there is a change, did add a double catch basin. I know Dan is a very qualified engineer, but generally we have a note from our engineer saying yes, that what you are saying is right. We usually have the two documents. The other thing is I would like to see more of a vegetative buffer. I know there are steep slopes. Basically, I think there should be more of a vegetative buffer and it might be appropriate to have fencing in some areas as well.

Bottomley: To comment, for the Board – I agree with Mary as to the issues and to Dick with the issues of an oval walking path here, I agree to additional landscaping of what should be of a non-deciduous nature because it is primarily deciduous here, so that we have some seasonal color just like we had planned in these areas and if the board thinks that a fence should be ... I don't know where. Here we have an elevation drop of 10-12 feet, so a fence here would do no good. Does a fence do some good here with this amount of backyard, quite possibly, yes. Am I averse to putting a fence in? I am not.

Burgess: Do you want to ask Carmax if they will give us 15 minutes?

Houle: I am opening the hearing to Carmax and we will recess until 7:15 p.m.

Burgess: Mostly I was talking about the buildings to the front and to the side. I know there is an elevation change and everything here, but it might be nice to just put up a plank fence along those areas where it is.

Bottomley: Here, we have already agreed with Mr. May in a modification approval, that this would be a 6 foot stockade fence. I have no problems committing to the six foot stockade fence here, along this property line and along this property line. I don't think it serves much, if any, preference behind here, where this is already woods. I have agreed to the walking path, agreed to add landscaping and I have agreed to add fencing. To compensate for the minimum increase in drainage we have added the double catch basin, the STC 900 is still satisfactory for water quality control which comes down from Mt. Hope Street.

In response to question about emergency vehicles, Mr. Bottomley stated he feels this plan is better than what was previously approved.

Houle: There are a lot of people here. Please state your name and where you live.

Pauleen Demers, 59 Ryder Road. I would like to see where on this plan my house abuts, could it be pointed out to me, please?

Mary Sawyer, Reed Avenue. I have a question – is this going to be an access road now? There is quite a bit of runoff now and when we had the April storm, that water came running down that hill, went down to my yard this way, the catch basin could not keep up with it and it flooded the guy behind me, and you are going to be blasting and when you blast, you change all the water.

Bottomley: No it is not, staying just the way it is. We own it and (inaudible) With this, we don't

Mary Sawyer: There are all underground streams because when you blasted the road, I have an underground stream in my backyard and that was altered until April and then it started flowing again. And one other thing I just want to say is because of all the changes, I think all the abutters should have been notified, because this is quite a change and just by chance, we found out that this was going to take place tonight.

Burgess: As part of the site plan review, you are not required to notify abutters legally.

Mary Sawyer: But this is quite a change.

Burgess: I agree.

Mary Sawyer: Well, we should have been notified. There are people that are over here that just moved and I think they think this is going to be nice, and now they are going to have a building. They are going to wake up one morning and there it is It's not fair, you know? I think this should have been put up on the board so if everyone wants to see it.

Burgess: He should have done that, not us.

Pauline Demers: 59 Ryder Road. This area right here, which is right behind my house, floods everytime it gets flooded with water, so I don't know if you have accounted for

that and if it will help that drain, because that floods a lot. Our basement floods too because of it.

Bottomley: There was no drain in the walkway. In the subdivision plan, there was because there was utilization of it, but not in the Planning Board approved plans. Hopefully, we will all rest assured. I mean, we have to sell something, so we can't have flooding. The grading plan, the landscaping plan, will be far better served with this. If the Board does not want it and they want me to stick with what I've got, then that's the way it will be.

Pauline Demers: Can I see what you already had because I never saw those other plans.

Susan Bocho: There are a lot of children and they all play right here.

David Mortimer: 56 Ryder Road – This corner here is a very steep embankment right now. I don't know if there will be – I don't know how you will deal with that threat. Will this be stepped with timbers or how would you stabilize this?

Burgess: Excuse me, one conversation at a time please.

Bottomley: We have looked at a lot of natural grass stabilizing and they make a lot of seeded fiber mat now which is really for embankment stabilization. Generally, in conservation areas but also outside of it as well and that whole embankment where the building meets – for those of you who did not know, there were over 40,000 sq. feet of a concrete and block building there where the back walls were over 16 feet high and when we got permits from the town to tear the building down, of course the embankment, which once again was a concrete wall, is now exposed dirt. We were planning on using that on that more with a natural non-mowable grass type of thing and there are all types of products on the marketplace for that.

