

1 HEADER

2 A TABLE OF CONTENTS

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

STATE OF NEW YORK : COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

3

----- X

4

In the Matter of OTHER BUSINESS

5

RE:

6

CSX HAVERSTRAW TRACK UPGRADE PROJECT,

7

Applicants.

8

----- X

9

7 o'clock p.m.

March 28thth, 2013

10

RHO Building

Five Patriot Drive

11 Stony Point, New York 10980

12 HELD BEFORE THE PLANNING BOARD OF THE

 TOWN OF STONY POINT:

13

14 B E F O R E : Thomas Gubitosa,

 Chairman

15

16 A p p e a r a n c e s :

17

 THOMAS MC MENAMIN, Member

18 GLADYS CALLAGHAN, Member

 EUGENE KREASE, Member

19 GERRY ROGERS, Member

 MICHAEL PUCCIO, Member

20 PETER MULLER, Member (Not Present)

21 MARY PAGANO,

 Secretary to the Board

22

23

Reported by:

Patricia A. Puleo,

24

NYS Certified Court Reporter

and Notary Public

25

1

2

3

Appearances continued:

3

FEERICK, LYNCH & MAC CARTNEY

4

Town Attorneys

96 South Broadway

5

South Nyack, New York 10960

BY: STEPHEN M. HONAN, ESQ., Of Counsel

6

WILLIAM SHEEHAN, Town Building Inspector

7

KEVIN P. MAHER, P.E, Town Engineer

8

9

TURNER MILLER GROUP,

Planning Consultants

10

Two Executive Boulevard - Suite 401

Suffern, New York 10901

11 BY: MAXIMILIAN STACH, Town Planner

12 SEAN W. MARKEY, PE

Associate Vice President, Rail Sector

13 Manager

ARCADIS, on Behalf of CSX

14 1650 Prudential Drive - Dupont Center

Jacksonville, Florida 32207

15

DAVID KLINCH, Environmental Design

16 Engineer - AFAX

17 MAURICE O'CONNELL

CSX

18

And the Public.

19

20

PULEO REPORTING & TRANSCRIPTION SERVICES

21

61 Crickettown Road

22

Stony Point, New York 10980

23

(845) 429-8986 FAX and Phone

24

25

1 - PROCEEDINGS -

2 (This is the Planning Board

3 meeting of the Town of Stony Point,

4 March 28th, 2013).

5 THE CHAIRMAN: Can we just stand

6 for the Pledge at this time?

7 (At this time the Pledge of

8 Allegiance was recited.)

9 THE CHAIRMAN: Mary, just call

10 the roll, please.

11 MS. PAGANO: Mr. McMenamin?

12 MR. MC MENAMIN: Here.

13 MS. PAGANO: Mr. Puccio?

14 MR. PUCCIO: Here.

15 MS. PAGANO: Mr. Krease?

16 MR. KREASE: Here.

17 MS. PAGANO: Mrs. Callaghan?

18 MRS. CALLAGHAN: Here.

19 MS. PAGANO: Mr. Rogers?

20 MR. ROGERS: Here.

21 MS. PAGANO: Chairman Gubitosa?

22 THE CHAIRMAN: Here.

23 MS. PAGANO: Mr. Muller is

24 absent.

25 THE CHAIRMAN: Just a few

1 - PROCEEDINGS -

2 announcements before we get started; if

3 you have a cell phone, please silence

4 your cell phones at this time.

5 Another thing is, we have a

6 stenographer and the meeting is being

7 recorded tonight.

8 So, the cross talk, you've got to

9 keep it down because in this room it is

10 hard for the Stenographer to hear

11 everything.

12 We are going to be moving some

13 things around a bit on the Agenda.

14 CSX, on the agenda we have them

15 under "Other business", because they do

16 not have a formal application before

17 us. They're here tonight only to give

18 you information on what they're trying

19 to do. It is not a public hearing, so

20 the public cannot comment.

21 Before we get started, the

22 Planner is going to give us a quick

23 update as to why the Planning Board is

24 involved in this application, or

25 matter, I should say.

1 - PROCEEDINGS -

2 Max?

3 MR. STACH: Mr. Chairman, tonight

4 CSX is before us because they have

5 applied to the state for permits to

6 modify their railroad. They will

7 provide you with the details of that

8 tonight.

9 That application is before the

10 state. Every application along the

11 coast of the State of New York requires
12 that a Coastal Zone Consistency
13 Application be made to the Department
14 of State.

15 However, since Stony Point has
16 taken the state's Coastal Zone
17 Consistency Plan and revised it into a
18 Local Waterfront Revitalization Plan,
19 and since the Department of State has
20 acknowledged and cross-accepted that
21 plan, they have sent down to the Town
22 of Stony Point for comment on the

23 consistency of this application with

24 that Local Waterfront Revitalization

25 Plan.

1 - PROCEEDINGS -

2 This is an advisory role that

3 the Planning Board has to the

4 Department of State. The Department

5 of State rules on whether or not this

6 application is consistent.

7 However, it is up to the Planning

8 Board to provide the Town's comments to

9 the Department of State.

10 There are about thirty policies

11 or so in the Local Waterfront

12 Revitalization Plan that you should be

13 reviewing that application against.

14 Additionally, all applications

15 that are before the state permit,

16 meaning those that are subject to State

17 environmental quality review, is

18 handled at the DEC.

19 Again, they are the only

20 permitting authority at the state

21 level.

22 With that being said, the

23 gentlemen from the CSX and their

24 engineering firm have provided an

25 application to this Board in a form

1 - PROCEEDINGS -

2 that sort of serves many different

3 agencies and was difficult to

4 understand for the Town's purposes to

5 see just what was going on.

6 So, they have accepted the

7 invitation to come and explain their

8 plan and answer any questions you may

9 have, so that you can provide to the

10 Department of State your comments, on

11 its consistency.

12 THE CHAIRMAN: Thank you, Max.

13 MS. FILGUERAS: Is there public

14 comments?

15 THE CHAIRMAN: No, Sue, after the

16 meeting I will discuss it.

17 We will let the gentlemen from

18 CSX give their presentation at this

19 time.

20 * * *

21 MR. MARKEY: Thank you, Members of

22 the Board for having us tonight. My

23 name is Sean Markey, and I am with

24 Arcadis, we are the CSX design

25 engineers for their capacity.

1 - PROCEEDINGS -

2 Here is ---

3 MR. STACH: Excuse me, but can we

4 move the podium back so that the Board

5 and everyone may see what you are

6 indicating.

7 (Complying.)

8 MR. MARKEY: Yes.

9 Here in Stony Point, New York our

10 project runs from Haverstraw, New York

11 up through Stony Point. I'll switch

12 the slide around here so you can see.

13 (Indicating) ---

14 Maybe we can turn it around, push

15 it back a little, so that everyone can

16 see it.

17 (Putting up a slide show.)

18 MR. MARKEY: We have got a few of

19 us here tonight for CSX; myself, Sean

20 Markey, Arcadis, Design Engineer;

21 Maurice O'Connell from CSX and David

22 Klinch Design Engineer who is

23 representing, AFAX, (phonetically

24 written), the Environmental Consultants

25 on this, who actually made all the

1 - PROCEEDINGS -

2 applications that were introduced here

3 previously.

4 The purpose of the project is to

5 increase capacity for the CSX's river

6 line, running from North Jersey up to

7 Albany, New York; which is about one

8 hundred thirty-five miles long.

9 This particular section of the

10 river line, (indicating) by double

11 tracking, it can actually reinstate the

12 double track, the way it was years and

13 years ago.

14 This was double tracked years and

15 years ago and we are actually

16 reinstating the double tracking that

17 was there years ago.

18 Basically what is being done, we

19 are restoring what was there before.

20 This will provide additional

21 fluidity moving the trains to the area

22 that now have to wait for other trains

23 when they go through the area.

24 Today CSX operates from Milepost

25 33 in Haverstraw, approximately 35.8

1 - PROCEEDINGS -

2 double track railroad today, which is

3 right by the Battlefield, from 35.8 up

4 to 36, only 2/10's of a mile has

5 single track on it today.

6 Then from 36 up to 38, two miles,

7 there's two tracks, up to 38, but

8 there is a second track in place that

9 will be rehabilitated for this project,

10 putting it back into operation.

11 So, at the end of the day we will
12 have double track capacity from
13 Milepost 33, all the way up to 38,
14 which I think it is five miles; three
15 additional from what is there today.

16 Additionally, we are installing
17 universal crossovers, allowing trains
18 to switch tracks from Track One to
19 Track 1, from both directions.

20 I will show you how that actually
21 works, too.

22 (indicating on a moving diagram.)

23 MR. MARKEY: So, basically what

24 an interlocking is, it allows the

25 trains that are on Track 1, here,

1 - PROCEEDINGS -

2 (indicting) the yellow, to go through

3 the crossing and then switch over the

4 Track 2, allowing the train going in

5 the opposite direction, to do just the

6 reverse.

7 That way they can pass each

8 other, so, more or less both tracks

9 will be operating in both directions,

10 at any time, operating in either

11 direction at any time, allowing trains

12 to pass.

13 Allowing us to operate on one

14 track while maintaining the other,

15 keeping the trains moving along the

16 line, rather than standing still.

17 Providing here (indicating on a

18 diagram) just as a point of reference

19 where this is.

20 This is (indicating on a diagram)

21 an aerial of the entire project, what

22 is going to be done.

23 Primarily, starting at Milepost

24 33, you will see that there's a new

25 turn-off getting installed down in the

1 - PROCEEDINGS -

2 Town of Haverstraw.

3 Then between 33, up through 34,

4 35 and 36, there are two tracks there

5 today. They're remaining there and

6 remain in operation.

7 Around 36 is the location of the

8 new crossover line; crossover from

9 Track 1 to Track 2, and from 36 to 37,

10 up to 38, we have reinstated the second

11 track in service which is today sitting

12 there and not being used.

13 MALE VOICE FROM AUDIENCE: Can

14 you make it more specific?

15 THE CHAIRMAN: Sir, you can't ---

16 MALE VOICE FROM AUDIENCE: I am

17 from the area.

18 THE CHAIRMAN: You can't talk. It

19 is not a public hearing. He's going

20 through it. You've got to let him

21 speak.

22 MR. MARKEY: Okay, 33 is down

23 here at the bottom; West Haverstraw,

24 (indicating) up through Stony Point,

25 then basically you get a new crossover

1 - PROCEEDINGS -

2 at Milepost 36, allowing it to change

3 from Track 1 to Track 2 ---

4 MALE VOICE FROM AUDIENCE: What

5 section is that?

6 THE CHAIRMAN: Sir, please, we

7 can't take public input at this time.

8 MR. MARKEY: The location of the

9 single track today, which is two tenths

10 of a mile long, just north from the

11 Battlefield.

12 From that point, going north

13 through Tomkins Cove, where the old

14 plant was, all the way up to Milepost

15 38, where CSX gets very tight to Route

16 9W again, it becomes two tracks,

17 reinstating the second track that's

18 there today, reinstalling the turn out,

19 up right here, at Milepost 38

20 (indicating on a diagram) right around

21 the bend, right where 202 comes down

22 the hill, right next to the railroad.

23 Not 202 ---- I'm sorry, I mean

24 9W.

25 So, more specifically, getting

1 - PROCEEDINGS -

2 the location, the real work that is

3 being done here is we have two tenths

4 of a mile just north of Stony Point

5 Battlefield.

6 This little, tiny section right

7 here (indicating) that today is single

8 track. It used to be double track, but

9 it was turned to single track years

10 ago.

11 We will reinstall two tracks

12 there and then provide a crossover

13 where it is nice and straight.

14 What this allows the train to do;

15 today, when a train is coming

16 northbound and it's two tracks, they

17 can pass each other in this area south

18 of the Battlefield.

19 Today, they can pass each other.

20 As one is coming northbound if there's

21 a southbound train there is single

22 track beyond Milepost 41 so, imagine,

23 six or seven miles north is single

24 track today.

25 So, if we have a northbound track

1 - PROCEEDINGS -

2 by the same time it gets to the

3 Battlefield, it halts and waits for the

4 other train, the southbound train to

5 come and traverse those six or seven

6 miles and pass the Battlefield and head

7 south before he can start his movement

8 north.

9 Once this is done, once this

10 project is done, a northbound train

11 there will be able to pass the
12 Battlefield, and continue on up to
13 where I mentioned here (indicating),
14 Milepost 38 which is adjacent to Route
15 9W.

16 So, the benefit of this is that
17 the trains will be more fluid around
18 the Stony Point Battlefield than they
19 are today.

20 Not only does it do that, but
21 when it gets up to Milepost 38, as I
22 had up in the last slide, the amount of

- 23 single track north of Milepost 38 is
- 24 reduced by two miles, so trains
- 25 wouldn't have to wait as long up there

1 - PROCEEDINGS -

2 in order for a train to pass southbound

3 the location.

4 That, really, in a nutshell, is

5 the purpose of the entire project.

6 The physical work is being done

7 two tenths of a mile north of the Stony

8 Point Battlefield, by reinstalling the

9 second track that was there years ago

10 and also installing the universal

11 crossover, which is maintained by the

12 rail.

13 THE CHAIRMAN: I will let the

14 Board ask any questions at this time.

15 Gene, I know you had some

16 questions?

17 MR. KREASE: Yeah, I've got some

18 questions ---

19 FEMALE VOICE FROM AUDIENCE: Sir,

20 can we have them ---

21 THE CHAIRMAN: After we get done,

22 what we'll do -- right now we can't

23 take public input.

24 You can give us your comments

25 after the meeting. We will get your

1 - PROCEEDINGS -

2 questions to them. If your questions

3 don't get answered tonight, we are

4 still going to meet with CSX, our

5 Planner.

6 We are still going to sending

7 them our comments.

8 Right now we are just an advisory

9 Board. There is nothing really that we

10 can the do, but we can get your

11 comments to them. Unfortunately, it is
12 not a public hearing. I can't take
13 your input tonight.

14 What we can do is after the
15 meeting, I can take your information
16 after the meeting tonight. I've got
17 the emails from you folks. Most of
18 them were sent to CSX.

19 If your questions aren't answered
20 tonight, you get it to us, send it to
21 the Planning Board and we'll get it to
22 CSX. Then they'll get you an answer.

23 That's how we have to do it. I've got

24 your emails. That's how we have to do

25 it tonight.

1 - PROCEEDINGS -

2 Gene?

3 MR. KREASE: Yes. I have got a

4 lot of questions, maybe some of your

5 concerns will be answered by the time

6 I'm done, but before I got to those

7 comments, I want to be clear on what

8 you just said; so, you are doing this

9 two tenths of a mile track, then at

10 that entering point, you are putting in

11 a crossover, and then you are
12 rehabilitating the existing track that
13 was used years ago for the coal storage
14 for the Lovett Plant and go up around
15 the bend in Tomkins Cove, almost up to
16 Iona Island, in a sense ---

17 MR. MARKEY: Yes.

18 MR. KREASE: That will improve the
19 fluidity of the trains moving, okay.

20 The question is, every train now
21 stops north of or stops at the
22 Battlefield, so instead of stopping

23 there at the Battlefield, the train

24 will stop north by 9W.

25 So, all you are doing, it appears

1 - PROCEEDINGS -

2 to me --- I am not an expert and just a

3 novice --- is that you are making those

4 double track longer, which leads me to

5 believe that it is possible you may

6 stack two sets of trains. Is that a

7 possibility there?

8 THE CHAIRMAN: Yes?

9 MR. O'CONNELL: Maurice O'Connell

10 from CSX.

11 The goal of this project and this

12 is not the only double track project

13 that we have on the river line.

14 We are also planing other

15 projects on the river line like

16 Cocksackie, (written phonetically),

17 North Baltimore and Ravenna.

18 The purpose and the whole goal of

19 all of these projects, as Sean pointed

20 out, is to improve the fluidity on the

21 line.

22 We don't want to stop trains.

23 We don't want to stop trains in

24 communities.

25 For us, that creates

1 - PROCEEDINGS -

2 inefficiencies.

3 So, the hope, again, the whole

4 purpose is to improve the fluidity.

5 Now, to your point, if the

6 control point is moved from where it

7 exists today, three miles north, the

8 engineer is going to pull the train up

9 to the signal.

10 You want to be as close to the

11 signal if you are staging a train

12 waiting for another train going in the

13 opposite direction.

14 So, that will clear up the area

15 around the Battlefield.

16 To put two trains in that signing

17 would be very unusual for us.

18 I suppose it could happen if

19 there was an emergency on the line. If

20 we had a train that was disabled for

21 some reason or if something else was on

22 the line that was effecting the flow of

23 traffic, but we don't --- today we run

24 thirty to thirty-five trains on this

25 line.

1 - PROCEEDINGS -

2 We are doing this with that

3 number in mind.

