

**Town of Zebulon  
Board of Adjustment Meeting  
March 29, 2012**

**Loucks:** Larry Loucks, Chairman  
**Adams:** Tad Adams, Vice Chair  
**Estes:** Jay Estes, Board Member  
**Johnson:** Laura Johnson, Board Member  
**Parsons:** Erica Parsons, Board Member  
**Hetrick:** Mark Hetrick, Staff  
**Dobrzenski:** Bo Dobrzenski, Staff  
**Markland:** Lisa Markland, Town Clerk  
**Vernon:** Eric Vernon  
**Wheeler:** Carlos Wheeler, Applicant  
**M/F:** Male/Female Speaker

M: Patience first. That's all I can say [ph].

[INAUDIBLE]

Loucks: We'll call the Board of Adjustments meeting of March 29<sup>th</sup>, 2012 to order. We have to have five board members present on the board. And if you count, you'll see that we actually have six. The ETJ rep, Gerald Lanier, is not here tonight. So the alternate will be Laura [ph]. She'll be sitting in. And then Annie [ph] is the alternate in town. She'll stay up here with us, but she will not be voting. And if I could remind the board tonight, too, when we vote, if you would, please raise your hand, and keep it up in the air, so Lisa is able to do a poll. Sometimes, she'd have a hard time hearing our voices.

You should have in front of you, tonight's agenda. And if there aren't any questions, could I hear a motion to accept the agenda as presented?

Johnson: I make a motion to accept the agenda as presented.

Loucks: Thank you.

Estes: So—

Estes: Second.

Loucks: Any discussion? If not, can I call for a vote on accepting the agenda as presented in your packet? All those in favor say aye and raise your hand.

M/F: Aye.

Loucks: All those opposed? Unanimously accepted. New business or adoption of the minutes on January 26, 2012 meeting. Those minutes should be in your packet. And they are pages two through six. Hopefully, you've all had a chance to review those. Any questions on the minutes? Discussion? If not, do I hear a motion to accept the minutes as presented in our package—packages?

Adams: I move that the minutes be accepted as presented in the packet.

Loucks: Thank you. A second?

Estes: Second.

Loucks: All right. And if there's not any discussion, we'll vote on accepting the minutes as is presented in our package. All those in favor say aye and raise your hand.

M/F: Aye.

Loucks: Opposed? The same, unanimously. Let's move on to tonight's business. Under new business, we have a Variance 2012-02 from J & M Chevrolet. I have a couple little things I like to read as part of my protocol. First of all, ask the town staff if this hearing is being held no longer than 60 days after the receipt of the petition.

Markland: May I interrupt? I need to swear him in first, please.

Loucks: Oh, you're correct.

Markland: Thank you.

Loucks: Sorry.

Markland: Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Dobrzenski: I do.

Markland: State your name please.

Dobrzenski: Bo Dobrzenski.

Markland: Thank you.

Loucks: All right. Now I can ask you. Is this hearing being held no longer than 60 days after receipt of the petition?

Dobrzenski: That's correct.

Loucks: That notice of the time and place of the hearing was given by First Class Mail to petitioners and property owners at least 20 days prior to the hearing?

Dobrzenski: That's correct.

Loucks: That notices were placed in and around the property as deemed appropriate at least seven days prior to the hearing?

Dobrzenski: Yes, sir.

Loucks: And that a general circulation newspaper was notified twice of the date, time, and place of the hearing in time for publication prior to this hearing?

Dobrzenski: That's correct.

Loucks: Okay. The Board of Adjustments has a responsibility to hear and decide appeals on the decision or order of the administrator charged with enforcing the zoning ordinance. Appeals generally fall into two categories. Number one, appeal could be based upon a disagreement as to the interpretation of a particular provision of

the ordinance. Or, number two, appeal in which the applicant is asking for relief, commonly called a variance, from the application of a particular provision to this property.

In regard to the variance, the board may vary the terms of the ordinance, but only where practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance. In granting variances, the board must make specific findings and conclusions as required by the law to support its decisions. For example, the hardship must relate to the property, not to the applicant's personal situation, and the hardship cannot be a result of the applicant's own actions.

Any action by the board tonight must be in favor of a four-fifths vote. And I'm sure that each member of the board would personally like to assist each applicant with his or her problem, but the board is bound by its limited powers, duties, and its legal responsibilities. Any appeal from a decision of the board must be made to the Superior Court, and must be effective within 30 days after the board's decision.