David Mortimer: So, will the peak of the embankment be the property line?

Bottomley: The property line is the property line.

David Mortimer: but the embankment will then go up to the property line?

Bottomley: We are not looking to cut any further. If our property line is further in to property that is maintained by an abutter, we are not looking to change any of that, we weren't in this plan, we weren't in the previous plan, so what people own, they own, this being the property line in question, we are not looking to interfere with any of the abutters properties, their trees, whatever.

David Mortimer: As long as things don't slump that will be fine.

Condition: Add loop, vegetated buffer and fences.

Condition: Letter from Fire Chief as to ambulance/fire truck accessibility.

Houle: We will continue this. I have an open hearing that I have to do, so we will stop this here. Fred, just to go forward, I don't think this is bad, I don't see any really big concerns with this and I have not heard any big, big concerns from the people who were here, however, but as a Board member and doing the right thing for the town, I would like to see a revised storm water.

Bottomley: I don't think that is going to be done. It is too costly. We already know that we can't comply with the new storm water management regs, there are a host of things. I mean, we here with a better plan, to move two buildings with less of an impact on the neighborhood and in making substantial improvements over the approved plan, meaning fencing, landscaping, on and on and on. I think anything beyond that is beyond our financial capability because we are not going to comply and that's why we said from day 1 that if the Board does not take it as a modification, that's fine, there are no hard feelings here, I will live with what we have as will everyone else, that's just the unfortunate set of circumstances on this particular issue.

Houle: Any other questions?

Signoriello: I have no other questions but I do believe the second plan is better.

Houle: I don't personally have a problem with the plan, I am just a little bit concerned over the storm water and I know we have gotten caught short on some other places and I don't want to be here and get caught short again, so I think an ounce of prevention is worth it. I understand these things are expensive, however, it is what it is, I don't make those rules, but I do have to try and cover what's here for the town and I do have to try and make these people have a livable place. I think that may be a better plan.

Bottomley: The impervious that is planned, meaning the buildings and the roadway, substantially less than we had before I ripped up the asphalt and took down 40,000 SF of flat-roofed buildings, so we are only improving what was going on from when the gas company was there. I know you have another hearing, I respect it. When would you like us back?

Burgess: Tonight? I mean, if you are saying a storm water and he is saying no storm water

Manoogian: Fred is not prepared to pay for your consultant to review it, I want to make that clear up front. He is not prepared to undertake his own course of study for it, unfortunately, because the finances don't (inaudible). Also, if it is going to be viewed in the contemporary regulations, it won't comply, so we are chasing our tails, so this Board has to understand that we would be glad to come back, and you are certainly free to have anyone else you want to view it, but we will not pay for that review and we want to be very upfront with that, so if you want him to take anything, that's great, but we felt we have engineered it to the best we can and given this, we think it is a better plan overall but we will not be able to provide any request to have an outside consultant review it, so I don't want to mislead the Board and say we will come back. If you would

like to have a local town engineer do it, or the DPW where they won't charge you, be our guest. My feeling is that the town should have a paid engineer and be servicing all these boards so all these applicants don't have to keep on paying these excessive review features. The larger projects I can understand you want an outside review and another pair of eyes, but on something like this, there comes a point and I think we have reached in this economy, can't keep on doing it. What you can get for these prices now just does not justify the cost you have to spend, so I want you ladies and gentlemen to understand we won't pay for it.

McCarthy: I am not comfortable at all with it from a storm water standpoint. Secondly, you come in and you've switched it so you don't have to blast into the ledge which is good for the neighborhood but I am sure it is also good for you from an applicant's perspective because it changes your costs.

Bottomley: I am not saying it doesn't... let me clarify. The preview has already been done digitally, not in the homes. They have not been in the homes yet, but they have looked at the whole site, we have a fixed dollar on it, that will have to be done regardless. If the question boils down as to drainage which respectfully I can understand it, etc., etc., what you are really looking at to simplify it is the existing approved plan or something that is probably better. To me, and I am a very simple guy, it is that simple.

