

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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ROSETTI MINI MART
2071 CENTRAL AVENUE
WAIVER REQUEST

5 *****

6 THE STENOGRAPHIC MINUTES of the above entitled
7 Public Hearing by NANCY L. STRANG, a Shorthand
8 Reporter, commencing on May 24, 2016 at 9:48 p.m. at
The Public Operations Center, 347 Old Niskayuna Road,
Latham, New York.

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10 BOARD MEMBERS:
11 PETER STUTO, CHAIRMAN
12 LOU MION
SUSAN MILSTEIN
13 CRAIG SHAMLIAN

13

14 ALSO PRESENT:

15 Kathleen Marinelli, Esq. Counsel to the Planning Board
16 Joseph LaCivita, Planning and Economic Development
Department
17 Michael Tengeler, Planning and Economic Development
Department
18 Nick Costa, PE, Advanced Engineers
Don Allard
19 Adam Ricardo

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1 CHAIRMAN STUTO: Next on our agenda is Rosetti
2 Mini-Mart 2071 Central Avenue, waiver request, 3,500
3 foot mini-mart with six fuel pump canopy.

4 Joe or Mike, do you have any preliminary
5 comments?

6 MR. TENGELER: The existing site at 2071
7 Central Avenue is an operating car wash facility. It's
8 on the corner of Central Avenue and Lishakill Road.

9 The applicant is proposing to remove the
10 existing metal building, construct a 3,500 square
11 mini-mart which has a six pump accessory gas island.
12 It's located in a COR zoning district and allows for
13 that type of use. There is no existing New York State
14 or U.S. Army Corp of Engineer jurisdictional wetlands
15 on the parcel. The Attorney's office has signed off
16 on the Type II SEQR action. This is going through an
17 administrative minor review through the Town
18 Departments.

19 As a minor project they are here tonight
20 seeking some waivers.

21 Before we get into this you'll notice in your
22 recommendation that I actually illustrated four
23 waivers that are going to be necessary. As we go
24 through the presentation here either Nick or myself
25 will touch on the fact that the second waiver, the

1 waiver to allow for gas pumps to be located in the
2 front yard setback is not going to be applicable for
3 this proposal as such. I'm told that the conceptive
4 zoning consideration is going to be addressed by the
5 applicant tonight as well.

6 I'd like Nick to run through an overview of the
7 site and then I'd like to get into the two waivers
8 that look like are going to be applicable of the four
9 that were initially enumerated on here.

10 I'll turn it over to you, Nick.

11 MR. COSTA: Thank you, Mike.

12 I'm Nick Costa from Advanced Engineering. We
13 have prepared a site plan for the proposed
14 redevelopment of a site.

15 The existing site has frontage along Lishakill
16 Road and Central Avenue. As you can see from this
17 particular drawing, it shows the carwash at this
18 corner, the existing pavement, the two curb cuts that
19 are out on Central Avenue and the one curb cut that is
20 on Lishakill Road. It also shows the existing metal
21 storage building that's here. It also shows an
22 existing building that's a hodge podge building that
23 comes off of Earl Avenue.

24 These two buildings will be removed and the
25 site will be improved or redeveloped to this drawing

1 (Indicating). As you can see, the gas islands will be
2 here. The proposed mini-mart - 3,500 square foot
3 mini-mart with a drive-thru will be located here. As
4 you can see, we are removing the existing curb cut
5 that is currently at this location and we're making
6 use of the former Earl Avenue to provide access to the
7 site.

8 There will be a little bit of change in the
9 circulation. The circulation currently is allowed to
10 go out to Central Avenue through here and that will
11 all stay. Patrons that will come in through the
12 carwash won't be able to come back in to the gas pumps
13 by coming back this way or the mini-mart or the
14 drive-thru. So, this is a change in traffic flow.

15 The site has been reviewed with Planning and
16 all the other departments. There are utilities that
17 currently serve the site. We are going to make
18 another connection to the watermain that's up on
19 Lishakill Road and the sanitary sewer will go out to
20 the existing sewer on Earl Avenue.

21 The stormwater will be provided at the rear of
22 the site at this location.

23 The site requires 35 parking spaces. We have
24 shown 34 spaces on the site and one of the spots was
25 lost because of a suggested change of the greenspace

1 right in this particular area. The site is deficient
2 on greenspace. Right now it only shows 31.4% but the
3 applicant doesn't want this portion of the site so we
4 won't be modifying this lot line to incorporate more
5 of the greenspace so that we will have 35% minimum.

6 There is some improvements to the circulation
7 of the site from Central Avenue. Overall, the site is
8 currently developed and this is really a redevelopment
9 of the site. I want to point that out.