4 Now, is there a possibility for

5 future growth? Perhaps, I mean, that

6 is all driven by the economy, but we

7 are trying to get out in front of this,

8 as Sean pointed out, this entire line

9 used to be double tracked.

10 All really, all we are doing out

11 there is putting back in what used to

12 exist there.

13 What exists out there today is a

14 small section where we're having the

15 traffic.

16 MR. KREASE: Getting back to my

17 original question, and you haven't

18 convinced me that you are making this

19 any more fluid, and I could be wrong,

20 but at this point the track stops where

21 they can switch tracks.

22 That flow that you are talking

23 about, at the Battlefield, it is the

24 same thing you do in West Haverstraw.

25 You still have the same fluidity

1 - PROCEEDINGS -

2 of movement of the trains. Am I wrong?

3 MR. O'CONNELL: Yeah, well, in

4 West Haverstraw you are down to

5 Milepost 33. That's where it starts,

6 right around Railroad Avenue; 33 to

7 about 35.8; yes.

8 Again, whenever you add capacity

9 on a railroad, whether it is here or

10 Coxsackie, you are improving the

11 fluidity.

12 We feel strongly that based upon

13 the modelings we have done, this is

14 going to make a big improvement on this

15 line. We think by adding three miles,

16 when you add that capacity, it is going

17 to make a difference.

18 You are not going to see what you

19 see out there today.

20 I can't tell you how many times

21 we are stopping around the Battlefield,

22 I don't have that information with me,

23 but with an additional track, it is

24 much less likely than it is today and,

25 if we do have to stage a train here

1 - PROCEEDINGS -

2 with one that's coming in the opposite

3 direction, with this additional

4 capacity, it won't be holding there as

5 long.

6 MR. KREASE: I still don't buy

7 it. Well, let's move on from that.

8 You just can't convince me at

9 this point that will make it more

10 fluid, so what you're possibly doing

11 is you are stacking the train that
12 stops, going north --- let's talk about
13 going north ---- that stops at Bear
14 Mountain, going north, so it sits in
15 back of all the people down there on
16 Beach Road, Hunter Place; in that area.
17 The trains are in their backyard.
18 Now, by moving it up three miles,
19 you eliminate the problem for the
20 residents, that effects me also,
21 personally, by the way.
22 It takes it out of our backyards,

23 but you've just moved it up to Jones

24 Point.

25 MR. O'CONNELL: Again, the goal

1 - PROCEEDINGS -

2 here is to add capacity to move the

3 trains, so we're not staging trains.

4 We did a project in West Park,

5 five years ago in Fort Montgomery.

6 We did one in West Park.

7 We doing one in Cocksackie

8 (phonetically written). We are going

9 to do one here.

10 Okay?

11 We are spending a lot of money, a
12 lot of capital to improve the flow of
13 trains. It makes no sense for us to
14 stop trains and leave them idling.

15 We want to be as efficient as
16 possible, and the goal of all of these
17 projects is to improve the fluidity and
18 to keep the trains running.

19 MR. KREASE: All right. I don't
20 want to beat this to death. I'm still
21 not personally convinced, but that is
22 okay.

23 Now we have some concerns here.

24 Most of these people are here because

25 they live basically on top of all of

1 - PROCEEDINGS -

2 this. I'm sure you've gotten many

3 letters, e-mails, either through us or

4 from them. I will just mention a

5 couple of things that seem to irritate

6 constituents.

7 The noise pollution; their

8 concern right now, is when these trains

9 do idle, they hum all night. With the

10 noise due to idling, they hum all

11 night.

12 There is fuel pollution issue.

13 People are a little nervous about the

14 fuel. As far as I know, there were no

15 spills there ever.

16 Moving these trains up to Jones

17 Point, you are going to be blocking the

18 people who are at eye level to the

19 river, which is a concern regarding

20 their access to their view of the

21 river.

22 I know you try not to keep these

23 trains there, but when they were

24 stacking those coal cars, everything

25 was blocked over there, too.

1 - PROCEEDINGS -

2 That's a lot of concern.

3 At this point, you can't even

4 tell us how long the engine is going to

5 sit there idling.

6 I live close enough and know that

7 during different times of the day, I

8 can see what's going on. Some are

9 moving, some are going north and some

10 are going south. They're constantly

11 moving.

12 Some other people's concerns,

13 who wrote some of these notes, were

14 concerned about inexperienced

15 engineers, although I hate to use that

16 term.

17 But, some of these engineers when

18 they start these trains, you don't

19 even know they're moving and for some

20 reason two or three o'clock in the

21 morning, it sounds like the whole house

22 shook because he must've given it the

23 gas to get this load moving and the

24 house shakes.

25 So, that's another concern that

1 - PROCEEDINGS -

2 concerns most of these people here.

3 Another thing that is of great

4 concern and it's been addressed by CSX

5 in some other areas, is the fact of

6 when a standing train is stacked or

7 waiting for another train going in the

8 opposite direction, it appears that

9 every so many feet or whatever, they

10 toot the horn.

11 In the middle of the night, they
12 toot the horn. That is a real
13 irritant. That effects me and everyone
14 else sitting in this room.

15 I also understand that somewhere
16 along the line, I have more papers than
17 I need, but you had a survey and you
18 had the same problem up in, I think it
19 was Massachusetts; Wooster,
20 Massachusetts back in the day in the
21 Town of Spencer, Massachusetts,
22 someone gave me some information about

23 an administrator up there by the name

24 of Carter --- I think it's Terrintini

25 (phonetically written.)

1 - PROCEEDINGS -

2 Apparently, they had the same

3 problem with the whistle.

4 At that point I assume CSX was

5 looking for something and came to some

6 sort of an agreement with that Town,

7 were you stopped using the loud

8 whistles and started using flag men,

9 not loud whistles.

10 Am I correct on that?

11 MR. O'CONNELL: Yes, I can
12 describe the situation; we had an auto
13 terminal in Westborough, Massachusetts,
14 which was relocated to East Brookfield
15 and Spencer.

16 So, that is an auto terminal,
17 where cars are loaded and unloaded.

18 That particular facility is
19 switched off the main line. You don't
20 have a yard here in the Town of Stony
21 Point, so it is totally different, a
22 totally different situation.

23 Just to add a little more to

24 that, Rule 14(L) in the CSX Rule Book

25 requires CSX to sound the horn when

1 - PROCEEDINGS -

2 passing a standing train.

3 That was the situation in East

4 Brookfield and Spencer. You are

5 switching out the yard as an auto

6 terminal, and as the train passes that

7 train, we are required to sound the

8 horn.

9 That rule book that we have,

10 that's all governed by the Federal

11 Railroad Administration.

12 MR. KREASE: All right, but that

13 was also changed up there ---

14 MR. O'CONNELL: It is a totally

15 different situation than what exists

16 here in the Town of Stony Point.

17 MR. KREASE: Well, I don't think

18 anybody here, well, I speak for myself

19 and some other people that I spoke to

20 in the audience, are really looking to

21 put you out of business or harass you.

22 They just have some concerns with

23 the safety and some of the things that

24 are really bothering them and myself,

25 as a Planning Board member, I mean, we

1 - PROCEEDINGS -

2 have had dealings with CSX and never

3 seem to get too far.

4 So I think what they're looking

5 to do is to have some relief. You are

6 here. We appreciate you being here.

7 But, I want you to feel the

8 concern of these people and for their

9 families. It is their everything. It

10 is their home. They've got concerns.

11 I'm sure you gentleman own homes.

12 So, we'd like to deal with some

13 of these things one more time.

14 I will say it one more time; it

15 has got to do with the whistles. You

16 told me about the 14 hour rule.

17 You got the trains with the smoke

18 and noise.

19 One thing that bothers me back

20 there is the speed limit; if something

21 can be done. The speed limit is 40

22 miles an hour and that is too fast.

23 MR. O'CONNELL: Correct.

24 THE CHAIRMAN: Okay.

25 MR. KREASE: It would be nice if

1 - PROCEEDINGS -

2 maybe we can make an agreement from the

3 time you come around the bend in Jones

4 Point, until you leave the Town of

5 Stony Point --- I can talk to

6 Haverstraw and West Haverstraw --- but,

7 in that congested area, you can slow

8 the train down ten miles an hour?

9 Because some of the weight of

10 those trains, I know that will be an

11 issue with the trains slowing down, but

12 some of the weight of these trains

13 going around that bend, my teeth

14 rattle.

15 That is it basically, I think

16 most of the questions I have had and

17 the comments I wanted to make.

18 I hope they have answered some

19 of the issues that the audience had and

20 why they are here. They have been

21 looking for some relief.

22 I'm not done yet, now let's get

23 back to the Town of Stony Point's

24 Planning Board; can I talk about Holt

25 Drive.

1 - PROCEEDINGS -

2 We have had this private crossing

3 on Holt Drive that for some reason,

4 whether it be the Applicant that is

5 here today or the couple of previous

6 applications before the Planning Board,

7 but we've never been able to reach out

8 to you people and get some answers.

9 By that happening, the Town of

10 Stony Point has lost revenue.

11 We can't allow someone to come

12 across that private crossing with a

13 little blinking red light and a bell

14 that you can't hear to cross, to cross

15 there.

16 So, as a Planning Board member,

17 that is one of the issues we would like

18 to deal with you to get some

19 consideration, so that we can work

20 together and solve this problem.

21 I understand that we have another

22 application there and we really can't

23 go forward and it's hurting our Town.

24 It is also hurting our pocketbooks and

25 we can't afford that.

1 - PROCEEDINGS -

2 So, it's a great concern.

3 I have another question that I

4 can talk to you later on, privately

5 about.

6 MR. O'CONNELL: If I may,

7 regarding the crossing, it's a private

8 crossing on Holt Road. We do have some

9 concerns with that crossing and with

10 the safety at that crossing.

11 I understand that the truck
12 traffic has increased and I understand
13 that there were plans for the
14 installation of an incinerator plant in
15 that area, or on the other side of the
16 crossing, increasing the number of
17 trucks.

18 We also have some concerns there.

19 We look forward to have a dialog with
20 the Town, with the person who holds
21 that private crossing agreement with
22 CSX.

23 We share those concerns with you.

24 If I may, just briefly here,

25 state and I just want to make a

1 - PROCEEDINGS -

2 commitment to the Town here that we

3 will work with the Board, and work with

4 the Town officials, on your concerns.

5 I believe that the capacity

6 improvements here are going to make a

7 big difference in the Town. I believe

8 they will make a difference across

9 this line.

10 Regarding safety, CSX is a safety

11 culture. Moving goods by train is the

12 safest way to move goods on land.

13 We just had our safest year in

14 the history of our railroad. It is a

15 record we are proud of and a record we

16 want to improve on.

17 I just want to make it clear we

18 are very concerned about safety every

19 where we operate, not just in the Town

20 of Stony Point.

21 MR. KREASE: I just want to make

22 it clear we are not looking you for you

23 to pay for a private crossing, and the

24 Town is not going to pay for it, but at

25 least the Applicant can come in here

1 - PROCEEDINGS -

2 and can sit down with you people

3 perhaps and work it out.

4 That's all we are looking to do.

5 It is good to hear that you are going

6 to be sensitive to some of our issues

7 and I want to thank you.

8 THE CHAIRMAN: Like Mr. Krease

9 said, thank you for coming.

10 The one concern we had with the

11 power line that's coming through, that

12 will be on your right-of-way.

13 How will that effect this project

14 with the double tracking and single

15 tracking. Is it coinciding? That is a

16 big concern for us right now.

17 MR. O'CONNELL: I can't speak to

18 the power line.

19 We do have fiber optics and a

20 number of agreements with different

21 carriers.

22 I can tell you, going back to our

23 comments about safety, we will not do

24 anything to compromise the safety of

25 our railroad operations, the public

1 - PROCEEDINGS -

2 here or our employees' safety, so to

3 the extent that there are any concerns

4 about fiber optics or anything else

5 that runs underneath or along our

6 property, I can assure you it will be

7 done safely and not in a way that is a

8 danger to anyone in the Town or any of

9 our employees.

10 MR. MC MENAMIN: I have a

11 question; several times you have said
12 point two, two tenths of a mile, and
13 the numbers I'm seeing and I read the
14 report, was thirty four feet from the
15 Battlefield, north past the Lovett
16 Plant. That is point seven tenths of a
17 mile.

18 MR. MARKEY: The existing double
19 tracking starts south of where the
20 plant used to be. It is right next to
21 the river, right around the corner from
22 where the Battlefield. It's two tenths

23 of a mile ---

24 MR. MC MENAMIN: A thousand feet?

25 Not thirty-four?

1 - PROCEEDINGS -

2 MR. MARKEY: Yes.

3 MR. MC MENAMIN: One of the things

4 this is about the water front of Stony

5 Point. We are concerned about what

6 this will do to effect that. I read

7 through a lot of your paper work. I

8 see that you did a lot of secret type

9 activities, looking at things that

10 could be a concern.

11 One of the things I see on there

12 is a retaining wall.

13 It looks like you are going to be

14 building a very long --- I am confused,

15 I don't have the information --- I know

16 what you gave us was not instructions,

17 but I think that's what I see, that

18 the wall, it is a very, very long

19 retaining wall along the riverfront, on

20 the river side of your tracks.

21 I assume you are going to give

22 yourselves the area for these

23 additional tracks?

24 What is that retaining wall going

25 to look like from the view shed of the

1 - PROCEEDINGS -

2 river, in towards, because we are

3 trying to keep our waterfront

4 beautiful, and accessible so the height

5 of it --- I couldn't really tell.

6 There's no way I could see it.

7 It's just a little square.

8 I don't know the materials it

9 will be made from. I just saw a

10 quarry, I that the length of it, what

11 is that going to look like.

12 MR. MARKEY: There's three

13 separate retaining walls through that

14 area. It's really reclaimed riverbed.

15 If you look back on Google Earth,

16 you'll see if you go back in "Images in

17 Time", there were large riprap that is

18 protecting that CSX border.

19 If you go down there today, you

20 will notice that between Sandy and

21 Irene, the storms that hit this area,

22 had taken that riprap away, so that

23 method of using riprap in the past, we

24 are not going to try to replicate.

25 So, what we are going to do, is

1 - PROCEEDINGS -

2 build retaining walls in the areas that

3 are the most vulnerable, so the areas,

4 so the right-of-way will not be washed

5 away with the next storm.

6 What is it going to look like?

7 A concrete finish on the front

8 face of the wall, because facing the

9 river, up top, will be concrete, two

10 feet up top.

11 That will actually be between ten
12 or twelve foot of the --- it will
13 actually be part of the walkway for the
14 CSX employees, if something were to
15 happen to the train, they can walk in
16 that area.

17 There will be railings on the top
18 to provide safety for the CSX
19 employees, when they're out on the
20 tracks and to do their inspections.

21 It's really to protect the assets
22 right now that are suffering because of

23 the storms that are coming against the

24 river in the Hudson Valley.

25 MR. MC MENAMIN: So, the DEC has

1 - PROCEEDINGS -

2 performed SEQRA on this and we will be

3 able to submit and make comments.

4 What if I wanted to see

5 elevations of what it will look like,

6 the railings, the finishes and the

7 colors, is it something I have to ask

8 for now or do I have to submit that

9 question to SEQRA as a visual impact

10 issue? I'd like to see what it will

11 look like.

12 I think you, maybe I didn't see

13 it, but to the people who want to come

14 and take advantage of this Stony Point

15 waterfront it is important to know what

16 it will look like.

17 MR. MARKEY: I will say that we do

18 have plans for the wall. They're

19 compiled.

20 As far as the process goes, I'll

21 let David answer the process.

22 MR. KLINCH: David Klinch.

23 In terms of the plans submitted

24 by CSX, I don't know if you've seen

25 them, but it is, it provides plain

1 - PROCEEDINGS -

2 view, it provides dimensions. It

3 provided locations. It doesn't provide

4 color or the finish type.

5 Specifically, the DEC, and SEQRA

6 have accepted the plans. The design

7 details are not required for the

8 permit, but it shows how it will be

9 constructed, how it will be built, the

10 depth, what the width will be, its

11 physical location, exactly.

12 MR. MC MENAMIN: Because that will

13 be visible from the Stony Point

14 Battlefield. You will be able to see

15 that, absolutely.

16 I can --- what I am really trying

17 to get at is the concept here; that

18 they will by left with more ability to

19 pass each other and there will be less

20 waiting. Is that what the plan is.

21 MR. O'CONNELL: If you talk about

22 this, well, to use an analogy here; if

23 you talk about highways, okay, you have

24 a lane going in each direction.

25 If you add a lane, you are

1 - PROCEEDINGS -

2 improving the fluidity on your highway

3 system. Okay? You can more readily

4 get around traffic more easily. All

5 sorts of things.

