

Town of Watertown
Planning and Zoning Commission
Public Hearing
BMW
May 14, 2008

Time: 7:00PM
Date: Wednesday, May 14, 2008
Place: Watertown High School **LIBRARY**
324 French Street
Watertown, CT

Minnich: Good evening I would like to call this public hearing of the Planning and Zoning Commission to order at 7 PM on Wednesday, May 14, 2008. Carol would you please call the roll for the purposes of recording our votes for attendance.

Members Present: D. Minnich, R. Russ, C. Mancini, J. Blais, D. George, K. Demirs

Members Absent: M. Masayda, G. Martin, R. Rondeau , G. Dupliese

D. George sat in for G. Dupliese
K. Demirs sat in for M. Masayda

G. Dupliese arrived at 7:05PM
D. George no longer seated for G. Dupliese

G. Martin arrived at 7:07PM

M. Masayda arrived at 7:45PM
K. Demirs no longer seated for M. Masayda

Others Present: Ruth Mulcahy, Administrator of Land Use
Chuck Berger, Town Engineer

1. Hearing of Application

Minnich: Next item on the agenda is the continuation of public hearing Special Permit #243 of County Line, Inc., BMW for an addition to the building to expand the service department and roof top parking for 116 cars located at 699 Straits Turnpike, Watertown, Ct. in a B –SC Business Shopping Center District. Does the applicant have a statement?

Carol Briggs – Levy & Drouney

I know there was a couple issues got raised at the last public hearing that you had asked additional information on. We sent a letter I believe did you get it already or not?

Mulcahy: Yes and we met with Curt but there are still some issues.

Briggs: What I wanted to do is bring some copies of the letter and introduce that and add it to the record, if that is okay. I do not know if the other members received it. What I would like to do if it is okay is have Curt Smith address the issues that he was going to address and Mike brought a lighting plan that he was going to address a couple of the issues that you had raised and so that if you have questions for them directly go ahead and if there anything else I would be happy to come back up.

Curt Smith – Smith and Company, 247 Main Street South, Woodbury

One of the unresolved issues from the last session of the public hearing had to do with the sign. And I do not think you have seen the revised sign profile and I would like to distribute that. The drawing I just handed out shows a sign with BMW of Tallahassee but it would be BMW of Watertown. The bottom portion of that sign where it says BMW of Tallahassee is to be 7 feet from the ground. The top of the sign as you can see over in the right of 15 feet and each module size is 21 square feet. And I am going to refer to Curt Titus's letter because he actually is the one who spoke with BMW about this sign. And I am going to skip to...

Minnich: Are you talking the May 12th letter?

Smith: May 14th letter, Does yours say May 12th?

Minnich: Gary and Glen have arrived at 7:07. Thank you sir.

Smith: The letter I am referring to is from Curtis Titus dated May 12th and on page three there is a paragraph that is entitled signage. And I will just read that so we all have an understanding of the size. We have obtained and presented to the Commission a new rendering of the proposed sign, while our client had intended to install the flat type sign with 3 squares at a height that would place the lowest square 7 feet above ground level we discovered that BMW does not provide or have a sign of that type which can be raised to the 7 foot height. Therefore we have selected a different and much larger sign which is shown on the new rendering the larger sign allows the 7 foot clearance beneath and maintains the 15 foot height. Each of the 2 squares which make up the sign is 21 sq. ft. in size. This totals 42 sq. ft. of signage under 6276b we are permitted a single identification sign 48 sq. ft. in size in a BSC district. You will also note that subsection L of 524b also permits a 48 foot square sign. So hopefully that resolves the understandable confusion from last month.

Mulcahy: Chuck and I met with Curt Titus and I disagree with Curt on his interpretation of the signage regulations. Under 62.7.6c1 no free standing sign shall exceed 24 sq. ft. What Curt is referring to is b which is an identification sign which obviously cannot be the free standing sign. It clearly states in the sign regulations that no free standing shall exceed 24 sq. ft. The 48 sq. ft. he is right about an identification sign but if you read further in that sign regulations as I went over them with Curt this week. You have to calculate the total square footage of signage on the lot. He did not provide me with the other signs that are existing on the lot or do they want to stay on the lot. So I was unable to do the final calculations but as I told Curt in the town of Watertown it clearly states in this district no free standing sign shall exceed 24 sq. ft.