10 There are two waivers that we are looking for
11 you to consider. One waiver is the new pavement
12 within the front yard setback and the second would be
13 the one parking space. That really takes care of what
14 we are here to request tonight.

15 If there are any questions, we'd be more than
16 happy to try to answer them.

17 CHAIRMAN STUTO: Any questions from the Board?

18 MR. MION: Where are the parking spaces moving?

19 MR. COSTA: Just so that it became real clear
20 that traffic flow wouldn't be able to go this way,
21 what we did is we pushed this greenspace right here.
22 We created that greenspace. We moved the sidewalk
23 here and we created the greenspace (Indicating).
24 People wouldn't have the tendency to try to use it the
25 way that it currently is used.

1 There are signs - "do not enter" and "one way"
2 signs to help that traffic.

3 I think that the Planning Department suggested
4 that we add some greenspace in there.

5 MR. MION: Is there a possibility to take that
6 space and move it back by the building?

7 MR. SHAMLIAN: Or maybe over toward Lishakill.

8 MR. COSTA: There is a possibility to move it
9 here (Indicating), again -

10 MR. LACIVITA: If I could show you one thing
11 before we go any further about the parking -- when
12 this first came in, this was not here (Indicating).
13 This was shortened and the way that the traffic flowed
14 - this was a two-way here and a two-way access here.
15 We worked with DOT and we actually widened the
16 greenspace all the way through in all these areas to
17 make sure that specific flow was going in other areas
18 to push traffic out here or over into this area
19 (Indicating) or coming around it. We were afraid that
20 we would have this open spot, so we really wanted to
21 make sure that we were pushing traffic into certain
22 areas. We worked hand in hand with DOT quite
23 extensively and Nick to make sure those were defined.

24 MR. COSTA: You're right. We could look at
25 adding a parking space there.

1 MR. MION: That way, you wouldn't need a
2 waiver, that's all.

3 MR. COSTA: There is a grade change. This
4 right here is terraced lower and then this goes up to
5 this area (Indicating). So, there is a grade change
6 here.

7 MR. TENGELER: One suggestion that the Planning
8 Department had if the Board was fundamentally against
9 granting the waiver was to just bank a spot in the
10 upper area near Lishakill, if it is ever needed.
11 Obviously if an employee for the mini-mart would park
12 there, that would be pretty good employee parking for
13 them. If the need arises, we'd be comfortable with
14 that too. We would support that.

15 MR. COSTA: Obviously we want the majority of
16 the parking to be in that heavy use area. There are
17 two spaces up here and banking a third one is not a
18 problem. We can show that here (Indicating).

19 MR. TENGELER: If the Board is comfortable with
20 that, that's a viable option.

21 MR. COSTA: Then it's only one waiver.

22 MR. TENGELER: Right, the waiver for the front
23 yard setback. This is kind of a unique lot here. It's
24 a corner lot and there is an existing building. The
25 carwash is the existing building. That sets the

1 precedent as far as setbacks go. It has a conforming
2 setback to Lishakill Road which is a minor road.
3 Central Avenue is also a minor road, as illustrated in
4 the definitions of our Land Use Law. So, the first
5 building, the carwash building, is the standard and
6 that takes precedent as to the setbacks. If we do a
7 front yard setback from the front of that building
8 from Central Avenue, you'll see that maybe half of the
9 front half of those parking spaces in the front - the
10 front half of those actually are in front of the
11 building and that would technically require a waiver
12 because technically that would called new parking in a
13 frontyard setback. Albeit, it's half of the spaces,
14 still half of spaces are going to be parking in that
15 setback. Again, the setback is measured from the
16 existing building on site, per the Land Use Law.

17 MR. COSTA: This site is similar to other sites
18 in the Town does have sanitary sewer that runs along
19 the front and the side.

20 CHAIRMAN STUTO: Don Allard, you would like to
21 speak as a citizen?

22 MR. ALLARD: I am speaking as a resident. I'm
23 not sure if this is a redevelopment, Joe. This is all
24 brand new. This carwash is here, but I would suggest
25 to the Planning Board that this is a new development.

1 I want to point out a couple of things.

2 MR. LACIVITA: It had existing structures on
3 it. The Town Attorney looked at it from what was
4 there - a warehousing component. The Town Attorney
5 made a recommendation that it was a redevelopment of
6 an existing site. That's how it was determined.

7 CHAIRMAN STUTO: It's also a minor project.

8 MR. LACIVITA: Right.

9 MR. ALLARD: I live at 92 New Shaker Road.

10 I did send an email to you and I did ask you
11 about it, Joe, a couple of weeks ago. I had heard a
12 rumor that this was coming along. I didn't get a
13 response.