6 So, trust me. We are doing

7 this, it makes no sense for CSX to

8 stage trains.

9 It makes no sense from a

10 community relationship prospective and

11 it makes no sense from a business

12 prospective.

13 You are burning fuel, it's taking

14 longer to deliver the goods to the

15 customer, so again, all of these

16 projects whenever you add capacity to

17 the railroad, and we are adding

18 capacity all across the system, we have

19 a lot of projects all across our system

20 to handle the increase in freight that

21 comes our way.

22 It is all being done to improve

- 23 the fluidity, and to make sure that we
- 24 can better serve our customers and be
- 25 better neighbors in the community that

1 - PROCEEDINGS -

2 we operate in.

3 MR. MARKEY: I'll throw in my one

4 analogy that everybody can relate to,

5 on 9W, north of Stony Point, you have

6 a section of road, a single lane with a

7 traffic light in both directions. Not

8 a short distance; a couple hundred

9 feet. Imagine that being a half a mile

10 long.

11 How long will you wait at the
12 south traffic light before you can go?
13 Shortening it up to three
14 hundred feet, you wait less time.
15 North of Milepost 38 we are
16 basically eliminating two miles, plus
17 of single track, so time that to the
18 traffic light scenario on 9W and we are
19 all familiar with, in the construction
20 zone up there, shorten that up, and it
21 shortens the wait time.
22 That's how the fluidity will be

23 improved through this area.

24 MR. MC MENAMIN: So, I'll take

25 that as a "yes"?

1 - PROCEEDINGS -

2 MR. MARKEY: Yes.

3 MR. MC MENAMIN: You are lessening

4 the wait times and therefore, adding

5 more fluidity.

6 MR. MARKEY: Yes.

7 THE CHAIRMAN: Another question;

8 the project time line, when this

9 starts, from start to finish, what do

10 you expect?

11 How long will it take?

12 MR. MARKEY: At this point, we

13 projected it will be a six month

14 project and will be completed by the

15 end of this year.

16 THE CHAIRMAN: When did you expect

17 to start?

18 MR. MARKEY: Sometime in May.

19 THE CHAIRMAN: Okay.

20 MR. STACH: I want to get some

21 clarification on the quiet practices or

22 sounding practices of CSX.

- 23 You already said when a train is
- 24 stopped you have to blow the horn when
- 25 another train is passing it.

1 - PROCEEDINGS -

2 If they're not stopped now, let's

3 say they're proceeding slowly along

4 this stretch of double track, do they

5 still have to sound the horn when it

6 passes, or because it is in motion, you

7 don't have to blow it anymore?

8 MR. O'CONNELL: We still sound the

9 horn when passing another train.

10 I will double check the rule, I

11 know when it is standing, when it's
12 staged you have to sound the horn.
13 Of course, you also have to sound
14 the horn at all public and at-grade
15 crossings and at private crossings when
16 there's a whistle post, and that's
17 twenty seconds before the crossing,
18 until the lead locomotive traverses the
19 crossing.

20 MR. STACH: What happens if you
21 have a flood gate? Do you still have
22 to sound?

23 MR. O'CONNELL: I think you are

24 getting to the "quiet zone" discussions

25 now.

1 - PROCEEDINGS -

2 MR. STACH: Yes.

3 MR. O'CONNELL: I know Rockland

4 County was out in front of this for

5 quiet zones. And, my understanding is

6 that you have, again, you have

7 completed the F.R.A. process.

8 I'm not sure where you are in the

9 process now, actually, but the F.R.A.

10 would prescribe what would be needed at

11 the crossings for the quiet zones.

12 It could be any number of things.

13 Of course, when that happens and

14 when the improvements are made, we

15 would no longer sound the horn.

16 MR. STACH: When do those

17 improvements get made?

18 I am thinking also, in addition

19 to Holt Drive, there's an at-grade

20 crossing, at the Battlefield,

21 Battlefield Drive; there's another

22 at-grade crossing at the Quarry.

23 MR. O'CONNELL: There's two there.

24 There's Tilcon.

25 MR. STACH: Yes, there's Tilcon

1 - PROCEEDINGS -

2 and the former Lovett.

3 I think you are pretty good at

4 Iona Island, as far as at-grade

5 crossings.

6 So, there's really four areas

7 where you have to sound the horn to

8 get across a -- in the case of Tilcon

9 and Lovett --- a private crossing, but

10 in the case of the Battlefield, it is a

11 public --- it is owned by the park, so

12 it's not private.

13 So, what is the process, where

14 now those gates, is it something that

15 Rockland County has to ---

16 MR. O'CONNELL: My understanding

17 is that Rockland County is seeking

18 funding for it, because the entity that

19 applies for the quiet zone has to pay

20 for the upgrades and the crossing at

21 the Battlefield, is a private crossing.

22 There's a crossing just south of

23 the bridge. I believe that is for

24 oversized vehicles, but some of these

25 are private and we are open to, we were

1 - PROCEEDINGS -

2 having discussions about closing some

3 of these private crossings where

4 alternative access exists and so we

5 don't have to blow the horn, of course,

6 improving the safety of the area, as

7 well, and you won't have cars crossing

8 the railroad tracks.

9 So, we would be more than happy

10 and open to having that conservation

11 with the Town to take an inventory of

12 what we have here in the Town, and

13 where there's alternative access

14 existing and take a look at closing

15 some of those. Of course, if you close

16 them, there will be no reason for

17 blowing the horn.

18 MR. MC MENAMIN: You have two

19 outposts where you have two culverts.

20 Are they in a each direction?

21 MR. STACH: Well, I had also told

22 you fellows about F.E.M.A. who is to

23 looking to raise the flood elevations.

24 Have you followed up with that?

25 Are you intending --- do you have

1 - PROCEEDINGS -

2 to do a project to increase the

3 elevation of the tracks?

4 You are right above the eight

5 foot right now, right?

6 MR. MARKEY: There are some

7 elevations that are six.

8 MR. STACH: Some are below eight

9 foot right now.

10 MR. MARKEY: Right.

11 MR. STACH: So, that is not

12 something that you have to meet as a

13 regulation?

14 MR. MARKEY: No.

15 THE CHAIRMAN: One other question;

16 with the Lovett Plant being closed,

17 when the trains go through they still

18 blow the horn.

19 Now that the Plant is closed,

20 they're still hearing the horn, so and

21 that's a concern to the people in the

22 area and ---

23 MR. O'CONNELL: That one is ripe

24 for closure. You are exactly right.

25 That one I checked on before the

1 - PROCEEDINGS -

2 meeting tonight, but yes, you are

3 right.

4 THE CHAIRMAN: Kevin, any

5 questions?

6 MR. MAHER: Not right now. I'd

7 just like to get the size plans that

8 are not in the SWPP (phonetically

9 written) I got. I would like to have a

10 full size set of plans.

11 It is a lot easier to read.

12 MR. O'CONNELL: No problem.

13 MR. KREASE: Something else came

14 to my mind: It was my understanding

15 years ago we had some situations with

16 the Holt Drive crossing and we were

17 told very shortly --- that was four

18 years ago --- that CSX was going to

19 start in Orangeburg, Orangetown,

20 putting the quiet zones in.

21 Okay?

22 We have heard nothing since then.

23 I do appreciate you Gentlemen

24 coming down and the presentation and

25 most likely, it will be what it will

1 - PROCEEDINGS -

2 be, but we are going to hold you to the

3 fact that we would like to work with

4 you to co-exist and to solve these

5 problems.

6 Down by the Lovett Plant, the

7 road is not being used. You need to

8 find a way to close it and stop the

9 whistle blowing and ---

10 MR. O'CONNELL: I will do that

11 immediately. I will put our manager of
12 crossings here in New York State in
13 touch with you to have those
14 conversations.

15 The other thing for the public
16 here, one thing we did try to improve
17 the communication with the community,
18 and we have instituted a number which
19 is 1-877-TELLCSX.

20 Tell CSX if you have any issues;
21 noise issues, at-grade crossing issues;
22 I encourage you to call that number.

23 Let us know about it so that we can

24 address it.

25 I will certainly make myself

1 - PROCEEDINGS -

2 available to the Town officials.

3 MR. KREASE: Was there a

4 conservation somewhere where you talked

5 about Tomkins Avenue?

6 MR. STACH: I did, actually. You

7 are right.

8 MR. KREASE: And Hunter?

9 MR. STACH: One of the comments I

10 had prepared in my draft Memorandum was

11 that the Board is going to append and
12 submit, on behalf of the Town to the
13 Department of State, one of the
14 policies of the Local Waterfront
15 Revitalization Plan, in a state coastal
16 zone, is the policy that when you are
17 making improvements that are publicly
18 funded ---- and I don't know if the
19 work you are doing now is publicly
20 funded ---

21 MR. O'CONNELL: No, it is not
22 public funds.

23 MR. STACH: The point is, if it
24 were, if it were a publicly funded
25 project, you should be spending the

1 - PROCEEDINGS -

2 money in the coastal zone to support to

3 revitalization of the coastal line.

4 So, that is why I brought up the

5 Holt Drive crossing and another one at

6 Tomkins Avenue, that doesn't meet the

7 Building Code standards in height.

8 We can't get emergency equipment

9 underneath that underpass to get out to

10 Shore Road and we can't go underneath

11 because there are storm drains and we

12 can't mine it further.

13 So, really, the only solution

14 seems to be to increase the height of

15 the grade crossing which we imagine is

16 logistically difficult for you guys.

17 So really, I think the point is

18 and our comments to DOS is, in terms of

19 coastal zone consistency and when

20 public money is used in a coastal zone,

21 we want to see those crossings.

22 On Holt Drive there was a tractor

23 trailer hit there by a train and we

24 have the emergency access, the other

25 alternative access to the waterfront at

1 - PROCEEDINGS -

2 Tomkins Avenue, it also is below flood

3 elevation.

4 During high water events, you

5 can't get in there from one end and you

6 can't get under the underpass.

7 They've cordoned off that whole area of

8 the Town.

9 In making that recommendation,

10 Gene also had a question about Hunter

11 Avenue, which is a road five hundred

12 feet ---

13 MR. KREASE: I don't even think

14 it's that big.

15 Apparently, in talking to the

16 Town Engineer today, it is possibly a

17 Town road, but it is really not a road,

18 really. It is blacktop up to your

19 underpass.

20 My question is who can go under?

21 You know that people are going under

22 there. Who owns it? Does it --- who

23 has the right-of-way? Does a private

24 developer have a right-of-way?

25 It's just a question I had.

1 - PROCEEDINGS -

2 There were some plans for condos
3 in that area, with pedestrian pathways.

4 I don't think the residents will
5 feel too safe crossing, in getting down
6 to the riverfront. My big concern was
7 actually cars.

8 Two cars can never even get
9 through that. It's that small and it's
10 that low.

11 MR. MARKY: Where exactly is that

12 again?

13 MR. KREASE: That would be north

14 of the Tompkins Avenue.

15 MR. STACH: About five hundred

16 feet north of Tompkins Avenue.

17 MR. KREASE: You had one there

18 before and you filled it in between ten

19 or fifteen years ago that went no

20 where, behind two pieces of private

21 property.

22 This one was cleaned up a little

23 bit. It appears that people may start

24 using it.

25 I am personally concerned about

1 - PROCEEDINGS -

2 who owns it and who has a right to use

3 it, or are you responsible?

4 MR. O'CONNELL: I'll review that.

5 MR. KREASE: I will give you my

6 business card. These people know who I

7 am and they will haunt me, so ---

8 (Laughter)

9 MR. O'CONNELL: Of course.

10 THE CHAIRMAN: What we will do,

11 if you are done with your presentation,

12 would I be able to get a copy of the

13 presentation? You can e-mail it to

14 Mary and what I'll do, I will put it on

15 the website for the Town for the

16 public.

17 Since it is not a public hearing,

18 but the public has concerns, so what we

19 will do that after tonights meeting,

20 the Planning Board will take any

21 comments, or e-mails; send them or drop

22 them off.

23 Once we get them, we will forward

24 them off to CSX and we will put in all

25 of our comments, the Planning Board's

1 - PROCEEDINGS -

2 comments.

3 Another comment; I had contact

4 with Senator Larkin's office today and

5 he has heard the concerns of the

6 residents about the noise, possible air

7 pollution, and he will also contact

8 you.

9 I really just wanted to give you

10 a heads up on that.

11 MR. O'CONNELL: Thank you.

12 THE CHAIRMAN: So, if there is

13 nothing other than that, I thank you

14 for coming.

15 MR. O'CONNELL: Thank you for the

16 opportunity.

17 THE CHAIRMAN: We appreciate it

18 and we will be in contact with you

19 regarding the other things.

20 Thank you.

21 MR. O'CONNELL: Thank you. Good

22 evening.

23 THE CHAIRMAN: Okay, we have a

24 few other items on the Agenda, so, at

25 this point we will take a five minute

1 - PROCEEDINGS -

2 recess.

3 (At 7:55 eight p.m., a five

4 minute recess was taken.)

5 (Recess.)

6 * * *

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 - PROCEEDINGS -

2

3 cert page

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2 STATE OF NEW YORK: COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

3

----- X

4

In the Matter of the Application

5

RE: Public

6

Hearing

BHS SITE PLAN,

7

Applicants.

8

----- X

9

8 o'clock p.m.

March 28th, 2013

10

RHO Building

11 Five Patriot Drive
Stony Point, New York
10980

12

HELD BEFORE THE PLANNING BOARD OF THE
13 TOWN OF STONY POINT:

14

B E F O R E : Thomas Gubitosa,
15 Chairman

16

A p p e a r a n c e s :

17

18 THOMAS MC MENAMIN, Member

GLADYS CALLAGHAN, Member

19 EUGENE KREASE, Member

GERRY ROGERS, Member

20 MICHAEL PUCCIO, Member

PETER MULLER, Member (Not Present)

21

MARY PAGANO,

22 Secretary to the Board

23

Reported by:

24

Patricia A. Puleo,

NYS Certified Court Reporter

25

and Notary Public

1

2

62

3

Appearances continued:

4

KEVIN MULHEARN, Esq., Special Counsel

60 Dutch Hill Road

5

Orangeburg, New York 10962

BY: DWIGHT JOYCE, Esq., Of Counsel

6

For Kevin Mulhearn, Esq.

7

WILLIAM SHEEHAN, Town Building

Inspector

8

KEVIN P. MAHER, P.E, Town Engineer

9

10

TURNER MILLER GROUP,

Planning Consultants

11 Two Executive Boulevard - Suite 401

Suffern, New York 10901

12 BY: MAXIMILIAN STACH, Town Planner

13 ATZL, SCATASSA AND ZIGLER

Surveyors/Architects for Applicant

14 234 North Main Street

New City, New York 10956

15 BY: DAVID M. ZIGLER, P.E.

16

17 And the Public.

18

19 PULEO REPORTING & TRANSCRIPTION

SERVICES

20

61 Crickettown Road

21

Stony Point, New York 10980

22

(845) 429-8986 FAX and Phone

23

24

25

1 - PROCEEDINGS - 63

2 (Public Hearing resumed, 8:10

3 p.m.)

4 THE CHAIRMAN: The next item on

5 the Agenda for public hearing is BHS

6 for site plan; located on the south

7 side of Holt Drive, 990 feet east of

8 Route 9W.

9 Mr. Zigler, you can come up with

10 your board.

11 (Mr. Zigler putting up a

12 diagram.)

13 MR. ZIGLER: Hi, Dave Zigler,

14 Atzl, Scatassa and Zigler.

15 We had been before the Town Board

16 for a special permit for Contractors

17 Storage and we are on before the

18 Planning Board for site plan.

19 Basically, this is the third

20 building down on Holt Drive. If you're

21 leaving 9W going down Holt Drive, this

22 is the third building on the right.

23 It's actually the fourth parcel,

24 the third building with the fence

25 around it.

1 - PROCEEDINGS - 64

2 Contractor Storage has very

3 specific things that are incorporated

4 in the plans to buffer it from the

5 neighbors.

6 This building is existing.

7 The entrance to it and the

8 parking is on the side, the west side

9 of it and the south side shown up here

10 (indicating).

11 The building is in orange
12 (indicating) and the shaded area is the
13 existing pavement.

14 Contractor Storage is one of the
15 owners and they would like to store his
16 equipment there.

17 He is in construction, a building
18 contractor. I'm sure you're familiar
19 with him. He built the firehouse and
20 the ambulance building.

21 Usually when you think about
22 contractors' storage, you think of a

- 23 landscaper or somebody who installs
- 24 siding; somebody who has all smaller
- 25 type of equipment that handles sand or

1 - PROCEEDINGS - 65

2 gravel; something of that nature.

3 This gentleman is a little

4 different in that he just wants to

5 store heavy equipment there.