And I do like to remind the board that we function as a quasi-judicial board. And as such, to consider only the facts of the case and not hearsay. Second-hand statements, personal opinions, consider the facts, ask questions if necessary. You may request additional information if need to rule on the case. In such case, the meeting would be recessed and we would continue or convene at a future date.

Basically, I'll be running the meeting tonight. The case will be presented by the town, and then we ask for those who are in favor of the petition to testify. In

which case, you have to be sworn in, and then we ask for those who want to speak out against the petition, and have them sworn in. Any questions? Bo?

Dobrzenski: All right. Good evening, board. First thing, I wanted to—I have a hard copy of the attachment. That was emailed after the agenda went out. I'll give everyone a hard copy and we can place it as the last attachment.

Loucks: This is a letter dated March 26<sup>th</sup> from Jim Brady [ph]?

[INAUDIBLE]

Estes: Exhibit A.

Loucks: We'll call this Exhibit A and accept it.

Dobrzenski: This letter is submitted for the record. It's a letter coming from GM. Tonight, we're hearing a fairly straightforward variance request from J & M Chevrolet. A Chevrolet automobile dealership at 606 West Gannon Avenue. Have been there for quite a while, y'all are familiar. The owner of the property as well as the applicant is Carlos Wheeler, wife Eleanor. The specific ordinance that they are requesting a variance from is the land—the development standards; the brick or masonry requirement for the building façade for all new development or additions to a building.

This business is located on about six acres of property. It's zoned heavy business on Highway 97. I think the corner of 97 and, I believe, Wedgewood. Here's the zoning map. I take it you're all familiar [ph]. Heavy business among many properties there zoned heavy business. And to the north is a subdivision. Here's an aerial photo of the map [ph]. The grassy area to the front on the most southern portion of that building, is currently grass. Hence why I called it a grassy

area. It's got the cars parked there now. They're looking to put a canopy—proposing this canopy and a façade upgrade at that location. Pouring a slab, and using it as a place to exhibit Corvettes or, you know, whatever the hottest Chevy is of the day.

Here's a photograph of the existing condition. There's the grass area that I was speaking of. The canopy would actually extend off the front of that building, that portion of the building. And they'll have the storefront, the entryway, the façade improvement. And this is the area that we're talking about.

In addition to the canopy addition, and the storefront, and the blue entryway, along the top, they're also going to do a multitude of interior renovations: lighting, flooring, cabinets, furniture, painting, the addition of decals and signage. And this is all a part of a program by GM called the "Essential Brands Elements Program," nationwide. It's to ensure consistency among the stores. It's going to add to their visibility. It will improve the brand image and improve the aesthetics at each location. It would have a significant impact on the J & M here in Zebulon for obvious reasons.

The majority of these requirements are mandatory from the franchisor. The facing [ph] required by the program to be a silver, metallic aluminum composite material with a blue stripe along the bottom. And in addition to that, there's a blue aluminum composite material; sort of that bright blue, upside-down "U" entryway that you've seen in commercials and other Chevrolet dealerships. That's also required by the program, and that's what they're proposing.

And here's a rendering of the—of this location, and what they're proposing to do. You see the blue stripe and the J & M sign, and then of course, the bowtie sign with the Chevrolet logo at the top. To the left, you see the service garage. That actually has quite a bit of brick component to it currently, that they'll simply be painting sort of a gray color to match. Beneath the canopy, there's that—there's existing brickwork that's currently on the building. They'll be painting that a gray to match the ACM material on the fascia.

So there's quite a bit of existing brick that they're going to keep and will maintain visible. As well as the glass storefront and the doors, which are all in compliance with this development ordinance that they're requesting a variance from. The existing brick and the glass. What is in contrast of the ordinance, of course, is this—is the entire fascia and the blue entryway, as well as the pillars. It is not made of a brick, or stone, or masonry, or glass, as required by the ordinance.

Here's the elevations that were submitted with the building plans, that have been reviewed. The most interesting part of the front elevation is probably from the side, you can see the canopy. On the right and left elevations, you can see where the cars will park under, and how the entranceway sort of sticks out. And that's what's actually the add-on. I'm pointing to it with my mouse. Here's the actual—the blue entranceway.

This is a copy of the development standards, which they're requesting a variance from. I'll skim through it for you. "All buildings or additions to any building that are visible from the public right-of-way shall be comprised of brick or stone, and—but they may contain accent elements of glass or other masonry

exterior architectural features. One side may be exempt if it does not face the street, right-of-way, or alley. And it may also contain accent elements.” This is clearly the front of the building, and it faces Highway 97, a DOT right-of-way. So it would be required to be comprised of brick, or stone, or glass. And it could have the accent elements, but this storefront exceeds that.

