

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 \*\*\*\*\*

4 SUPER AUTO CARE  
5 2067 CENTRAL AVENUE  
6 APPLICATION FOR WAIVER REQUEST

7 \*\*\*\*\*

8 THE STENOGRAPHIC MINUTES of the above entitled  
9 matter by NANCY STRANG-VANDEBOGART, a Shorthand  
10 Reporter, commencing on December 2, 2014 at 7:06  
11 p.m. at The Public Operations Center, 347 Old  
12 Niskayuna Road, Latham, New York

11 BOARD MEMBERS:  
12 PETER STUTO, CHAIRMAN  
13 TIMOTHY LANE  
14 LOU MION  
15 KATHY DALTON  
16 TIMOTHY LANE  
17 CRAIG SHAMLIAN

18 ALSO PRESENT:

19 Kathleen Marinelli, Esq., Counsel to the Planning Board  
20 Michael Tengeler, Planning and Economic Development  
21 Nia Cholakis, Esq., VP Rosetti Development Companies  
22 Jaafir Khan, Super Auto Care

23  
24  
25

1           CHAIRMAN STUTO: Okay, next is Super Auto Care,  
2           2067 Central Avenue. This is an application for waiver  
3           request.

4           Mike, can you give an introduction to this one?  
5           We had them on the agenda and then we pulled it,  
6           which was a little bit unusual.

7           MR. TENGELER: Yes, they worked out some issues.  
8           There are two easements presently on the property. The  
9           last time that they came in we thought that possibly  
10          there might be a better design that would cause less  
11          confusion with the neighbors. The applicant, Jaafir  
12          Khan, has agreed to that and has brought in a redesign  
13          of the plan that we feel is a better design overall than  
14          what was there before.

15          Jaafir is the owner/operator of Super Auto  
16          Care.

17          MR. KHAN: My name is Jaafir Khan. This is  
18          basically a new design that we're working on to try to  
19          get the parking extensions.

20          MR. TENGELER: If you open up your package you'll  
21          find the site plan in there that has pre and post  
22          development. It shows exactly what they are going for.  
23          There are two waivers being requested tonight. It would  
24          be to allow parking within a front yard setback of the  
25          building as well as having pavement closer than 15 feet

1 to the road.

2 CHAIRMAN STUTO: If there are members of the public  
3 that want to sign up to speak on this, there is a  
4 sign-in sheet right there (Indicating).

5 We'll open it up to the Board for comments and  
6 questions. We may have somebody that wants to speak  
7 on this as well.

8 MR. MION: Based on this, I assume that there are  
9 already some trees there. There are places where there  
10 are not. Are you planning on planting some trees there?

11 MR. KHAN: The neighbor behind me actually cut  
12 those trees down and it's my understanding that they had  
13 permission from the Town. I don't know if they did or  
14 didn't.

15 MR. LANE: You said that's not actually your lot,  
16 though. Those trees weren't on your lot?

17 MR. KHAN: No, they were on my lot.

18 MR. LANE: They cut down trees on your lot?

19 MR. KHAN: Yes.

20 MR. LANE: With the Town's permission?

21 MR. KHAN: That's what he claims.

22 MR. LANE: Did he have yours?

23 MR. KHAN: The trees were mine. They were on my  
24 lot.

25 MR. TENGELER: The Town is going to require that

1 those trees get replaced with this approval.

2 MS. DALTON: From the applicant or someone else?

3 MR. TENGELER: They have to be replaced by the time  
4 that Jaafid gets his CO; whether it's by him or by the  
5 neighbors, that's something that he'll take up.

6 MR. AUSTIN: If he didn't cut them down then why  
7 should he have to?

8 MR. LANE: I hope that you can work this out with  
9 your neighbor.

10 MR. KHAN: I hope so, too.

11 CHAIRMAN STUTO: Are the trees important to us?

12 MR. TENGELER: They're shown on the site plan and  
13 we'd like to see them there. They were part of a  
14 previous approval. I know how some Board Members feel  
15 about trees being close to the road and I know how other  
16 Board Members feel. We'd like to see them there.  
17 Granted, they're not going to be 20-feet tall or what  
18 they were but over time they will be. We're fine with  
19 that.

