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PLANNING BOARD COUNTY OF ALBANY
TOWN OF COLONIE

DENOoyer
127 WOLF ROAD
APPLICATION FOR TEMPORARY FABRIC STRUCTURE
2 OFFICE TRAILERS AND A SERVICE TRAILER

THE TAPED AND TRANSCRIBED MINUTES of the above
entitled proceeding BY NANCY STRANG-VANDEBOGART
commencing on May 17, 2011 at 7:31 p.m. at the
Public Operations Center 347 Old Niskayuna Road,
Latham, New York 12110

BOARD MEMBERS:

- PETER STUTO, Chairman
- LOUIS MION
- PAUL ROSANO
- TIMOTHY LANE
- KATHLEEN DALTON
- TOM NARDACCI
- MICHAEL SULLIVAN
- ELEENDA VAIDA, Esq., Attorney for the Planning Board

Also present:

- Joseph LaCivita, Director, Planning and Economic Development
- Tom Andres, PE, ABD Engineering

1 CHAIRMAN STUTO: Next on the agenda is
2 DeNooyer.

3 Joe, do you want to give us an
4 introduction on this?

5 MR. LACIVITA: Sure. DeNooyer Chevrolet
6 is before us this evening. They have received
7 a building permit application for interior
8 fit-out of their new office space, sales space
9 and so on. They're before the Board for the
10 review because there are going to be temporary
11 structures to take out the office space, sales
12 space and the service area as well, and move
13 that outside which changes the site use. We're
14 here before the Board to review the
15 application for a site plan amendment.

16 MR. ANDRES: I'm Tom Andres from ABD
17 Engineers and Surveyors. I represent DeNooyer
18 Chevrolet.

19 Just as Joe LaCivita had mentioned, this
20 is an approval that we're seeking to provide
21 fabric structures in a temporary pen so that
22 business can stay in operation during the
23 renovations of the showroom. It's really
24 almost that simple. There were some questions
25 that the Building Department brought up. These

1 are doublewide trailers that are going to be
2 rolled in and set up for the offices. They'll
3 be set up for financing. One lot will have a
4 tent structure that will be put there that can
5 be utilized for the showroom. We'll put a few
6 cars underneath. People can come and look at
7 it just as you would in a regular showroom;
8 just a lot smaller. The application is just
9 for the period of time that it takes to do the
10 interior renovations. Obviously, this is not
11 only a big expense to DeNooyer, but it's
12 taking up a lot of valuable space where they
13 would normally have their cars. They now have
14 to move the cars from a different area. Some
15 of that is needed while the business is in
16 operation. We'll be looking to get it done as
17 quickly as possible, but there is a permit
18 procedure.

19 I believe that there were some questions
20 on interpretation on how the trailers were
21 interpreted. They were interpreted as a
22 temporary tent -- there were questions in the
23 Building Department.

24 MS. VAIDA: I actually have some
25 questions.

1 Originally, DeNooyer went to the Building
2 Department for a permit to do the renovations
3 to the building, right?

4 MR. ANDRES: Correct. There is an
5 area - a little bit of an overhang in the
6 front. They are extending that building out -
7 the front building faced to the end of that
8 area there.

9 MS. VAIDA: That doesn't require any
10 review by the Planning Department or Planning
11 Board, right?

12 MR. LACIVITA: Not the Planning Board,
13 but the Planning Department.

14 MR. ANDRES: The Planning Department
15 reviewed it and it received approval for that
16 because it was considered under a minor where
17 it wasn't coming to this Board for approval.

18 MS. VAIDA: That was approved, right?

19 MR. ANDRES: That was approved.

20 MS. VAIDA: Then the issue - because
21 you're not really building, but you're
22 bringing them in. It's almost like prefabbed
23 office buildings. They are buildings that are
24 being placed on the property.