The rest of this development ordinance refers to colors. “The use of high-intensity colors, metallic colors, black, or florescent is prohibited. All façade colors shall be low reflectance, subtle, neutral.” Since the ACM, the metallic material—I’m sorry—the composite material is a blue, it may be considered high intensity. As this is another component [ph] that you may want to look at as part of the approval or denial, the accent colors.

“A variance may be granted by the Board of Adjustment if it concludes a strict enforcement of the ordinance with the result in practical difficulties or unnecessary hardships for the applicant. By granting this variance, the spirit of the ordinance will be observed, public health, safety, and welfare secured, and substantial justice done.” And Mr. Loucks already went over this. The idea is that you would grant the variance from the literal interpretation and enforcement of the ordinance so that the applicant could meet the spirit of the ordinance, and is not suffering an impractical difficulty, or unnecessary hardship. And of course, there are our six criteria that are to be looked at as methods to approve a variance or deny.

“The applicant—if the applicant complies strictly with the provisions of the ordinance, he or she may make no reasonable use of his or her property. The

hardship of which they have a complaint is one suffered by the applicant rather than by neighbors or general public. The hardship relates to the applicant's land rather than personal circumstances. This is if the hardship is unique or nearly so, rather than one shared by many surrounding properties. The hardship is not a result of the applicant's own actions. And the variance will neither result in the extension of a nonconforming situation, nor the authorization of a nonconforming use of land."

As we went over with Mr. Loucks already, notice requirements were met in the newspaper, and posting, and mailings. We're ready for question and comments. Staff did not make a recommendation; simply by staff stating that the request didn't meet the letter of the ordinance, and sending it your way, that was really all that we were required to do, or felt necessary to do in this case. The applicant is asking for a relief of the literal interpretation. And that's it for our presentation.

Loucks: Thank you. Any questions of staff?

Estes: Yes. I have one.

Loucks: Sure.

Estes: Actually, it's more of a clarification. Could you go back to slide two, if you don't mind? Or three. That one.

Dobrzenski: Yeah.

Estes: And just for clarification, so there's no future questions about it, the applicant is—

Dobrzenski: Carlos Wheeler.

Estes: Mr. Junior [ph]. The property owner, I think, was his father, senior, is that correct?

Wheeler: Yes.

Estes: Okay. Just—I just wanted to make sure that, according to what I see here, they're both the same name. I just want to make sure it didn't come up in the future that there was any misleading—[OVERLAPPING]

Dobrzenski: Yes. We can clarify that and then he can accept the—

Estes: Okay. Yeah.

Adams: Bo, just to clarify the—where we're looking at and doing the variance, and where we don't meet the letter of law, I mean, the—is it because that they're not going to use brick and masonry in the façade? And the fact that we've got different colors?

Dobrzenski: The brick and masonry is the—

Adams: I mean, that you mean [ph]—

Dobrzenski: Look at the colors. I mean, that's fairly ambiguous anyway. The brick and masonry, GM has come through with this program, and required that they put this entry element up, and the storefront. And it's, you know, a substantial improvement to the building aesthetically. And certainly, from an advertising standpoint.

Adams: Right.

Dobrzenski: Probably, practically, as far as displaying the vehicles. The town ordinance requires that in addition to a building—or new construction obviously—be composed of the brick or stone.

Adams: Okay. Is that mostly for aesthetics, or for fire, or a combination? I mean, how—

Dobrzenski: The—

Adams: I mean, when we're looking at—I mean, I know what the rule is, but—

[OVERLAPPING]

Dobrzenski: I can't speak for the commissioners.

Adams: Okay.

Dobrzenski: But I imagine it had to have been for aesthetics, quality instruction, property values. Those would be the three that I would—

Adams: Okay.

Dobrzenski: I would guess. As far as meeting the spirit of that, this building does have quite a bit of brick currently. But yeah, I do think it was just aesthetics and trying to improve the quality of construction for nonresidential development.

M: [INDISCERNIBLE]

Johnson: Yes. What happens if we say no?

Dobrzenski: As far as the relationship between the franchisor and the franchisee, the applicant will probably be able to speak.

Johnson: Okay.

Dobrzenski: Speak better for that. And I don't want to say anything incorrect.

Estes: Well, he would be able to appeal it? Is that correct? If we say—if we vote no?

Dobrzenski: Yes. Oh yeah.

Estes: Yeah. He has the option to appeal the decision.

Johnson: Oh, okay.

Estes: Yeah.

Dobrzenski: Were you asking as far as would he continue with the proposal, just without that element, or—

Johnson: Yeah—well, my question was what would happen—

Dobrzenski: Yeah.

