

ON THE MOTION OF Danny Ross  
Chuck Feiszli

RESOLUTION NO. 19-16

GML#86.17-01-11.100  
Town of Cortlandville  
Bulk Variance & Conditional  
Permit  
UCK 3, LLC

WHEREAS, on September 27, 2019 the Zoning Officer, Town of Cortlandville, pursuant to General Municipal Law 239 M submitted an application for a Bulk Variance and Conditional Permit because the property is located within 500 feet of NYS Route 281 which has been received by the Cortland County Planning Department, AND

WHEREAS, the Cortland County Planning Department has reviewed this request and submitted a written report dated October 11, 2019, which is on file, AND

WHEREAS, the Cortland County Planning Board on October 16, 2019 held a regular meeting with a quorum and did consider this request, AND

WHEREAS, the Cortland County Planning Board did thoroughly consider the material submitted by the petitioner, Department comments and all other relevant reports on file, NOW THEREFORE BE IT

RESOLVED, that the Board recommends approval of this application for a bulk variance and conditional permit to expand an existing parking area and driveway by 5,830 sq. ft. into an area which is currently greenspace (for a net increase of impervious surface on the lot of 5,450 sq. ft.; with 380 sq. ft. reduction in the impervious surface elsewhere on the lot) with the proposed reduction to provide interior connection between two properties under the same ownership and to place seven banner signs on new and existing light poles towards the front of the property contingent upon the following:

1. the Town weighing the benefit of reducing the greenspace on this lot which does not meet the minimum greenspace requirements for lots in the Wellhead Protection Zone 1a to the applicant without a 5% reduction of the amount of the parcel's overall impervious surface vs. the health, safety and welfare of the community/neighborhood as is required before a bulk variance may be granted.
2. that the two applications for this project be consolidated into one application since it is a single project.

3. that the applicant confirm that any runoff from the proposed increased impervious surface area would be captured in the existing stormwater management system on site.
4. that appropriate erosion and sediment control measures be put in place to minimize stormwater runoff impacts during construction.
5. the Town weighing the benefit of allowing the reduced banner sign set back and allowing for an increase in number and square footage of signs beyond the already exceeded maximum number and square footage of signs permitted to the applicant vs. the health, safety and welfare of the community/neighborhood as is required before a bulk variance may be granted.
6. compliance with SEQR requirements, AND

**BE IT FURTHER RESOLVED**, that the Board reminds the Town of the requirements of General Municipal Law Section 239 M that a supermajority vote is to be attained by the Town in order to approve this application unless every contingency documented in this resolution is followed, AND

**BE IT FURTHER RESOLVED**, that the Planning Department is hereby authorized to convey this action to the Zoning Officer, Town of Cortlandville.

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Wendy Miller, Secretary  
Cortland County Planning Board  
October 16, 2019

Ayes: 6

Nays: 0

Abstain: 1 (Ann Hotchkin)

October 11, 2019

GML#86.17-01-11.100  
Town of Cortlandville  
Bulk Variance & Conditional Permit  
UCK Three, LLC

**TO: Cortland County Planning Board**

**FROM: Cortland County Planning Department**

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**This application for a bulk variance and conditional permit and is being referred to the Cortland County Planning Board pursuant to General Municipal Law 239 M because the property is located within 500 ft. of NYS Route 281.**

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**GENERAL INFORMATION**

**Date Received:** September 27, 2019

**Applicant:** UCK Three, LLC  
8010 Brewerton Road  
Cicero, NY 13039

**Status of Applicant:** owner

**Requested Action:** bulk variance and conditional permit

**Purpose:** to expand an existing parking area and driveway by 5,830 sq. ft. into an area which is currently greenspace to provide interior connection between two properties under the same ownership. The applicant is also proposing to place seven banner signs on new and existing light poles towards the front of the property.