McCarthy: I can't come to that conclusion tonight. I am not asking the Board to come to a conclusion but I think it is fair to say that...

Mary Sawyer: Say he does whatever plan and say I receive damage in my home or all of a sudden I start taking in water which I didn't take in water in April so I figure I will never take in water, who is responsible for that? I have two finished rooms downstairs and over on Mendon Road, the same thing happened....

Bottomley: I can comment quickly Mary. You will have to let someone in your home and they video the whole thing. (that's for the blasting).

Manoogian: You would have to hire a professional to indicate what caused it and if it is related to anything. Hopefully you won't get water, but we can't sit here and speculate or guarantee anyone. All I can tell you is that my client can't give you those guarantees.

Bottomley: We are improving that drainage. We aren't doing anything on Reed Avenue other than at the crossing. The issue would be a DPW issue, just like Mendon Road.

Houle: I am going to ask you guys to come back, if you will, on September 2 at 8:30 p.m.

Burgess: would you like me to have DPW look at it?

Houle: If he is willing do it free of charge.

Bottomley: He was already at a meeting with Mary and I at DPW and he has already given his input as to how he wants the water/sewer crossed at Reed Avenue and we have already agreed with that, but we would certainly welcome any additional input that he may have because it has been over a year since Mary and I met with him.

Houle: Okay, we have a public hearing for CarMax.

For the record, Jack Jacobi, 144 Bank Street, Attleboro, representing Carmax. Our entire team is here and Mr. Manoogian, representing Mr. Santos is here as well. There were last time, a few questions that had been raised and we tried to address those in our submittals. I have not seen anything from Earthworks yet.

Do we have an estimated time of arrival?

Burgess: You gave me your report – it is due on the 24th, he gets two weeks to review. So it is another week.

Jacobi: What we tried to do and I hope you all have a copy of the letter – was we put together a letter dated August 4 and we tried to summarize the presentation and also answer a few questions that you had raised in that. Did you all get that letter?

Board: Yes

Jacobi: I think it speaks for itself but there is one issue that I want to address that I think is important and if you look at the third page of the letter, you will see calculations on the open space. There were two variances granted; one for the Kia parcel and one for the Ford parcel. The Kia site – the variance was for 14% open space and the Ford site was for 24% and what exists out there right now on the Ford site is 28.8% so it actually exceeds the variance. We are proposing that take that up to 31.4% with this plan. Also, on the Kia lot, it actually is slightly under the 14%, 13.4%. We are proposing to take that up to 15.8%, so we believe that we exceed both variances when you look at the two lots separately. Also, when you look at the last calculation, if you combine the lots and look at the open space, then it is 25.2 with the Ford lot three times as big as the Kia lot and the proposed open space that we have totally gets us to 27.8% so we are requesting that in your decision you allow us to go to the 27.8% number that we can provide, basically making use of both variances and acknowledging in your special permit, a decision of what we can do.

Burgess: We can't squeeze another 2.2% in.

Houle: That was my next question.

Jacobi: I will let the engineer answer that but without taking away some 30 odd spaces, we can't do it, we are maxed out on the site, but I will let Brian talk about that. He is the guy who did the calculations and you had also asked us, just briefly, whether there

were any conditions in the old permit that were a problem and we addressed that in this letter and it basically is the gate that we would like to not have, so why I don't let the guy who knows the numbers speak and let him address that issue on the open space. He also has some good news on the drainage.

Burgess: So, which variance goes with the special permit, because you are doing away with your site plan, so..

Jacobi: We have two variances, one for each site.

Burgess: I understand that – okay, so the special permit goes with the Ford site so you have a special permit for 31.4%, so what you would like to do is add the site plan to ?

Jacobi: Let me see if I can make that clear – your decision required 30% open space for the Ford site and we actually have 28.8% out there, that is what our calculation shows – we are proposing to take the Ford site to 31.4%, but we also want you to understand that the overall site is 27.8%, not 30 and why we can't do that, what the consequence is, that's why I want the engineer...

Houle: That's on the For site?

Jacobi: No, both.

Burgess: With the variances on the separate lots and you are doing away with the site plan because you are combining it into the special permit, it's a legal thing – that's why I am asking you, the numbers themselves are whatever...