Johnson: —with him, the franchisor and the franchisee? What would—[OVERLAPPING]

Dobrzenski: Yeah. Yeah. And those would all be with him. I mean, the actual building plans for what they're doing have been approved. There's not much structurally going on with what they proposed. Yeah. I'll let him answer.

Johnson: Okay.

Loucks: Any other questions? If not—

Parsons: [INDISCERNIBLE] I do actually have one. So if it's—the issue is the brick, then what—maybe I missed that part. What is it going to be constructed of?

Dobrzenski: It's an aluminum composite material.

Parsons: That's painted? Or is it like—

Dobrzenski: I believe it comes in the color. You know, there's a blue—

Parsons: Okay.

Dobrzenski: —and kind of that gray aluminum that would actually show up on site, that color. They already painted [ph] the existing brick, but it's not—it's an aluminum composite, that all the GM dealership are upgrading [ph] their façade to [ph].

Parsons: [OVERLAPPING] does any other buildings Zebulon have that?

Dobrzenski: The exact one?

Parsons: I mean, that aluminum kind of composite kind of—

Dobrzenski: I know—I'm sure we have similar materials used on buildings. I mean, yeah. The—I imagine the Walmart and a lot of the accent—I mean, I don't want to say anything untrue, but yeah. I imagine we have.

Adams: I would even say that something that was on the side of the old town hall building—

Estes: I was going to say.

Adams: —may be sort of the same—sort of the same material, different color. But maybe, the—

Dobrzenski: Yeah.

Adams: —same grade of—[OVERLAPPING]

Dobrzenski: From speaking with the engineer, this is probably a higher quality than not only that material—

Adams: Yeah.

Dobrzenski: —but a lot of the other ones around town. The proposed—the proposal for the building, they—they're doing it all across the country, as I said. It's—should be an improvement as far as quality. You know, it matches [ph] our buildings and our facilities [ph].

Loucks: Any other questions, clarification, the staff? We always reserve the right to bring you back up. Thank you, Bo. If we could now have anyone who likes to speak for the petition step forward and be sworn in.

Wheeler: I'm Carlos Wheeler.

Markland: Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Wheeler: Yes, I do.

Markland: State your name and address.

Wheeler: Carlos Wheeler, 25 Ray Avenue, Zebulon. Well, thank you for allowing me to meet with y'all today. The—this program is unique for what I've experienced in all of my years with the dealership. I've grown up at J & M Chevrolet, and there

have been other programs that have come through, but nothing as extensive as this. And this is part of GM's rebirth. And there—they actually give us a stipend every quarter, as long as we're compliant in this process. We have been compliant up till now; up until the last quarter of 2011. We were not compliant because we didn't have everything together. And then we had to ask for another extension when we found out about this ordinance.

So, I'm at the point now with—that if we're not approved today, I'm not going to fight it because I would have lost two quarters' worth of stipend, and it would make it financially impossible for me to do this building. It's going to be somewhere around \$600,000, which the program's not going to pay for all of that, but it came close enough that, you know, chewing on it, and chewing on it, that I made the decision that it was worth putting the—our money with it to enhance the property.

The real reason is, as you know, with a lot of organizations, there is leeway and sometimes it is a two-way street back and forth with communications. With this program that they have, it's no two-way street. It's done the way they want it, and only the way they want it, and they have—they make all the decisions in the design. And of course, the offset of that, on the other hand, is we receive compensation for it, which makes it a—really an attractive program overall. But actually, what it does is it creates two-tier pricing for automobile dealers. And there are lawsuits involved in this, right now as we speak. Especially a big one in Florida.

The national law, as I understand it, federal laws are that you can't have two—if Jay was a Chevrolet dealer in Lizard Lick, they couldn't sell him vehicles at one price, and me at another price. But in essence, if you don't participate in this program, that's what it amounts to. Two-tier pricing.

The other part of that is if you're not compliant with this program, there are other programs that we're noncompliant with. And what it will eventually do is it will eventually make our cost so much higher than other dealers that it will not allow us to compete. And it would probably result in eventually the dealership going out of business. I wish I could do brick and stone. It would be so much less expensive.

Going along with this picture I'm painting you of the manufacturer, I'm going to give you a couple of examples of how strict they are. These—this tower, the entry tower, can only be purchased through three different vendors. And the towers are much more expensive than—and we're going to do a stick [ph] deal. You can buy it prefab or you can build it yourself. We can purchase these panels much—for a lot less money than we are from the three vendors from GM.