Smith: Anticipating that Ruth and in attempt to move this application along Mr. Titus before he left said what we should do on behalf of BMW of Watertown is eliminate the half with the sign in the application. So where is says BMW of Tallahassee that portion 21 sq. ft. would then become the application and hopefully if Mr. Titus wants to come back to the Commission with a modification of the approval at a later date he can do that. We would like to move the application along so that...

Mulcahy: Well do you have the calculations for me tonight as to the other signage on the lot because if I read the sign regulations which we did with Curt. Chuck and I went over them as well as the rest of the site plan with Curt. I have to base the total signage; it allows you up to 48 sq. ft. totally on the lot. And I am not familiar with the size of the other sign and he was going to provide that information to us and I thought before the meeting. One other thing on the sign, it has to be 10 feet from any property line. So we need to change the locations as well.

Smith: I think further move this application had we should eliminate the sign from this application and resolve that at a later date.

Mulcahy: Do you have the other sign that are on the property so I can see...

Smith: No, Ruth I was unaware that you had that question. I think when Curt left he did not relay any of that to me.

Mulcahy: Sorry about that. We met with him, we thought that is what we are trying to get solved it before we got here. We were trying to get all those issues resolved at the meeting we had this week with him.

Smith: I think in light of what you are saying we should just remove the sign entirely from this application. They would like to get the building started and think the signage can be addressed at a later date under modification of the permit or new application for the sign.

Mulcahy: Are you saying there would be absolutely no signage approved then anywhere.

Smith: I think we have to Ruth in order to move this application along. I don't see us doing this tonight but to remove the signage up front.

Martin: Do we know that the signage now meets our regulations?

Mulcahy: No they did not provide me with their...

Martin: No, I am saying the existing signs that are there on the building that they are not changing that?

Mulcahy: I asked them to provide me with the sizes of the existing signs at the meetings we had staff meetings but I have been provided no information on that and would not be able to crawl up on a ladder and measure those signs.

Martin: I understand that. But can we assume that the signage that is there today meets our regulations because it was approved at some point in time.

Mulcahy: I can't assume that, no. But we can condition that they meet the regulations. That can be a condition of approval that they meet signage regulations.

Martin: Maybe that is something just to help move this along.

Smith: Exactly and I think getting the building under construction is something they really wanted to do and the sign I think we port that out later. From this application, so as not to hold this up eliminate the sign from any approvals any proposed signs. We are showing a sign on the northwest corner there 10 feet from street line and 2 ½ feet from the sideline. Those were the offsets provided by to me from Curt Titus. If it is 10 feet and 10 feet then there is a problem because it puts it into the driveway. So I can see some problems with signage and setbacks for new street free standing signs so I think you should eliminate it entirely from this application.

Mulcahy: I don't know what other wall signs exist there, no one has provided me with that. I have been waiting for that information since the beginning of the application.

Smith: I was unaware of that Ruth. The second item landscaping we submitted a revised an alternate landscaping plan. Let me just get that so I can refer to. Referring to sheet L1a and it is dated 5-14-08 and its alternate landscaping plan. This plan is an enhancement of the landscaping plan previously submitted and it was submitted to you yesterday. What we did, our office went through section 70 your landscaping section of the regulations and added islands. There is an island in the employ parking area; there is an island in the parking area on the south side here, the appropriate number of shrubs and or trees so it does meet the criteria as outline in section 70. I understand from Mr. Titus's letter he elaborates on the fact that he does not feel need to do this because section 70 is and I am not lawyer but just reading from his letter that you have, he does not feel we need to do this but once again in an effort to move this along we prepared a landscaping plan which is part of the application it is an alternate landscaping plan which does meet the criteria in section 70. So I just wanted to submit that. You have it as part of your file.

Mulcahy: Just to comment on Curt Titus's assumption on that. We went through the new regulations involving new car sales and they exempt certain things, buffers and different items but that was not one of them that is addressed as exempt. And as I explained to Curt unless it is specified as exempt or has a change, I am assuming that the regulations still hold.