Jacobi: I believe we have the benefit of the variance for the Kia parcel because it runs with the land and it allows us to get to 14%,. we are actually at 15.8% there so I believe that we have complied with the variance and when you combine the two sites together, as you can see on that third page of the letter, the best we can do is 27.8% overall but we will give you 31.4% on the Ford site if you are just looking at the Ford site, which is an increase of 2 ½%.

Burgess: So, will you be in compliance with both variances?

Jacobi: Yes.

Burgess: Okay. Well, the only thing is that I am wondering, because of our special permit, where we can grant 30% with the landscape architect plan – can we grant below that, wouldn't that require another variance to go with the special permit – that is my question.

Jacobi: I don't think so because we have a variance as to each site already.

Burgess, Yes, I understand that, but I am saying I don't think we can physically grant it with this special permit because of...

Jacobi: I think you can acknowledge in your special permit that there are two variances and that you are requiring us to have what we show in our plans, which is 27.8% - I think you can do it that way.

Burgess: Just saying, it's against the rules.

Jacobi: Okay, on this site you have 28.8 now, proposing going to 31.4 and then up here, where it is much more impervious, we are at 13.4 now with proposing to go to 15.8.

?: If you have two sites, you can combine once per year, basically changing the layout of the site, I would think that the variances issued for the specific purpose that it was originally issued, would be irrelevant.

Burgess: He is correct with the running with the land...

?: But it is not like you still got two lots you are using...

Burgess: That's the problem with the variance, because it does run with the land and he has not combined the lots, there are two separate lots but I am only concerned because our original special permit states 30%. Can we go back on that because our rules and regulations say that you have to have 30%. My concern is can we actually do that – is that breaking our own regulations.

Houle: I believe we can, but you know, you are right, it is not in our rules and regulations. She is absolutely right about that.

Jacobi: I understand that and I acknowledge that, but I am suggesting to you that because the variances are there, you can, in your decision, acknowledge that the variances are there and relying on the variances, not require us to produce % #1 and #2, I am sure you will incorporate the site plan into your decision and that will provide that we have what is shown there.

Houle: Or you will lose a couple of parking spaces.

Jacobi: More than just a couple and so, if, I am not sure if we have gotten beyond the legal point, but if we get beyond the legal point, we can discuss the physical point.

Pat Murphy: 71 Norton Road. If the variance runs with the land and they are not combined lots, then how can we go back and ask them to change the percentage to 30?

Burgess: Well, that's the thing – they have a variance for under 30% on the Ford lot and when I asked are they in compliance with that as the plan stands now, he said yes. He is also in compliance with the other variance, but because our regulations specifically say 30%.

Murphy: But we have already given the variance.

Burgess: Well, that's the thing,

Houle: The Zoning Board gave the variance we didn't do anything.

Burgess: I might have to ask someone about that.

Houle: State your name please.

Murphy: Also, one of the reasons why, especially the variance for the Ford dealership was given was because we were told it was going to be two separate dealerships there on the Ford property, just the Ford property.

Jacobi: It was originally going to be two buildings.

Murphy: And so, if there were going to be two buildings, we agreed. so now, you are going from three buildings, or what was originally proposed was three buildings, the Kia, the Ford and another dealership – to now, a used car dealership – have you given a special building permit here for business development? I think, you know, they should be required to meet the 30% open space on the combined lots – there is plenty of display room down there, where I am sure if they made a green space along Draper Avenue a little bit wider, they could easily meet the 30% open space.

Jacobi: Let me suggest that we could debate this here all night. If you want to refer to Roger, have Roger call me and I can site him the appropriate, please have him do so. .

Houle: Please understand this is more technical. We are trying to do the right thing.

Jacobi: Let me just say that in zoning law, there is no such things as a precedent.

Houle: That's why this is the planning board.

Jacobi: If you do this for us, it does not mean you are required to do it for anyone else and I think

Houle: Jack, you know sometimes you open up Pandora's box...

Jacobi: Then you get the unequal treatment issue that is always out there – you like this project, you don't like that project, I understand that. So, apart from the legal issue, why we can't get another 2.2% overall on the site physically I think is a question that Brian should talk about.