25 MR. ANDRES: Right, they are double wide

1 trailers that you drive all around like on a
2 construction site and things like that. You
3 would have them at a large event like a
4 festival. You might bring those in for the
5 bathrooms as opposed to like the Port-a-Johns.
6 That's what we want to do here. We applied for
7 an approval for this and the Building
8 Department was just a little unsure -

9 MS. VAIDA: When you say that you applied
10 for an approval, under what section of law did
11 you do that?

12 MR. ANDRES: Under the minor.

13 MS. VAIDA: But you said you just went to
14 the Building Department.

15 MR. ANDRES: When you apply for a minor
16 site plan approval, you have to go to the
17 Building Department for zoning verification.
18 At that time, Mr. Cordell wasn't quite sure.
19 We went though and we now have this, but he
20 wasn't sure exactly how this fell. There is a
21 regulation that for a certain amount of time
22 and day you would use a tent for a specific
23 event. This, we were predicting in the 90-day
24 range. Then, it was an interpretation because
25 there is nothing in there about bringing in a

1 trailer.

2 MS. VAIDA: Is it a trailer or is it a
3 temporary structure?

4 MR. ANDRES: No, they are trailers. They
5 set up the level and keep it so it doesn't
6 rock around and they're sitting there. You
7 could walk up in the trailer. One is for
8 financing, and one is an office trailer
9 because we'd like to be able to run the
10 office. One is actually a bathroom set up.
11 Then there will be a tent that will be there
12 so you could drive some cars underneath.

13 MS. VAIDA: You're going to have the
14 public go in and out of these trailers?

15 MR. ANDRES: Correct.

16 MS. VAIDA: Will they be up to standards
17 for the CO? Will they have disability access?

18 MR. ANDRES: There is no CO involved in
19 these. They meet whatever the New York State
20 Building Code is. I'm unfortunately not
21 familiar with that, but the trailer code is. I
22 think that it's William Scott Trailer that
23 provides them. They go get all the permits
24 that are needed from a standpoint of when they
25 build it to certain codes and they just bring

1 it out to the site. So, there is no CO that
2 will be issued for these.

3 CHAIRMAN STUTO: But it's addressed in
4 the State Building Code for temporary
5 structures?

6 MS. VAIDA: That's what I'm getting at.

7 MR. ANDRES: They're not temporary
8 structures. I believe that they're addressed
9 in the State Building Code. There is a little
10 bit of an assumption here. I talked to William
11 Scott and when they build them, they have to
12 build them to a certain standard. They can't
13 just slap the thing together. It has to meet
14 certain standards. There are standards for the
15 Building Code and I'm sure that there are
16 standards for over the road hauling. All those
17 standards are met. They meet all those when
18 they bring them in. There is no additional CO
19 that they go through with the Building
20 Department.

21 MS. VAIDA: I spoke to Mr. Cordell about
22 this and he said that they would be considered
23 temporary structures. He directed me to
24 Chapter 31 of the Building Code. That's why
25 I'm asking you these questions because there

1 are safety issues. In 90 days - it could be
2 longer than 90 days.

3 MR. ANDRES: Those are all issues that
4 the Building Department would handle. This
5 Board would not handle any of these issues in
6 relationship to whatever the Building
7 Department has to look at. If he wants to call
8 them temporary structures, that's what they
9 call them. I think that in here, there is
10 actually a discussion that he thought that
11 they might actually fall under the standards
12 of a tent.

13 MS. VAIDA: The Building Code actually
14 has sections that deal with temporary
15 structures and one of the temporary structures
16 that they describe is actually a membrane
17 structure and they talk about the provisions
18 of this article applying to membrane covered
19 cable and membrane covered crane structures.

20 MR. ANDRES: Those are not applicable
21 here. A membrane is not a tent that you're
22 talking about. If you just look at any
23 construction site that has a large trailer out
24 there, that's what these are.

25 MR. LANE: I know what they are, but

1 they're not the same use. Those are for guys
2 doing the work. This is where business is
3 being conducted out of.

4 MR. ANDRES: The construction trailer
5 comes out and it used as a temporary office.
6 It's the same thing. It's used for a temporary
7 office. Those are being used as a financing
8 area.

