

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PLANNING BOARD COUNTY OF ALBANY  
TOWN OF COLONIE

\*\*\*\*\*  
DUNKIN DONUTS/SUNOCO  
993 - 995 TROY-SCHENECTADY ROAD  
AMENDMENT TO FINAL APPROVAL  
\*\*\*\*\*

THE STENOGRAPHIC MINUTES of the above entitled  
matter BY NANCY STRANG-VANDEBOGART, a Shorthand  
Reporter, commencing on  
July 24, 2012 at 7:00 p.m. at the Public Operations  
Center 347 Old Niskayuna Road,  
Latham, New York 12110

BOARD MEMBERS:

PETER STUTO, CHAIRMAN  
MICHAEL SULLIVAN  
KATHY DALTON  
LOU MION  
BRIAN AUSTIN  
TIMOTHY LANE  
KAREN GOMEZ  
ELENA VAIDA, Esq., Attorney for the Planning Board

Also present:

Michael Tengeler, Planning and Economic Development  
Fred Sharifipour, Owner/Operator  
Rocky Cocca, Cocca's Motel

1                   CHAIRMAN STUTO: We'll start the meeting  
2 of the Planning Board. There is not much of a  
3 crowd here today. We have one item on the  
4 agenda. It's a light agenda.

5                   Mike, I want to ask you a question. There  
6 was a gentleman here who thought that the  
7 Jones' project was on tonight. Is there any  
8 basis for him thinking that?

9                   MR. TENGELER: No, basis. I've had  
10 meetings with Victor Caponera and we should be  
11 getting that on either on the next agenda, or  
12 the one after that. They'll soon be on.

13                   CHAIRMAN STUTO: Thank you.

14                   The meeting is called to order. The first  
15 and only project on the agenda is Dunkin  
16 Donuts/Sunoco, 993 and 995 Troy-Schenectady  
17 Road. This is an amendment to the final  
18 approval. It will be presented by the  
19 owner/operator.

20                   Mike, I'll ask you to do an introduction,  
21 if you could.

22                   MR. TENGELER: Okay, you pretty much  
23 covered it. The amendment is specific to  
24 fencing requirement that was indicated on the  
25 final set of site plans that were initially

1 approved by the Planning Board when they  
2 received final approval. Fred is here to state  
3 his case and go for an amendment on that  
4 requirement.

5 CHAIRMAN STUTO: So, the requirement was  
6 to have the combination - it looks like a  
7 wrought iron style fence with the brick  
8 pillars across the whole project, which would  
9 be the gas station and the Dunkin Donuts;  
10 correct?

11 MR. TENGELER: Yes.

12 CHAIRMAN STUTO: On the interior, as it  
13 shows from the photograph, that style fence is  
14 in front of the gas -- what is that in front  
15 of?

16 MS. DALTON: That's the gas station.

17 CHAIRMAN STUTO: I drove by it. That's  
18 what I thought. There is nothing in front of  
19 the Dunkin Donuts.

20 The new fencing, as under the approved  
21 drawings, would be closer to Route 7 than  
22 where that fence is; right? It would go all  
23 the way across?

24 MR. TENGELER: Correct.

25 CHAIRMAN STUTO: Okay, I just wanted to

1 make sure that we were clear on that.

2 We'll give the applicant an opportunity  
3 to make their case.

4 Could you state your name for the record?

5 MR. SHARIFIPOUR: Fred Sharifipour.

6 We currently have a CO. We had money in  
7 escrow for certain things that we had to do  
8 such as black top and top coat. One of the  
9 items was the fencing. We thought that it was  
10 just for the pictures, but as Mike explained  
11 to us later on, it's something that has to be  
12 done per the original site plan. That's why  
13 we're here tonight to see if we can eliminate  
14 it.

15 The reason that we want to eliminate it  
16 is because we have pretty much done everything  
17 consistent on what looks good for the business  
18 and the Town. I think that putting more  
19 pillars in the front would make the place look  
20 more cramped. We already have a small entrance  
21 going in and it would confuse drivers for the  
22 one way direction that we have coming in from  
23 the Dunkin Donuts to the gas station. We  
24 talked it over with our engineer and we think  
25 that landscaping that all the way across would

1 look much better than putting up more of these  
2 massive pillars and metal fences. What we put  
3 up already was plenty enough and it already  
4 blocks the site. Our canopy is in the back and  
5 we didn't want to do the colorful Sunoco  
6 graphics and all that. It already blocks the  
7 site quite a bit, especially with the  
8 convenient store up front. We just really feel  
9 that it would look much better in that small  
10 area with continuous landscaping then putting  
11 in these big pillars.