14 MR. LACIVITA: I apologize if I didn't get back
15 to you.

16 MR. ALLARD: I'm here and I don't see any other
17 residents here. I didn't get any notification. My
18 concerns that obviously this is a downwards sloping
19 area. You're putting in gasoline petroleum tanks that
20 aren't there now. There is an aquifer coming right
21 through here. We do have water issues and that would
22 be one area of concern.

23 The other area of concern is that right now
24 it's a nice wooded area back here. In the summertime
25 it's probably going to be fine, but in the winter

1 we're going to be able to see all this activity right
2 here with the cars coming through (Indicating). So,
3 this is going to be a lot of noise and a lot of new
4 lighting issues. Keep in mind that it's a downward
5 slope so we're going to be exposed to all of that, if
6 it does go through and I hope that it doesn't without
7 some major modifications.

8 I would ask the developer to build some sort of
9 natural looking fencing and not the white kind of
10 vinyl clad but wood fencing of a significant height
11 and some significant plantings to block all this
12 lighting and traffic and noise.

13 I really don't think that it's a redevelopment.
14 I think that it's a new development and I think that
15 should be reconsidered.

16 MR. LACIVITA: I think that we are kind of
17 getting tripped over the term of redevelopment. It's
18 an existing site that had a building on it. That
19 building came down and they're redeveloping the site.
20 It's a minor project, based on the standards of 10,000
21 square feet. That's how we are doing it. It's a
22 redevelopment of an existing site but it's a minor
23 application.

24 MR. ALLARD: But if it was a new development,
25 we would have gotten notification, correct?

1 MR. LACIVITA: If it was over 10,000 square
2 feet, you would have; yes.

3 MR. ALLARD: That's not what I asked.

4 MR. LACIVITA: If it was a new development,
5 yes.

6 MR. ALLARD: So, that's why there is no one
7 here.

8 CHAIRMAN STUTO: Minor projects get noticed?

9 MR. TENGELER: According to this -- again, the
10 standard is everyone within 200 feet. There is 55
11 Central, 20 Lishakill, 19 Lishakill, 2A Concorde, 26
12 Lishakill, 28 Lishakill, 53 Cedar, 2054 Central, 214
13 Consaul.

14 MR. ALLARD: Well, I'm directly behind there.

15 MR. LACIVITA: You're not 200 feet.

16 MR. ALLARD: I'm probably a little over 200
17 feet. I happened to be here because I have other
18 responsibilities to the Town of Colonie as a CAC
19 member.

20 Again, I would really like to hear the
21 developer address the significant water aquifer that
22 runs through here and my concern that it now being a
23 gas station, the lighting, the noise and to see what
24 could be done to put in good blocking trees and a
25 natural looking tall wooden fence in this corner

1 (Indicating). Thank you.

2 MR. LACIVITA: Nick, I have a question for you.
3 In that area that you spoke about as far as that
4 greenspace addition in order to bring it up, if you
5 make that addition and put that greenspace in where
6 you're talking about right there -

7 MR. COSTA: Right.

8 MR. LACIVITA: Can you make that a no-cut never
9 developed area within it as a buffer.

10 MR. COSTA: Just in response to the gentleman -
11 a couple comment first.

12 In regards to the light - the lights are going
13 to be maximum of 18 feet high.

14 MR. ALLARD: Can you make them lower?

15 MR. COSTA: The Town standard is the 18 foot
16 max height. They all have downcast shoeboxes.

17 MR. ALLARD: I'm significantly downhill slope
18 from there. I'll be able to see them easy.

19 MR. COSTA: And we've already established that
20 you are over 200 feet away from here. We're not
21 cutting any of that area that is adjacent to the
22 property.

23 The other thing is with regard to stormwater.
24 Even though this is a minor project, it does have to
25 comply with the stormwater requirements. So, we have

1 a substantial detention basin to pick up all the
2 run-off from here. Currently, none of that is
3 mitigated on the site. Currently, the site is
4 basically almost developed with the same intensity and
5 it has no stormwater mitigation. We are complying
6 with the Town requirements. That's why we are putting
7 in the basin.

8 MR. ALLARD: Is this going to be 24 hours a
9 day?

10 MR. COSTA: I don't know right now because
11 there isn't a tenant that's been selected to go here.
12 The hours of operation, I'm not sure about.

13 MR. ALLARD: Is that something that the
14 Planning Board can address as far as the hours?

15 CHAIRMAN STUTO: We are here for a waiver
16 application. I'm not sure what the regulations
17 provide or what the department is saying about that.