9 MR. NARDACCI: Are customers going to be
10 going into the trailers?

11 MR. ANDRES: Yes.

12 MR. NARDACCI: It's different than a
13 construction site then.

14 CHAIRMAN STUTO: In that sense it's
15 different.

16 MR. ANDRES: In that sense it's
17 different, but it's still the same. It looks
18 the same. It's a trailer that's brought out
19 there.

20 CHAIRMAN STUTO: What's the timing on all
21 this? Can you refresh us on that?

22 MR. ANDRES: The timing is as soon as we
23 get the approval, we can bring these out here
24 so that we can start working on the demolition
25 of the building and build a new building.

1 They're estimating 90 days - three months to
2 complete the building.

3 MR. LACIVITA: The original application
4 that came before the Planning Department for
5 the minor site plan for the façade and the
6 interior - we received the application in
7 January of 2011 and we had approval for the
8 façade in March of 2011. I think that when
9 DeNooyer was figuring out the logistics of how
10 they were getting this done, this secondary
11 application came before the Planning
12 Department through the Building Department for
13 this temporary structure. I think that if the
14 original application for the minor plan had
15 the structures in it, it would have been all
16 encompassing. Unfortunately the logistics
17 ended up bringing it here a second time.
18 Because it's over and above our time frames,
19 we brought it before the Board.

20 MR. NARDACCI: Joe, on the agenda it says
21 application for temporary fabric structure.
22 What is the action that we're asked to take,
23 as a Board? Approving an application?

24 MR. LACIVITA: I think that's where we're
25 struggling right now.

1 MR. LANE: We don't seem to have anything
2 that addresses this.

3 MR. LACIVITA: That's where I think the
4 struggling part is. In the original
5 application, I think that it would have been
6 all encompassing because I think as the
7 logistics came and we found that this need
8 came forward, the Building Department came to
9 me and said, you have something in your Land
10 Use Law that says that you can erect a tent
11 onsite for only 10 days.

12 MR. NARDACCI: Yes, we've done that.
13 We've done special tent sales and things like
14 that for other auto dealers. The Board has
15 looked at those.

16 MR. LACIVITA: Correct, where it has been
17 a 30-day or something like that.

18 MR. NARDACCI: But they need it longer
19 than 10 days.

20 MR. LACIVITA: We did one, I think, it
21 was for Nemith quite a while ago. My
22 anticipation was a temporary site amendment to
23 house these uses and then a condition of CO
24 would be that they would have to be removed.
25 Upon issuance of CO, they'd have to be removed

1 immediately.

2 MR. NARDACCI: The one thing with those
3 tent sales - and this is why I bring this up.
4 The difference is that we know the time
5 frame - 10 days. If they need longer, they
6 come here and we've done 30 days. I don't know
7 exactly, but it was something like that. So,
8 now we're saying here, whenever it's done.
9 Maybe it's 90 or 60 or it could be quicker.
10 The question becomes for us that look, in
11 approving this, do we also approve a time
12 restriction and then do we look at it again?
13 It's so unusual. We've never done this before.

14 MR. ANDRES: We're asking for those
15 temporary structures to be allowed. If it's a
16 waiver situation, then we're asking this Board
17 for that waiver until the completion of the
18 improvements for the building, itself. As Joe
19 had said, a condition of that would be that
20 the final CO would be issued only upon removal
21 of those temporary structures. Again, this is
22 a little different than the tent situation
23 that you might be speaking of where there was
24 a 10-day that's allowed by the Building
25 Department; but some have it for 30 days. They

1 were having it there and using it for some
2 type of promotional issue. We're here to try
3 to maintain so that we don't have to close the
4 business down. The last thing that we want to
5 do is keep those things up because again, we
6 want them back in the showroom. This takes up
7 extremely valuable car space.

8 MR. NARDACCI: I guess a follow-up
9 question would be - we don't want to make it
10 more difficult for them to renovate their
11 facilities. Are they ready to go?