12 CHAIRMAN STUTO: Is there anyone from the  
13 public who would like to speak?

14 MR. COCCA: I'm Rocky Cocca. I'm not  
15 really opposed to the landscaping plan, as far  
16 as the pillars go. I think that what the Town  
17 is trying to do is fine. Somebody is going to  
18 be developing that property if I sell it. My  
19 concern is the landscaping issue where the two  
20 properties meet. The Sunoco got raised up a  
21 little bit and we have water that is coming  
22 off onto our property which is supposedly  
23 supposed to be a swale there, I believe. I  
24 don't know. I really never looked at the  
25 landscaping plan.

1                   CHAIRMAN STUTO: He's got the drawings  
2 there. Do you want to take a second to look at  
3 those?

4                   MR. COCCA: I just want to show you  
5 what's happening to the property. When it  
6 doesn't catch the water, we're going to have  
7 to do a repair. Dunkin Donuts is doing the  
8 repair, but I don't want them to do the repair  
9 and then have the water come back. It wouldn't  
10 be worth it. They did do work today on the  
11 swale to catch some of the water.

12                  MR. LANE: So, this is your property?

13                  MR. COCCA: Yes. Today, they did do some  
14 relieving of it. These pictures aren't that  
15 good. I do truly believe that they will take  
16 care of it and go after the contractor, but I  
17 think that they need to have it on the record  
18 that we had a landscaping issue with the  
19 water.

20                  MR. TENGELER: It's not listed in the  
21 plans, but I did have that conversation from  
22 Adam Wands and there are certain standards  
23 that he wants the Sunoco site to abide by.

24                  CHAIRMAN STUTO: So far it's not there?

25                  MR. TENGELER: So far it's not there.

1 Work has been done and I haven't talked to  
2 Adam today. I talked to him yesterday. As far  
3 as I'm concerned, as soon as we get a sign-off  
4 from Adam that says we're satisfied with the  
5 way that this is pitched and the way that this  
6 is draining -

7 CHAIRMAN STUTO: They're supposed to be a  
8 swale between the properties?

9 MR. COCCA: I have no idea.

10 MR. TENGELER: I was told that there is a  
11 swale that's supposed to be there.

12 CHAIRMAN STUTO: To direct the water in  
13 which direction? To the rear of the property  
14 or to the front?

15 MR. COCCA: There is a culvert. They  
16 built a culvert where we connect. They built a  
17 culvert that went underneath it. There is a  
18 pond back there and they do have half of it  
19 coming, but the other half -- I don't think  
20 that it's a big fix. I think that it's a  
21 little earth -

22 CHAIRMAN STUTO: Do you understand the  
23 problem?

24 MR. SHARIFIPOUR: Yes. I've been over it  
25 with Rocky. What happened is we went according

1 to the blueprints with our engineers and we  
2 completed it. That's what we completed. That's  
3 why we got a CO. Unfortunately, there are  
4 minor little details. Sometimes you have  
5 standing water someplace that nobody is aware  
6 of. There is some standing water and Adam  
7 wanted us to have our landscaper put in a  
8 little but more dirt, which we did today.

9 MR. COCCA: I don't think that's the  
10 answer. I think that it's an answer right  
11 there. If we can get the water to that swale -

12 MR. SHARIFIPOUR: The swale that's on the  
13 blueprints is there. We hired a contractor and  
14 we hired an engineer. The Town Engineer came  
15 and looked at every corner, and I mean every  
16 corner. He made us dig in many places. We paid  
17 the contractor and paid our engineer. We've  
18 paid thousands of dollars to the Town Engineer  
19 and done exactly what they wanted us to do on  
20 the premises. There is a little bit of  
21 standing water in the middle of that space. We  
22 will do whatever we can to move that water  
23 out. We did everything according to the  
24 prints.

25 MR. TENGELER: There are certain



1 elevations that would indicate that it would  
2 pitch it to the back of the property.

3 CHAIRMAN STUTO: Who was the Town  
4 official?

5 MR. TENGELER: Adam Wands; he's the  
6 Stormwater Inspector.

7 CHAIRMAN STUTO: What did he say?

8 MR. TENGELER: He wanted to see some  
9 extra work done to pitch it better and make  
10 better flow.

11 MR. SHARIFIPOUR: We hired another  
12 landscaper because our contractor thought that  
13 he did everything that was on the prints  
14 correctly. He didn't want to do it, so we  
15 hired another landscaper contractor to do what  
16 Adam asked him to do and Adam explained what  
17 needed to be done and he did it. I think that  
18 Adam was there yesterday.