6 What is slated to go in there is

7 four dump trucks, a sixteen foot cargo

8 trailer, he has a backhoe, two

9 mini-excavators, a Skitz Deere

10 (phonetically written), two salt

11 spreaders, three excavators; the ones

12 on tracks, the types you have seen,

13 like the one at the firehouse.

14 He has a Cat loader that loads

15 trucks and he has three dozers.

16 That is the type of storage he

17 would like to do there, long term.

18 Usually if a machine leaves, it

19 usually stays on-site, so if it is

20 parked there, it is parked for a long

21 time. If they come in and pick it up,

22 it is gone for a long time. It is

23 something --- it is not something you

24 move in-and-out every day.

25 This is heavy, heavy equipment.

1 - PROCEEDINGS - 66

2 The only thing that might go

3 in-and-out every day are the smaller

4 dumps, which maybe will go out every

5 day.

6 The site we are talking about is

7 very secure. It has a fence around it.

8 It has a fence on the south side.

9 The side of the property is

10 actually the Town of Haverstraw's small

11 elementary school.

12 The site, or the grade between

13 the site and the school is about eight

14 to twelve foot.

15 So, if you're standing on the

16 site and you're looking at the back of

17 the building there, that's in orange

18 (indicating) and you turn around,

19 looking to the south, if you look to

20 the south, you can't see the school.

21 All you can see is the top of the

22 backstop on the baseball field.

23 So, the site is not visible from

24 the south. And from the neighbors,

25 there's a row of trees.

1 - PROCEEDINGS - 67

2 We were out on the site visit

3 with the Planning Board and the thought

4 was -- and it is also in the code ---

5 to buffer it vehicles from the other

6 residential area, and being we are not

7 in residential area, we don't have to

8 worry about that.

9 But, coming down Holt Drive

10 before you turn into Shop Rite, you can

11 look to the right and you can see in
12 between the buildings, you can see the
13 site with the leaves off.
14 The Planning Board, at the field
15 trip, stated they'd like us to buffer
16 that, buffer that by putting a fence,
17 with, slats in the fence, all along the
18 property line.
19 So, as you come down Holt to make
20 your left to go into Shop Rite, if you
21 look, if you look to your right, you
22 won't see the site.

23 We agreed to that.

24 So, this is why we are here for a

25 Public Hearing. We are slated next

1 - PROCEEDINGS - 68

2 month with the Town Board. We need

3 Town Board approval and site plan

4 approval.

5 We had comments from the Rockland

6 County Planner. We didn't have any

7 problems with any of the comments,

8 really.

9 They had to do with the buffering

10 of the site, and evergreens, fencing,

11 and about the times that the site will
12 be used. It will only be used during
13 the day.

14 The Town also has a code on
15 limits in a LI Zone, so the site will
16 not be used in the middle of the night.

17 The Rockland County Planner asked
18 for a lighting plan. As the Board
19 seen, there are two lights in the back
20 now and there is no proposed additional
21 lights. The lights stay on all the
22 time. The area will be fenced and

23 gated so there is no need to have

24 additional lighting.

25 There was a question about the

1 - PROCEEDINGS - 69

2 sewer main. In the back of the
3 property, it traverses east-to-west in
4 a straight line, which is a Town line.

5 It is actually the sewer line
6 from Helen Hayes. It used to be a
7 sewer plant back in the forties, back
8 down where the Haverstraw landfill is.

9 That was the main sewer for Helen
10 Hayes and is now incorporated within

11 the Joint Regional. It is actually
12 part of the Haverstraw, West Haverstraw
13 sewer.

14 There was a question whether we
15 can use that. I forwarded the Deed to
16 the Planning Board and that is just an
17 easement. It is a right for the State
18 of New York to put their sewer on it,
19 but it doesn't impinge on the owner of
20 the property to use the property.

21 It was not purchased in fee. It
22 was just purchased as an easement. We

- 23 have a right to park on it, but we

- 24 cannot build on it; no building or

- 25 shed, that's not legal, but to park on

1 - PROCEEDINGS - 70

2 it, you can.

3 It is not different than the two

4 site plans we did on the either end;

5 Town line, which is on the east end,

6 we actually had parking on it and

7 Hudson Grand, on 9W, we actually had

8 emergency fire access around the back

9 of the building on the south side.

10 It is a pretty straight forward

11 application.

12 The user is known in the Town,

13 and, intends to use it for his

14 business.

15 There was a question from the

16 Planning Board about smaller equipment,

17 like jumping-jacks or something that

18 can be picked up and taken off-site,

19 that's not the case. That will be

20 stored in the building.

21 So really, we are just talking

22 about large equipment and possibly an

23 office trailer, if he moves off the

24 site, he may move an office trailer.

25 That's it, really.

1 - PROCEEDINGS - 71

2 THE CHAIRMAN: Any questions? Does

3 the Board have any questions?

4 Max?

5 MR. STACH: Yes. I just thought

6 it will be helpful, Dave, to go through

7 the County review.

8 Some of these things are very

9 specific.

10 There have been, recently in

11 terms of where --- like, in the past
12 they said "...consideration shall be
13 given to something"; now, they're
14 saying, "...something shall be done."

15 MR. ZIGLER: Right.

16 MR. STACH: I had some questions
17 with regard to number two.

18 Can you get us a new EAF?

19 MR. ZIGLER: That was modified and
20 I had attached it to the responses.

21 The County sent two letters. The
22 second one was a slight bit different

23 than the second one --- or I should

24 say, the second one was a slight bit

25 different than the first one.

1 - PROCEEDINGS - 72

2 I had responded to that on

3 February 12th. That is the date of my

4 letter. I attached it to the revised

5 EAF. I will forward that to you. I

6 will go over that. That is a March

7 28th Planning letter.

8 I have the first one, I don't

9 have the second one.

10 THE CHAIRMAN: Okay.

11 MR. STACH: I am looking at the

12 March 28th planning letter.

13 MS. PAGANO: I just got it today;

14 this afternoon, March 28th.

15 MR. STACH: They're still looking

16 for that new EAF.

17 MR. ZIGLER: I will forward that,

18 too. I did modify it.

19 MR. STACH: My next comment is

20 that landscaping "...shall be

21 installed" -- --

22 MR. ZIGLER: Yes. Must be.

23 MR. STACH: Yes.

24 MR. ZIGLER: So, we would ask for

25 a waiver of that and ask for an

1 - PROCEEDINGS - 73

2 override.

3 We were out on the site, you

4 actually have to cut down some of the

5 small, decorative trees along the

6 property line. If you have to cut down

7 the trees to plants the evergreens, I

8 don't think that will be very helpful.

9 MR. STACH: I think you said with

10 regard to the lighting plan you are not

11 proposing or putting in any new

12 lighting?

13 MR. ZIGLER: No; no additional

14 lighting and the operation is limited

15 by the Stony Point Code. That's number

16 4.

17 MR. STACH: You did indicate the

18 trees you did remove?

19 Is that correct?

20 MR. ZIGLER: Yes, they were marked

21 up last month. They were on the

22 modified plan.

23 MR. STACH: In terms of the last

24 comment, I assume you will be asking

25 for an override as they are asking for

1 - PROCEEDINGS - 74

2 paving the entire area, leaving some as

3 gravel.

4 MR. ZIGLER: We would like to

5 leave it as gravel. So, it says,

6 "should be paved". It is a gray area,

7 we ask for an override.

8 We were out at the site to look

9 at these things, specifically, and this

10 is a mirror of what the Town Code is

11 asking for; that's to buffer it from

12 the adjacent site.

13 I think that asking for an

14 override on the lighting and the

15 evergreens is not too hard.

16 MR. STACH: I just wanted to make

17 sure.

18 THE CHAIRMAN: At this time we

19 will open the public hearing for BHS.

20 MR. ZIGLER: If you are opening

21 the public hearing, will you leave it

22 open until we come back from the Town

23 Board?

24 MR. STACH: It makes sense for

25 them to open it before they give their

1 - PROCEEDINGS - 75

2 recommendation and then close it when

3 you come back next time, leave it open

4 and close it before they decide on the

5 site plan.

6 THE CHAIRMAN: Okay.

7 MR. ZIGLER: I will respond to

8 this March 28th letter.

9 MR. STACH: Very good.

10 THE CHAIRMAN: Okay. At this

11 time, I will open the public hearing

12 for BHS.

13 If you want to comment, please

14 state your name and address for the

15 record and address the Board.

16 There's also a sign-in pad you

17 can notate your information.

18 I am opening the public hearing

19 for BHS.

20 * * *

21 MR. FERGUSON: Mike Ferguson, 87

22 Blanchard Road, Stony Point.

23 I just want to state that Kay

24 Fries Drive, Holt Drive is an

25 industrial park.

1 - PROCEEDINGS - 76

2 It has been an industrial park in
3 the Town for over fifty years. The
4 zone has changed, over the years, but
5 it is the only industrial place where
6 we are allowed to keep trucks.

7 The Applicant also has been in
8 business in the Town for close to forty
9 or fifty years.

10 I think the Board should look

11 favorably on giving them what they're
12 applying for. The increase in truck
13 traffic is not a question. Sometimes
14 it's one truck, two hundred, the
15 Applicant is not intending to do
16 anything more than he does.
17 In fact, everybody is always
18 asking, "why don't you bring in more
19 business, more business into Stony
20 Point?", and it's because of situations
21 like this. It takes so long, it's
22 such a long process to do anything and

23 the costs to do all this stuff.

24 I think we need more business

25 here, and I thank you.

1 - PROCEEDINGS - 77

2 THE CHAIRMAN: Any other comments.

3 (No responses heard at this

4 time.)

5 THE CHAIRMAN: I need a motion to

6 adjourn? Adjourn the public hearing,

7 to just keep it open right now.

8 Yes, Max?

9 MR. STACH: Yes, just adjourn the

10 public hearing to --- we will just keep

11 it open to next month.

12 MR. ROGERS: I will make that

13 motion, Mr. Chairman, to keep the

14 public hearing open.

15 THE CHAIRMAN: Second?

16 MRS. CALLAGHAN: I will second

17 it.

18 THE CHAIRMAN: All in favor?

19 (Unanimous affirmative responses

20 heard at this time.)

21 THE CHAIRMAN: Opposed?

22 (No responses heard.)

23 THE CHAIRMAN: Motion carries.

24 MR. MC MENAMIN: I have a

25 question, when a big truck comes out of

1 - PROCEEDINGS - 78

2 there, first of all, is it Holt Drive

3 where it's hashed there or is that just

4 a line in the road?

5 MR. ZIGLER: That is a drainage

6 pipe on the curve.

7 (Indicating on a diagram.)

8 MR. MC MENAMIN: No. This thing

9 here?

10 (Indicating on the blueprint).

11 MR. ZIGLER: Oh, that is a traffic

12 island, just a painted island.

13 MR. MC MENAMIN: When he comes out

14 of the driveway, he will make a left?

15 MR. ZIGLER: Yes. It is a painted

16 island.

17 THE CHAIRMAN: It's painted.

18 Trucks do it all the time.

19 MR. MC MENAMIN: Is that

20 acceptable?

21 MR. ZIGLER: Yes.

22 MR. MC MENAMIN: What is it there

23 for?

24 MR. ZIGLER: If you are coming

25 from the back, let us say lower on Holt

1 - PROCEEDINGS - 79

2 Drive, as you approach that coming

3 down, west (indicating), so you are on

4 the right side of this here, you are

5 coming west, that painted island, it

6 channels you to the right side, because

7 opposite that painted island, coming

8 down from 9W, you have a left turn, and

9 it channels your eyes to the right and

10 you move your car do the right,

11 because if you just came up road,
12 normally and stay close to the yellow
13 line, you would run head-on into the
14 truck lane on the left.

15 So, it is a channel of a two lane
16 road, going to a two lane road with a
17 turn lane.

18 THE CHAIRMAN: There are trucks
19 coming out of there today.

20 MR. ZIGLER: Yes.

21 THE CHAIRMAN: Okay. Any other
22 questions?

23 (No responses heard at this

24 time.)

25 THE CHAIRMAN: You are not going

1 - PROCEEDINGS - 80

2 to ZBA?

3 MR. ZIGLER: No, just to the Town

4 Board. Did you give this one a negative

5 declaration?

6 THE CHAIRMAN: We adopted the

7 negative dec last time.

8 MR. ZIGLER: So, I'll go to the

9 Town Board and return next month and

10 hopefully wrap this situation up.

11 THE CHAIRMAN: Very good. Thank

12 you.

13 * * *

14

15

16

17

18

19

20

21

22

23

24

25

1 - PROCEEDINGS - 81

2

3

4

5

6

7

8

9

10 CERT PAGE

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2 STATE OF NEW YORK : COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

3

----- X

4

In the Matter of the Application

5

RE: Public

6

Hearing

FORTY-FOUR SOUTH LIBERTY DRIVE

7

Applicants.

8

----- X

9

8:30 o'clock p.m.

March 28th, 2013

10

RHO Building

Five Patriot Drive

11 Stony Point, New York

10980

12

HELD BEFORE THE PLANNING BOARD OF THE

13 TOWN OF STONY POINT:

14

B E F O R E : Thomas Gubitosa,

15 Chairman

16

A p p e a r a n c e s :

17

18 THOMAS MC MENAMIN, Member

GLADYS CALLAGHAN, Member

19 EUGENE KREASE, Member

GERRY ROGERS, Member

20 MICHAEL PUCCIO, Member

PETER MULLER, Member (Not Present)

21

MARY PAGANO,

22 Secretary to the Board

23

Reported by:

24

Patricia A. Puleo,

NYS Certified Court Reporter

25

and Notary Public

1

2

83

3

Appearances continued:

4

FERRICK, LYNCH & MAC CARTNEY

Town Attorneys

5

96 South Broadway

South Nyack, New York 10960

6

BY: STEPHEN M. HONAN, ESQ.

7

WILLIAM SHEEHAN, Town Building

Inspector

8

KEVIN P. MAHER, P.E, Town Engineer

9

10

TURNER MILLER GROUP,

Planning Consultants

11 Two Executive Boulevard - Suite 401

Suffern, New York 10901

12 BY: MAXIMILIAN STACH, Town Planner

13 ATZL, SCATASSA AND ZIGLER

Surveyors/Architects for Applicant

14 234 North Main Street

New City, New York 10956

15 BY: DAVID M. ZIGLER, P.E.

16

17 And the Public.

18

19 PULEO REPORTING & TRANSCRIPTION

SERVICES

20

61 Crickettown Road

21

Stony Point, New York 10980

22

(845) 429-8986 FAX and Phone

23

24

25

1 - PROCEEDINGS - 84

2 THE CHAIRMAN: We have another

3 public hearing, Forty-four South

4 Liberty Drive.

5 This is for site plan of a

6 property located on the east side of

7 South Liberty Drive, 725 feet south of

8 High Avenue at the intersection with

9 South Liberty Drive.

10 Mr. Zigler?

11 MR. ZIGLER: Dave Zigler, Atzl,
12 Scatassa and Zigler for the Applicant.

13 THE CHAIRMAN: Just also for the
14 record, the attorney for this
15 application will be Mr. Honan.

16 MR. ZIGLER: I am here
17 representing 44 South Liberty Drive,
18 which is a site on Route 9W, just south
19 of the Route 210 traffic light,
20 directly in front of the shopping
21 center where Pasta Cucina is, along
22 with a couple other restaurants.

23 The site was formerly a gas
24 station. It has been closed for quite
25 sometime. The tanks and pumps have

1 - PROCEEDINGS - 85

2 been removed. All of the certificates

3 are in the Stony Point Building

4 Department, so it is a clean site, as

5 far as the Health Department goes.

6 The project is to take that gas

7 station and remove it from the site,

8 and put in a 7 Eleven.

9 It's almost in the same exact

10 spot. I say "almost" because the

11 building will be a little longer to the
12 south, so the north end of the building
13 will be exactly as the building that's
14 there today, but the south end will be
15 extended a little further.

16 So, it is a little longer, but it
17 has the same depth.

18 The area of the lot is fifteen
19 thousand square foot. It is in the BU
20 Zone, and it requires variances to
21 build it as we are proposing.

22 The request for the variance is

23 in front of the ZBA. The ZBA Public

24 Hearing on it is next Thursday.

25 So, the Applicant has requested

1 - PROCEEDINGS - 86

2 to open the public hearing at the

3 Planning Board in case there are

4 questions about planning and not the

5 variances.

6 So, if there are any questions,

7 we would ask for the Board to leave the

8 public hearing open while we go to the

9 Zoning Board of Appeals.

10 In addition, this plan has gone

11 to the ARB. The ARB, they have made

12 some comments.

13 I had two revisions to do; one

14 was the lettering of the signs, which

15 was incorrect and the other one, some

16 of the lights were a little bit too

17 bright underneath the light, off to

18 the side, so we had to modify that.