12 MR. ANDRES: It's my understanding that
13 they're ready to go. I don't know if that
14 means a week or 10 days, but they're ready in
15 a very short period of time to do this.

16 CHAIRMAN STUTO: I have a couple of
17 questions to make sure that I understand it.

18 I'm looking at the same concept site plan
19 that you have there. The existing building is
20 the existing building; you can point to that.
21 Is that existing or is that proposed?

22 MR. ANDRES: This is the existing
23 building (Indicating).

24 CHAIRMAN STUTO: All the way out? It says
25 proposed for showroom addition.

1 MR. ANDRES: All of these are existing.
2 The showroom modification - the proposed
3 showroom and proposed modification.
4 Modification is the hatched area there. If
5 you've ever been there, there is an actual
6 over-hang there.

7 CHAIRMAN STUTO: And that was all
8 approved as a minor subdivision.

9 MR. ANDRES: Yes

10 CHAIRMAN STUTO: And you're saying that
11 it should have been, perhaps considered
12 together, Joe?

13 MR. LACIVITA: Yes.

14 CHAIRMAN STUTO: Would that have
15 triggered major site plan review?

16 MR. LACIVITA: No. Again, based on this
17 square footage, it would be well under the
18 10,000 square foot of disturbance with it. If
19 the application for this came in with the
20 1,200 square feet which was this façade change
21 here, this all would have been minor
22 approvals.

23 CHAIRMAN STUTO: I don't have the Land
24 Use Law here, but if you look under minor site
25 plan, would this have fallen into that

1 definition?

2 MS. VAIDA: No, but the reason that it's
3 before us is that the Planning Department
4 exercised their discretion which they can do
5 to refer the minor site plan to the Planning
6 Board.

7 CHAIRMAN STUTO: You blew over my first
8 question. If this all came in under one
9 application, would it have fallen under a site
10 plan review definition? That was my initial
11 question.

12 MS. VAIDA: That's my understanding. I
13 haven't looked at that with the addition of
14 these -

15 CHAIRMAN STUTO: Assuming that it's less
16 than 10,000 square feet of disturbance.

17 MS. VAIDA: Yes.

18 CHAIRMAN STUTO: So, in a sense, it's an
19 amendment to your minor site plan. Is that a
20 fair interpretation, Elena?

21 MS. VAIDA: Right, because site plan
22 approval was originally granted for the
23 renovations and then they came back to add
24 these whatever you want to call
25 them - temporary structures, tents, trailers,

1 whatever. My issue is whether or not - if
2 we're reviewing this as an amendment to a site
3 plan, whether they have to comply with the
4 Land Use Law and what concerns me is that
5 they're being used really the same as a
6 building. They're open to the public. That's
7 where I think that I need to do a little more
8 research on that.

9 CHAIRMAN STUTO: I have no problem making
10 a motion either to approve it or stating that
11 the Board has no objection and referring it
12 back to minor site plan review to the PEDD
13 with the caveat that it complies with the Land
14 Use Law requirements. We're not looking for
15 any waivers or anything like that. Does that
16 work, or not?

17 MR. LACIVITA: Yes, if you look at the
18 recommendation sheet here on page 2, you
19 calculated all the square footages of the
20 building and the tents and everything. You're
21 under that 10,000 square feet of area
22 disturbance. It would have kept it within the
23 minor. I think that it is a different use. We
24 have people going into sales and things like
25 that. I know that you may have spoken about

1 concerns about liability issues. I think
2 that's something that we have to look at with
3 the Town Attorney's review - what type of
4 coverage may or may not be applicable. That
5 would be the only additional thing that I
6 would look into.

7 MR. NARDACCI: I agree with Peter. I
8 don't have a problem with this. It was done as
9 a minor site plan. This seems like it's a
10 modification of a minor site plan. I don't
11 know what our motion or vote is on this. We
12 haven't had this before.