Smith: In the interest of the overall application BMW Watertown is willing to install these planting's and these conform to section 70. Another request was that we demonstrate areas for snow stock piles during the winter. This is a plan that sheet SR1 and was submitted with alternate landscaping plan and its entitled snow removal plan and the revision date on it is 5-14-08. What we did was coordinate this with the landscaping plan and provide areas throughout the property where snow can be piled some of these are in parking spaces. And so what we did was to add a note here that snow stock pile area shown represents alternatives available but are not intended

to all be used at the same time. The dealership can alternate between these areas depending on their inventory and needs for example in the showroom area in front we have the severe storms in January in order to clear the snow along north side of the building there are probably going to have to pile snow in front of the building for awhile and display some of the cars they normally display in front of the showroom. Once things settle down they will probably remove this and displace it back in here or in here and that's obviously there prime exposure area in front on Straits Turnpike. So what we did was go out through the whole property and show areas that are available for snow removal. The whole back of the building here is available for example. So that is one request we provided. I think that may be it from an engineering surveying stand point. Our lighting expert is here too. I would like to let him come up next.

Michael Lojudice – Lighting Systems

I have a revised plan, based on our request from Attorney Titus to eliminate any light at all on the Berchonack property. I submit these for your viewing. I have 6 copies. What I have done basically a very simple approach we switch the lights off on the building, there were actually 2 pole lights on the building side of the property and then over on the employee parking which is to the bottom of the drawing to the bottom of the Berchonack property those lights have been shut down. That was the way we were able to get zero amount of light on the Berchonack property. And that is what we have done.

Briggs: Were there other issues that you wanted us to address beyond what Curt and Mike have already addressed?

Minnich: Those certainly were the two. I understand some people are here of course for public participation also. And quite frankly from the last meeting I really wasn't clear what other than the lighting issue other things that they were concerned about and that's part of the reason why we kept this public hearing open because they said they needed to have more time and they are back now. I am sure I will hear more information as to what else they had an issue with.

Mulcahy: I just have one last comment, I did some research on the parcel, 1995 parcel it is still a separate parcel it was created basically illegally it does not conform to any of the regulations. It was split off 1995 and there has been no attempt to merge it by deed or map and that is one thing that would have to happen with this parcel. No kind if off the tax maps it hasn't been taxed since 1995 either so no taxes have been paid on it because it was not seen as part of the other parcel it has its own separate deed they split it off making a parcel that does not conform to anything in the zoning regulations. I did speak to Curt Titus and he was reluctant

about, and I said I need this merged by deed and by map. To make it clear that this be considered a boundary line adjustment instead of a creation an illegal parcel. So that was just one thing I wanted to go on record that I did do quite a bit of research with the assessor and we went back through the records and found that it was split off as a separate parcel from a main parcel and done so without any type of approvals or subdivision approvals. And it will not be able to conform to the regulations, it's not grandfather because it was done in 1995, so it is basically an illegal lot and it should have been merged at the time as a boundary line adjustment but there is nothing recorded as to that.

Briggs: I am not sure that is totally correct, given if the property is conveyed to the current owner they can merge by operation of law. And my understanding is that Mr. Jenaso is the owner at the time and he took title to that fifty foot strip of land, so I am not sure another deed would do anymore more than what already exists.

Mulcahy: Well at the time in 1995 the expansion of the car dealership, I think we can't go into those things at this point. I think it all can be resolved it's a normal thing that you actually just put a note on it with this merge on the other property. Or you put a boundary line adjustment, in the town of Watertown any type adjustment like that the policy is to come to the Planning and Zoning Commission. But at this point right now it is a standalone parcel not meeting any of the regulations and it has not been merged with the other property. It hasn't had any taxes paid on it because it has not been billed.

Minnich: Is there any comments from members of the Commission? Anything you want to talk about.

Mancini: On the lighting they said that they meet the criteria using, they turned the lights off is there still going to be lighting there?

Lojudice: For all intense purposes I probably should have not said turn them off. When we do the drawings the term that we use to get rid of them is to turn them off.

Mancini: Okay so there will not be any poles there?

