

**CHARLES V. MARTABANO**  
Attorney at Law

9 Mekeel Street  
Katonah, New York 10536  
[cmartabano@gmail.com](mailto:cmartabano@gmail.com)  
(914) 242-6200 Telephone  
(914) 242-3291 Facsimile  
(914) 760-9241 Cell

September 28, 2020

Tom LaPerch, Chairman and  
Members of the Planning Board  
Town of Southeast  
Town Hall  
1360 Route 22  
Brewster, New York 10509



Re: Route 22 Master Plan and Zoning Update

Dear Chairman LaPerch and Members of the Planning Board:

Please be advised that I am counsel to Route 22 Lia Realty, LLC, owner of property located at 1400 Route 22 in the Town of Southeast. Said property is most likely known to the members of the Board as the former Dill's site and consists of approximately 4.8 acres. The site is triangularly shaped with significant frontage on Route 22. A copy of an aerial photograph with graphic depiction of the site (prior to demolition of the building) is attached hereto for your review. The site is presently zoned OP-1.

Initially, I wish to apologize for the late submission of this letter and, to the extent that your Board has the opportunity to review same prior to the meeting of September 28, 2020, I will be very appreciative. My client and I are extremely pleased that the Town is considering updating its Master Plan and Zoning as same pertains to this area of Route 22. As I am certain that members of the Board are aware, notwithstanding the fact that Route 22 represents a significant commercial corridor, there exist many impediments to development in this area of the Town, predominantly centering upon the lack of municipal sewer<sup>1</sup> and, in some cases, proximity to wetlands and the watershed. At the same time, there exists a significant need to foster appropriate development to provide tax ratables, jobs and convenience for residents.

I am certain that the Town has received many suggestions for updates to the Master Plan as same pertain to the Route 22 corridor. As owner of a significantly sized parcel in this area, my client is, of course, grateful for any expansion of permissible uses and would therefore join in

---

<sup>1</sup> My client applauds the initiative to determine if there exists excess capacity in any private sewage treatment facilities but I suspect that the cost of installation of conveyance infrastructure may be prohibitive in many instances.

connection with any other initiatives for expansion of permissible uses along the Route 22 corridor.

On behalf of my client, I would like to request that your Board to consider recommending a new special permit use for motor vehicle dealerships. The principal of my client is presently the owner of more than a dozen motor vehicle dealerships, with locations in northern and southern Westchester, Nassau and Suffolk Counties, Passaic County, New Jersey and Palm Beach County, Florida, among others. He has many years of experience in successfully developing and operating motor vehicle dealership locations. He believes that this site is uniquely suited for the operation of a motor vehicle dealership given its location, size and frontage. I am hopeful that the Board will agree that a properly planned and developed motor vehicle dealership can provide a multitude of benefits including convenience for residents, jobs, significant tax ratables and significant sales tax revenue for the County and derivatively for the Town of Southeast.

In making this request, my client is cognizant of and embraces the fact that the Town has a legitimate interest in seeking to facilitate *quality* development in connection with the establishment of a motor vehicle dealership as opposed to the outdated concept of a “car sales lot” i.e. a sea of cars in front of a minimal (and often run down) building or trailer. This is *not* my client’s vision nor presumably would it be the vision of the Town. My client envisions a motor vehicle dealership facility utilizing a very high-quality architecturally designed dealership building for sales and service with appropriate landscaped vehicle display areas in the front with the vast majority of vehicle storage in the rear of the building, generally consistent with existing regulations (but suggested to be modified as set forth below). Accordingly, to the extent that your Board might consider permitting this use within the Route 22 corridor (or other locations as the Town might deem appropriate), my client would like to provide his input for the Board’s consideration. My client’s comments/recommendations will be broken down into specific development factors/proposed special permit conditions.