The tile floor, it's a regular white tile floor. Nothing unusual about it. There's only one vendor that we can buy that from. And it is a little over twice the price that we can buy that very same white tile anywhere else.

You know, what all my friends in the industry have come to the realization is that these are examples of how we get our money each quarter; that there is a stipend, probably between the manufacturers of these products and General Motors.

And I'm sure they receive some income from selling these products. The ACM

panel is the same way, and that's what the silver is called, ACM panels. And it is a composite panel. It's very, very expensive. It will be an enhancement to our area.

It—unfortunately, we are on a side of the town that's not growing. It's been fairly stagnant. And of course, that's due to road changes over the many periods—many years. I think this would be an enhancement for that area. Hopefully, it would help bring in more growth to the area, and to other businesses. And of course, it's going to—I'm sure when we—next time we have our property appraised, it will raise the value and our—which will mean income for the town, I'll say.

I request that you grant us the variance. We have always been very community-conscious, of all the things that we've been—we are part of this community and have been, and I would certainly like to continue to if you'd give us that opportunity.

Loucks: Right. So the board have any questions of Mr. Willis—or Wheeler, excuse me?

Adams: Carlos, if people are going to maintain, you know—I don't know the exact terminology of it. But it sounds like every dealer across the country, if you're going to maintain silver status, gold status, whatever, you're going to have to go along with this program. And GM's rolling it out, and basically, it's get onboard or be left behind.

Wheeler: I don't know of a dealer that's not involved in the program. And if any of y'all have been to Wilson lately, you've seen Hubert Vester. They have the same entry tower. The company that's doing this for us is Jackson Builders, and they just completed Deacon Jones in Smithfield. Identical. And just for clarification, all

Chevrolet images are the same. Buick is their own unique design. Cadillac is their own unique design. And again, that's part of the purpose of making it, you know, know that wherever you go, this is a Chevrolet store. You—it's easy—very easy to recognize that this is a Chevrolet store.

Loucks: Any other questions at this time? If not, naturally we reserve the right to ask you additional questions.

Wheeler: Thank you.

Loucks: Thank you. And I need to ask, is anyone here to speak against the variance, or have any comments to add? The record note there are none.

If I could get the board to turn to page 12 of your package. Just to kind of review this with the board, the process. At the top of page 12, "Before granting a variance, the board must take a separate vote, and vote affirmatively, meaning four out of five, as provided on each of the six required findings stated on the bottom of page 12." You'll see those six questions. "And in if so—in as so—insofar as practical, a motion to make an affirmative finding on each of the requirements set forth shall include a statement of the specific reason or findings to support the fact of that motion."

For example, on Question #1, if we vote in the affirmative, we make a motion why we feel that way, make a vote, and four out of five have to be in the affirmative. And then we move on to Question 2. If we run across one of these questions, and we're not able to vote in the affirmative, at that point in time, we can deny the variance. We've been advised it's a good idea to go through all six questions, but to vote one of the six down would in fact decline the variance.

“Also, a motion to deny a variance may be made in the basis that any one or more of the six criteria set forth are not satisfied, or that the application is incomplete.”

Everyone clear and remember how we do a variance? These many times get a little confusing because we have numerous questions to answer. Does the board care to have any discussion among ourselves, or questions to ask?

Adams: Well, I have kind of thought that—but I don’t know if it’s appropriate or not. But I’m just going to say this. I grew up in a small town. And whenever I was growing up, there were basically three local dealerships. There was a Ford dealership, a Chevy dealership, and a Dodge Chrysler dealership. Sadly, I have watched all three dealerships go out of business since I left for college in the late ’70s. My town, my home town, suffers, I think, very much for that.

As a matter of fact, I don’t even know if there’s a dealership now within my county. And my county is Bladen County. It’s about as large in area as Wake County. And the development for a county like that—and I know Wake County’s completely different than Bladen. You know, we’ve got 30 times as many people in Wake County. But Zebulon is still a small town. And, you know, I just look at it how it has affected my own hometown. And it’s almost a shame when you go back home and you realize there’s not a car dealership here. You cannot buy an automobile in Bladen County from a Bladen County dealer. And that’s terrible.

And personally, I don’t—I would not like to see that happen in Zebulon. I know I’m sort of sermonizing, and, you know, placing my own ideas on this, but, you know, there’s—I’m a business person. And Carlos you’re talking—and I guess I’ll spill the beans tonight. But you’re talking about trying to get businesses

on your side of town. Well, I'm coming. I'm actually going to take the old ABC building. And, you know, so Larry that's news to you too, so you're over on that side of town.