John McNamara: Carmax representative. Beyond the question of the 30% and the legal issue behind that, our specific concern with the difference between where the 28.8% technically and 30%, while it sounds small, it is only 2% roughly, that equates to about almost 7,000 SF of space and if you look at the size of these parking spaces, those are 9 x 17 spaces. When you do the math, that's about 45 parking spaces that would be carved out. When you look at a 7 ½ acre site, 2% open space is a pretty big number. We size our lots very specifically. One of the things I said when I first gave a

presentation about Carmax and what we do and how we do it, the first thing I said was that one of our major points of our business is the huge selection of vehicles, every make and model on our lot. If you take away 45 spaces from the display area, that's a big chunk of vehicles and inventory that we don't have, so I know it may not sound big when you call it 2%, but it is.

Peterson: Excuse me, how did you figure the # of parking spaces?

McNamara: My numbers are .16 acres which is 6,970 SF and if you have spaces that are 9 x 17, which all of these are, which is approximately 153 SF per space and you divide that into the 6,970 SF, that is 45 displace spaces.

Peterson: I think I beg to differ on that. I think you would be losing a fair amount of spots, but I think you would be figuring in part of the aisle travel space in that calculation for your parking spot, so I don't think... If you reduce it by 40 spaces and you had 20 on each side, you would be calculating part of the aisle in your square footage. I'm not debating you would lose a lot of space, but I don't think it would be 45 if my point.

McNamara: We feel it would be pretty close to that.

McCarthy: What is the drive aisle width?

McNamara: 20 feet and those have to remain so let's say I lost all of these spaces which is not 47, somewhere in the high 20s/30s I guess... that just disappears, then we just have a wider drive aisle or we have grass, effectively. I mean, the drive aisle is not going to go away, the drive aisle has to remain.

Burgess: So, if you got rid of all of those ones on route 1 and the one on Draper Avenue

(Inaudible)

McNamara: There is always a balance on what you can do on the site and how you can operate it efficiently and make it a viable economic operation.

McCarthy: what about your staging area there?

McNamara: that is one area that we really have to have without landscaping because it is obviously pretty tight in here, we don't stripe it because it is not display, that really can mess up operations if you landscape there.

Jacobi: I think it is important to mention, as Jack said, that we are increasing the open space on both parcels beyond what is already there and while I don't totally understand the legal stuff behind it, my understand was that this PUD that we are amending is where the 30% came into play, we are amending pieces of it, we are trying to amend things like the gate, coming down from 10 to 9, my understanding of this was that the 30% was in there and that is what we are amending.

McCarthy: We are trying to work with you as best we can so you don't have to go for a variance.

Burgess: That is the ultimate question.

Houle: You can't just... it's easy to say it is 27% or whatever or 28, rules are rules and we try to adhere to them.

Burgess: I would like to hear what Roger has to say.

Houle: Yes, I would too.

McNamara: I want to give Carmax credit as they know how many customer and employee parking spots they need and they know what they need to operate their business, we don't want to take away customer spots and then have people aggravating the neighbors by parking on Draper or parking somewhere else. The concept is is that they have 100 of these stores and they have a pretty good idea of what they need. This is what they need.

Burgess: But I think also if our regulations said you didn't need as many customer and employee parking spaces, you probably wouldn't have them, he would have more display parking spaces.

Jacobi: Corporate is not happy with the number of customer and employee spaces.

Burgess: Wow.

Peterson: Just an idea – 45 cars would be what percentage of your total display?

Jacobi: More than 10% inventory.

Houle: Please state your name:

My name is Pat Murphy and my question is the pink spaces are for employees and customer parking, I assume.

Jacobi: Correct.

Mr. Murphy: And, are they all 10 x 20 spaces except for the handicapped?

Jacobi: No, they are 9 x 20. The display area is the 9 x 17.

Mr. Murphy: Is there a variance for parking spaces which are supposed to be 10 x 20 in North Attleboro?

Jacobi: I have been told that in variances that have been granted that the answer is yes.

Mr. Murphy: And how many parking spaces are required? Is that based on the square footage of the building or so many for (inaudible).

Jacobi: Usually the requirement is a minimum per square foot of building which we meet on both lots, we have more than that because of the volume of sales that we do, so that is ...