20 CHAIRMAN STUTO: So, you'll put the trees back if  
21 your neighbor doesn't.

22 MR. KHAN: I mean, if I have to I will.

23 CHAIRMAN STUTO: That's what he's recommending.

24 MR. KHAN: Yes, but I'm going to ask him to do so  
25 because he's the one that's cutting them down.

1           CHAIRMAN STUTO:  Anyone have any issues with the  
2 layout of the waivers that they want to get out?

3           (There was no response.)

4           Is there anyone aside from Nia Cholakis who  
5 wants to speak on this?  I saw her just stand up.

6           (There was no response.)

7           You have the floor.

8           MS. CHOLAKIS:  Good evening.  My name is Nia  
9 Cholakis and I'm Vice President of Rosetti Development  
10 Companies and I'm here to speak on the application that  
11 is pending currently before the Board.

12           I just want to explain why I'm here.  Rosetti  
13 Development Companies owns the property which is  
14 immediately to the north of the applicant's  
15 property.  We purchased a 56,000 square foot  
16 warehouse and retail facility earlier this year.  
17 We're in the process of renovating and doing some  
18 significant renovations to that building.

19           You'll see the first two photos in your packet  
20 and you'll see a rendering of what we are doing at  
21 that building at 2053 Central Avenue, also known as  
22 20 Atwood.

23           The second picture was a current picture that  
24 was taken, I think, today or yesterday showing the  
25 facade renovations being done.  We also did some

1 significant interior renovations to one of the  
2 spaces and working on some other renovations to the  
3 spaces as well. We also purchased the property  
4 located at 2069 Central Avenue which is to the  
5 immediate west of both this property and Mr. Khan's  
6 property.

7 I also want to note that there is parking and  
8 access easement that we possess that is located  
9 also, I believe, in your packet but it's also  
10 located on the board by way of a red crosshatch.  
11 It's this area at the northern portion of the site  
12 which allows us access from both the west and the  
13 east as well as the parking in this vicinity. The  
14 other crosshatch area is the Town's sewer easement.

15 I just want everyone to make sure that everyone  
16 is aware of all the facts.

17 We do have some concerns with respect to the  
18 site plan. Obviously, Mr. Khan is free to operate a  
19 business to the extent that he can. Obviously, the  
20 site does have a lot of side limitations but I  
21 wanted to make notice of things. I apologize for  
22 not being here for his presentation, so I don't know  
23 if any of these were addressed so I'm going to go  
24 over them.

25 There does not appear at the site or on the

1 site plan to be a dumpster enclosure. You'll also  
2 notice in your packet photos 3, 4 and 5 - there is  
3 excessive trash on the north and west sides of the  
4 buildings which I think need attention. There does  
5 not appear on the site plan or at the site itself  
6 any handicapped parking spaces. Mr. Khan appears to  
7 have painted two of the elevations and the other two  
8 elevations - the rear and the north side have not  
9 been painted. As I said, we are investing a lot of  
10 money in our projects and we're just looking to the  
11 extent that he is doing some work there which is  
12 great and we appreciate that, we are looking to have  
13 it upgraded as well.

14 CHAIRMAN STUTO: You said that he painted his  
15 buildings - is that what you're saying?

16 MS. CHOLAKIS: The lot appears to have been  
17 recently paved. When we were there back in October  
18 meeting with Mr. Khan about this, as this was a matter  
19 pending before the Planning Board back in October and  
20 that it was withdrawn and then adjourned to today, we  
21 had taken an opportunity to meet with Mr. Khan over the  
22 project and try to make sure that we were all on the  
23 same page and we were aware at that time back in October  
24 that there were several concrete pads with access  
25 manways that were physically on site at the time that we

1           were there back in October. That lot has now recently  
2           been paved. Those manways are now covered over. The  
3           significance of that is that this property, as you're  
4           probably aware, was originally used as a gas station and  
5           as a result, we believe that the manways were still  
6           there that the underground storage tanks are still in  
7           the ground. There are a couple of photos in your packet  
8           that were taken back in October which have red  
9           rectangular shaped over them which show where the  
10          concrete manways were that are no longer there. So, we  
11          are not certain or have no idea whether or not the  
12          current owner did any kind of environmental assessment,  
13          did any kind of Phase II to know whether or not they  
14          were there, whether or not there are any contamination  
15          issues to the extent that there may be contamination  
16          issues, we are somewhat down-gradient of his property  
17          and it could be impacted by that.

