

**ON THE MOTION OF Wendy Miller
Danny Ross**

RESOLUTION NO. 19-17

**GML#86.17-02-03.000
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 approval of this application for a bulk variance and conditional permit to remove a 4,160 sq. ft. building and expand an existing parking area into the area occupied by this building and to provide a driveway interior connection between two properties under the same ownership, to install a freestanding sign and to place a banner sign on four out of ten new light poles proposed for the parking area contingent upon the following:

- 1. the Town weighing the benefit to the applicant of decreasing the impervious surface on this lot by only 2.7% vs. the minimum required reduction of 5% 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 vs. the health, safety, and welfare of the community/neighborhood as is require before these bulk variances 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 changes to the parking layout on site would be captured on site without adversely impacting the NYS Route 281 right of way or neighboring properties under different ownership.
4. that appropriate erosion and sediment control measures be put in place to minimize stormwater runoff impacts during construction.
5. that the applicant consult with the NYS Department of Transportation (DOT) regarding the closure of a driveway entrance onto NYS Route 281.
6. That all new lighting on site be directed in a downward manner so as to not infringe on neighboring properties.
7. the Town weighing the benefit of exceeding the maximum height for a freestanding sign, allowing the reduced banner sign set back and 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 these bulk variances may be granted.
8. 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.

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

Ayes: 6

Nays: 0

Abstain: 1 (Ann Hotchkin)

October 11, 2019

GML#86.17-02-03.000
Town of Cortlandville
Bulk Variance & Conditional Permit
UCK Three, LLC

TO: Cortland County Planning Board

FROM: Cortland County Planning Department

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.

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 remove a 4,160 sq. ft. building and expand an existing parking area into the area occupied by this building and to provide a driveway interior connection between two properties under the same ownership. The applicant is also proposing to install a freestanding sign and place a banner sign on four out of ten new light poles proposed for the parking area.

Location: west side of NYS Route 281, approximately 500 ft. southwest of the intersection of NYS Route 281 and Luker Road

Size: 1.31± 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 – Use Car King
S – Auto Zone
E – Royal Auto Group
W – vacant commercial land

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

- (4) Lots or parcels having areas of three acres or less, regardless of location, shall provide 20% greenspace. Notwithstanding the foregoing, the Planning Board may, by special permit, reduce the required greenspace in lots or parcels having three acres or less in area to 15%
- (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.**

Table 1 – Permitted Sign Requirements

~178-113. Regulations for permitted signs

Table 2 – Regulations for permitted signs

Article XXI – Zoning Board of Appeals

~178-132. Duties and powers

B.

ANALYSIS -

The applicant is requesting an area variance and conditional permit to remove a 4,160 sq. ft. building and expand an existing parking area into the area occupied by this building and to provide a driveway interior connection between two properties under the same ownership. The applicant is also proposing to install a freestanding sign and place a banner sign on four out of ten new light poles proposed for the parking area. The property is located on the west side of NYS Route 281, approximately 500 ft. southwest of the intersection of NYS Route 281 and Luker Road, and is zoned B-3 (Planned Commercial Business).

This is the fourth time that an application for this property has been before the County Planning Board for review. In February 1984, the Board recommended approval to subdivide an 8.32+/- acre parcel into four parcels ranging in size from .42+/- acres to 2.78+/- acres including a 50 ft. wide road through the property connecting NYS Route 281 to Luker Road. This recommendation of approval was contingent upon the following:

1. Review and approval of the County Health Department, the New York State Department of Transportation and the City Water Board.
2. The offering for public dedication and the acceptance by the Town Board of the proposed road as a Town Highway prior to commencing development of final subdivision approval.
3. The approval of the name of the road by the County Fire Coordinator.
4. An agreement with the applicant that the development of each lot be subject to site plan approval of the Town Board.
5. That all access for all lots be from the proposed road, when built.

The proposed access road was not developed and the land area of the road was subsequently incorporated into the adjoining lots. One of the four lots as part of this subdivision included this existing 1.31+/- acre lot and building being proposed to be removed as part of the current application.

In March 1985, the Board recommended approval of a site review to construct a 20 ft. by 52 ft. (1,040 sq. ft.) addition to an existing 60 ft. by 52 ft. (3,120 sq. ft.) building contingent upon a corrected site plan being submitted to the Town of Cortlandville. The building addition was subsequently approved by the Town and built by the applicant.

In September 1994, the Board recommended approval of a site plan review, conditional permit and aquifer protection district special permit to construct a 3,900 sq. ft. pole barn type building for auto service and repair for a proposed auto dealership. This recommendation of approval was contingent upon the following:

1. All proposed floor drains and/or dry wells must be in compliance with the United States Environmental Protection Agency Class V Injection Well Program and the discharge requirements of the Cortland Sewage Treatment Plant.