**Location:** immediately southwest of the intersection of NYS Route 281 and Luker Road

**Size:** 5.21± acres

**Existing Zoning:** B-3 (Planned Commercial Business)

**Existing Land Use:** Used Car King

**Surrounding Zoning:** B-3 (Planned Commercial Business)

**Surrounding Land Uses:** N – Bestway Lumber and Action Auto

- S – Used Car King
- E – Cortland Chrysler Dodge Jeep, Kellogg Auto Supply and Lube Express
- W – small commercial facility

**Existing Regulations: Code of the Town of Cortlandville**

**Chapter 178 Zoning**

**Article IA Wellhead Protection Areas**

**~178-2.2 Provisions applicable to B-1, B-2, B-3, I-1 and I-2 Districts**

**A. Lot coverage**

- (1) Lots or parcels located in Wellhead Protection Zone 1a as defined on the Zoning Map shall provide 50% greenspace
- (8) For any properties that do not presently conform to lot coverage required by this article, any change in size of an existing building, structure, parking lot and/or driveway that is 500 square feet or more shall result in a reduction of the amount of the parcel's impervious surface by 5%

**Article VIIIA Planned Commercial Business B-3 District**

**~178-36.9 Uses subject to conditional permit**

**L. Used car sales**

**Article XIV – Conditional Permit**

**~178-75. Structure/use requirements for permit approval**

**Article XVI – Stormwater Management and Erosion and Sediment Control**

**~178-90. Jurisdiction and applicability**

**B. Exemptions**

**(1)**

**Article XVIII – Signs**

**~178-111. Sign placement and construction requirements**

- B. No sign in any district shall be located nearer than 15 feet to a street line or lot line, as measured from the sign's nearest edge**

**Article XXI – Zoning Board of Appeals**

**~178-132. Duties and powers**

**B.**

**ANALYSIS -**

The applicant is requesting an area variance and conditional permit to expand an existing parking area and driveway by 5,830 sq. ft. into an area which is currently greenspace to provide interior connection between two properties under the same ownership. The applicant is also proposing to place seven banner signs on new and existing light poles towards the front of the property. The property is located immediately southwest of the intersection of NYS Route 281 and Luker Road and is zoned B-3 (Planned Commercial Business).

**This is the fifth time that an application for this property has been before the County Planning Board for review. In July 1983, the Board recommended approval of a bulk variance application to install a 20 ft. high; 55 sq. ft. double faced freestanding sign on the site. In February 2013, the Board recommended approval of an application for a bulk variance and conditional permit to expand an existing parking area by 52,333 sq. ft. into an area which is currently greenspace, with reservations regarding the amount of greenspace reduction on the site and contingent upon the following:**

- 1. the Town weighing the benefit to the applicant of reducing the greenspace while also not reducing the impervious surface on this lot in the Wellhead Protection Zone 1a vs. the health, safety, and welfare of the community/neighborhood as is required before any bulk variance may be granted.**
- 2. the Town consider the intent of the greenspace/impervious surface requirements in the Wellhead Protection Zones while making its decision on the bulk variance request.**
- 3. the applicant applying for and receiving an aquifer protection district special permit from the Town if it is determined that the development cost of this project would exceed \$150,000.**
- 4. the applicant preparing and receiving approval of a stormwater pollution prevention plan for the site from the Town per the Town's stormwater ordinance.**
- 5. the applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) and receiving a stormwater construction general permit upon preparation of a stormwater pollution prevention plan for the site as the proposed development would result in the disturbance of more than one acre of land.**
- 6. that the applicant install curbing along the southern edge of the proposed parking area to keep vehicles from infringing on the remaining greenspace and to help to channel stormwater to the treatment system.**
- 7. that the applicant provide more detailed design elements for the parking area including providing a landscaping plan for the site, driveway access points and widths along Luker Road, a lighting plan if proposed for the parking area, and a parking space design with spaces setback from Luker Road far enough to allow vehicles to maneuver into and out of parking spaces without entering the Luker Road right-of-way.**
- 8. the applicant obtaining approval from the Town Highway Superintendent for any proposed driveway entrances from Luker Road.**
- 9. compliance with SEQR requirements.**