19 CHAIRMAN STUTO: We don't have the  
20 benefit of having Adam here.

21 Mr. Cocca, you don't think that it was  
22 done properly to channel water as it currently  
23 exists right now?

24 MR. COCCA: I don't. I don't know about  
25 the work that was done today. It's too early

1 to tell, but in my opinion the way that the  
2 water is coming off and the way that it's  
3 built there, I don't think so.

4 I actually talked to your landscaper  
5 today. He might have done the work that Adam  
6 asked him to do, but they did not think that  
7 it was going to catch that water. They were  
8 the ones that said that it wouldn't be a big  
9 deal and try to bring in some earth and just  
10 create a little bank because the water got a  
11 little higher. This might not have been  
12 foreseen. This is not Dunkin Donuts' fault. I  
13 just don't want to sign off on this and me  
14 have to pay the bill to fix it.

15 CHAIRMAN STUTO: Mike, do you have any  
16 suggestions?

17 MR. TENGELER: Yes, the Planning Board  
18 can make as a condition of approval that the  
19 Stormwater Department is satisfied with the  
20 way that the swale is draining and is pitched  
21 as a condition of this approval.

22 MR. SHARIFIPOUR: We already have our CO.  
23 We have it for the pillars. We're going to do  
24 whatever we have to do to satisfy any problem  
25 there.

1                   CHAIRMAN STUTO: Okay, let's leave the  
2 drainage issue aside.

3                   Anybody want to ask questions or have an  
4 opinion on the fencing?

5                   MS. DALTON: I think that it looks fine  
6 the way that it is. I think that if we had to  
7 do this all over again, I would have made it  
8 bigger. There isn't enough parking there.  
9 That's all hindsight.

10                  MR. MION: I think that you have a valid  
11 point when you say there's no room to move  
12 around there. I've sat there - I go there  
13 often and the slanted parking -- I've sat  
14 there and watched them back out and go onto  
15 the road against the traffic. I guess I would  
16 agree with Kathy that it should have been made  
17 a little bit bigger.

18                  CHAIRMAN STUTO: I like the fencing  
19 better. I think that it's visually better. I  
20 have gotten comments from the elected  
21 officials - for example the Stewarts. It gives  
22 a little bit more definition to these  
23 properties.

24                  The one compromise that I would make  
25 since you already have the fencing in front of

1 the one building -- the fencing is now in  
2 front although it was in a different  
3 dimension. It's closer to the building. You do  
4 have it in front of the gas station. My  
5 personal opinion would be to run it along the  
6 Dunkin Donuts and sort of line it up with the  
7 other fencing. That's the end of my statement.

8 MR. LANE: There was a comment by  
9 Planning that these parcels were going to be  
10 merged?

11 MR. TENGELER: Correct. Part of the  
12 initial approval by Mike Lyons, the Senior  
13 Planner, was that the parcels had to be merged  
14 and merging had to be finalized and on record  
15 with Planning and Economic Development as  
16 well. The business had a liquor license before  
17 the full CO was issued. I talked to the  
18 applicant who said that it was in the process  
19 of being merged, but we have not yet received  
20 confirmation yet in our department.

21 CHAIRMAN STUTO: Do you want the  
22 applicant to address that?

23 MR. SHARIFIPOUR: I actually had our  
24 attorney contact Mike Lyons directly and they  
25 were in contact and were working on it.

1 CHAIRMAN STUTO: Which attorney was that?

2 MR. SHARIFIPOUR: The last name is  
3 Brustoff.

4 MR. LANE: Are they supposed to give you  
5 a time frame?

6 MR. SHARIFIPOUR: No, but he contacted  
7 Mike directly. I saw Mike last week and  
8 discussed it.

9 MR. LANE: If we gave you approval on  
10 this alternative to do the landscaping rather  
11 than the fencing, will you be in a bind as far  
12 as time, or is that not an issue? We're saying  
13 okay, we'll condition the landscaping as  
14 opposed to the fence contingent on the merging  
15 of the properties.

16 CHAIRMAN STUTO: You said that the merger  
17 is already being initiated.

18 MR. SHARIFIPOUR: The merger is already  
19 happening. It's not already done.

20 MR. LANE: Does this come down to a cost  
21 issue?

22 MR. SHARIFIPOUR: Not at all. It's a  
23 function issue. On paper everything looks fine  
24 but when they go up, it's a different story.  
25 When they put up the pillars and the fencing

1 in front of the convenient store, they're  
2 pretty massive. It's okay there because that  
3 way people know that there is a driveway in  
4 front of it. If we put pillars in front of it,  
5 I don't think that anybody will know that  
6 there is a driveway in front of it because of  
7 the confusion of going in and out.

8 I have a picture of the front  
9 landscaping. It's on the last page. It would  
10 go down -- our engineer defined the layout.