19 And the third thing was they

20 needed a building plans and the

21 applicant has not started the building

22 plans because if we don't get the

23 variances, we don't have a building.

24 So, the next thing we are doing

25 so that we can move the process

1 - PROCEEDINGS - 87

2 forward, is going to the Zoning Board

3 of Appeals to get the variances, and

4 then we will come back to the Planning

5 Board for site plan. Hopefully, and

6 final.

7 The plan itself has parking in

8 front of the building, in between the

9 building and 9W, and some spaces to the

10 north of that.

11 We are trying to do a one-way in
12 and one-way out, so if you are going
13 northbound on 9W, you'd make a right
14 going into the store and back up and
15 then go out the next exit to the
16 north.

17 So, the north exit is going to be
18 for entrance to 9W, which is an exit
19 and the south one will be the entrance.

20 On the plans you had, we put the
21 dumpster on the north side of the
22 building.

23 We did that because we are

24 thinking about doing some kind of water

25 quality, storage on the south east

1 - PROCEEDINGS - 88

2 corner; the corner between this Vince

3 Monte Building and this proposed

4 building.

5 I talked to Kevin and he was

6 amenable to using different type of

7 structures.

8 There is a re-development plan,

9 so there is a little bit more leniency

10 on what you can do because, what's out

11 there is paving and a building and you

12 are replacing it with paving and a

13 building.

14 So, after talking to Kevin at the

15 workshop and getting some of the

16 comments from the workshop advisors to

17 the Planning Board, the thought was to

18 get the dumpster in the pocket to the

19 south side of the building.

20 I had placed it over here to the

21 north, (indicating) coming down 9W,

22 which is probably visible from here

23 (indicating), so, putting it back in

24 the original spot from the Vince Monte

25 Building and our proposed building, it

1 - PROCEEDINGS - 89

2 will hide that.

3 So, that's what we will do, we

4 will modify the plans, so the plans you

5 have will be changed back to the

6 original plan.

7 In addition, we had submitted a

8 lighting plan, the signs, the grading.

9 I showed Kevin our proposed

10 drainage, so, we are going to go to the

11 Zoning Board of Appeals and ask for the
12 variances.

13 We had two letters of referral
14 from this.

15 One was from the New York State
16 D.O.T. There were several comments
17 that had to do with some drafting,
18 driveway dimensions, reference to the
19 nearest mile markers and existing
20 proposed signs.

21 So, that's one, two, and three;
22 that's really just changes on the map

23 which we have already done for the next

24 submission.

25 The fourth one is requesting a

1 - PROCEEDINGS - 90

2 note on drainage, putting drains to the
3 north in this drainage system, which we
4 will do.

5 And this fifth comment had to do
6 with providing the landscaping to the
7 D.O.T. office, which we don't have a
8 problem doing.

9 The sixth one is a comment that
10 they don't recommend the parking

11 variances.

12 That is one of the variances we

13 need for the site. We are required to

14 have twenty, or twenty-two, I think,

15 and we only have sixteen spots.

16 Their comments were they didn't

17 want any parking along 9W. Neither do

18 we.

19 To that affect, I have provided

20 to the Planning Board, a traffic study

21 of the Seven 11, regarding the parking

22 spaces, of the Seven 11 over on Central

23 Highway, in Haverstraw.

24 We studied that for twelve hour

25 period; from six a.m. in the morning to

1 - PROCEEDINGS - 91

2 six p.m. at night.

3 They have exactly the same amount

4 of parking spaces. At no time were

5 all the spaces used.

6 As a matter of fact, not at one

7 time during the period of the study was

8 the same space used by the same person,

9 and we did do a count every ten

10 minutes.

11 So, in other words, when people
12 go into Seven 11 they get in and leave
13 right away. It is a quick
14 back-and-forth.

15 MR. MC MENAMIN: What day was
16 that?

17 MR. ZIGLER: I will look for that;
18 December 17th of last year.

19 MR. MC MENAMIN: Day of the week?

20 MR. ZIGLER: Oh, I don't know. I
21 have one chance in seven of getting it
22 right.

23 MR. KREASE: It was a Monday.

24 It's busy every day.

25 MR. ZIGLER: The second comment

1 - PROCEEDINGS - 92

2 letter we had was from the Rockland
3 County Drainage Agency.

4 It is really not in their
5 jurisdiction, but it says that it is in
6 close proximity to a state designated
7 wetlands.

8 That is confusing to me.

9 Confusing, because the state

10 wetlands stream is actually the one

11 right behind the Stony Point Senior

12 Citizen. That is a long ways from

13 that, so we don't have to contact

14 anybody to justify our site.

15 So, that's the comments we had

16 from the two agencies.

17 We are asking the Board to leave

18 the Public Hearing open so that we can

19 go to the Zoning Board of Appeals.

20 THE CHAIRMAN: Okay. Good. Before

21 I open the Public Hearing, does the

22 Board have any questions?

23 MR. MC MENAMIN: I have a

24 question. It is not a really a

25 variance you need, it's the parking

1 - PROCEEDINGS - 93

2 itself.

3 MR. ZIGLER: It's a relief. I

4 might have misspoke on that one. I did.

5 MR. STACH: The D.O.T. wrote a

6 variance.

7 MR. ZIGLER: I misspoke. It is

8 actually a request for the Planning

9 Board to give relief with the

10 twenty-five percent they allow.

11 THE CHAIRMAN: Yes. They mention

12 variance.

13 MR. MC MENAMIN: That's my friend,

14 Mary Jo at the state, but she says, she

15 recommends we don't waive it.

16 So, the study that you did, on a

17 Monday, it says here that they have

18 fifteen spaces, here now. How many do

19 you have? How many spaces are they

20 required to have?

21 MR. ZIGLER: In Haverstraw, I

22 don't know. I didn't break it down.

23 The building is the same size.

24 MR. MC MENAMIN: That's important

25 to know.

1 - PROCEEDINGS - 94

2 MR. ZIGLER: Why?

3 MR. MC MENAMIN: Because if you

4 are, if your building is bigger or

5 smaller ---

6 MR. ZIGLER: They're the same

7 size. I don't understand the

8 mathematics of it, but, basically when

9 you are studying parking, it's whether

10 it works or not.

11 Let's say the Code is two and
12 they have fifteen; if the fifteen don't
13 work, we don't care what the Code is.

14 Our mission was to look at it and
15 see if the site works with the number
16 of spaces provided and both are in the
17 same category and require the parking
18 in front of the building as is the one
19 on Central Highway.

20 Additionally, on Central Highway
21 there is an additional strip mall to
22 the side, meaning that you get a lot of

23 mixed use.

24 They actually opened the fence on

25 Central Highway so that the people can

1 - PROCEEDINGS - 95

2 walk back-and-forth and although the

3 store would be busy, it wouldn't

4 surprise me on this location, that a

5 lot of people will be back-and-forth

6 between the two shopping centers.

7 MR. MC MENAMIN: You're up to 12

8 or 13 in some hours of the day.

9 MR. ZIGLER: Yes.

10 MR. MC MENAMIN: So, you are

11 saying that we require 20.

12 MR. ZIGLER: I don't know what the

13 Code is in Haverstraw.

14 MR. MC MENAMIN: You say you are

15 up to twelve or thirteen some hours in

16 the day?

17 MR. ZIGLER: Yes.

18 MR. MC MENAMIN: You are saying

19 that we require twenty, and you are

20 providing fifteen. And you are asking

21 for a waiver of five? It is on the

22 front page of your drawing.

23 MR. ZIGLER: Let me look. Is that

24 a question or a statement?

25 MR. MC MENAMIN: Is that correct?

1 - PROCEEDINGS - 96

2 MR. ZIGLER: Okay. You are

3 absolutely correct.

4 MR. MC MENAMIN: So, then the

5 twenty-five percent of twenty is five.

6 MR. ZIGLER: Yes.

7 MR. MC MENAMIN: So, Mary Jo is

8 concerned about them parking on 9W.

9 MR. ZIGLER: I can see that. So

10 are we.

11 MR. MC MENAMIN: We waived the

12 parking already.

13 MR. ZIGLER: I don't know if this

14 is a super plan or anything.

15 I think, I just think that it is

16 a comment she makes quite often about

17 being underparked.

18 She made the same comment on

19 Shop Rite and several other projects.

20 She made the comment on the Provident

21 Bank; all of them needing a request.

22 Sometimes they just hit a button

23 on a computer and it spits out that

24 comment.

25 MR. STACH: As a point of

1 - PROCEEDINGS - 97

2 information, the Town of Haverstraw

3 requirement is one space per one

4 hundred and fifty.

5 Our requirement is one space per

6 one twenty-five, so Haverstraw is less

7 restrictive than Stony Point and this

8 building in Haverstraw would require

9 sixteen spaces, so it is because it is

10 in our Town, it's twenty.

11 That might be a smaller -- I
12 assume it probably is a smaller one and
13 that's why they have fifteen.

14 MR. ZIGLER: No, the buildings are
15 about the same size; somewhere around a
16 hundred square feet.

17 MR. STACH: There is a twenty-five
18 square foot difference.

19 MR. ZIGLER: The whole point of
20 the parking was, Tom read the top of
21 it, what's required by Code.

22 What I did, I outlined what is

23 required by use.

24 What I mean by "use" is, if you

25 go into a Seven 11 into any store,

1 - PROCEEDINGS - 98

2 there are where areas you can't walk

3 into.

4 So, ours, you can park out

5 front, but you can't walk into the

6 freezers; you can't walk into the

7 office, so I broke the building down to

8 use.

9 I used certain codes. I used

10 the code for offices and I used the

11 codes for parking.

12 It comes out to fifteen spaces.

13 So, right with this Code, it does

14 not go wall-to-wall, which is Stony

15 Point's Code, going wall-to-wall,

16 including the entire building.

17 If you want to aggravate it, you

18 can say that there can be a hundred

19 square foot of commercial area in the

20 building, but you still have to provide

21 commercial parking for the entire

22 building.

23 That is where a lot of the Codes

24 are changing.

25 I think your Master Plan is ---

1 - PROCEEDINGS - 99

2 if it ever gets approved --- addresses

3 some of that.

4 Basically, what the second part

5 of the map is describing what's in

6 use, and square footage.

7 It actually breaks down to what

8 we are providing.

9 MR. MC MENAMIN: We waived the 25

10 percent for Pasta Cucina, and I

11 observed on Friday nights at certain
12 times that there's not enough parking.
13 If we waive this and we waive
14 that, I think we are headed down a bad
15 road. I said this before. I don't
16 think it is a good idea and we
17 constantly do it.
18 MR. ZIGLER: I would agree, but
19 don't go by this Friday because it's
20 Good Friday.
21 I would agree to buy anybody
22 dinner on the next Friday if there's no

23 parking down there.

24 Is there parking for people who

25 want to park at the front door? No.

1 - PROCEEDINGS - 100

2 But there is parking for people

3 who don't mind walking, or if you park

4 in front of the bank. You can park in

5 the directly behind in the back of this

6 gas station now and you can walk down

7 to Pasta Cucina or like I said, you can

8 park in front of the bank.

9 If you want to park in the area

10 directly in the aisles directly in that

11 "L" boxed area, no, you are not going
12 to find a parking space.
13 Because the restaurant, Pasta
14 Cucina --- well, you have two
15 restaurants there and then you have the
16 bar around the corner, which really
17 does a tremendous business from
18 teachers on Friday --- I don't know why
19 --- so, if you want to park, go park
20 up in front of the bank and there's
21 plenty of them.
22 I don't want to disagree with

23 you. I just see it in a different

24 light.

25 THE CHAIRMAN: We will open the

1 - PROCEEDINGS - 101

2 Public Hearing for the Forty-four South

3 Liberty Drive.

4 If you have a comment, state your

5 name and address for the record and

6 just address the Board.

7 Frank?

8 MR. COLLYER: Frank Collyer, Ten

9 Knapp Road, Stony Point. I am a

10 member of SPACE, the Stony Point

11 Action Committee on the Environment.

12 Dave saw me walk in tonight and

13 said, "Oh, my God".

14 I'd like to start off, being an

15 old guy, I've been around a while, I

16 know a lot of history.

17 The first meeting I ever went to

18 was a Planning Board meeting back in

19 the 1980's when the Dunkin' Donuts was

20 Carlos Repair Shop.

21 Carl Jacobs was back in,

22 bothering everyone to convert it to a

23 Convenience store.

24 One day he says to me, "I've got

25 to get a bunch of variances. Will you

1 - PROCEEDINGS - 102

2 be good enough to go down and speak on

3 my behalf?"

4 So, I said, "Sure."

5 That was the first meeting I ever

6 went to.

7 So, I came in and it was a public

8 hearing like this and I said I would

9 like to have a convenience store there.

10 My kids were small and they like

11 Dunkin' Donuts.

12 Okay?

13 So, a couple of other people came

14 in and said the same thing.

15 Ultimately, it passed.

16 It wasn't a year that went by

17 when that happened, about a year after

18 that happened, Carl sold it and kind of

19 fell off the planet somewhere.

20 When you go over that hill,

21 coming down over a little from Willow

22 Grove, there is always a car and

23 (inaudible) they're trying to come in

24 on Algonquin Drive, in or out on

25 Algonquin Drive, and someone is parked

1 - PROCEEDINGS - 103

2 between the pumps and the road because,

3 you know, "They'll just be in there for

4 a minute". It's really bad on a snowy

5 day when that happens, and every time I

6 go past this, I see this, and I say,

7 "You jerk. You said this was a good

8 idea." You know?

9 So, I would really look at this

10 thing.

11 I mean, anything that needs eight

12 variances, there's something wrong.

13 He needed variances there and it

14 was a lesson to me. That's why the

15 variances are there, yes, but if you

16 grant them, sometimes bad things can

17 happen.

18 I don't like to put a kibosh on

19 this. But I think this plan is really

20 not a good one. It would be a

21 convenience to everyone, to have a

22 Seven 11. I'd like to see them come

23 in. But, this plan is not a good one.

24 I would just say, send it back

25 and see if you can give it to someone

1 - PROCEEDINGS - 104

2 that doesn't need eight variances.

3 THE CHAIRMAN: Thank you, Frank.

4 Are there any other comments?

5 (No responses are heard at this

6 time.)

7 THE CHAIRMAN: At this time I need

8 a motion to ---

9 MR. ZIGLER: Wait. Excuse me.

10 I don't know really want to

11 address the variances here, but I will

12 since it was brought up.

13 That building just sits there

14 today, and could be opened up as a

15 small Seven 11.

16 I would come to this Board and I

17 would be requesting exactly the same

18 variances that I am requesting now.

19 It has nothing to do with the

20 size of the building we are proposing.

21 It has to do with the shape of

22 the property and the Code difference.

- 23 The code difference from when
- 24 that was constructed, no property line;
- 25 zero property line and the size of the

1 - PROCEEDINGS - 105

2 lot, compared to todays code, so the

3 variances wouldn't change.

4 If you just poke a hole in the

5 front door, and you put a sign in the

6 front, I would be in here before this

7 Board for exactly the same thing that

8 I'm here for and I would be before the

9 Zoning Board of Appeals for exactly the

10 same thing.

11 So, there is no difference. The
12 only difference is you are benefiting
13 by having a new building with a new
14 look, so you can the think about that.

15 But, I don't think, as far as the
16 variances requested go, I don't think
17 that are that serious, especially when
18 you consider they're exactly the same
19 if you turned that building, just
20 turned a switch on and opened that
21 building up as a Seven 11 as it stands
22 today. It is exactly the same

23 building.

24 THE CHAIRMAN: All right, so I

25 have a motion to adjourn the public

1 - PROCEEDINGS - 106

2 hearing to next month, which is April

3 25th. I need a motion.

4 MRS. CALLAGHAN: I will make a

5 motion to keep the public hearing open.

6 THE CHAIRMAN: A second?

7 MR. ROGERS: I will second that.

8 THE CHAIRMAN: All in favor?

9 (Unanimous affirmative vote was

10 heard.)

11 THE CHAIRMAN: Opposed?

12 (No Responses Heard.)

13 THE CHAIRMAN: Motion carried.

14 MR. STACH: Are you providing

15 elevations to the site plan?

16 MR. ZIGLER: The only thing that

17 was incorrect was the labeling of the

18 signs, "A", "B" and "C", but I can

19 provide that to the Board, sure, on the

20 next submission.

21 No problem. Then we will have

22 the drainage calculations done.

23 MR. STACH: There is no SEQRA for

24 this.

25 MR. ZIGLER: Yes, well I will be

1 - PROCEEDINGS - 107

2 double checking.