Lojudice: We have to take them out of there in order to provide no light on that space. Unfortunately that is the term we use. We leave them in their in the event that there is redesign and it is difficult to put them back in because there is a lot of work goes into putting them into there and get them in the right spot so we just switch them off on the drawing.

Minnich: Any other comments or questions from the Commission? Any comments or questions from the members of the public?

June Berchonack –

I will may as will start with the lighting, I don't believe that the lighting should continue to be there to shut them off and maintain the pole. They are going to remove everything out of there the poles and everything. Can I submit these pictures just to give you a glimpse as to what this property was like and what they did to it. I will show you these pictures and you can see where there were cars parked on my mother's property and how they took it upon themselves to go right straight through her property. And they really redesigned her parcel there and to let you know, like I said the last time she was arrested on her own property. The trees that we are submitting that are going to be around the property it's look beautiful but you know what we been through this and I bet the drawings here from August 17, 1984 that says the area between the pavement and the property line is to be reseeded and Junipers are to be planted. We have no Junipers and there is no reseeding and there never has been. The boundary line became BMW's no Junipers. I will submit this too. We need to rectify 1984 before we start anything up in 2008. The snow removal in the back of her property you can see in those pictures they have created a huge upgrade in the back of the property with cars sitting there, stag net snow and water, and becomes pollutants. Did anybody get soil testing done, was there anything submitted for soil testing? We need to have a soil testing done? This water that is left up there untreated contains gasoline, oil, all kinds of pollutants now if she decide to go one day and to sell this property she is not going to be able to sell because there are going to turn around and say it is polluted.

Blais: Did you have it tested?

Berchonack: I am telling you with cars that are parked up there they are pushing the snow up into the back that water....

Blais: Do you have any evidence you said it was polluted?

Berchonack: No I did not say it was polluted, I said with snow pushed up into the back stag net water there is salt in the snow that is pushed up into the back you have got cars that are in parked into the back of her property who's knows what is dripping down into the ground it becomes stag net water sitting up there where is the drainage? Where does that water go? Onto her property?

Blais: How do you know?

Berchonack: It's common sense.

Blais: So you do not have any evidence.

Berchonack: No evidence. But do you have any evidence that that is not polluted. I will say it like this potentially it can become polluted. Also my mother for the two meetings that we have been here for she has been given very short notice to these meetings. This meeting here I did not know was even being held. I did not even know this meeting being held up until Monday. Monday she got the letter in the mail.

Minnich: Carol could you answer that.

Carol: Did we speak to you earlier on that Friday to let you know about this meeting. Attorney Titus told me he was speaking to you on Friday.

Berchonack: Attorney Titus was speaking to me on Sunday, when he submitted BMW's offer on the property.

Carol: Because I remember I spoke with Attorney Titus and he said...

Berchonack: My mother, but you know what that is not how you should have been, and then I got the letter here. It says 5-9 she received this on Monday that we have a meeting going on Wednesday. I was preparing for a month down the road. Not six days or five days. That is what I was preparing for...

Minnich: I hear you, what else do you have? What other information do you have for us?

Berchonack: We want to get our own surveyor to go over there. Because there is land lines that are in dispute. And also traffic study, there increasing their business over their employees we need to have a traffic study. Was there ever a traffic study submitted? I am asking for a continuance for this meeting we need more time. We need more time to get all these questions answered to protect the integrity of my mother's property. So that is what I am asking for. Thank you.

Minnich: Is there anyone else who has comments on this application?

Joan Fortin – 694 Buckingham Street, Oakville

I did not see the new plan on the property but I was wondering about the power lines, that guide wire when was that supposed to be put...

Mancini: Didn't Curtis Titus say the guide wire would not be on the property.

Smith: The existing building here, Straits Turnpike here, presently there is an overhead wire that comes from the left side of Straits Turnpike to a telephone pole on the property of BMW of Watertown and then goes to a second pole south about the center of the building in order to widen the driveway these poles are to be relocated several feet to the south. It looks like about 6 or 7 feet so they would fall just off the proposed pavement once widened. There is no plan to put any guide anchors. We are having discussions with CL&P about putting this all underground. And all of this may go away. I spoke with BMW of Watertown about that and they would actually like to have this all put underground. For the purpose of this plan are showing relocated poles no guide anchors, no encroachment on the Berchonack property.