But, you know, there are things that you—that business people have—we get bombarded with what's required in our—from people we buy from, people we sell to—you know, municipalities, government. I mean, it's hard being in business. And, you know, I'm not just trying to give to business people that, you know, that they shouldn't have to abide by laws or standards. But it's tough being in business. And I feel your pain, as Phil would say. But, you know, I—my comment would be is that, you know, I would not want to lose our dealerships in town if there's a way to prevent that.

Loucks: Okay. Any other questions or comments from the board?

Estes: No

Loucks: If not, if I can get you to focus on the first of the six questions. We basically have to answer. "If the applicant completes—or if the applicant complies strictly with the provisions of the ordinance, he or she can make no reasonable use of his or her property." And basically, we'll be voting on that, either to affirm it or decline it. And also, have a reason why.

Adams: [COUGHS] Excuse me. Me and Jay [ph] have got the coughs tonight.

Loucks: And, you know, part of this goes back to your interpretation. Bo did a great job of explaining the material. Flip back to that page. Or as Bo mentioned, the town staff has looked at the ordinance, and looked at the building plans, and said, "This appears not to apply." But we have to look at the ordinance and decide whether we

agree, or there is allowance to have a variance. Put that slide back up that

discussed the color of the material, which—well—

Dobrzenski: The ordinance or—[OVERLAPPING]

Adams: [INDISCERNIBLE]

Loucks: And basically, here, you're basically saying what your interpretation was because this is not being built out of brick or stone, it does not actually meet the ordinance as it's written. Or the—your interpretation of the intent.

Dobrzenski: That's correct. Now, we have allowed, you know, a brick veneer, or all types of ways to meet that. We've been fairly flexible with that. But with this, because a great portion of the proposed façade wouldn't be brick/stone. They do still have quite a bit of glass.

Loucks: And you did also testify that the plans state that the rest of the building, brick would be painted to actually match this new structure in the front of building?

Dobrzenski: Yes. And if we look—let's see which ones [ph]—I don't know if—how well you can see. You guys have an 11x17 copy. But the existing building would still be visible from the right-of-way, as well. And that's composed of quite a bit of brick. Of course, it's mostly glass looking at it, with the white fascia. Actually, let's look at the—

Estes: Do you have the rest of that ordinance up on the PowerPoint? Or did you just have "C" on there?

Dobrzenski: I have the—

Estes: Do you have all of it?

Dobrzenski: I believe I just have "C" because that was the only—

Estes: Do you mind if I read something from—

Dobrzenski: Sure.

Estes: —Letter “I”?

Dobrzenski: Yeah.

Estes: Number 1, this is the flexibility and administration authorized. This is from the Board of Commissioners. “The board recognizes that due to the particular nature of a tract of land, project, or the nature of the proposed project, or other factors, the underlying objectives of this article may be achieved even though the standards are not completely met.” It goes on to say more, but it—the spirit of what they’re trying to do. This tells me that you can deviate from the spirit and still be in the spirit of what they’re trying to accomplish.

Dobrzenski: That’s correct.

Estes: Okay.

Dobrzenski: Yeah.

Loucks: And ask you this question. I think you’ve kind answered it, but in your expert opinion, you do view this as a major enhancement of the property?

Dobrzenski: Yeah. That’s fairly subjective, but, I mean, it’s clearly better looking. Significantly—it’s a significant investment monetarily. Yeah. I mean, I feel it’s an improvement all the way around [ph].

Loucks: To the entire structure, not just to one little part of the front of the building? As we talked about, the entire thing would be painted and enhanced.

Dobrzenski: They'll be painting and making improvements on other portions of the building as well. But the big part of the project is big cost, big—the reason we're here, of course, is that entryway in the front.

Loucks: Okay. Thank you. Any other questions from the board? Any recommendations? Anybody feel like they would like to make a motion on Question #1?

Adams: Well, I think we could discuss it from the standpoint that like—I mean, the question basically says, "If it complies strictly with the provisions of the ordinance," which means that he couldn't participate in the program; that he can make no reasonable use of his property. Well, he might use his property for a period of time, but I think that GM would be able to exert enough pressure or disincentive that, you know, as he has stated, that eventually, he would have no use of his property.

Loucks: At least as a car dealership.

Adams: As a car dealership. And you know, I mean, we can't make him go into some other type of business. You know, what you all have been here since '37—'32?

Wheeler: It was incorporated in '29—[INDISCERNIBLE].

Adams: Sorry.

Markland: Carlos, would you go to the podium?

Loucks: Could you go to the podium?