### **Minimum Lot Size**

Due to a change in the Code originating in 2015, the Code allows for motor vehicle dealerships to be approved pursuant to the issuance of a special permit which appears to be limited to the SR6 zoning district. However, the special permit conditions appear to require a minimum lot size of 15 acres (§138-63.9 B (1)) while, at the same time, acknowledging that off-site new motor vehicle storage can be permitted where “the primary lot on which the motor vehicle dealership is located is less than five acres” (§138-63.9 I (1)). Accordingly, there is some degree of confusion on my part as to the true minimum lot size for a motor vehicle dealership facility separate and apart from off-site vehicle storage and it would appear as though the Town envisioned that the primary lot could be less than five acres. I believe that the drafters of the Code provision clearly recognized that primary motor vehicle dealership facilities can in fact be successfully operated on lots of less than five acres.

We respectfully submit that it is appropriate for the Board to consider a lower minimum lot size for the reasons set forth herein. Utilizing Assessor records, I have reviewed motor vehicle dealership locations located in the Town of Southeast and have noted that most dealership locations in the Town of Southeast have far lesser lot sizes than the size mandated by the existing Code provisions. In this regard, I would respectfully point out the following:

- a. Brewster Honda's sales facility is located on property consisting of 1.51 acres. However, they do in fact now maintain a separate service facility and separate storage facilities on other lots and I will endeavor to obtain the sizes of those for your review. For the sake of this review, let's assume that Brewster Honda presently utilizes approximately 6 acres for its dealership sales and service facilities. This being said, before the recent construction and expansion, Brewster Honda along with former dealerships, utilized the 1.51 acres site as a complete sales and service facility for decades.
- b. The former Chevrolet (sales and service) dealership, which has been vacant for a significant number of years, was located on a lot of 2.04 acres;
- c. The Subaru (sales and service) dealership is located on a lot of 1.95 acres. I am not aware of any separate storage facilities;
- d. The Ford (sales and service) dealership is located on a lot of 1.79 acres. I am not aware of any separate storage facilities.

Utilizing the approximate acreages referenced above, the average size of a dealership facility in the Town of Southeast would be approximately 3 acres with the results being skewed by the current Brewster Honda numbers. Without reference to the Brewster Honda numbers, the average size of a dealership facility in the Town of Southeast would be less than 2 acres.

I also conducted a survey of other automobile dealerships in the Town of Bedford and the Village of Mount Kisco where there exists a concentration of dealerships on Bedford Road/North Bedford Road and other roads in close proximity. All these dealership facilities have been successfully operating for a very extended period of time. With respect to these facilities, please be advised as follows:

1. The BMW (sales and service) dealership in Mount Kisco is located on a lot of 4.2 acres; however, a significant portion of the site is unusable by reason of very steep slopes and a very long access drive;
2. The Chevrolet Cadillac (sales and service, single building) dealership in Mount Kisco is located on a lot of 3.29 acres;

3. The Jaguar/ Range Rover (sales and service, single building) dealership in Mount Kisco is located on a lot of 1.62 acres;
4. The Lexus (sales and service) dealership in Mount Kisco is located on a lot of 6.26 acres;
5. The Jeep Chrysler Ram Dodge (sales and service, single building) dealership in Bedford Hills is located on a lot of less than 2 acres with additional vehicle storage of less than 2 acres on an adjacent lot;
6. The Honda and Acura (two completely separate sales and service buildings) dealerships in Bedford Hills are located on a lot of 7.96 acres, a significant portion of which is impacted by steep slopes and wetlands. Because this facility is two separate dealerships in two separate buildings, the acreage per dealership would be less than 4 acres and, again, a significant portion of the site is unusable by reason of environmental constraints;
7. The Buick and GMC (sales and service, single building) combined dealership in Bedford Hills is located on a lot of 1 acre;
8. The presently vacant former (successive dealerships) Nissan/Lincoln/Volvo (sales and service, single building) dealership at 271 North Bedford Road in Mount Kisco is located on a lot of 2.23 acres;
9. The Toyota dealership, with separate sales, service and storage facilities, is located on three lots comprising in the aggregate 3.93 acres.

The average size of the lots, including separate storage lots and separate service lots, with respect to these successful motor vehicle dealerships is 3.44 acres per dealership. Many other examples can be provided in support of these numbers.