Minnich: Is there anyone else who has comment?

Berchonack: When you say underground those underground wires because mother she can remember that is another thing we have to investigate. That she believes there was a cable that went through and seen how they dug that went through her property to get up to the back there to supply the power to all those lights that are already in that parking lot. We have to investigate all that. We could not do that since Monday. The guide wires when you say underground none of those are not even an inch on her property? Not even a half inch onto her property because you know what a half inch depreciates her property.

Smith: There is no intention to have any guide wires. And there is no intention to have intention to have any encroachment on the Berchonack property.

Berchonack: When I hear there is no intention, guide wires are not to be put on the property. That is the way it should be submitted. There is no intention, well you know what 5 feet onto the property, we did not intent for that to happen but you know what it happened so what are we going to do.

Minnich: Well we will take care of that part.

Fortin: You will take care of that part and I hope it is you take care of it better than you took care of Church of Majority problem with family speaking the other day. And this is what is happening here they do this and they were suppose to put the trees there they did not they got away with it did you take care of that? We are bringing that to your attention did you take care of it, she has a plan here from 1980 what I do not see anyone taking care of that problem. Similar to the Church of Majority you let the lights go in there, you let gazebo go in there, whether it is right or wrong but this is what is happening they were not suppose to do it whether it was residentially or however it was zoned they were not suppose to do it. What did you do to take care of that problem? It is the history of this

Commission here that you don't take care of problems. You approve them and you get away with it until people get tired of coming here and listening to whatever, nothing gets settled here and until the next problem. And then we get burned out get tired of fighting. Will take care of it that was your comment.

Minnich: We have listened to you and I'm sure we will address...

Fortin: I appreciate that you are listening to me but is there anything they can do about things I have heard that they were suppose to do in the past that they haven't and that is my question.

Minnich: I don't want to speak for the Commission as you know we have not said a word amongst ourselves what we are going to do here.

Fortin: I understand that but you said your job is to take care of that I want to know...

Minnich: What I mean specifically regarding the guide wires it is common practice for us when those kind of issues come we will make it a condition if we decide to go ahead with this application. We will most likely get a condition of approval that they cannot encroach on the outside of the property for those utilities. We may decide that we will order them to put it under ground I do not know what we are going to do yet. But certainly we all heard your comments regarding it not to be on your property and I am very confident we will address that issue.

Fortin: That was not my question. My question was things were addressed in the past that were approved by the Commission that did not take place what does the Commission do about it now that is my question.

Minnich: If I listened carefully to you, you have some issues regarding landscaping. The address of that will be what we review for they have new landscaping plan. We have given ourselves more authority than we did years ago to have bonds for the plantings and we will make sure that the plantings are done and we hold their money until such time as those plantings are indeed there.

Fortin: I understand that, but that is not what I am going for. What does Commission do when you approve something and the other party does not do what they were suppose to do? As a Commission what do you do? What is your responsibility?

Minnich: In the areas you have just talked about with this landscaping, we hold a cash bond and we do not give that bond back until it is done...

Fortin: What did they do in the past?

Minnich: I cannot address the past.

Fortin: That is what I would like because like the other party was talking regarding the Grand Oak Villa things have happened in the past and there just put under the carpet. I want to know even if it was 15 years ago and even if it was 20 years ago what do you as a Commission do, is there a penalty? How do you address these situations?

Minnich: The issue with the landscaping that they are now proposing addresses I believe the issue that you have that they did not put the appropriate landscaping back 20 some years ago, so we are going to take a look at the landscaping plan. And make sure that it conforms to our regulations and we are satisfied with it. If we do then we will require them to a cash bond for that, if the plantings do not hold, they will be required to replace them and if they do not do anything for the plantings we have the cash bond and we will order the plantings to be done with the cash bond. However having said that I am confident with the issue with having their money that they will go forward and do the project. This application the plantings will be corrected.

Fortin: Regardless of the BMW present application if I came to the Commission today or came to the Planning and Zoning and submitted this complaint regardless of all this and say hey guys you know what back in 1985 I am going through some papers here and saw that they were suppose to do this and it did not occur, What would you do?