[OVERLAPPING—INDISCERNIBLE]

Wheeler: Yeah. We've operated as a corporation since 1929, I believe it is. And it—before that, it operated as a partnership. James Cawthorne [ph], whose daughter is our ex-mayor's wife, Jamie Hinton [ph], was by there this week, and she gave me quite a

history lesson on the origination of the dealership. Madison Schaumburg [ph], I was always—is the “M.” James Cawthorne is the “J.” Madison Schaumburg is the “M.” And I found out Madison Schaumburg had a store where Anton’s [ph] used to be. And quite a bit of history in there. But Jamie is 95 years old, but she is sharp. Let me tell you, she’s got quite a mind.

I may have skipped your question, but the whole building will be painted. The entire building, front, back, everything. There—again, they’re pretty serious about, you know, making this a place that’s clean, comfortable, inviting for everyone to come. And everything about this being done, and it is going to be first class.

The lighting—our lighting is fairly new and it’s the same type of lighting that they’re use. But again, we have to purchase it from GM, and just the lighting for the showroom and front offices, \$57,000. And that’s not including the labor to put it in, or the tile ceiling, and that type of thing.

It—look, if you’ve been by any of the dealerships that are compliant, it looks good. And I—and just so later on there’s no confusion, there are some dealerships out there that were in the very first phase, that are not identical to what we’re going to do. As far as the blue tower goes, the ACM panels, there is no variance. But for example, when I first started this process about a year ago, the lighting, for example, it was a different lighting package that I was required. And then, as time went on, they had a revision on that. And since we had started construction, they require us to be compliant with the new revisions. So there are some things that have changed, just due to their [ph] experience and time.

Was there another question that I missed? But I would like to make one comment on it. The building itself, if we—you know, I thought about this. If we went out of business, I don't know what we'd use that building for, because it is designed to be an automobile dealership. And I—you know, very few used car stores are going—would be interested in leasing or renting that much property. And they certainly wouldn't need the body shop and service department. So, I—that's another reason I'm kind of going with this project, is don't have a lot of—I really don't have a choice, when it comes down to it. Thank you.

Loucks: I'll direct the board back to Question #1.

Adams: Okay. Well, I make a motion that we grant a variance on the fact that the landowner would not be able to make reasonable use of his property without the variance.

Loucks: Right. We have a motion. Do I hear a second?

Parsons: Second.

Loucks: Okay. Any discussion on the motion? And ah Lisa, are you clear with the motion from—

Markland: Yes.

Loucks: —the tape? All right. I have a second. If there's no discussion, can I call for a vote that Question #1 be responded in the affirmative, based upon the motion made by Tad Adams on the use of the property? All those in favor say "aye," and raise your right hand.

M/F: Aye.

Loucks: Opposed is none, so it's unanimous. If we could go on to Question #2: "The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public."

Johnson: I make a motion that that is true; that it would be only on the owner.

Estes: I second the motion.

Loucks: Okay. I have a motion—

Estes: We would have to have discussion.

Markland: Excuse me. Can we state the reason why it only applies?

Loucks: Right.

Markland: In the motion.

Loucks: Could you, in that motion—could you rephrase it in such a fashion as unto why "the hardship of which the applicant complains is not one suffered by the applicant, rather than by neighbors or the general public"?

Johnson: The hardship of which the applicant complains is not suffered by the neighbors, but only by the applicant.

Adams: It's because he's the only car dealership.

Johnson: Okay. Because he is the only car dealership within Zebulon.

Johnson: Thank you.

Loucks: Very good. [LAUGHTER] Are there any—I have a second on the motion. Are there any discussions? If not, we'll call for a vote on #2, that we're answering in the affirmative. If you're in favor of that, please raise your right hand. If you're against? None. So it's unanimous. Question #3: "The hardship relates to the applicant's land rather than the personal circumstances."

Vernon: If I may clarify that criteria for the board? Land, in the legal sense, is deemed to be the dirt and all of the improvements.

Estes: I make a motion that we—that the hardship does relate to the applicant's land and current land use. I make a motion that we vote to accept that.

Loucks: And not on personal circumstances?

Estes: And not only personal circumstance, that's right.

Loucks: [INDISCERNIBLE]. Very good. Do I hear a second?

Adams: I second.

Loucks: I have a second. Any discussion on the motion? If not, I call for a vote on Question 3. All those in favor, answering to the affirmative, raise your right hand. There are none opposed. It's unanimous. Question #4: "The hardship is unique or nearly so, rather than one shared by many surrounding properties." In some discussion, I think it was alluded to that this is because it's a unique car dealership, building on a property that is not really suffered by the surrounding properties. It, in fact, is unique.