11 MR. LANE: I'm fine with that as long as  
12 it's a function issue, as opposed to a cost  
13 issue.

14 MR. SHARIFIPOUR: No, as a matter of  
15 fact, I think that we've already paid for the  
16 fencing up front. We paid for it as part of  
17 our site package.

18 MS. DALTON: If you look at this picture,  
19 you can see that this is coming up from here  
20 and that's going vertically (Indicating). If  
21 you continued that -

22 CHAIRMAN STUTO: Going perpendicular to  
23 Route 7?

24 MS. DALTON: Yes, and that if you bring  
25 it across, I think that it creates the

1 illusion that Dunkin Donuts is a separate  
2 parcel. It exacerbates the feeling that it's a  
3 separate parcel instead of giving that  
4 contiguous feel that the whole design is  
5 intended to create.

6 CHAIRMAN STUTO: You're saying that my  
7 proposed compromise is confusing?

8 MS. DALTON: The thing that would make  
9 sense if you wanted to do it would be to  
10 extend this perpendicular to come out here  
11 (Indicating).

12 CHAIRMAN STUTO: I'm not following you,  
13 to be honest with you.

14 MS. DALTON: It's a visual illusion that  
15 you would create if you continue this  
16 perpendicular -

17 CHAIRMAN STUTO: I'm not suggesting that.  
18 I'm suggesting to continue the parallel fence.

19 MS. DALTON: I just think that it would  
20 look a little strange. You'd have fence and  
21 then you'd have nothing and then you'd have  
22 more fence on this side. Plus, in either case,  
23 you obscure the ability of people on Route 7  
24 to see that this is one continuous road and  
25 that they can turn in here -

1                   CHAIRMAN STUTO: No one will see an  
2 internal road.

3                   MS. DALTON: That's right because you're  
4 blocking that. The fact that this whole thing  
5 was designed to be a contiguous turn -

6                   CHAIRMAN STUTO: I understand. I don't  
7 know if I necessarily agree, but I understand.

8                   My argument would be that you have a  
9 continuation of the existing fence across the  
10 whole property; but we can disagree on it. I  
11 would like to see a partial fence in front.

12                  MR. LANE: If he puts that in, wouldn't  
13 that be raising it?

14                  MS. DALTON: It's not that raised right  
15 now.

16                  MR. AUSTIN: I like the fence as it is  
17 because it creates a little park like area  
18 where people can be at tables.

19                  MR. SHARIFIPOUR: The fence defines the  
20 blacktop. Any more up front - it would just be  
21 in the way. I talked to the guys at Midas and  
22 the Fire Station -

23                  CHAIRMAN STUTO: What do the Board  
24 Members think about making this revision and  
25 also making a condition that he complies with



1 the suggestions of our Stormwater Department?

2 Do you have any strenuous objections to  
3 that?

4 MR. SHARIFIPOUR: Not at all. It's not  
5 only a hassle for Rocky, but it's more hassle  
6 for us.

7 CHAIRMAN STUTO: So, if I understand the  
8 Board, I'll phrase the motion if somebody  
9 wants to make it.

10 That we agree to the amendment of the  
11 site plan as suggested by the applicant, but  
12 that we add the additional condition that the  
13 applicant comply with our Stormwater  
14 Department with respect to diverting the water  
15 to the swale that they're working on now,  
16 notwithstanding that it may not be explicitly  
17 in the current plans.

18 MS. DALTON: Also that they comply with  
19 the Planning Department.

20 MR. MION: I'll make a motion.

21 MS. DALTON: I'll second that.

22 CHAIRMAN STUTO: All those in favor?

23 MS. DALTON: Aye.

24 MR. MION: Aye.

25 MR. AUSTIN: Aye.

1 MR. SULLIVAN: Aye.

2 MS. GOMEZ: Aye.

3 MR. LANE: Aye.

4 CHAIRMAN STUTO: I want to be recorded as  
5 no because I wanted the fence to be continued.

6 Our stormwater people should be working  
7 on this.

8 We'll put these pictures in for the  
9 record.

10

11 ***(Whereas the above entitled proceeding***  
12 ***was concluded at 7:23 p.m.)***

13

14

15

16

17

18

19

20

21

22

23

24

25

**CERTIFICATION**

1  
2  
3  
4            *I, NANCY STRANG-VANDEBOGART, Short hand*  
5            *reporter and Notary Public in and for the*  
6            *State of New York, hereby CERTIFY that the*  
7            *record taken by me at the time and place*  
8            *noted in the heading hereof is a true and*  
9            *accurate transcript of same, to the best of*  
10           *my ability and belief.*

11  
12  
13  
14            \_\_\_\_\_  
                  **NANCY STRANG-VANDEBOGART**

15  
16  
17            ***Dated August 12, 2012***