Minnich: And your timeframe is now we are in the year 2008?

Fortin: Yes for the year 2008.

Minnich: We have no authority to make them do what they were supposed to have done if they didn't do back in 1980....

Fortin: That is what I am looking for; just like the other things that the Commission has approved and they did not do it is okay. If I go to court and I am court ordered by a judge to do something. I would go to jail because I am in contempt. I think you need to look at your regulations and whatever you need to. This is a problem here, because they are just going to weight with whatever they want to do and anybody else could.

Minnich: Anything else?

Fortin: That will be it.

Minnich: Okay thank you. Anyone else have any comments? Well let me make sure there is no one else? Anyone else have any comments? This is the third time so....

Berchonack: I can come up as many times as I want I would think.

Minnich: No ma'am.

Berchonack: How many times can I come up?

Minnich: This is getting near the end.

Berchonack: Regarding the trees, Stop and Shop has a beautiful fence that they have got around their property up there. Dunkin Doughnuts has a beautiful fence that they have got around their property up there. Never mind the trees why don't you put in one of those beautiful fences around the property. Or we will put up a chain link fence whatever you want to do there. Chain links are ugly, Stop and Shop and Dunkin Doughnuts have a gorgeous six foot fence that is around their property. So I would just request that because if my mother property that beauty that it should be beautiful, I mean whatever they are going to do they need to maintain the integrity of her property if they can't at least do that. Then we will put up a chain link fence. I guess that is it, I run out of my chances up here. Okay thank you. One last thing I am asking for a continuance.

Minnich: Is there anybody else who has public comment? I will then move to the next phase of the hearing. Are there any comments or questions from the Commission? Hearing none. Are there any comments from the applicant?

Smith: We have nothing further.

Mulcahy: I thought Curt was going to ask for interpretation in the zoning regulations the driveway alignment is required on, if you are doing a site that you have to have a separation distance of 150 feet between driveways unless they are one way. The driveways are not separated by a 150 feet, there are 2 one way but the middle one which is the problem the separating distance is two way. My interpretation and it's been the interpretation in the past that either we make that one way or meet the separating distances or you get a variance one of those options.

Smith: Well I am hearing this for the first time today. Mr. Berger called and talked about this briefly but my immediate response was we have 3 existing driveways at the BMW dealership now and we are not adding any new curb cuts. We have three we are maintain three. Two of which are one way so the employee parking is one way in, the middle access just as it is now if you go in or come out and we have another access which is one

way out, those curb cuts are in place. DOT asked us to improve the curb radii so we did. But other than that it seems to me if they exist now and were adding any other curb cuts we should not have to eliminate one. Is that what you are implying that we eliminate a curb cut?

Mulcahy: No I am not. The regulations speak so that they say that as long it is one way and first of all the one that you are calling the employee is parcel that never approved it is a site plan violation. It is in total violation it never approved employee parking area it is a separate parcel that was never part of this parcel so that was never approved from paving or any of the these things so we are getting it all approved now. As far as that access way the middle access way was existing but you are adding on employee parking as part of this site plan. The other one I thought there was a loading dock at that one. What I am saying is the middle one has to be one way?

Smith: One way?

Mulcahy: Yes in order to comply with the regulations or a variance.

Smith: I hardly think this a appropriate to come with at this time, this is the first were hearing of anything about this.

Blais: How many meetings have you had with this gentlemen?

Mulcahy: I have had one meeting with Curt in our office and before the application, did you come to the other one or what it Curt Titus?

Smith: No, Attorney Titus.

Mulcahy: We have met with Attorney Titus on this.

Blais: Is this the first time you have brought his attention to this?

Mulcahy: No, Curt Titus was supposed to be communicating with Curt Smith.

Blais: About this driveway have you seen blueprints of this existing proposal?

Mulcahy: One of the things is, I did not know that other parcel had never come to this Commission. It had never been part of that parcel until today, I did the research and the land records and confirmed it with the accessor, because the information that Curt gave me was not complete.

Blais: What do you say Mr....