[INAUDIBLE]

Johnson: Are you waiting for a motion?

Loucks: Yeah. I can't make it as a motion, but—

Johnson: Okay, then—

Loucks: —that was just kind of a recommendation.

Johnson: All right. Then we—I make a motion that the hardship is unique, and not shared by the surrounding properties, because it is the only dealership in Zebulon. Or only dealership within the area.

Loucks: All right. Do I hear a second?

Adams: Second.

Loucks: Any discussion? If not, call for a vote on Question 4, voting to the affirmative. All those in favor raise your right hand. Opposed, the same. Let it be noted it's unanimous. Question #5: "The hardship is not the result of the applicant's own actions." It appears that this is actually a result of the—of General Motors; a requirement being put on the applicant. So it's not actually caused by the applicant. The applicant's kind of being forced—

Johnson: That's right.

Loucks: —to play ball with General Motors. We don't have to mention GM in the motion, but is—the hardship is not the result of the applicant's own actions. Do I hear a motion to that effect in the affirmative?

Adams: I move that we grant the variance based on the fact that the applicant is not re—the hardship is not due to the applicant's own actions; that they are being dictated to him by—

Johnson: vendor

Adams: —his vendor, or his franchise.

Loucks: Right. Do I hear a second?

Estes: Second.

Loucks: Any discussion on that motion? All those in favor voting to affirmative of Question 5, as the motion was stated, please raise your right hand. It's unanimous. None opposed. Question #6: "The variance will neither result in the extension of a

nonconforming situation in violation of Article 7, nor authorize the initiation of a nonconforming use of land.”

Johnson: Could we have an explanation of Article 7?

Dobrzenski: It would not create a—creation of a nonconforming use. By granting the variance for the nonconforming situation, you wouldn't be—and considering there isn't a nonconforming situation currently, it's not extending an existing one. If that made any sense. Are we good?

Johnson: Okay.

Dobrzenski: Okay. There's nothing illegal about the property currently. You'll be granting a variance for this particular situation, and the use is allowed.

Johnson: Okay.

Dobrzenski: So there wouldn't be creating a bigger problem.

Johnson: Okay.

Loucks: I think Jay pointed out earlier that it appears to be meeting the essence of the ordinance, or the intent.

Adams: The overall—sorry. The overall scope of what the commissioners want to achieve, though it's just not stone or brick.

Adams: Brick.

Loucks: If there's no further discussion, can I hear a motion on Question #6, with a reason for the affirmative? We're not—[OVERLAPPING]

Adams: I move that we grant the variance based upon the fact that the property is conforming use now, and that by granting this variance we will not put the landowner in a nonconforming use of his property.

Johnson: And I second the motion.

Loucks: Okay. We have a second. Any discussion? If not, can I call for a vote on 6, to the affirmative? All those in favor raise your right hand. All those opposed, the same. Be it known, it was unanimous in the affirmative. The next step you have in the variance, as a board, is you can apply some conditions, if you feel that's necessary. Otherwise, the variance can be granted with the six affirmative votes to comply with the package of the elevations in the petition, plans that were submitted. Bo?

Dobrzenski: That's exactly what I about to suggest is, if you're okay with what's been proposed, you could just grant the variance with the following attachments. The front elevations and the, I'm sorry, side of the front [ph], all the elevations [ph].

Loucks: Do I hear a motion from the board that you do not want to apply any conditions, and authorize the variance as submitted in the package—the drawings, the plans, et cetera?

Estes: I make a motion that we accept the variance as proposed in their application, with no additional—

Loucks: Conditions?

Estes: —conditions.

Loucks: Do I hear a second?

Adams: Second.

Loucks: Have a second. Any discussion? If not, call for a vote on Jay's motion. All those in favor of granting the variance without any conditions, as proposed in the package, raise your right hand. Opposed, the same. It's unanimous in the affirmative. So Variance 2012-02 will be granted as submitted. Does the staff

have any report for us, or any movement on a variance workshop [ph]? Would you like to get together—[OVERLAPPING]

Hetrick: We're still talking about that, but yes, we'll put something together.

Loucks: Okay. I have a couple ideas. I'll maybe get together with you. Because I think maybe we can make some templates to maybe help with motions. They're not all the same, but I think some general direction in front of us will help us with those motions. Question by question. Good. Any other questions for staff? Any comments from the board? Okay. New business? Or I should say "old business."  
All right. Thank you very much. We're adjourned.

[END RECORDING]

Adopted this the 23<sup>rd</sup> day of February, 2017

SEAL

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Larry Loucks—Chairman

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Lisa M. Markland, CMC—Town Clerk