Burgess: Also the display area as well.

Mr. Murphy: How many are required? How many do you have?

Jacobi: 144

Mr. Murphy: 144 – 88, if my math is correct, is 56.. All I'm saying is that they are saying there is no room for 2% open space. If the town requirement is 30%, and the town requirement is 88 parking spaces for employees and customers, then they are putting on 144, certainly some of that space should be turned to green space.

Jacobi: I think it is important to note that those requirements exist so that people don't build huge businesses like Walmart and provide 25 parking spaces and you have people parking in the street. They are designed to be a minimum so that the site can sustain I think the point I am trying to make is that we can lose more, but the reason we are beyond it is because our business requires it but I think using the minimum requirement as a gauge to what we can have as a maximum is ...

Houle: So why use 140 something spaces there?

Jacobi: Because we feel that on Saturday, the business that we would do, we would need that many customer and employee parking spaces so that we don't have customers parking on Draper Avenue on the green space. Our peak times, we feel we would use that.

Houle: We have some traffic engineers here. Brian was just going to talk about the drainage and then we would bring the traffic guy in.

Brian Brewer (?) with ???, engineer on the project. The last time we met, we had just received the comment letter from Earthworks Engineering and we revised our drawings and responded to comments that we received from Earthworks Engineering and we submitted those plans to the town in August and also submitted them to The Mass DOT. Since that time we have actually met with the Mass DOT this afternoon and had a very positive meeting and at this point they are at a point where they are ready to issue a permit for our site plan. If you recall, last time we had talked a little bit about some of the concerns they had with storm water and I think there was a question here about how much our system would actually hold and maintain. If we talk about 25 years and a question of 100-year storm. Since that time with our August 4 submittal we had addressed that in our comments and actually the system that we have proposed with infiltration, it can hold and sustain and maintain up to the 100 year storm.

Houle: It can do that?

Brian: It can do that.

Houle: I thought you had told us last time that it was not going to be able to do that.

Brian: Last time I said we needed to go back and check. The difference was how much it was infiltrating into the ground. What we had said before was a 25 year storm event we could hold without having any infiltration and we wanted to go back and check the infiltration rates we had gotten.

Houle: So this will be designed to the 100 year storm?

Brian: That is correct.

Peterson: DOT is what now?

Houle: They have what is called an indirect access permit for route 1 because they have an indirect access onto route 1- it is close enough. As part of that they get to review the drainage and they now as of this afternoon, they are satisfied that the drainage plan works, so hopefully Mr. Lavin will agree and then we will all be on the same page.

Peterson: You said that the state did not want you to directly connect or did not want a connection to their drainage system and so the way it was worded in our packet made me wonder whether they did not want any drainage or they just did not want to directly connect it.

(Unidentified): they have been sued by the conservation law foundation if I understand it so they can't have direct connections, they need something that overflows....

Peterson: It is like a restaurant, you have to have an indirect connection for the drainage.

Brian: And so the redesign plans accomplish that. So assuming Mr. Lowden (?) agrees with the calculations and the plans, as I said, I would think that this board would be in a position to check off drainage as no longer an issue.

Houle: Let's see what he has to say.

Brian: I agree, but we believe our calculations. are correct. That is all we have with the engineering to share with you.

He was far from the recorder and I could not make this out very well.

Jeffrey Durke, VP of Vanasse & Associates for Carmax. Since the last meeting we had a set of comments that had come in. We responded to those comments, that was in the latest submittal and essentially, what is encompassing that are three more intersections (inaudible) Route 1 intersection and the route 1/120 intersection and the Board asked us