13 CHAIRMAN STUTO: I would say a vote to
14 refer it back.

15 MR. NARDACCI: Perhaps it should be
16 reviewed along the same lines that you would
17 review the rest of the minor site plan
18 applications.

19 CHAIRMAN STUTO: If that doesn't cause
20 you any grief.

21 MS. VAIDA: I think that the problem
22 is - and I don't know how it's figured out
23 whether their reviewing it or we're reviewing
24 it. It's how you review it, since they are
25 temporary structures.

1 MR. ROSANO: I have an issue with not
2 having a time frame.

3 CHAIRMAN STUTO: I suggest putting a time
4 frame on it, too.

5 MR. ROSANO: Even if we have to redo it,
6 I still want from the beginning date, whenever
7 that shovel hits the ground, to the end; I
8 still want to see a time frame. We may see
9 this again in six months somewhere else.

10 CHAIRMAN STUTO: What time frame are you
11 comfortable with?

12 MR. ANDRES: 120 days.

13 MR. NARDACCI: I don't have problem with
14 it.

15 CHAIRMAN STUTO: And CO contingent upon
16 taking down the temporary structures.

17 MS. VAIDA: Are we referring it back, or
18 are we making some suggestions?

19 CHAIRMAN STUTO: I think that we're
20 making a motion to refer it back for review to
21 the PEDD - that's Joe's department - with the
22 conditions that the structures be up no longer
23 than 120 days and that CO be contingent upon
24 the removal of the temporary structures.

25 MS. VAIDA: And as far as the standards

1 for the buildings, they will be reviewed as
2 temporary structures under the Building Code
3 to make sure that they are safe.

4 CHAIRMAN STUTO: Under the New York State
5 Building Code? Whatever the applicable codes
6 are, I would say.

7 MR. ANDRES: I would say that it would be
8 done by the Building Department.

9 MS. VAIDA: The only other question that
10 I was not sure about is if it's necessary or
11 not, because this is a unique situation
12 whether some sort of temporary liability
13 policy naming the Town as an additional
14 insured during this time period should be in
15 place. I'm just a little concerned about a
16 construction site open to the public and
17 you've got a waiting room over on one side,
18 offices on the other side and people walking
19 around.

20 CHAIRMAN STUTO: What is your reaction to
21 that?

22 MR. ANDRES: Why would the Town want to
23 try to take any liability by naming themselves
24 that way? I don't understand that. It's a
25 private site.

1 CHAIRMAN STUTO: I would not be inclined
2 to go that way.

3 Do we have a motion?

4 MR. NARDACCI: I'll make the motion with
5 two conditions; 120 days and then the CO of
6 the new structure contingent upon removal.

7 MR. LANE: What about the verification of
8 the New York State Building Code?

9 MR. NARDACCI: That's the Building
10 Department.

11 CHAIRMAN STUTO: So, the motion is to
12 refer it back to the PEDD and the Building
13 Department with those conditions for review
14 and approval.

15 Do we have a second?

16 MR. MION: Second.

17 CHAIRMAN STUTO: All in favor?

18 **(Ayes were recited.)**

19 CHAIRMAN STUTO: All opposed.

20 **(There were none opposed.)**

21 CHAIRMAN STUTO: The ayes have it.

22 MR. ANDRES: Thank you, very much.

23 CHAIRMAN STUTO: Was there anyone from
24 the public that wanted to be heard on that?

25 **(There was no response.)**

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*(Whereas the proceeding concerning the above
entitled matter was adjourned at
7:52 p.m.)*

CERTIFICATION

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4 **I, NANCY STRANG-VANDEBOGART, New York**
5 **State Approved Transcriber and Notary Public**
6 **in and for the State of New York, hereby**
7 **CERTIFY that the record taped and transcribed**
8 **by me at the time and place noted in the**
9 **heading hereof is a true and accurate**
10 **transcript of same, to the best of my ability**
11 **and belief.**

12
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15 -----
16 **NANCY STRANG-VANDEBOGART**

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19 **Dated June 7, 2011**