18                 MR. LANE: Did you own it when it was a gas  
19                 station?

20                 MS. CHOLAKIS: He did not.

21                 MR. LANE: Then why is he responsible for that?

22                 MS. CHOLAKIS: Because now he's the owner and the  
23                 operator.

24                 MR. LANE: And all he did was pave over it, right?

25                 MS. CHOLAKIS: Right, but he's now the owner of the

1 property so legally he's obligated if there is any  
2 contamination -

3 MR. LANE: He's not using it as a gas station.

4 MS. CHOLAKIS: It doesn't matter.

5 MS. DALTON: It doesn't; she's right.

6 MR. SHAMLIAN: That's assuming that there is  
7 contamination.

8 MS. CHOLAKIS: That's assuming. I don't know.  
9 We're presuming that those tanks are still there because  
10 if they were taken out they would have taken those  
11 concrete pads out. The only reason that you have those  
12 concrete pads there is so that the gas tanker can come  
13 in and fill the tanks with gas. If they had taken them  
14 out they would have taken the pads with them.

15 As far as the parking spaces are concerned, I  
16 believe that there are three photos in your packet  
17 from today or yesterday and also I have some  
18 additional photos that I'm going to show you in a  
19 second. It looks as though that the proposed 10  
20 parking spaces that are parallel to Central Avenue  
21 may pose a safety risk because you have a public  
22 walkway there. You have a public sidewalk there for  
23 pedestrians and it looks like it's fairly close and  
24 abutting that.

25 There were also 11 cars today parked in that

1 area which is curious to me because I understand  
2 again that the area has been recently paved but it's  
3 also my understanding that the grassy areas were not  
4 supposed to have been paved until this Board makes a  
5 determination on the application and it appears, if  
6 you look at the pictures of the parking - the 10, 11  
7 or thereabouts cars that are parked parallel to  
8 Central Avenue and then you look at these photos  
9 that were taken back in October, this area is in a  
10 curved area. If you look at those photos everything  
11 is straight across. It appears to me that this  
12 grass area has already been paved over. These are  
13 again, just additional pictures that were taken back  
14 in October to show the property at the time. These  
15 are just photos of our renovation work at the stage  
16 that it was done back in October. The pictures that  
17 you have are updated. Those are photos from  
18 yesterday or today.

19 In addition, the photos that you have there of  
20 the site plan, there are three parallel parking  
21 spaces which are adjacent to the northerly side of  
22 the building and it does not look as though those  
23 are being used for that. They are being used for  
24 people parking north and south as opposed to east  
25 and west. In addition there is also parking in

1 those photos that show vehicles being parked in the  
2 north/south position to the left hand side of the  
3 building or the more southerly/westerly side of the  
4 building.

5 I know that we've had some discussions with  
6 both Mr. Khan as well as the planning Department as  
7 to the easement that we have. The easement is for  
8 access and parking. What is being proposed on this  
9 site plan -- I don't want it to be misleading. The  
10 site plan indicates that there are display parking  
11 and customer parking in our easement area which  
12 would interfere with our use of the easement. Our  
13 easement allows us to park there and allows us to  
14 traverse in that area. Display parking doesn't go  
15 anywhere. Display parking, at a minimum that  
16 display parking is interfering with our easement.  
17 Mr. Khan really can't do anything to obstruct our  
18 access easement.

19 The last thing that I have is that I'm questioning  
20 the access. Again, I don't know whether that was  
21 discussed before I got here but they have two access  
22 points. They have an access on Central Avenue; full  
23 unrestricted access on Central Avenue and they also  
24 have full-access on Atwood. I'm curious to know why  
25 they Town and DOT have permitted to agree full

1 access from Central Avenue when he has unrestricted  
2 access from Atwood. It appears that the standards  
3 are not being consistent when he applied in the town  
4 and I'm not sure why that was permitted when it  
5 violates good access management policies.

6 Thank you for your attention.

7 CHAIRMAN STUTO: I would like to give some time to  
8 the issues that you raised.

9 Mike, I made some notes but -- can you respond?

10 MR. TENGELER: Absolutely, yes. First off, the  
11 dumpster enclosure - the dumpster in general - when  
12 Jaafir came to us originally we posed a question of the  
13 dumpster and we were told that residential trash pick up  
14 was going to be used. Obviously the pictures that e has  
15 provided - we need to get a full dumpster enclosure back  
16 there. The pictures speak for themselves.