2. The automobile service facility must be in compliance with the Petroleum Bulk Storage Program. This must include spill response and prevention requirements.
3. Stormwater from the building roof must be separated and recharged back into the Otter-Dry Creek Aquifer.
4. Stormwater from paved areas, especially where automobiles are parked, should be drained, to the extent possible, to grass swales rather than directly infiltrated.

It was further recommended that the applicant refer to the Best Management Practices for Automotive and Service Repair facilities which were developed by the United States Environmental Protection Agency. This building was subsequently approved by the Town and built by the applicant. The applicant is now requesting an area variance and conditional permit to remove the 4,160 sq. ft. building on site and expand an existing parking area into the area occupied by this building and to provide a driveway interior connection between two properties under the same ownership. The applicant is also proposing to install a freestanding sign and place a banner sign on four out of ten new light poles proposed for the parking area.

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 parcel having an area of three acres or less and therefore is required to provide 20% greenspace. Notwithstanding the foregoing, the Town Planning Board may, by special permit, reduce the required greenspace on parcels having three acres or less in area to 15%. The site does not meet this requirement as it has an existing greenspace total of 14.9% but with the proposed changes to the lot (removal of an existing building, additional parking area and driveway and additional greenspace proposed to the front and north side of the lot); the greenspace on the site would be increased to 17.6%. 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 net 1,545 sq. ft. reduction in the impervious surface on the lot or a decrease in impervious surface of the lot by approximately 2.7%. The applicant has therefore applied for a bulk variance. In order for a bulk variance to be granted, the Town must weigh the benefit to the applicant of decreasing the impervious surface on this lot by only 2.7% vs. the minimum required reduction of 5% 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 vs. the health, safety, and welfare of the community/neighborhood. It should be noted that the applicant is proposing to increase the impervious surface on the adjoining parcel by 5,465 sq. ft. thereby increasing the impervious surface on the combined project by 3,920 sq. ft.

It is unclear as to whether this proposal would require the development of a stormwater pollution prevention plan. The Town requires a plan to be developed if the applicant is disturbing one or more acre of land, is increasing impervious surface by more than 10,000 sq. ft. or if the proposal would result in a total impervious surface of at least 35%

of the total post development lot area. Regardless, as to whether or not a stormwater pollution prevention plan is required for this proposal, it is recommended that the applicant confirm that any runoff from the proposed changes to the parking layout on site would be captured on site without adversely impacting the NYS Route 281 right of way or neighboring properties under different ownership. 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 changes to the lot's new parking area would accommodate eight fewer vehicles (removal of an existing building, additional parking area and driveway and additional greenspace proposed to the front and north side of the lot) than the existing lot layout (with eight additional 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 this property. It is recommended that the applicant consult with the NYS Department of Transportation (DOT) regarding the closure of a driveway entrance onto NYS Route 281.

The applicant is also proposing to install ten new light poles in the parking area. Lighting should be directed in a downward manner so as to not infringe on neighboring properties. The applicant is proposing to install 8 sq. ft. banner signs on four of these 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. Two 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 two of the proposed banner signs to be 8 ft. from the edge of the NYS Route 281 right of way. The applicant is also proposing to place a 24 ft. in height 80.75 sq. ft. pylon sign at the driveway entrance to this site. Freestanding or ground signs are permitted to have a maximum height of 8 ft. with the aggregate sign area on the site totaling 90 sq. ft. The applicant is therefore also applying for a bulk variance to exceed the maximum height for a freestanding sign and 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 exceeding the maximum height for a freestanding sign, allowing the reduced banner sign set back and 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 of this application for a bulk variance and conditional permit to remove a 4,160 sq. ft. building and expand an existing parking area into the area occupied by this building and to provide a driveway interior connection

between two properties under the same ownership, to install a freestanding sign and to place a banner sign on four out of ten new light poles proposed for the parking area contingent upon the following:

1. the Town weighing the benefit to the applicant of decreasing the impervious surface on this lot by only 2.7% vs. the minimum required reduction of 5% 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 vs. the health, safety, and welfare of the community/neighborhood as is require before these bulk variances may be granted.
2. that the applicant confirm that any runoff from the proposed changes to the parking layout on site would be captured on site without adversely impacting the NYS Route 281 right of way or neighboring properties under different ownership.
3. that appropriate erosion and sediment control measures be put in place to minimize stormwater runoff impacts during construction.
4. that the applicant consult with the NYS Department of Transportation (DOT) regarding the closure of a driveway entrance onto NYS Route 281.
5. That all new lighting on site be directed in a downward manner so as to not infringe on neighboring properties.
6. the Town weighing the benefit of exceeding the maximum height for a freestanding sign, allowing the reduced banner sign set back and 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 these bulk variances may be granted.
7. compliance with SEQR requirements.

Prepared by:

Daniel S. Dineen
Director of Planning