18 MR. LACIVITA: I think that if you look at
19 putting that restriction on a gas station use here on
20 Central Avenue, it could be a disadvantage than what
21 they are already operating in the corridor. I don't
22 know if we could really do that.

23 MR. ALLARD: What about landscaping?

24 MR. LACIVITA: With that extra greenspace,
25 Nick, could there be an extra spot for extra plantings

1 or something?

2 MR. COSTA: Joe, this is part of the detention
3 basin.

4 MR. LACIVITA: I'm sorry. I didn't hear that.

5 MR. RICARDO: There is a real substantial
6 buffer to you. To the property line, there is
7 potentially 300 feet -

8 MR. COSTA: Joe, I think that there is a
9 substantial area here.

10 MR. LACIVITA: We'll work on that when the next
11 property parcel -- because it's the same property
12 owner and when that develops, we'll make sure that we
13 take care of the buffer.

14 MR. COSTA: But right in this area we are doing
15 all the stormwater management.

16 MR. LACIVITA: I didn't hear that earlier.

17 MR. TENGELER: And they are designing it for
18 future development.

19 With that being said, the only waiver tonight
20 is for the new pavement within the front yard setback.

21 CHAIRMAN STUTO: Joe or Mike, where are we?

22 MR. TENGELER: We're down to one waiver, with
23 the Board's consideration of the banking of the one
24 parking space, that leaves us with one waiver and
25 that's the waiver to allow new pavement within the

1 frontyard setback. As we discussed, the setback
2 starts from the existing building and goes down.
3 Roughly half of the pavement from those front seven
4 spaces are within that front yard setback and thus
5 require a waiver.

6 CHAIRMAN STUTO: Where is the department with
7 the neighbor's suggestions?

8 MR. TENGELER: I think that in speaking with
9 Joe and hearing what he had to say that the
10 applicant's comments, if and when that parcel in the
11 rear is developed - whether it's a departmental review
12 or something that goes to the Planning Board, we'll
13 institute a buffer area over there.

14 MR. RICARDO: I think that there is 150 foot
15 buffer that needs to be maintained anyway, if that is
16 developed.

17 MR. TENGELER: So, we'll look to keep that in
18 there. Just make sure that it's tasteful for the
19 future.

20 Also, I don't foresee it but if it does become
21 an issue and if the lighting does somehow protrude
22 through there, when the Rosettis are looking to
23 develop that parcel in the rear, we can take that
24 opportunity to say there is an issue here and you need
25 to spruce it up a little bit more.

1 MR. COSTA: I think that in the packet, the
2 detailed drawings that were done, there is a lighting
3 plan.

4 CHAIRMAN STUTO: Mike, can you mock up the
5 Resolution.

6 MR. SHAMLIAN: How tall is the building?

7 MR. RICARDO: It's 26 feet.

8 MS. MILSTEIN: So, Nick, if you did request a
9 waiver, then you wouldn't be before this Board?

10 MR. COSTA: That's correct.

11 MS. MILSTEIN: So, you could go ahead with this
12 project and say okay, forget the parking in front.

13 MR. TENGELER: Actually, we worked through the
14 last minute on eliminating some of the waivers that
15 would have been applicable there. We did take a hard
16 look.

17 MR. COSTA: You're right and that's why it's
18 defined as a minor.

19 CHAIRMAN STUTO: All right, do you want to read
20 the Resolution?

21 MR. TENGELER: Now therefore be it resolved the
22 Board hereby recognizes the granting of this waiver to
23 allow parking within the front yard building setback.

24 This does not hinder the Town's objectives to
25 protect its important natural resources, conserve

1 farmland, create recreational or wildlife trail
2 corridors and preservation of historic resources or
3 protected viewsheds or scenic roadways.

4 Be it further resolved that the Board hereby
5 finds the waiver request reasonable to allow a safe
6 development of the site and grants the waiver request
7 to allow parking within the front yard setback.

8 And be it further resolved that these waiver
9 findings be kept in the project file of the Office of
10 Planning and Economic Development Department.

11 CHAIRMAN STUTO: Any discussion on that?

12 Motion?

13 MR. MION: Motion.

14 MR. SHAMLIAN: Second.

15 CHAIRMAN STUTO: Discussion?

16 (There was no response.)

17 All those in favor say aye.

18 MR. MION: Aye.

19 MR. AUSTIN: Aye.

20 MS. MILSTEIN: Aye.

21 CHAIRMAN STUTO: Aye

22 All those opposed say nay.

23 MR. SHAMLIAN: Nay.

24 The ayes have it.

25 Thank you.

1 (Whereas the above entitled proceeding was
2 concluded at 10:05 p.m.)

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CERTIFICATION

I, NANCY L. STRANG, 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 L. STRANG

Dated _____