17 As far as handicapped parking, the site plan  
18 does show a handicapped parking space. We are going  
19 to require an access aisle next to the space meeting  
20 the requirements that we show on the final site  
21 plan.

22 CHAIRMAN STUTO: Where is the handicapped parking?

23 MR. TENGELER: To the left of the building.

24 Jaafir, you're not going to be able to park  
25 cars on that handicapped area.

1 MR. KHAN: No because we just paved it -

2 MR. TENGELER: That's something that has to be met.

3 So, that will have an access aisle and  
4 handicapped parking which is shown on the plan but  
5 he'll have to get an access aisle as well.

6 As far as painting the other sides of the  
7 building, the Town Code says that the front of the  
8 building should look presentable -

9 MR. KHAN: In fact, my whole building is painted  
10 all the way around. In the front I did different paint  
11 on the top of it. The rest of the building is the same  
12 color. The entire building has been painted.

13 CHAIRMAN STUTO: When did you paint it?

14 MR. KHAN: It was a while ago.

15 CHAIRMAN STUTO: Do you know what the date of the  
16 pictures were?

17 MR. KHAN: Those are all the same color as the  
18 front. The front has the maroon dark color at the top,  
19 but the entire building is painted.

20 MR. TENGELER: So, this maroon - is that here now?

21 MR. KHAN: Yes, it's on one side of the blue and  
22 the other sides are the same.

23 MR. LANE: Can you address the garbage issue?

24 MR. KHAN: The only reason that I have a garbage  
25 issue is I ordered the dumpster because I want to get

1           rid of all the things that I have. We don't have a lot  
2           of trash. We have one or two cans for the week. The  
3           only reason that I have it there is because I want to  
4           get rid of all the trash that we have on the side. Most  
5           of the stuff I can put inside the garage and whatever I  
6           don't need we can use the dumpster to get rid of it.

7           MR. LANE: Do you have a time plan for this because  
8           you're coming up on the winter months?

9           MR. KHAN: I was trying to get this a couple of  
10          months ago and it didn't work out well.

11          MR. LANE: Can you give us a day that you can get  
12          this done?

13          MR. KHAN: I can get everything done in maybe a  
14          month at the most.

15          CHAIRMAN STUTO: Are you saying that those are good  
16          materials, or is it garbage?

17          MR. KHAN: No, the tires are good material.  
18          They're going to go back inside the building and I can  
19          put them on the rack. There is no other trash other  
20          than a couple of things that I have that I really need.  
21          I'll sell those or find storage for it. Other than  
22          that, there is no other trash outside.

23          MR. LANE: Let's be good neighbors and try to get  
24          that squared away.

25          MR. KHAN: If I want to keep the dumpster maybe

1 I'll talk to you and then we'll talk about that.

2 MR. TENGELER: As far as the proximity to Central  
3 Avenue - you'll notice in your packets that this has  
4 been sent to Albany County who had no comments.  
5 Additionally when we sent it to Albany County, it was  
6 with this previous proposal. They actually had cars  
7 three feet from the property line. That coupled with  
8 the fact that the county had no issues - we felt to keep  
9 it the same. The use is the same and it's not uncommon  
10 to keep the same standards that were there. There is no  
11 accident reports that we have a record of over there.  
12 There is really no pressing emergency for us to do so.

13 CHAIRMAN STUTO: Have the curb cuts changed?

14 MR. TENGELER: Not to my understanding; no.

15 MR. KHAN: The curb cuts are exactly the same way  
16 that they were 60 years ago.

17 MR. LANE: Can you address the easement issue and  
18 having the parked cars there? How does that work on the  
19 he easement issue?

20 MR. TENGELER: I went through the easement  
21 agreement that's in everyone's packets as well. I  
22 didn't see the words exclusive in there. However, that  
23 could be argumentative if that's required. I would  
24 probably defer to Kathleen on this; our Board Counsel.

25 MS. MARINELLI: I would have to look into that.

1           MR. KHAN: I spoke to my attorney and I looked at  
2 the easement. Basically, they have the right to park  
3 there. It's still my property and I'm the owner of the  
4 property.