**This application was subsequently denied by the Town. In June 2013, the Board returned an application for a bulk variance and conditional permit to expand an existing parking area by 41,378 sq. ft. into an area which was greenspace for local determination with any positive consideration contingent upon the following:**

- 1. the Town weighing the benefit to the applicant of reducing the greenspace while also not reducing the impervious surface on this lot in the Wellhead Protection Zone 1a vs. the health, safety, and welfare of the community/neighborhood as is required before any bulk variance may be granted.**
- 2. the Town consider the intent of the greenspace/impervious surface requirements in the Wellhead Protection Zones while making its decision on the bulk variance request, as these requirements play an important role in the long-term protection of the critical portions of the aquifer and that granting a variance could set a precedent affecting future decisions regarding similar projects.**
- 3. the Town consider the proximity of the site to the City of Cortland Water Works property, which is a designated Critical Environmental Area, when making its decision on the bulk variance.**
- 4. the applicant applying for and receiving an aquifer protection district special permit from the Town if it is determined that the development cost of this project would exceed \$150,000.**
- 5. the applicant preparing and receiving approval of a stormwater pollution prevention plan for the site from the Town per the Town's stormwater ordinance.**
- 6. the applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) and receiving a stormwater construction general permit upon preparation of a stormwater pollution prevention plan for the site if it is determined that the proposed development would result in the disturbance of more than one acre of land.**
- 7. the applicant installing curbing along the southern edge of the proposed parking area to keep vehicles from infringing on the remaining greenspace and to help to channel stormwater to the treatment system.**
- 8. compliance with SEQR requirements.**

**In October 2014, the Board returned a bulk variance, conditional permit and aquifer protection district special permit application to expand an existing parking area by 41,000 sq. ft. into an area which was greenspace for local determination with any positive consideration contingent upon the following:**

1. the Town weighing the benefit to the applicant of reducing the greenspace while also not reducing the impervious surface on this lot in Wellhead Protection Zone 1a vs. the health, safety, and welfare of the community/neighborhood as is required before any bulk variance may be granted.
2. the Town consider the intent of the greenspace/impervious surface requirements in the Wellhead Protection Zones while making its decision on the bulk variance request, as these requirements play an important role in the long-term protection of the critical portions of the aquifer and that granting variance could set a precedent affecting future decisions regarding similar projects.
3. the Town consider the proximity of the site to the City of Cortland Water Works property, which is a designated Critical Environmental Area, when making its decision on the bulk variance.
4. the applicant receiving approval of the stormwater pollution prevention plan for the site from the Town and the County Soil and Water Conservation District per the Town's stormwater ordinance.
5. the applicant filing a Notice of Intent with the NYS Department of Environmental Conservation (DEC) and receiving a stormwater construction general permit from the DEC for the proposed project as it would result in the disturbance of more than one acre of land.
6. the applicant installing curbing along the southern edge of the proposed parking area to keep vehicles from infringing on the remaining greenspace.
7. the Town consider the potential impacts of stormwater from development of the proposed conserved parcel vs. the impact of stormwater from the proposed project when it makes the decision as to the acceptance and location of the non-developable parcel proposal.
8. compliance with SEQR requirements.

This proposed expansion was not permitted by the Town. The applicant has subsequently purchased the adjoining property immediately to the south along NYS Route 281 and is now proposing to expand an existing parking area and driveway by 5,830 sq. ft. into an area which is currently greenspace to provide interior connection between the two properties under the same ownership. The applicant is also proposing to place seven banner signs on new and existing light poles towards the front of the property.