3 THE CHAIRMAN: Very good.

4 * * *

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 - PROCEEDINGS - 108

2 CERT PAGE

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2 STATE OF NEW YORK : COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

3

----- X

4

In the Matter of the Application

5

RE: Pending

6

Application

HUDSON RIVER VIEW WAREHOUSING,

7

Applicants.

8

----- X

9

8:45 o'clock p.m.

March 28th, 2013

10

RHO Building

Five Patriot Drive

11 Stony Point, New York

10980

12

HELD BEFORE THE PLANNING BOARD OF THE

13 TOWN OF STONY POINT:

14

B E F O R E : Thomas Gubitosa,

15 Chairman

16

A p p e a r a n c e s :

17

18 THOMAS MC MENAMIN, Member

GLADYS CALLAGHAN, Member

19 EUGENE KREASE, Member

GERRY ROGERS, Member

20 MICHAEL PUCCIO, Member (Recused)

PETER MULLER, Member (Not Present)

21

MARY PAGANO,

22 Secretary to the Board

23

Reported by:

24

Patricia A. Puleo,

NYS Certified Court Reporter

25

and Notary Public

1

2

110

3

Appearances continued:

4

KEVIN T. MULHEARN, Esq. Special Counsel

60 Dutch Hill Road - Suite 8

5

Orangeburg, New York 10962

BY: DWIGHT JOYCE, Esq., Of Counsel

6

7

WILLIAM SHEEHAN, Town Building

Inspector

8

KEVIN P. MAHER, P.E, Town Engineer

9

10

TURNER MILLER GROUP,

Planning Consultants

11 Two Executive Boulevard - Suite 401

Suffern, New York 10901

12 BY: MAXIMILIAN STACH, Town Planner

13 ATZL, SCATASSA AND ZIGLER

Surveyors/Architects for Applicant

14 234 North Main Street

New City, New York 10956

15 BY: DAVID M. ZIGLER, P.E.

16

17 And the Public.

18

19 PULEO REPORTING & TRANSCRIPTION

SERVICES

20

61 Crickettown Road

21

Stony Point, New York 10980

22

(845) 429-8986 FAX and Phone

23

24

25

1 - PROCEEDINGS - 111

2 THE CHAIRMAN: Continuing with

3 number 5 on the Agenda, or the next

4 item on the Agenda is Hudson River View

5 Warehousing.

6 Amended site plan, preliminary,

7 located on the east end of Holt Drive,

8 1800 feet east of South Liberty Drive,

9 600 feet east on an unnamed private

10 road.

11 Mr. Joyce is representing us on

12 this one.

13 The record should reflect that at

14 this time Mr. Puccio is recusing

15 himself.

16 Dave?

17 MR. ZIGLER: David Zigler from

18 Atzl, Scatassa and Zigler.

19 This is a continuation of a

20 previous plan.

21 We had, on this one, we had a

22 site visit.

23 This is the Tracy site. The

24 Applicant had a plan in for an

25 agricultural field. Ag field.

1 - PROCEEDINGS - 112

2 There is a need to have a site
3 plan review, and the SEQRA done for the
4 reason of filling the site.

5 The site will be twelve acres of
6 fill and by the DEC, that would turn
7 into a Quarry operation, if it wasn't a
8 site plan approval.

9 It's not done very much in
10 Rockland County, but if you're up in

11 Orange County or Sullivan County, you

12 will see it.

13 It's not unusual for the Planning

14 Board to process a site plan so that

15 they can go in to pull fill out to

16 bring it down to grade.

17 In this case, the Applicant wants

18 to bring it up to grade.

19 The DEC didn't believe that that

20 agricultural field is a site plan.

21 I didn't think that that was

22 quite fair and wanted a building to be

23 put on there.

24 So, I went back to the Applicant

25 and the Applicant, being he's in the

1 - PROCEEDINGS - 113

2 mini-storage facility use, Hudson Bay,

3 thought that would be a good use here.

4 If you remember, this plan area

5 has been planned for --- this is

6 probably the fourth different site

7 plan.

8 You had contractor storage a

9 couple of times.

10 You had a baseball field, soccer

11 field, and sort of like an indoor

12 stadium at one time.

13 All of these fell through because

14 of the famous at-grade crossing for the

15 railroad track,.

16 This site is actually serviced

17 by two access ways, one is the grade

18 crossing on the north. On the south

19 side is a tunnel.

20 The proposal is to keep it

21 one-way. One way north, exit on the

22 south under the tunnel.

23 The mini-storage facility part

24 does not have a large intense amount of

25 traffic moving through it.

1 - PROCEEDINGS - 114

2 You can, on certain days of the
3 week, you can have five or ten people
4 there.

5 And on Sunday, or on a Saturday,
6 you will have more people, especially
7 if it's nice out because a lot of the
8 facilities have toys in them, like
9 motor cycles and even cars that
10 somebody takes out on Saturday or, you

11 know, Sunday.

12 Because of those things that are

13 stored in there, you would get more

14 activity on the weekends, on a Saturday

15 and Sunday, so the proposal is amended

16 from being an Ag, to this warehouse,

17 this mini-storage.

18 And that is what we are showing

19 on the plan.

20 This is the first time the Board

21 is seeing the plan. It went to the

22 workshop. The theory on this is to

23 build a wall, that's the large, dashed

24 area (indicating on a diagram) here

25 around the perimeter, the wall, a wall

1 - PROCEEDINGS - 115

2 to level off the site because if you

3 remember, at Hudson Bay you need to

4 have a level site built for

5 mini-storage.

6 Now, the buildings are the long,

7 dark things here (indicating on a

8 diagram) and then you have alleyways

9 in between, and the dark tag line,

10 which is here (indicating), which is an

11 indication that we are proposing to

12 build it in three stages, so it

13 wouldn't be one construction.

14 The first stage is on the south,

15 with the offices and then you have two

16 stages on the north side.

17 That is the proposal.

18 It's a first time and we're in

19 for the revisions and the next step

20 would be for us to do drainage

21 calculations and grading.

22 This does require a permit from

23 the Rockland County Drainage Agency.

24 THE CHAIRMAN: Okay.

25 MR. ZIGLER: Their jurisdiction is

1 - PROCEEDINGS - 116

2 right here, (indicating on a diagram.)

3 You have two lines on here

4 (indicating), one is the adjacent area,

5 to the wetlands, that's for the hundred

6 foot buffer, and then you have the

7 Rockland County Agency flood plain and

8 then they have jurisdiction a hundred

9 feet beyond.

10 So, this plan, it needs a permit

11 from the Rockland County Drainage

12 Agency.

13 It needs a permit from nobody

14 else. There's no state road. There is

15 no sewer water, no main extensions, so

16 that's it.

17 We have a delineated wetlands

18 map, it's not in this package, but we

19 will put that into the next package;

20 New York State DEC delineated wetlands

21 map. It's brand-new, from November for

22 twenty twelve.

23 MR. MC MENAMIN: You will build it

24 in three segments?

25 MR. ZIGLER: We actually didn't

1 - PROCEEDINGS - 117

2 get into that yet, because once you got

3 past one, you can do either one first.

4 You might do three first.

5 Really, the indicator with the

6 sections aren't necessarily the way

7 they're constructed.

8 It is just how, just how this job

9 is broke up. But, what Tom is saying

10 is because it is closer to the

11 emergency access, closer to the

12 security gated building, it is

13 definitely a possibility. Yes.

14 All of this (indicating) this is

15 the first set of the construction.

16 The wall will be part of the

17 first set of construction.

18 And the leveling off of the site

19 and all drainage will be part of the

20 first set of construction with the

21 section one.

22 MR. MC MENAMIN: What kind of pipe

23 are we talking with the wall?

24 MR. ZIGLER: Depends. You are

25 talking about the grading around the

1 - PROCEEDINGS - 118

2 bottom is sixteen, twelve, fourteen,

3 sixteen. If you look all the way over

4 at the east end, they have elevations

5 of twelve, fourteen, sixteen.

6 Our finished grade up on top is

7 in the one forties. I'm sorry --- so,

8 I'm sorry, in the forties.

9 So, basically at the bottom,

10 you're at probably thirty-four foot up

11 in the air, but on the west side, as

12 you're coming to the grade, the grade

13 in here is forty today. (Indicating on

14 a diagram).

15 The grade in the parking lot is

16 twenty-eight.

17 As you're coming down the access

18 road, it is thirty-six, thirty-four.

19 So we are taking the site and

20 raising the east end of the site to be

21 level with the west side of the site.

22 MR. MC MENAMIN: So, thirty foot?

23 MR. ZIGLER: Yes, thirty; you can

24 say that.

25 MR. MC MENAMIN: That's what we

1 - PROCEEDINGS - 119

2 will be looking at from the river side?

3 MR. ZIGLER: Yes, if you can see

4 it. You are not going to see it

5 because if you go out on Grassy Point

6 Road and look up, you can just barely

7 see the top of the Insulux building.

8 So, this will set lower than

9 that, and definitely will sit lower

10 than the water tank, as you make the

11 turn on Grassy Point Road.

12 MR. MC MENAMIN: You need a lot

13 of material.

14 MR. ZIGLER: Yes.

15 THE CHAIRMAN: So, you have to do

16 a serious drainage plan?

17 MR. ZIGLER: Yes, absolutely.

18 MR. MC MENAMIN: All of this, is

19 all paved behind the building?

20 MR. ZIGLER: Yes. Because we have

21 to get access to both sides of the

22 building.

- 23 If you say that top area is
- 24 twelve acres, you probably have ten
- 25 acres and half of it is paving, yes.

1 - PROCEEDINGS - 120

2 MR. MC MENAMIN: So, everything is

3 retention or variances will be under

4 the building?

5 MR. ZIGLER: There's a couple

6 things. We are looking at a couple

7 things, really and one of the things is

8 doing a green roof on the building

9 because that will take off the roofs,

10 automatically.

11 If you look at that type of a
12 building with green roofs, it has to be
13 flat, with a very slight elevation or
14 very low if it's residential. It's
15 just this very short peak.
16 (Indicating).

17 These buildings did very good
18 with the quote, unquote "flat roofs".

19 MR. MC MENAMIN: I am seeing a lot
20 of buildings that seem to have a lot of
21 upscaling energy efficiencies with
22 solar panels, green roofs, et cetera.

23 MR. ZIGLER: The thought was
24 utilizing impervious pavement, but this
25 depends on who you speak to.

1 - PROCEEDINGS - 121

2 It's a great idea, but I think if

3 trucks drive over it a lot, it breaks

4 down.

5 But there are several thoughts;

6 there's also thoughts about using a new

7 retention block that they have out

8 that actually bleeds, so this entire

9 thing will become a dam, you can say,

10 and we can just let the water come

11 through and bleed out the blocks with

12 smaller piping down low and larger

13 pipes up high.

14 So, there are many ways to make

15 this thing happen.

16 It is becoming a new thing. It

17 does have to be built to the green

18 standards on the new code.

19 MR. MC MENAMIN: Fortunately, you

20 don't have the same thing as you had

21 with the Shop Rite.

22 MR. ZIGLER: Right. No, this is a

23 whole different world once you cross

24 the tracks there.

25 MR. STACH: Is this covered under

1 - PROCEEDINGS - 122

2 the general nationwide permit, or does

3 this require its own permit?

4 MR. ZIGLER: It was covered. It

5 just has to meet the DEC's new codes.

6 It's nothing that ---

7 MR. STACH: But is there a permit

8 that the DEC will give you for this, in

9 other words?

10 MR. ZIGLER: That's through Kevin,

11 the Corps office in Stony Point.

12 MR. MAHER: They fall under the

13 general storm water permit.

14 MR. MC MENAMIN: Of New York

15 State?

16 MR. MAHER: Yes.

17 MR. STACH: My point was, whether

18 or not there are any other agencies,

19 permitting agencies because this whole

20 thing started a year or so before the

21 DEC, so ---

22 MR. ZIGLER: Yes.

23 It's a possibility if we have to

24 run a pipe out, and we have to splinter

25 this hundred foot buffer with the

1 - PROCEEDINGS - 123

2 D.O.T., yes.

3 MR. STACH: D.O.T?

4 MR. ZIGLER: Not the D.O.T. The

5 DEC; I'm sorry.

6 Yes, but we do need a Rockland

7 County Drainage Agency permit no matter

8 what. Just the construction on the

9 site requires that.

10 We are not arguing with that.

11 MR. STACH: My recommendation is
12 that I have provided you with the
13 Notice of Intent to declare lead
14 agency, append it to include the
15 Rockland County Drainage Agency, and
16 identify the D.E.C. as a permitting
17 agency, as I remember you were saying
18 that you were before them for something
19 else ---

20 MR. ZIGLER: Yes.

21 MR. STACH: I imagine you would
22 keep them as an involved agency?

23 MR. ZIGLER: Absolutely. Keep them

24 involved.

25 MR. STACH: To be clear, I've also

1 - PROCEEDINGS - 124

2 identified the Village of West

3 Haverstraw, the Town of Haverstraw and

4 the County of Rockland as interested

5 agencies.

6 MR. ZIGLER: Yes. We are going

7 for Rockland County parking. Yes,

8 we're very close to all of Haverstraw;

9 West Haverstraw, definitely.

10 MR. STACH: So, there, if there

11 are no other agencies, you only had

12 Stony Point in your EAF.

13 MR. ZIGLER: I will change that.

14 MR. STACH: I think we should

15 also get a location map, so that we can

16 send that along.

17 MR. ZIGLER: Okay.

18 MR. STACH: But, if that is

19 acceptable, you would adopt this Notice

20 of Intent so that you can start the 30

21 day clock.

22 MR. MAHER: Max, maybe I am

23 wrong, but I believe this is on the

24 tidal side of the railroad tracks you

25 may have to get the Army Corps

1 - PROCEEDINGS - 125

2 involved.

3 MR. STACH: We would list them as

4 an interested agency only because Army

5 Corps is not subject to SEQRA and we --

6 they don't usually want to be involved.

7 MR. MAHER: I think they would be,

8 because of the tidal nature of the

9 area.

10 MR. STACH: That's Brian Wisell

11 (phonetically written)?

12 MR. MAHER: I don't know the name,

13 offhand.

14 THE CHAIRMAN: All right. I just

15 need a motion to declare lead agency?

16 MR. ROGERS: I will make that

17 motion, Mr. Chairman.

18 THE CHAIRMAN: I need a second?

19 MRS. CALLAGHAN: Second.

20 THE CHAIRMAN: Any questions on

21 it?

22 (No responses heard.)

23 THE CHAIRMAN: All in favor?

24 (Unanimous affirmative response

25 is heard.)

1 - PROCEEDINGS - 126

2 THE CHAIRMAN: Opposed?

3 (No responses heard.)

4 THE CHAIRMAN: Motion passes to

5 send notice of intent to become lead

6 agency.

7 MR. KREASE: I have a question.

8 This is the third time this

9 happened. I believe there were three

10 different plans.

11 I believe that the last plan ---
12 somewhere down the road, we made public
13 notice or public intent, for Planning
14 Board comment, that we said, you are
15 going to have to come back with that
16 and solve the problem.

17 I think what happened here with
18 Max working with CSX, hearing earlier
19 their concerns, our concerns, we, as a
20 Planning Board reached out to them.

21 We are meeting with them in May
22 and at that time, that topic will come

23 up, but we can only go so far.

24 I feel this Planning Board is

25 doing the very best we can to help any

1 - PROCEEDINGS - 127

2 this Applicant, or any Applicant that

3 owns down there, from them walking away

4 and finally doing something. They have

5 to know what this Town wants and needs

6 are. We can't -- we need the revenue.

7 No doubt about it.

8 But the bottom line, and it's

9 only my opinion, something has to be

10 done with the crossing.

11 MR. ZIGLER: No one disagrees with

12 you. I also heard them say to close it.

13 That's how they solve these private

14 crossings. They close them.

15 As far as they're concerned, just

16 close it. It's okay with them. We

17 have to be careful.

18 We all agree it needs to be

19 improved, gated; whatever you want to

20 call it. That's fine, but I also

21 heard them say "close it".

22 That's the first thing they said;

23 "Let's close the Orange and Rockland

24 crossing."

25 How does that solve it?

1 - PROCEEDINGS - 128

2 You are just cutting a piece of

3 property in half.

4 So, yes, I think we do have to

5 work with them.

6 MR. ZIGLER: You've gotten

7 further, further with them just a half

8 hour ago than we have gotten in five

9 years.

10 MR. KREASE: And we are going to

11 continue to work with them because we

12 have to solve this problem, but the

13 bottom line is we have to do this,

14 somehow, some way, I'm not saying close

15 it, by any means ---

16 MR. ZIGLER: They said to close

17 it.

18 MR. KREASE: They say a lot of

19 things.

20 I think this Applicant got no

21 where with them before. We got them

22 here. Tonight they seemed receptive.