5           MS. MARINELLI: The easement issue is something  
6 that the Planning Board isn't involved in. That's  
7 really between you and the other party. I don't think  
8 that we should really get into that, Peter, at this  
9 point.

10          MR. TENGELER: That's everything that I had.

11          CHAIRMAN STUTO: Does the Board want to react to  
12 any more of that?

13          MS. MARINELLI: I think that we should consider the  
14 issue about the storage tanks. I think that's worrisome  
15 that there might be storage tanks.

16          MR. LANE: There are plenty of places in the Town  
17 that have that.

18          MS. DALTON: My understanding is that there is  
19 significant federal law with regard to these types of  
20 situations. Is that accurate?

21          MR. LANE: If a leak is found.

22          MS. DALTON: No, actually if anyone is aware of the  
23 fact that it's there, there is liability based on --

24          CHAIRMAN STUTO: I'm going to ask Nia if she knows  
25 anything. We can either challenge it or agree with it.

1           What is your knowledge of the environmental  
2           legal requirements with respect to this sort of  
3           situation?

4           MS. CHOLAKIS: I don't really have much to add. I  
5           don't know but I would presume that the knowledge of  
6           them, in and of itself, and the unresolved -- I mean we  
7           tried to look at DEC and it's unresolved which means  
8           that somebody dropped the ball. It appears to us that  
9           way.

10          CHAIRMAN STUTO: You're saying that there is  
11          something on record about something that's been  
12          unresolved?

13          MS. CHOLAKIS: That is my understanding; yes.

14          CHAIRMAN STUTO: What is your understanding based  
15          upon?

16          MS. CHOLAKIS: Based upon the fact that we had an  
17          environmental assessment done when we purchased our  
18          property and that there were initial records on file  
19          with DEC and it does not appear as though those tanks  
20          were removed.

21          CHAIRMAN STUTO: When you did your environmental,  
22          you saw records of his tanks existing there?

23          MS. CHOLAKIS: Basically when you're doing a Phase  
24          I there is a ring around the property and you do  
25          whatever is within, say, a mile or two miles, up-gradient

1 and down-gradient. It appears as though that is an  
2 unresolved matter with DEC.

3 CHAIRMAN STUTO: Why do you say unresolved?

4 MS. CHOLAKIS: Because it doesn't appear as though  
5 the tanks were removed.

6 CHAIRMAN STUTO: Are you saying that it's a  
7 requirement that they be removed?

8 MS. CHOLAKIS: If they're not abandoned correctly,  
9 then yes.

10 MR. LANE: Are you saying that -

11 MS. CHOLAKIS: There is no record.

12 MS. DALTON: So, the current record says that they  
13 are still there and that they're still operational,  
14 because there is no record that says otherwise; is that  
15 correct?

16 MS. CHOLAKIS: It doesn't say that they're  
17 operational. It just doesn't say that they were removed  
18 or that they were abandoned in place properly.

19 MS. DALTON: But they are there and they are  
20 exactly as they were when they were operational. Is  
21 that what the record says?

22 MS. CHOLAKIS: The record is very unclear as to the  
23 status because they haven't been used for a while.

24 MS. DALTON: I'm asking you a specific question.  
25 It can't be unclear. It may or may not be true, but the

1 record says something right now. It either says that  
2 they were there and there is nothing to indicate that  
3 anything has happened other than they were there and  
4 that they were operational, or it says that something  
5 happened to change that status. It can be silent.

6 MS. CHOLAKIS: Basically, what it says is that they  
7 were in operation and then they were no longer in  
8 operation. And that's all that I'm aware of.

9 MS. DALTON: That's the answer.

10 CHAIRMAN STUTO: We'll let the applicant respond to  
11 that to the extent that he knows.

12 MR. KHAN: As far as I know and before I bought the  
13 property I looked at the DEC records and there was a  
14 report with the county. They were removed back in 1989,  
15 and as for those pads -