to look at the Old Post Road intersection at Route 1 as well. We have done that and we have added three more intersections to the study area and did a full analysis similar to what we had in the original traffic study, crash history, looking at traffic, delays, with and without the project and that is what is within our latest submittal. Basically, what we have found and this is similar to what I had discussed at the initial meeting, about 70% of our traffic is heading to the south of the project. We have a real small amount of traffic. When you look at conditions with and without the project at the three intersections at the north, you do not find that the project causes increases in delay or Q'ing at the intersections so we did not find any significant impact. There was some concern about safety based on these intersections and we have documented those. The intersection at route 1 and 120 was probably the highest crash location of all of the intersections that we looked at. The majority of the crashes were typical of what you would find at similar intersections. The Old Post Road intersection – again, it was an intersection that we did find had a high crash rate and what we found in terms of looking at that those crashes is that the majority of them, again, they were rear-end crashes. When we looked at those in more detail, a lot of delay – motorists start to pull out and then there is a car coming and they hesitate and the car behind them does not know they stopped short and rear-ends them. What is happening here is that the collisions tend to be northbound motorists hitting each other and what we found was that because of southbound traffic waiting to make a left hand turn there, causing the motorists to stop short and then someone rear-ends them. This is what the majority of these crashes were at this locations. Also documented in the study we pointed out some ideas that we had in terms of trying to reconcile what was happening at these intersections but again, in terms of our impacts, the levels of service – there were no changes with or without the project. It is about 1 additional vehicle every 2-3 minutes during those peak periods. That is essentially what is in the response to the comments. We responded to site distances and made sure we maintained the minimum safe ???

Houle: How about route 1 to 120 changes which it will do?

Durke: I would expect it would be a significant improvement. When we start to see rear end crashes vs. angle type crashes, what it says to us is that it has to do primarily with the vehicle detection system so that motorists are coming up to the intersection and they are usually encountering a yellow and a quick red light and there is not enough time for them to clear it so it is a combination of the clearance times, so people are driving too fast for the time they are given to clear the intersection so you get people hesitating, they stop short at the stop line and so someone rear ends them.

McCarthy: Mass Highway is supposed to be improving that intersection and DPW said they are including the Old Post Road intersection in that improvement.

Welch: My main concern is down at Draper Avenue because that is directly adjacent to your site and you had indicated that you had done some analysis on the safety.... what were your results of that? You were going to forward a report to DOT on improvements but I would like to see those as part of the plan. What type of changes are needed out there to improve the safety, do you know yet?

Durke: We have done the same analysis that we have done at the other intersections in terms of type of crashes there – if it is either failure if that is something that needs to be tested and if not, it needs to be repaired or replaced. Also has to do with the signal time, so that needs to be reviewed.

Welch: I want to see those improvements done as part of the project. Right now, traffic is lower there considering the economy and the development is down and that gas station on the corner, I travel this road five times per day – so it is only going to get higher in the next 5-10 years, so I think that is very important.

Houle: Have you actually identified the improvements that should be done?

Durke: Yes, we have. It is basically a menu of items that says all of these things need to be looked at, so we physically need to have someone go out there and test the vehicle detection system and make sure it is operating and if not, what is wrong with it and then come up with if it needs to be repaired or replaced.

Burgess: Basically, because it is route 1, it is a state highway, they can't physically alter anything on a state highway.

Durke: Not without their permission. Even if it is something that you say you would like for us to do, it is conditioned upon getting approvals to do that. We have submitted the traffic study to the state and they were satisfied.

Peterson: He sent his recommendations in his report to DOT.

Houle: Letter to DOT regarding Carmax and we wholeheartedly urge you to do the things that are asked to be done, that would be certainly a step.

Charles Dufault 135 Draper Avenue: We have about 9 school buses going up and down the street and we are talking about 150 cars per day in and out.... someone said 150 cars on some days.

Houle: I think that was spaces.

Charles Dufault: I thought it was customers.

Houle: Customer spaces, that doesn't mean they will all be taken.

Dufault: That is still something to look at because like I said we have school buses traveling up and down that road.

Durke: We did our traffic counts at that intersection and on Draper when school was in session and we counted in the morning.....

Beginning of tape 2: Mary, this didn't seem like a continuation from the first tape and after this Other business section and meeting was adjourned, the tape continued with some other discussion?? I left the tape at that spot in case it needs to be transcribed.

All in favor: Yes

OTHER BUSINESS:

Peterson: Are we going to go over the Town Administrator budget or are we done with that?

Houle: That is more information for you to read, just so you guys have an idea.

Burgess: I put it in just because we were doing the Master Plan at the same time. The fee schedule is in there because we have not updated our fees like ever. Our fees are weak.

Welch: Wasn't that part of the discussion, though, fees?