23 We will work together to get this

24 thing solved. We can't afford not to.

25 We can't afford to keep losing

1 - PROCEEDINGS - 129

2 ratables.

3 MR. ZIGLER: I worked on it, that

4 crossing when Mr. Tracy purchased the

5 property.

6 We are still trying to do the

7 same thing and you just can't get any

8 answers at all from them.

9 MR. KREASE: Well, we got some

10 answers from them today. So, we will

11 press them for answers and just do it.

12 * * *

13

14

15

16

17

18

19

20

21

22

23

24

25

1 - PROCEEDINGS - 130

2

3

4

5

6

7 cert

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2 STATE OF NEW YORK : COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

3

----- X

4

In the Matter of the Application

5

RE: Pending

6

Application

7

THE ROSE AT WAYNE AVENUE,

8

Applicants.

----- X

9

9:10 o'clock p.m.

10

March 28th, 2013

11 RHO Building
Five Patriot Drive
Stony Point, New York
12 10980

13 HELD BEFORE THE PLANNING BOARD OF THE
TOWN OF STONY POINT:

14

15 B E F O R E : Thomas Gubitosa,
Chairman

16

17 A p p e a r a n c e s :

18

THOMAS MC MENAMIN, Member

19 GLADYS CALLAGHAN, Member

EUGENE KREASE, Member

20 GERRY ROGERS, Member

MICHAEL PUCCIO, Member

21 PETER MULLER, Member (Not Present)

22 MARY PAGANO,
Secretary to the Board

23

24 Reported by:

Patricia A. Puleo,

25 NYS Certified Court Reporter

and Notary Public

1

2

132

3

Appearances continued:

4

FEERICK, LYNCH & MAC CARTNEY

Town Attorneys

5

96 South Broadway

South Nyack, New York 10960

6

BY: STEPHEN M. HONAN, ESQ., Of

Counsel

7

8

WILLIAM SHEEHAN, Town Building

9

Inspector

10

KEVIN P. MAHER, P.E, Town Engineer

11

TURNER MILLER GROUP,

12 Planning Consultants

Two Executive Boulevard - Suite 401

13 Suffern, New York 10901

BY: MAXIMILIAN STACH, Town Planner

14

ATZL, SCATASSA AND ZIGLER

15 Surveyors/Architects for Applicant

234 North Main Street

16 New City, New York 10956

BY: DAVID M. ZIGLER, P.E.

17

18

And the Public.

19

20

PULEO REPORTING & TRANSCRIPTION

21

SERVICES

22

61 Crickettown Road

23 Stony Point, New York 10980

24 (845) 429-8986 FAX and Phone

25

1 - PROCEEDINGS - 133

2 THE CHAIRMAN: Very good.

3 The next item on the Agenda is

4 The Rose at Wayne Avenue, for

5 preliminary approval for a minor

6 subdivision located on the north side

7 of Wayne Avenue and McCarthy Circle.

8 Two lot minor subdivision .

9 Dave Zigler is here representing

10 the Applicant.

11 Dave?

12 MR. ZIGLER: Yes, Dave Zigler,

13 Atzl, Scatassa and Zigler,

14 representing the Applicant.

15 The last time we met on this, we

16 had a field trip.

17 At that time there was a

18 discussion about having a modified

19 entrance to the cemetery.

20 As you know, right now, the

21 cemetery entrance goes past the house

22 closest to MacCarthy.

23 We are proposing two lots.

24 We have a house to the east of

25 that. The driveway to the existing

1 - PROCEEDINGS - 134

2 home is actually part of the access to
3 the cemetery.

4 The proposal before the Board,
5 has a new access to the cemetery
6 dedicated just for the cemetery and a
7 new access to the house both off of
8 McCarthy, that way, eliminating one
9 access to Wayne Avenue.

10 Then, you're picking up one

11 access to Wayne Avenue for the new home

12 on lot two.

13 So, today there are two access

14 points for the existing home.

15 If this is approved, we will end

16 up with just one access on Wayne

17 Avenue.

18 In addition, I sent a letter to

19 the Town Board because I think the Town

20 Board has to make a decision on moving

21 the easement.

22 The easement is to the owner of

23 the cemetery and the cemetery is owned

24 by the Town of Stony Point.

25 So, I'll approach the Town Board

1 - PROCEEDINGS - 135

2 to see if they have a problem with

3 that.

4 I talked to Larry Brissing, and

5 he liked the dedicated access, rather

6 than a driveway past the house.

7 He believes that it will be

8 better, in his mind, to have dedicated

9 access.

10 What I'll ask the Board is to,

11 well, if you have any problems with
12 this layout, let us know, but what we
13 have to do next, is we have to go to
14 the Department of Health, for septic
15 approval. There's water there, but not
16 sewer.

17 In the Town of Stony Point you
18 can't get approval, final approval,
19 unless you septic approval.

20 So, being that we had this
21 "lovely" weather we've been having the
22 last-month-and-a-half, we haven't been

23 able to go out there and do any deep

24 test holes and perks.

25 We will probably be doing that

1 - PROCEEDINGS - 136

2 over the next month in April.

3 And over the next month we will

4 also be going to the Town Board, and if

5 everything went smoothly, maybe at the

6 end of next month, I will ask to get

7 a public hearing in May.

8 Right now we are on hold until we

9 get septic approval for both lots.

10 I will also approach the Town

11 Board about moving the easement.

12 THE CHAIRMAN: Does the Board have

13 any questions for Dave?

14 MR. MC MENAMIN: I am a little

15 concerned about the sight distance of

16 the new driveway.

17 MR. ZIGLER: We will have to go

18 out and get that.

19 We actually did look at that and

20 it is good but, but we will put the

21 dimensions and the sight lines on for

22 you.

23 MR. MC MENAMIN: I believe for ---

24 well, you will check it out?

25 MR. ZIGLER: Yes. We will check

1 - PROCEEDINGS - 137

2 it out.

3 MR. MC MENAMIN: Are you going to

4 show sight distance?

5 MR. ZIGLER: Yes. I have to do it

6 for Mr. Lynch of the Rockland County

7 Highway Department. We have to show

8 some other thing. We will address

9 that.

10 This requires, after approval,

11 it does require a Rockland County
12 highway permit for driveway access; not
13 a permit to close the driveway, but
14 requires a permit to open up the
15 driveway for lot two.

16 So, we will do that at the same
17 time we do the septic because there's
18 not much use of having a good septic,
19 without a driveway.

20 THE CHAIRMAN: Max, any questions?

21 MR. STACH: No.

22 THE CHAIRMAN: We got another

23 letter.

24 MS. PAGANO: Late this

25 afternoon.

1 - PROCEEDINGS - 138

2 THE CHAIRMAN: We will give you a

3 copy. Their recommendations.

4 MR. ZIGLER: They say it's not a

5 monitoring.

6 Number four is actually the old

7 well.

8 Prior to water in Rockland

9 County, you have to pull a permit to

10 close a well. They have specific ways

11 of over doing it.

12 Of course we would have to follow

13 the code and number 5 is the drainage

14 increasing. We will work on that.

15 Six has erosion control, so we

16 will provide those things for final.

17 We have no problem with the

18 letter from the Planning Department.

19 THE CHAIRMAN: What do you need

20 from us?

21 A referral to the Town Board?

22 MR. ZIGLER: Yes, I would like a

23 referral to the Town Board that you're

24 happy with both the entrance to the

25 home and mainly the revision of the

1 - PROCEEDINGS - 139

2 dedicated entrance to the cemetery.

3 Maybe with your recommendation

4 and Larry's recommendations, that he

5 was happy with it, the Town Board would

6 agree and legal documents can be

7 prepared.

8 MR. MC MENAMIN: Did you ever

9 speak on the cemetery with Larry?

10 MR. ZIGLER: Not yet. Well, I

11 spoke to Larry and Larry was thinking

12 about it and then he got sick, so I

13 haven't finished the discussion with

14 him yet.

15 He was actually talking about

16 issues like the hard pen gravel;

17 whatever he wants we will put in there,

18 whether it be paving or whatever.

19 THE CHAIRMAN: All right, so we

20 feel comfortable, and we are referring

21 him to the Town Board.

22 I will make a motion that we

- 23 refer them to the Town Board, based
- 24 upon Larry's requirements for the road
- 25 and on the entrance of the driveway.

1 - PROCEEDINGS - 140

2 Kevin, do you have any questions?

3 MR. MAHER: No questions yet.

4 THE CHAIRMAN: All right.

5 We will send them to the Town

6 Board. Well, okay, I need a motion.

7 I will make that motion to send

8 them to the Town Board.

9 THE CHAIRMAN: I need a second?

10 MR. ROGERS: I will second that,

11 Mr. Chairman.

12 THE CHAIRMAN: Any discussion?

13 (No responses heard.)

14 THE CHAIRMAN: All in favor of

15 referring them to the Town Board?

16 (Unanimous affirmative vote

17 heard.)

18 THE CHAIRMAN: Opposed?

19 (No responses heard.)

20 THE CHAIRMAN: Very good. Motion

21 carries. We will send you there.

22 MR. ZIGLER: Thank you.

23

* * *

24

25

1 - PROCEEDINGS - 141

2

3

4

5

6

7

8

9

10 cert

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2 STATE OF NEW YORK : COUNTY OF ROCKLAND

TOWN OF STONY POINT : PLANNING BOARD

3

----- X

4

In the Matter of the Application

5

RE:

6

JESSUP RIDGE WEST,

7

Applicants.

8

----- X

9

9:35 o'clock p.m.

March 28th, 2013

10

RHO Building

Five Patriot Drive

11 Stony Point, New York

10980

12

HELD BEFORE THE PLANNING BOARD OF THE

13 TOWN OF STONY POINT:

14

B E F O R E : Thomas Gubitosa,

15 Chairman

16

A p p e a r a n c e s :

17

18 THOMAS MC MENAMIN, Member

GLADYS CALLAGHAN, Member

19 EUGENE KREASE, Member

GERRY ROGERS, Member

20 MICHAEL PUCCIO, Member

PETER MULLER, Member (Not Present)

21

MARY PAGANO,

22 Secretary to the Board

23

Reported by:

24

Patricia A. Puleo,

NYS Certified Court Reporter

25

and Notary Public

1

2

143

3

Appearances continued:

4

FEERICK, LYNCH & MAC CARTNEY

Town Attorneys

5

96 South Broadway

South Nyack, New York 10960

6

BY: STEPHEN M. HONAN, ESQ., Of

Counsel

7

8

WILLIAM SHEEHAN, Town Building

9

Inspector

10

KEVIN P. MAHER, P.E, Town Engineer

11

TURNER MILLER GROUP,

12 Planning Consultants

Two Executive Boulevard - Suite 401

13 Suffern, New York 10901

BY: MAXIMILIAN STACH, Town Planner

14

ATZL, SCATASSA AND ZIGLER

15 Surveyors/Architects for Applicant

234 North Main Street

16 New City, New York 10956

BY: DAVID M. ZIGLER, P.E.

17

18

And the Public.

19

20

PULEO REPORTING & TRANSCRIPTION

21

SERVICES

22

61 Crickettown Road

23 Stony Point, New York 10980

24 (845) 429-8986 FAX and Phone

25

1 - PROCEEDINGS - 144

2 THE CHAIRMAN: Next on the Agenda

3 is Jessup Ridge West.

4 This is for an amended

5 subdivision, amended from 8 lots to 12

6 lots for Sketch, Preliminary approval

7 located on the west side of Jessup Lane

8 and the west side of Margarite Drive,

9 800 feet north of Willow Grove Road; a

10 major subdivision.

11 Dave?

12 MR. ZIGLER: Dave Zigler, Atzl,

13 Scatassa and Zigler for the Applicant,

14 Jessup Ridge.

15 Hey, it's just like the old days

16 when you guys are here later than eight

17 o'clock.

18 (Laughter).

19 MR. ZIGLER: I will put this up.

20 (Mr. Zigler is putting up a

21 diagram.)

22 MR. ZIGLER: We removed --- it's

23 now Jessup Ridge West because there's

24 about three different Jessups

25 subdivision names.

1 - PROCEEDINGS - 145

2 Okay. This is a subdivision that
3 was approved and all the improvements
4 are in, such as sewer, water, road,
5 drainage is in, and it is sitting there
6 and the Applicant wishes to
7 re-subdivide it now.

8 There's nothing different from
9 any other Applicant I've ever worked
10 for; when they have ten lots in, they

11 want twenty, but in this case, this
12 subdivision was subdivided and it was
13 for septic, and septic here, in the
14 Stony Point code, requires a larger lot
15 than for sewer.

16 So, after the subdivision was
17 approved, they did put dry sewers in
18 because they were going to attach to
19 the sewer in Willow Grove.

20 That was slowed up because of a
21 lawsuit.

22 So, finally, after four or five

23 years, the sewer was put in.

24 Now, this subdivision has sewers,

25 so they come back in and re-subdivide

1 - PROCEEDINGS - 146

2 it, it's only because it qualified for

3 a different bulk table.

4 The layout on the top here

5 (indicating on a diagram) is

6 re-subdivided, using the road as it

7 sits on Jessup, dividing the lots up.

8 We did that layout. We went out

9 and walked the property.

10 There were some questions on some

11 of the improvements because the
12 improvements on this were going to be
13 privately held and then, despite the
14 fact that it is being a real pain in
15 the neck for the Town, we are going to
16 redo it, bring the improvements up to
17 snuff and dedicate it to the Town of
18 Stony Point.

19 So, the benefit to give it the
20 improvements to the Town of Stony
21 Point, is that, then they're not
22 called -- they can't say that it's

23 private improvements and a lot of

24 Blanchard and the subdivisions here

25 along Blanchard (indicating on a

1 - PROCEEDINGS - 147

2 diagram) , come down from here

3 (indicating on a diagram).

4 So, this site is picking up

5 drainage from three different

6 subdivisions above it. Actually four.

7 We look at that and see that

8 there are ways of taking the

9 improvements out there, and I would say

10 reducing it.

11 There's already four retention
12 ponds out there, and by reducing it to
13 three it's making them more easily
14 available to the Town to go in and
15 clean them.

16 Right now, it is hard to get into
17 the back of these lots.

18 So, we were talking about that
19 two months ago. Then it came up, how
20 about doing average density?

21 So, the one I submitted in these
22 eight or nine maps (indicating) show is

23 a standard layout, just as if we are

24 starting over again.

25 We have a standard layout we

1 - PROCEEDINGS - 148

2 provided to the Board. We provided

3 grading to the houses.

4 The unusual part is the road.

5 That is at the top of the page

6 with the dark shading, dark shadows

7 being the steep slopes.

8 Now, at the bottom of the page is

9 the modified average density.

10 What the average density does is,

11 it is taking one of the homes off the
12 hill, going to the back, right here
13 (indicating on a diagram).
14 This east/west hill. It is
15 putting one additional home up on the
16 top, so the large crosshatches that you
17 see here (indicating) would be the
18 conservation buffer or easement;
19 whatever the Planning Board wants to
20 do.

21 So, but the benefit really, of
22 this plan is there is less disturbance

23 with the same amount of homes, with a

24 larger areas of untouched, undeveloped

25 area, which is buffering between the

1 - PROCEEDINGS - 149

2 other homes.

3 The homes, the future homes that

4 are in the back here (indicating on a

5 diagram) along Conklin or Jessup,

6 whatever that is, also around the pond.

7 The homes are the white areas

8 here (indicating).

9 This here (indicating on the

10 diagram) is a typical lot, on a

11 straight away. It is sixteen thousand

12 square foot.

13 Now, that's in that white area,

14 (indicating on the diagram). The lot

15 is much larger.

16 What were saying, if you bought

17 a lot in a AD6, which is Average

18 Density six --- that's how we numbered

19 it --- you would have been sixteen

20 thousand square foot to put your house,

21 pool; whatever.

22 The rest of it would be

23 conservation easement or buffer.

24 These homes shown here are

25 sixteen hundred square foot living

1 - PROCEEDINGS - 150

2 area, not including the basement or the

3 garage, so it's like a three thousand

4 square foot home. We are showing sixty

5 foot off the back of the house, which

6 is plenty of room.

7 If you like it deeper, we can go

8 deeper.

9 The benefit of the average

10 density is not building on some of

11 these steep areas here (indicating on a
12 diagram), which had been disturbed
13 already --- maybe it's been disturbed
14 because of doing some landscape --- and
15 not doing anything along the stream,
16 which it's a DEC stream, so you really
17 don't want to be messing with it in any
18 way.

19 And then we would have these
20 drainage areas next to the road so that
21 the Town can get into and clean.

22 It's thought of as being a

23 benefit to doing the average density,

24 which is a better plan overall.

25 We have the standard there,

1 - PROCEEDINGS - 151

2 qualifying and then you have average

3 density as the second half of the

4 application.