16 CHAIRMAN STUTO: You're saying that the tanks were  
17 removed in 89?

18 MR. KHAN: Correct.

19 CHAIRMAN STUTO: What are you basing that statement  
20 on?

21 MR. KHAN: That's based on the DCC report that I  
22 was given from the county that's still in the county  
23 file.

24 MR. LANE: When you bought the property they had  
25 been removed.

1 MR. KHAN: Correct.

2 CHAIRMAN STUTO: Do you have a copy of that letter?

3 MR. KHAN: I don't have a copy of it with me. I  
4 didn't know that this was even going to be an issue.

5 MR. LANE: How many years had it been since the  
6 property operated as a gas station?

7 MR. KHAN: It was way before 89.

8 Also on the pad that you mentioned, that's  
9 where the dispensers were and they took the  
10 dispenser out but they never broke the pad. There  
11 is no reasons to break those pads. They were on the  
12 front, if you noticed, on the pictures. There was  
13 nothing underneath it. When you take the dispenser,  
14 the only thing that is left behind - when you pull  
15 out the electric and all that, that's what's left.  
16 When I paved it I was trying to wait to pave the  
17 parking to get this waiver, but the wintertime was  
18 coming and the plants were about to shut down and  
19 nobody was going to do the paving and that's the  
20 reason why I paved it and I paved only what was  
21 there before. I didn't pave over any grass or  
22 anything like that. The only reason that I paved,  
23 the parking lot wss it looked very messy and I was  
24 trying to clean it up and make it look nice and  
25 clean. That's where we stand on that.

1           CHAIRMAN STUTO: Can you provide our department  
2 with a copy of the DEC report that the tanks were  
3 properly removed?

4           MR. KHAN: Sure, I can get you a copy from the  
5 county.

6           CHAIRMAN STUTO: Do you have anything to add,  
7 Kathleen?

8           MS. MARINELLI: No.

9           CHAIRMAN STUTO: Do you think that we're okay to go  
10 forward?

11          MS. MARINELLI: Yes, I do.

12          CHAIRMAN STUTO: Anything else from the Board?

13          MS. DALTON: I have questions about the difference  
14 between what was in our packet. It looks like there is  
15 plenty of room to do what you are requesting and the  
16 picture that Ms. Cholakis just provided which was like  
17 you had already gotten the waiver and you have a row of  
18 cars right in front.

19          MR. KHAN: No, I just parked those cars there  
20 because when we had the snowstorm -- and I had room, but  
21 there is no parking there. I requested 16 off of  
22 Central Avenue. That's what we are requesting. I  
23 didn't measure, but I think that it's about 20 or 23  
24 feet that is still out there. That's why I'm requesting  
25 to go straight out to the dotted line right here

1 (Indicating). The dotted line where that is right now -  
2 I'm requesting this extension right here so that I can  
3 park father and display my inventory.

4 MR. MION: Based on what these pictures are, they  
5 are deceiving. They don't show the actual depth of  
6 the -

7 MR. KHAN: You could go there yourself and see.

8 MR. MION: If you're on-site there you could see.  
9 The pictures that are showing this part are on the  
10 present asphalt of which he wants to put another row in  
11 front of that. There is more than enough room to do  
12 that with, based on the waivers. Like I said, these  
13 pictures are very deceiving.

14 MR. KHAN: If you're physically there and have  
15 looked at it, you can understand what I want to do.

16 MS. DALTON: I have another question with regard to  
17 greenspace. Is this greenspace requirement meeting the  
18 amount?

19 MR. TENGELER: It's noted on the site plan, Kathy.  
20 It's 35.1 percent that's being met. The minimum  
21 greenspace is 35 percent. Part of the reason for him  
22 stealing that additional three feet was for him to be  
23 able to meet that 35 percent.

24 MS. DALTON: So, with the waivers he still meets  
25 the greenspace.

1 MR. TENGELER: He still meets it. He's not  
2 requesting any waiver from the greenspace.

3 CHAIRMAN STUTO: Is he encroaching upon this other  
4 easement?

5 MR. TENGELER: Yes.

6 CHAIRMAN STUTO: And what is the agreement there?

7 MR. TENGELER: There is a hold harmless agreement  
8 that he is going to be filling out on behalf of our Pure  
9 Waters Department. They are okay with the pavement  
10 being there. They just want the hold harmless agreement  
11 to be memorialized, which I think that Jaafir already  
12 started.

13 MR. KHAN: Yes, we have.

14 CHAIRMAN STUTO: Anything else from the Board?

15 (There was no response.)

16 Anything else from the members of the public?

17 (There was no response.)