Smith: This is our fourth meeting, this is our third session, we had a preliminary meeting, we had a meeting where we submitted the application, we had a hearing the last meeting, and this is the second session of the hearing. This is our fourth public meeting on this. And there have been I don't know how many meetings outside of public forum between you and Mr. Titus.

Blais: And this information was never brought to you before?

Smith: This issue of the distance between access strips was first brought to me by Chuck today, in a telephone call.

Blais: How many months have been into this, when did you start this process?

Smith: Last fall we started surveying it, the other work for it.

Mulcahy: Not with our office though.

Minnich: I think we ought to stay on the issues. Is there anything else that you have? I am turning to the Commission. What is your pleasure for how we should proceed here? This application we can close the public hearing and continue this we have until June 11th to get any additional time from the applicant. I guess our decision at this time is what other information do we need or do you need to make a decision on this? What do you want to do?

Mancini: Last week if I may all we asked of them is the height of the signs and the lighting. It seems to me like every week there is something new pops up.

Dupliese: There was made mention last week though in our meeting the property, that piece that was part of the original piece and there was mention of driveways but I did not realize at that point that there was suppose to be a 150 foot separation between the two. But there was made mention of it in our last meeting.

Minnich: Does anybody else have comments? I know I have just one comment on related to the topic but unrelated to any conversations that occurred and that I visited the site and I was concerned with the number of tires that were placed in the back of the building on the ground. I did not find that to be very unsightly so I was pointing to have a discussion of that and perhaps a condition of approval as to what they will do with outdoor storage of non vehicular.

Martin: Was this old tires or new tires?

Minnich: Old tires. I assume they are all old tires because they are all in a pile.

Martin: I did have one question on the photos we were looking at, those are photos from when? Can we ask that question?

Minnich: You may, yes.

Martin: The photos that were handed out when were they taken?

Berchonack: Does that matter? That is to show you...

Martin: The only reason I am asking is that the way it looks now or was that 10 years ago, I am talking about the ground disruption, and everything that I am seeing on these photos? I have no...

Berchonack: That property was beautiful property my mother and my father who was the state electrical inspector for the state of CT were going to build an appliance shop on that piece of property way back when, when they bought it. It was beautiful, I remember going up there playing...

Minnich: When were the pictures taken?

Berchonack: Probably 1983, the integrity of the property is all changed. They never should have been on that property but they did anyway.

Minnich: So the pictures were from 1983.

Berchonack: I would say around that area.

Minnich: How does the Commission want to proceed with this our action at this point is either to continue the hearing or close the hearing.

Blais: I would like to close the hearing and move forward.

Dupliese: Well there is a question about driveways now and I know it sounds like it was just phrased but...

Blais: I make the motion that we close the hearing and move forward.

Minnich: Is there a second to close the public hearing? There is no second. Then we want to discuss this some more?

Martin: I understand the frustration of something coming up at the last minute and I am not sure why things like that happen but they do, with that said I think there has to be clarification on what is going on they got to know what is going on. If we close the public session they cannot talk about it anymore.

Blais: They could have 2 more issues next meeting.

Martin: So I would move to continue the public hearing?

Minnich: Is there a second? I think I would like to see if we can focus on what it is we would like to make sure we get for information. I start the list and you can add to it.

I want to get an understanding of this lot. This second property it was my novice understanding that all that was needed to be one boundary line in terms of the whole property. I may be wrong I am not the lawyer but if I am wrong I need to understand legally why I am wrong. I need to understand how we can go ahead and approve this with the properties as you have proposed them. Which are two separate properties? And this is information and not anything other than that.

We need to know about the driveways. I also want to understand what this is a free existing condition. These are not new curb cuts that my understanding yes. We can get involved in traffic patterns and maybe these few days that we here will help the applicant to address that if they want to or not. But I do not understand the issue of the preexisting, it is already here, the regulation and we already have the curb cuts.