I believe that the foregoing analysis establishes that it is appropriate to consider allowing motor vehicle dealerships for both new and preowned vehicles on lots of far less than 15 acres pursuant to the issuance of a special permit for an appropriate location. My client further believes that while many of the prescribed special permit conditions are workable and appropriate when dealing with a minimum lot size of 15 acres, in order to facilitate the type of quality motor vehicle dealership that I believe that the Town might find acceptable, flexibility of design would be most helpful so as to allow potential applicants to consider making the type of investment necessary for a motor vehicle dealership.

First, based upon the information referenced above, and mindful of the fact that existing Code provisions contemplate the permissibility of a primary lot for a motor vehicle dealership of less than 5 acres, my client would suggest a minimum lot area of between 3 to 4 acres which falls

squarely within the average lot sizes referenced above. My client believes that such a lot size would be more than sufficient for both sales and service and again, the information set forth above would appear to confirm my client's analysis. Of course, the special permit provision could also allow for separate vehicle storage lots if that would be deemed necessary but again, my client believes that a minimum lot size of 3 to 4 acres will allow for sales, service and storage facilities at a single location.

### **Minimum Building Requirements**

As set forth above, my client shares what he hoped to be the vision of the Town in that my client would seek to avoid the possibility of the antiquated concept of a "car sales lot". To that end, my client is amenable to having the requirement to build a sales and service facility of a certain minimum size so that, once again, the Town would be assured of obtaining a quality motor vehicle dealership. In this regard, we would suggest a minimum building size of 3000 square feet for sales facilities and 5000 square feet for combined sales and service.

### **Buffers**

Existing special permit provisions require minimum landscaped buffers of 50 feet (front, rear, and both sides) and then further require a minimum 10% landscaping requirement for the parking lots and vehicle storage areas but preclude inclusion of the landscaped buffer areas towards this requirement. With a 15 acre minimum lot size, these buffers can of course make sense. However, my client believes that with a smaller minimum lot size the Planning Board should be given discretion with respect to landscaping as opposed to being constrained in a formulaic manner. For example, where, as here<sup>2</sup>, this property has an extremely large frontage but tapers to the rear, the application of these buffers might preclude utilization of a significant portion of the rear of the property for motor vehicle storage. Moreover, as can be seen from the aerial photograph submitted with this letter, the subject site is heavily wooded along the perimeter therefore providing a natural buffer. Accordingly, I believe that the Planning Board should be vested with the discretion to determine whether a specific landscape plan proposal satisfies the goals of the Town in terms of providing protection for adjoining properties and for the streetscape.

### **Outdoor Vehicle Display**

Existing special permit regulations require designation of vehicle display areas which, of course, makes sense. The regulations, however, do not allow for vehicle display within the buffer

---

<sup>2</sup> I of course recognize that this requested special permit will not be site-specific and the Board must consider these suggestions as applied to any of the properties wherever the Board elects to allow the special permit. Reference to my client's site does allow for anticipation of what may be unnecessary constraints on a site-specific basis rather than to adopt regulations which would immediately require an applicant to seek a variance.

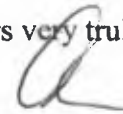
areas. Initially, as indicated above, we suggest elimination of the minimum buffer requirements in favor of discretion on the part of the Planning Board regarding the overall landscaping. We also believe however that appropriately landscaped vehicle display areas can be located close to the road. I would refer the Board in this regard to the landscaped vehicle display areas utilized by the BMW dealership in Mount Kisco which are located very close to Kisco Avenue and which were constructed in such a manner as to be regarded as a project amenity, actually resulting in the issuance of an award from the Mt. Kisco Beautification Committee. Simply stated, I think that it would be appropriate to encourage flexibility of design, giving the Planning Board the opportunity to make a particular application work in the best manner for the benefit of the applicant and the Town without the necessity of seeking variances.

**Additional Appropriate Conditions**

In addition to the minimum lot size referenced above, your Board may wish to consider other appropriate conditions such as frontage on a state road or other appropriate factors.

My client is very grateful for the opportunity to submit this letter and is willing to provide further details of his plans for this location if the Board is of a mind to support my client's request. I plan to participate in the meeting on September 28, 2020 and will answer any questions that members of the Board might have.

Yours very truly,



Charles V. Martabano

cc: Ashley Ley AICP  
Route 22 Lia Realty, LLC