18 Okay, we have the environmental Resolution;  
19 here. Does somebody want to help us walk through  
20 that?

21 MR. TENGELER: SEQRA is completed.

22 CHAIRMAN STUTO: SEQRA is completed; okay.

23 Somebody want to walk us through the waiver,  
24 then?

25 Can we enter the entire waiver into the record

1 with the stenographer and then you can just read the  
2 resolve?

3 MS. MARINELLI: The Board hereby recognizes the  
4 granting of these waivers to allow parking within the  
5 front yard building setback and new pavement within  
6 three feet of the front lot line does not hinder the  
7 Town's objectives to protect its important natural  
8 resources; conserve farmland, create recreational or  
9 wildlife trail corridors; the presentation of historic  
10 resources; or protected view sheds or scenic roadways,  
11 and be it further

12 Resolved, the Board hereby finds the waiver  
13 request reasonable to allow the further development  
14 of the site and grants the waiver request to allow  
15 parking within the front yard building setback, and  
16 be it further

17 Resolved, the waiver findings be kept in the  
18 project file in the office of the Planning and  
19 Economic Development Department.

20 MR. TENGELER: If I may, there is a typo there.  
21 The project was originally going to be three feet from  
22 the road and it's now proposed to be six feet from the  
23 road. If we can just have on the record:

24 Resolve that the Board hereby recognizes the  
25 granting of these waivers to allow the parking

1 within the front yard building setback and new  
2 pavement within six feet of the front lot line -

3 CHAIRMAN STUTO: We will amend it.

4 MR. TENGELER: Thank you.

5 CHAIRMAN STUTO: Do we have a motion?

6 MR. LANE: I'll make a motion.

7 MR. MION: I'll second that.

8 CHAIRMAN STUTO: Any discussion?

9 MS. DALTON: I'm really concerned that we're  
10 putting too much stuff on that one piece of property. I  
11 think that I recognize that there is just barely enough  
12 to do what you are looking to do but having said that it  
13 will be at the cost of any kind of aesthetic ability.

14 Also, I have some concerns that if you have all  
15 of these spaces filled, being able to navigate  
16 through there to drive through would be very  
17 problematic because most of your spaces are going to  
18 be used by cars.

19 I also have no idea what you are going to do  
20 next time it snows. You'll have to pull your cars  
21 into those spaces to be able to plow for the snow.

22 MR. KHAN: If you saw the pictures in the front, if  
23 I have that - that is the only way I'm going to have the  
24 front - so I can move the cars up front and shovel the  
25 back and then go back and shovel the front. That way we

1 don't have to move it very far. It's right there  
2 (Indicating). That way I will have more room in  
3 between. That first line is going to go right up by  
4 Central Avenue - six feet from Central Avenue and then  
5 everything in between the back becomes parallel parking  
6 right here (Indicating). This can move up here and then  
7 I have all this room to move around for customers,  
8 repairs or whatever to come. It's congested now, but I  
9 will have more room after it's finished. That's why I'm  
10 having this problem that I'm having now.

11 MS. DALTON: Is there any way to check and make  
12 sure that there are appropriate spaces to turn around  
13 either in general or for emergency vehicles?

14 MR. TENGELER: Our Highway Department and Fire  
15 Services - you'll see in the packet that Fire Services -

16 MS. DALTON: I did see that but they said that they  
17 had no comment but again, it doesn't look like there is  
18 enough room there.

19 MR. TENGELER: Generally that means that they have  
20 no objections. I understand what you're saying.

21 MS. DALTON: Especially when you consider the fact  
22 that those three parallel parking spaces are so close to  
23 the building and that they are doing repairs inside the  
24 building. You've got oil and a lot of flammable stuff.

25 MR. KHAN: There really is no flammable stuff when

1           you do the car repair.

2           MS. DALTON: Really? I thought that cars had  
3 gasoline in them. That's not correct?

4           MR. KHAN: You're just turning the wrenches.  
5 You're not putting fire on the car.

6           MS. DALTON: I understand that but if there is a  
7 problem - nobody expects a fire but if there is a fire  
8 and you have three cars in your bay and they all have  
9 gasline in them, you've got a problem.

10          MR. KHAN: It's only a two-car bay and also if you  
11 notice this is actually off the building. It's not even  
12 in front of the building. That's why we did the  
13 parallel instead of the other way around. You'll have a  
14 lot more room and especially when you move this. As it  
15 stands you have 30 feet here, you have 35 feet here and  
16 then I think that this is almost 50 feet but then if  
17 this all moves here (Indicating), we'll have probably  
18 like 60 feet in between. So, I don't see any problem.