Burgess: Yes, I wanted you to review the fees and say yes, do a fee study, look at updating our fees. I mean, the fact that an A&R costs more than a site plan for applications. I provided them. I will look at a fee study.

Houle: Where the schedule of zoning and planning fees are, could you take a look at it and maybe we will go over it at the next meeting.

Peterson: I guess my question when I was looking at it, how would you go about – Mark Fisher did mention at the meeting, how does one establish whether these fees are fair or not because the idea of a fee is not to make a profit.

Burgess: We probably take in \$8,000 per year in fees and our budget is \$122,000 so typically what it is supposed to do is offset our budget and we are not anywhere near. You have Cristina Estates, we should have made a boatload of money off of that – 110 lots and all we did was charge for the square footage of the road. We don't have a per lot.

Houle: Yes, but we still want to stay friendly – we don't want to start chasing people out of town.

Welch: Do we want to do an average of the region or something.

Burgess: I would recommend other towns like North Attleboro in size and growth and the economic development plan gave some great information regarding other towns that are the same size, so I would suggest looking at similar towns as us and go from there and see. I definitely think we are missing out on the per lot charge – it is \$1,500 for the first lot and like \$10 for each additional lot or something like that.

Houle: What are most other people doing?

Burgess: A lot have a per lot. Site plan review is \$50.

Peterson: That was my question, what part of your time is taken up for submission like that? Do you spend five hours on it, two hours on it, you know. If you are spending 50 hours on it and you are getting \$100 an hour, we are losing like crazy. But then again, you can't necessarily charge at \$100/hour for the 50 hours either, so how do you come up with a price?

Burgess: What the Board will consider reasonable, I guess is what it comes down to.

Houle: I don't want to be the highest either.

Peterson: If a house lot is selling for \$150K and we get \$75.

Houle: Let's look at this one. A preliminary subdivision – North Attleboro \$100,. most people are getting \$150 or \$300, some are higher, but \$350 – some are lower, so you know, we are not way off. We are at \$300 for commercial...

Burgess: That's a variance. For site plans – you know, I send it to DPW and he spends an hour or two, on a site plan I review, go to the site and all that, I have to go through all the records. Linda has to do all the prep for the legal and everything like that, so it is a lot of time. The zoning board is like \$300 and then \$100 for every additional variance, so if you ask for a height variance, a frontage and all that – its \$300 for the first, \$100 for each additional and I think that is reasonable.

Houle: Where are all the other figures that I don't see in here for a lot of these other places? Where did you get these figures out of curiosity?

Burgess: SRPEDD does an annual study. Unfortunately, they have not done it since 2006.

Peterson: So they could be a lot higher now – 4 years.

Houle: Mary, how about Bally Heather bond?

Burgess: Went to the selectmen last Thursday night and asked them to transfer money from the escrow account into a revolving account so we can spend it. The next pages are obviously we won the lawsuit and my letter to the selectmen. Next, we have awarded the contract to Miles Excavating (you knew that already). Paul Garcia – these are two letters I have written but have not sent out. Rod asked me – they have temporary C.O.s and they are not finishing their site plans so he asked me to send letters and I wanted to run them by you. I am saying they are in violation of the zoning bylaw and their certificate of occupancy is in jeopardy.

Houle: I read both of them and I have no problem with them. Zoning board of appeals, Mary?

Burgess: These are the decisions.

Houle: Letter from Mark Fisher?

Burgess: This was about the 40b presentation and that they had the other night. The Board of Selectmen did endorse it as a project 5:0. Just talking about it, the Commonwealth Capital application is coming up

Burgess: So everyone knows, the Permit Extension Act was passed, part of Obama's economic growth by extending permits for two years between 8/15/08 and 8/15/10, so they are still kind of vague – if you dig a hole for a building for a special permit, you are basically committing to your special permit. I am just thinking how it affects us.

Houle: I would see how that would affect something right now.

Burgess: Are you talking about Christina? That is not considered a permit.

Peterson: Where does Nissan stand?

Burgess: Nissan has gotten their demolition permit, that's it.

Houle: Does anyone have any other business?

Houle: I will take a motion.

Peterson: I will make a motion to call it quits.

Houle: All in favor.

Burgess: Adjourned at 9:49 p.m.

Respectfully submitted,

Mary Signoriello
Secretary