The Coordinated Review Committee (CRC) reviewed this proposal and addressed the following issues. Used car sales are permitted in the B-3 District subject to a conditional permit. The site is a lot greater than three acres within Wellhead Protection Zone 1a, therefore requiring at least 50% greenspace. The site does not meet this requirement as it has an existing greenspace total of 45.0% and with the proposed additional parking area and driveway; the greenspace on the site would be reduced to 42.6%. It should also be noted that

the “Zoning Local Law of the Town of Cortlandville” requires a 5% reduction of the amount of a parcel’s impervious surface for any change in size of an existing building, structure, parking lot and/or driveway that is 500 sq. ft. or more for any parcels that do not presently conform to lot coverage requirements. The applicant however is only proposing a 380 sq. ft. reduction in the impervious surface elsewhere on the lot for a net increase in impervious surface of 5,450 sq. ft. or an increase in impervious surface of the lot by approximately 2.4%. The applicant has therefore applied for a bulk variance. In order for a bulk variance to be granted, the Town must weigh the benefit of reducing the greenspace on this lot which does not meet the minimum greenspace requirement for lots in Wellhead Protection Zone 1a to the applicant without a 5% reduction of the amount of the parcel’s overall impervious surface vs. the health, safety, and welfare of the community/neighborhood. It should be noted that the applicant is proposing to increase the greenspace on the adjoining parcel by 1,545 sq. ft. thereby only decreasing the greenspace on the combined project by 3,920 sq. ft.

This site has an existing stormwater pollution prevention plan to capture stormwater runoff on site. It is recommended that the applicant confirm that any runoff from the proposed increased impervious surface area would be captured in the existing stormwater management system on site. Appropriate erosion and sediment control measures should also be in place to minimize stormwater runoff impacts during construction.

The site plan indicates that the proposed new parking area would accommodate eight additional vehicles (with eight fewer parking spaces being proposed on the adjoining lot). The purpose of this proposal is to provide interior vehicle access between the two adjoining properties, under the same ownership, to allow access between the two properties without vehicles reentering and re-exiting NYS Route 281. This would provide safer access between the two properties. It should be noted that this cross access between properties would also result in the closing of one of the driveway entrances on the adjoining property.

The applicant is also proposing to install 8 sq. ft. banner signs on seven light poles towards the front of the property. These signs would be 16 ft. high with the bottom of the sign being 12 ft. off the ground. Three of the proposed banner signs would only be set back 8 ft. from the NYS Route 281 right of way vs. the Town’s minimum sign set back of 15 ft. A bulk variance is therefore required to allow three of the proposed banner signs to be 8 ft. from the edge of the NYS Route 281 right of way. The applicant is applying for a bulk variance as the number and square footage of signs on site has already been exceeded. In order for these bulk variances to be granted, the Town must weigh the benefit of allowing the reduced banner sign set back and allowing for an increase in number and square footage of signs beyond the already exceeded maximum number and square footage of signs permitted to the applicant vs. the health, safety and welfare of the community/neighborhood.

Finally, this proposal is considered an Unlisted Action under SEQR. The applicant has completed Part I of a Short Environmental Assessment Form. Parts II and III should be completed by the Town to determine if there may be any significant adverse environmental impacts as a result of the proposed development.



**RECOMMENDATION -**

The staff recommends approval this application for a bulk variance and conditional permit to expand an existing parking area and driveway by 5,830 sq. ft. into an area which is currently greenspace (for a net increase of impervious surface on the lot of 5,450 sq. ft.; with 380 sq. ft. reduction in the impervious surface elsewhere on the lot) with the proposed reduction to provide interior connection between two properties under the same ownership and to place seven banner signs on new and existing light poles towards the front of the property contingent upon the following:

1. the Town weighing the benefit of reducing the greenspace on this lot which does not meet the minimum greenspace requirements for lots in the Wellhead Protection Zone 1a to the applicant without a 5% reduction of the amount of the parcel's overall impervious surface vs. the health, safety and welfare of the community/neighborhood as is required before a bulk variance may be granted.
2. that the applicant confirm that any runoff from the proposed increased impervious surface area would be captured in the existing stormwater management system on site.
3. that appropriate erosion and sediment control measures be put in place to minimize stormwater runoff impacts during construction.
4. the Town weighing the benefit of allowing the reduced banner sign set back and allowing for an increase in number and square footage of signs beyond the already exceeded maximum number and square footage of signs permitted to the applicant vs. the health, safety and welfare of the community/neighborhood as is required before a bulk variance may be granted.
5. compliance with SEQR requirements.

Prepared by:

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Daniel S. Dineen  
Director of Planning