19          CHAIRMAN STUTO: Any other comments from the Board?

20          MR. TENGELER: It's a tight site but the use has  
21 been generally the same over the years. It's something  
22 that has been existing and we're okay with it as long as  
23 our Fire Services and Highway Department are okay with  
24 it.

25          MR. AUSTIN: I'm still a little concerned about the

1 potential of the gas tanks. The pictures that they gave  
2 us - those don't look like places where a pump might  
3 sit. That looks like an access for a fill for tankers.  
4 You were saying that they paved over -

5 CHAIRMAN STUTO: He may not have seen that picture.

6 MR. KHAN: I didn't look at the picture.

7 MR. AUSTIN: What I'm trying to say just to try to  
8 cut things short is maybe we can get some documentation  
9 for Ms. Cholakis.

10 MR. KHAN: Yes, I will. As I said, I will get that  
11 because I might even have it back at the house because I  
12 got it from the county and it's in the county file as  
13 well.

14 MR. AUSTIN: If you could get that to her and -

15 CHAIRMAN STUTO: And to Mike.

16 MR. AUSTIN: And to Mike, that would be great.

17 CHAIRMAN STUTO: Okay, I'm going to reiterate that  
18 about getting the report both to Mike and you can  
19 forward it to Nia, or you can give it directly to her.

20 The dumpster issue has to be addressed.

21 The trees have to be replanted by you. If  
22 you're successful in getting your neighbor to do it,  
23 that's great but the obligation is on you because  
24 that is supposed to be a greenspace with a little  
25 bit of screening there.

1           MR. KHAN: What can I do because he removed them  
2 without my permission?

3           CHAIRMAN STUTO: You'd have to sue them. As I see  
4 it, that's your only remedy if they don't cooperate.  
5 I'm not sure if anybody else sees it any other way.

6           MR. AUSTIN: They just removed them one night?

7           MR. KHAN: They just removed them. I mean, I'm not  
8 at the shop. My workers are. When I asked them what  
9 happened to the tree, they said oh, they removed them  
10 and they had the Town permission. We were talking back  
11 and forth and I presented the plan and then they told me  
12 that they were not even aware of that. That kind of  
13 tells me -- why would they do such things like that?  
14 They are just doing things that they want to do without  
15 any permissions. I'm here trying to do the right thing  
16 and trying to get everything in order and they're going  
17 to turn around and do whatever they feel like doing.

18           CHAIRMAN STUTO: You have to seek whatever legal  
19 remedies you think are appropriate. You're here with an  
20 application and we weren't there. We didn't see anyone  
21 chop it down. Even if we did, we don't really have a  
22 function in that. So, you have to pursue your own legal  
23 remedies and whatever you think is appropriate. The  
24 obligation is on you to replant them.

25           The site does look quite messy. I'm hoping

1 that you will start cleaning it up tomorrow.

2 MR. KHAN: Yes, I mean as I said, the only thing  
3 that has been done on the site -- that will be cleaned  
4 up.

5 CHAIRMAN STUTO: Do you want a packet of the  
6 pictures?

7 MR. KHAN: Yes.

8 CHAIRMAN STUTO: Okay, that being said, we have a  
9 motion before us with a second.

10 Any further comment?

11 (There was no response.)

12 All those in favor say aye.

13 MR. MION: Aye.

14 MR. LANE: Aye.

15 CHAIRMAN STUTO: Aye.

16 MR. SHAMLIAN: Aye.

17 MR. AUSTIN: Aye.

18 CHAIRMAN STUTO: All those opposed say nay.

19 MS. DALTON: Nay.

20 CHAIRMAN STUTO: Okay, we have one nay on the  
21 record.

22 Thank you.

23 (Whereas the above entitled proceeding was  
24 concluded at 7:34 p.m.)

25

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

CERTIFICATION

I, NANCY STRANG-VANDEBOGART, Shorthand  
Reporter and Notary Public in and for the State of  
New York, hereby CERTIFY that the record taken by me  
at the time and place noted in the heading hereof is  
a true and accurate transcript of same, to the best  
of my ability and belief.

\_\_\_\_\_

NANCY STRANG-VANDEBOGART

Dated January 2, 2015