I would like to hear the comments that have to do with a fencing that would find as appropriate to address or not address but anyway to have some comments and maybe if you are going to do it then obviously a proposal for some fencing or whatever you are going to be proposing. Off the table in at least my mind we have been through this several times before when their property line disputes that is we have gotten 4 legal opinions on this over the years and they are all the same. So the lawyers must be right and that is not jurisdiction of this Commission. That is a private property issue between owners. The applicant is required to tell us that they believe they own the land and that is all we really do the rest of the properties disputes between the owners and in fact we have clearly have a lawsuit that is related to that issue in court on part of that is on that topic.

I am not appreciating at the moment and there was conversation with some others this issue of a need for a traffic study. My understanding is that this is the same business as it was before they already told us they do not intend there to be any additional traffic that what they currently now have for the sales of cars. So I am not, unless it from others appreciating why we would then want to require a traffic study as was suggested.

I think they have addressed the issue of the no poles and the guide wire. I don't know if it is what they would propose to put the wires underground that is not in my mind yet a requirement. But maybe we want help us to come to some decision on the issue of the underlying ground. That would certainly take a lot of scenic issues out of play if they are underground but I understand the cost of that. That is your decision.

Those are what I have does anyone else anything else that they would like to make sure gets addressed.

Martin: The electrical, I am not sure where CL&P come into play on this?

Dupliese: They do come into play. It depends on where he wants the transfer of the electrical, if he put his transformer to change the power for the building? Depending on where they hit it CL & P gets involved as far where the transformer would go. It would be owned by BMW, they would have to purchase it, they would have to put the vault in on their property and everything would have to go through the vault.

Martin: The last thing would be the issue of the signs, I mean with the fact that were not closing hearing it gives them some additional time if they want to, to get the sign situation straightened out and I would say just let them come back with that if they choose to. You might as well get this straightened out now as opposed to come back later on. Just a suggestion and that is it.

Mancini: I agree with what you said Dave so far and Gary just as a traffic study I don't think we need a traffic study either because the only increase I think this thing to be doing actually repair work I think. There will not be any increased sales, I think they are making their repair base bigger is that right correct?

Minnich: Well they are probably going to get a lot more sales because it going to be kind of a novelty to go upstairs on the second floor and visit cars.

Mancini: I think traffic as far as repair work is concerned, how much more repair work there going to have per day I don't think warrants a traffic study.

Dupliese: They are only increasing their employees between 2 and 4.

Blais: I agree with Commission has said relative to this but I think it is very unfair to staff to blind side the applicant at this late meeting. I think we should ask an explanatory report from staff as to why they have not brought this to applicant's attention prior to this length of time.

Dupliese: But in all fairness what she explained was that extra parcel is not under the original document for the building. With that being said there was never a focus part of it. So does that driveway now become a part of this? It is a part of that one and then you end up with 150 foot difference. Okay if it is not part of it then you don't.

Blais: I would just like to know an explanation. I do not think we should be blindsided and the applicant blindsided.

Minnich: I think we just heard you and knowing Ruth she will respond. But let's give her some time to verbally we do not need that in writing.

Smith: I just have a question because I really want to come back with the most accurate answers I can at the next meeting. The driveways the three curb cuts the fact that they exist now you were just talking Mr. Chairman about the preexisting conditions but I just did not understand what your sort of conclusion was or your opinion about the fact that they were preexisting?

Minnich: I don't know the answer but I would presume that what is apparently there can continue to be there but adding onto a building, certainly if you were starting a brand new building there then perhaps it would be different. I do not know the answer, I need to understand the answer but it is not a condition that you are creating by adding another driveway and I do appreciate at the moment the issue. But that what we will get folks help us understand.

Smith: That has been my impression as well. That they are preexisting driveways there. The one in the middle is two ways drive in and drive out. In fact we are enhancing that and improving it with curb radi and the widening of it and it will actually improve it.

Minnich: We can discuss that all later. Is there anything else? I understand there is a motion on the floor to continue the public hearing. Is there a second? Is there any further discussion? Hearing none all those in favor to continue with the public hearing please say I. All those opposed say no. Motion carries unanimously. Mike has arrived for the record at 7:45. That concludes the public hearing.

Text of Motion to Close public hearing.
Motion made by J. Blais and No second was made.

Text of Motion to Continue public hearing.
Motion made by G. Martin and seconded by: R. Russ.

All in favor and none opposed.

Michael Masayda _____
Secretary