5 MR. MC MENAMIN: But you are not

6 really doing average density.

7 You have a standard lot, twelve.

8 You have average density, lot

9 twelve.

10 All of your conservation

11 easements are on private property on

12 the lots.

13 MR. ZIGLER: Right.

14 MR. MC MENAMIN: You are not

15 making smaller lots and dedicating the

16 conservation easements like they did at

17 Ski Stony Point where the Town took the

18 top of the mountain as a conservation

19 easement and the lots were made

20 smaller.

21 You are putting the conservation

22 easement in a lot that will belong to

23 that person who owns the lot.

24 MR. ZIGLER: Correct.

25 MR. MC MENAMIN: So, you are not

1 - PROCEEDINGS - 152

2 --- you are calling it "average

3 density", but it's not.

4 MR. ZIGLER: No, we are not

5 getting any more homes, that's not

6 average density, it's the same amount

7 of homes, but it is a different,

8 environmentally sensitive plan.

9 The reason we are not dedicating

10 it to the Town is because what's the

11 Town is going to do with it?

12 It's like --- this plan follows

13 Parrot Ridge, Cedar Pond; all of these

14 have these conservation easements.

15 Clare --- the one we just did up on

16 Crickettown had a conservation easement

17 on it.

18 So, this is following that.

19 And if I live at AD6 and someone

20 is up cutting trees on my property, I'm

21 going to go up there and deal with

22 them, but if it is Town property, I am

23 going to be up there dumping my leaves

24 --- I can guarantee you that.

25 So, it just works better if

1 - PROCEEDINGS - 153

2 somebody owns it.

3 MR. MC MENAMIN: I'm not disputing

4 that.

5 Average density, is usually done

6 to get the houses done on smaller lots

7 in a zone where they don't belong.

8 In order to accomplish that,

9 usually generating more lots, but you

10 are not doing that.

11 MR. ZIGLER: I disagree with you
12 because we walked this thing. This is
13 the area where --- there's no trees
14 within one hundred twenty-five foot of
15 this road.
16 There's no trees here.
17 (Indicating on a diagram.)
18 MR. ZIGLER: But, this whole bank
19 has trees indicating here. There are
20 areas in here (indicating) that have
21 trees. And there's definitely trees to
22 the right of the road, as you go up, so

23 it's a benefit.

24 So, I disagree with you.

25 I'll be glad to go out there and

1 - PROCEEDINGS - 154

2 mark it on the map, the area we are

3 showing homes. I doubt if there's two

4 substantial trees on any of the lots.

5 Together.

6 So, why not build where the lot

7 is cleared already? But, that is your

8 call. Cluster or average density;

9 whatever you want to call it.

10 MR. MC MENAMIN: I have no problem

11 with what you are doing.

12 I am just calling out the

13 difference between what I thought

14 average density was.

15 I have no problem with you

16 leading me -- deferring me on the

17 persons' property.

18 I'm just saying you are getting

19 the same number of lots that you

20 started out with if ---

21 MR. ZIGLER: Yes, and they're

22 smaller.

23 The thought was in this day and

24 age, the homes are smaller because the

25 prices have to come down.

1 - PROCEEDINGS - 155

2 It was a discussion by some of

3 the members of the Board, I mean, we

4 can take the bottom five maps and throw

5 them in the garbage and continue with

6 different --- I'm just asking this

7 Board for some direction.

8 MR. MC MENAMIN: Well, this is a

9 better plan.

10 The standard plan; it gets all of

11 the lots on the side into the builder's

12 piece, which I like. Also, I think ---

13 MR. ZIGLER: That was, in the

14 original plan, that portion was

15 supposed to be dedicated to the Town,

16 for what, I don't know why, but it can

17 be a conservation buffer; you can use

18 either term. You have two terms here

19 in your Code.

20 I am just looking for direction

21 from the Board on which way you'd like

22 to go on the plans.

23 MR. MC MENAMIN: What about this

24 concept of accepting utilities now?

25 You were concerned about that.

1 - PROCEEDINGS - 156

2 MR. MAHER: Well, you have two of

3 the pocket basin, that's what we're

4 calling them, that I believe one is in

5 the back of the Enunziatto

6 (phonetically) lot, which is basically

7 cut off for us for access from the

8 Town.

9 It is very --- almost impossible

10 for us to get into that particular

11 pocket basin now, so we would probably

12 be looking --- from my honest opinion

13 --- to get rid of it and put it in

14 somebody else in place of it; Some

15 other new versions of storm water

16 management, to take over for that old

17 basin.

18 That is why we don't have to

19 worry about getting access to that

20 property.

21 The ones that are out on Jessup

22 Lane as you come in, they are easy to

23 access. They're right on the road,

24 with a small, little ramp can be built

25 down to each one of them to maintain

1 - PROCEEDINGS - 157

2 them, so that's not an issue right

3 now.

4 The problem I see is, we will ---

5 Larry is saying his men are overtaxed

6 right now to maintain what we've got.

7 The also have the problem that as

8 we start taking over these roads and

9 infrastructure north of Ingaglia Drive,

10 the Town is more and more exposed to

11 potential flooding issues from the
12 people who live on Ingaglia Drive, and
13 that's my concern, opening itself up to
14 drainage issues, and responsibilities.

15 My concern and worry is if these
16 entities, whether they be home owners'
17 associations or property owners
18 maintaining their own system, the Town
19 stays out of it pretty much and is not
20 exposed to liability issues.

21 At least, that's my opinion, I
22 have to defer to our attorney, but

23 that's my concern.

24 The pipes appear to be adequate

25 in size, there's minimum fifteen

1 - PROCEEDINGS - 158

2 inches; some of them are eighteen or

3 twenty one inch.

4 So, there's no question that the

5 system is properly designed.

6 The question becomes maintenance

7 and liability.

8 MR. MC MENAMIN: You are right.

9 They're flooding now, so how can we be

10 blamed for that?

11 MR. MAHER: We don't own the

12 system right now.

13 Like, the old saying, when you

14 have an issue, you sue the person with

15 the deepest pockets.

16 That's my concern. I don't know

17 how to address it.

18 We have got other subdivisions to

19 the north that eventually will be built

20 out, and will they be turned over? I

21 don't know how to handle that.

22 That's my concern; that the Town

23 will be exposed to potential litigation

24 downstream. When you take over this

25 stuff, you're responsible. That is how

1 - PROCEEDINGS - 159

2 I look at it.

3 MR. PUCCIO: What can he do to

4 help us in the future?

5 MR. MAHER: The obvious answer is

6 get the people down stream to grant us

7 the easements so that we can take over

8 the drainage and improve it properly.

9 What's the likelihood of that

10 happening? I don't know. I can't

11 speak to that issue.

12 That is a massive undertaking. I

13 don't know if we can dump it on this

14 developer.

15 The question becomes: Does the

16 Town want to take the responsibility of

17 maintaining the stuff up stream?

18 I can't say if the Town should or

19 shouldn't.

20 I am just worried if they do, it

21 is open to this potential litigation

22 and liability. We can have our

23 attorney speak to that issue.

24 Anything can be engineered. Don't

25 get me wrong. Anything can be

1 - PROCEEDINGS - 160

2 engineered.

3 We can do things to reduce the

4 peak flows to the area, but the problem

5 then becomes, if something happens, the

6 people downstream in a private drainage

7 system, who is liable for the damages?

8 MR MC MENAMIN: The subdivision

9 and a maintenance agreement?

10 MR. MAHER: I believe it's a

11 Homeowners' Association.

12 MR. MC MENAMIN: Homeowners'

13 Association, right. And as part of

14 this, we would be relieving them of

15 that duty and taking it over, so --

16 MR. MAHER: If it actually gets to

17 the point that it's built out, yes; if

18 we go for the acceptance procedure,

19 yes.

20 MR. MC MENAMIN: Why can't we

21 leave it?

22 MR. MAHER: That's --- that would

23 work, as far as I am concerned. It

24 will work, until such time, as the

25 down stream conditions are approved

1 - PROCEEDINGS - 161

2 sufficiently, and we take ownership of

3 them ---

4 MR. MC MENAMIN: I can't see the

5 Town wanting to take this over and then

6 buy out the structures above and below

7 and take responsibility for them, as

8 well.

9 MR. MAHER: That is the dilemma

10 we've got up stream. Exactly. That's

11 the dilemma.

12 If we take that, who pays the

13 penalty when someone is flooded out

14 downstream?

15 That is my concern. It can be

16 engineered. These things can be made

17 perfect --- not perfect, but to the

18 standards in place at the time.

19 But what's to say --- the old

20 saying in old English law is, you are

21 responsible for what you dump on your

22 neighbors.

23 MR. PUCCIO: What is your

24 recommendation?

25 MR. MAHER: It can stay as the

1 - PROCEEDINGS - 162

2 home owners' association for now. And

3 the Town, will stay out of it for now.

4 The Town can still be potentially

5 sued, if you approve this design, but

6 if you own it, you have even more of a

7 burden on you.

8 MR. PUCCIO: Do you recommend we

9 have them do something to prepare us

10 for the future?

11 MR. MAHER: I don't know if

12 there's anything they can do. That's

13 the dilemma I see here.

14 This is on an improvable

15 subdivision, yes.

16 I'm not saying don't approve the

17 subdivision.

18 The only issue I bring up is, who

19 is going to be responsible for the

20 storm water flows coming off, not only

21 from this subdivision, but the ones

22 to the north, running through Ingaglia

23 Drive?

24 I see that as a problem.

25 MR. PUCCIO: That is what I mean.

1 - PROCEEDINGS - 163

2 MR. MAHER: Everybody up stream,

3 --- eventually Blanchard we are going

4 to probably take over, and we have part

5 of Stony Ridge Estates that drains

6 through here.

7 We also have the Roger Morris

8 property, the one on Sargeant Swartz

9 Court, that drains through this

10 property ---

11 MR. MC MENAMIN: These are not
12 even built out yet.

13 MR. MAHER: No. That's what I'm
14 saying.

15 Right now, Roger Morris, if
16 anything comes off his property, he's
17 responsible for it.

18 Blanchard Estates if you have a
19 problem, that's still private.

20 We haven't taken over the roads
21 yet, but if we do, which will probably
22 happen, any portions of the flooding

23 that can be attributed to the drainage

24 systems there, this becomes our

25 problem.

1 - PROCEEDINGS - 164

2 MR. STACH: Can I ask a question?

3 All of those subdivisions should

4 have drain system design that are

5 intended to result in no net increase

6 on their own site, including this one.

7 MR. MAHER: Yes, but if someone is

8 flooded out down stream, you still will

9 be sued anyway.

10 MR. STACH: In terms of the

11 handling of the storm water, they're

12 not resulting in greater flood flows.

13 MR. MAHER: When they were

14 designed, 1993, or 1980; whatever the

15 year it was designed -- it was

16 designed for a specific standard.

17 What happened --- we are having

18 this problem right now with the Curtis

19 house in the Cliffs.

20 I am arguing with the attorney

21 representing the Curtis', so that's why

22 I'm using that as a framework to look

23 at this subdivision, saying what if,

24 granted today, we get two inches of

25 rainfall per hour, designed as a ten

1 - PROCEEDINGS - 165

2 year storm; a hundred year storm is

3 seven-and-a-half-inches an hour.

4 Okay?

5 What happens ten years down the

6 road, with climate change, when

7 suddenly the seven-and-a-half inches is

8 suddenly eight inches per hour?

9 Now, retention basins are not

10 working, and the folks on Ingaglia get

11 severely flooded out and severely

12 damaged, who pays the bill?

13 That's my concern. That's my

14 concern.

15 Let me say, anything can be

16 engineered to work with today's

17 standards.

18 But it's what happens, ten

19 fifteen, twenty years down the road?

20 Who pays the bill?

21 That is what happened with the

22 Curtis' case. That is the issue the

23 Town is facing right now with the

24 Curtis case.

25 That's my concern.

1 - PROCEEDINGS - 166

2 MR. STACH: It seems to be not

3 only the HOA issue, but also they

4 haven't touched on the dam issue, which

5 I brought up several times.

6 I think there needs to be some

7 feedback and some communication from

8 the Town Board because they're ---

9 ultimately they are the ones that have

10 to say "yes" or "no" to accepting

11 dedication on the infrastructure.

12 So, it seems to me like maybe

13 those advisors to the Town Board may be

14 able to negotiate something that makes

15 sense; insurance, a bond.

16 Something to help in case these

17 things fail in the future, that the

18 Town has some recourse.

19 The problem with the Homeowners'

20 Association, as much as I believe it

21 releases liability from the Town's

22 prospective, is that you have twelve

23 residences now that are going to be on

24 the hook for potentially millions of

25 dollars worth of damages and if they

1 - PROCEEDINGS - 167

2 don't have the financial resources,

3 they're going to not be able to make

4 the repairs and do whatever is

5 necessary and the Town will be dragged

6 down anyway.

7 You can make the Homeowner's

8 Association carry insurance, but there

9 is no way to guarantee that they will

10 pay the premiums.

11 So, Homeowners' Association seem

12 to work especially well with big

13 projects.

14 They don't tend to work well in

15 smaller projects.

16 MR. MC MENAMIN: Unfortunately, we

17 have an existing subdivision that

18 requires a homeowners' association and

19 we're being asked not to change that.

20 MR. STACH: You are being asked to

21 make it bigger.

22 (Off-the-record)

23 MR. ZIGLER: As much as we talked

24 to the Town Hall taking the

25 improvements over, but remember

1 - PROCEEDINGS - 168

2 something, we finally brought about

3 everything that comes through here,

4 but that is why these retention areas

5 are what we call, "off-line".

6 That pond is not part of the

7 retention of this site. Whatever goes

8 through this pond, coming from upstream

9 and is effecting somebody downstream,

10 is not part of the design of the

11 subdivision.

12 If you listen to Kevin, there are

13 two retention ponds on this side

14 (indicating on a diagram) and two

15 retention ponds on this side

16 (indicating).

17 Because that is in the valley,

18 indicating this (indicating).

19 So, if this goes away, they can

20 just enact their homeowners, finish up

21 whatever improvements that were on

22 those plans and go away.

23 The problem you have, if there's

24 a problem with drainage coming through

25 the pond, and it isn't from this

1 - PROCEEDINGS - 169

2 subdivision because nobody is living

3 there --- it is easy enough to do.

4 If there's a real problem down

5 below this, if I lived here, I'd give

6 you an easement for you to come in and

7 fix it.

8 So, if there's a problem from

9 this site down to Minnesceongo, I would

10 think that the owners would go ahead

11 and give an easement to the Town and
12 then everybody else will scream because
13 there's many homes here that haven't
14 been built and so on and so forth that
15 they can be, you know, a kick-in to
16 fix the drainage.

17 Everybody should kick in to fix
18 it, but if easements are required, if
19 you are being flooded, wouldn't you get
20 an easement for the Town to come in and
21 fix it, and I don't quite understand
22 that, but if the Town doesn't want the

23 improvements, that's fine.

24 We will go back to the

25 homeowners.

1 - PROCEEDINGS - 170

2 MR. STACH: I think the point that

3 I'm making is you have to know what the

4 Town Board is thinking.

5 MR. ZIGLER: Yes. I'd like to see

6 this Board make a Resolution to have

7 the Town Board give us direction.

8 That's fine.

9 MR. ZIGLER: I don't want to be

10 beat this around. I'd much rather be

11 at home, watching T.V. and eating

12 cookies.

13 MR. KREASE: Me, too.

14 MR. STACH: Not related to

15 drainage when you have --- now, you're

16 putting a lot more houses on top of

17 that road.

18 I would think you might also want

19 to address the visibility of that from

20 the parkway.

21 MR. ZIGLER: Just from the

22 Parkway?

23 MR. STACH: Yes.

24 MR. ZIGLER: You couldn't see it

25 if you were an eagle. This is in a

1 - PROCEEDINGS - 171

2 hole.

3 MR. STACH: I will take a look at

4 it.

5 MR. ZIGLER: You have got a cross

6 street. I can't think of the name of

7 the road, but you go across the creek

8 to get up the hill.

9 MR. STACH: I will take a look at

10 that.

11 THE CHAIRMAN: Just to be clear,

12 this subdivision was already approved

13 years ago for eight lots.

14 MR. ZIGLER: Yes.

15 THE CHAIRMAN: Now, he wants to

16 amend it for four more.

17 You did a little moving out of

18 the environmentally sensitive areas and

19 fixed the other little misproportioned

20 lots, added four more in there and you

21 want to address the drainage?

22 MR. ZIGLER: Yes. It's something

23 that will be or would be all

24 incorporated into a good plan.

25 Going back to the plan that was

1 - PROCEEDINGS - 172

2 there today, that doesn't seem to be

3 helping everybody.

4 MR. PUCCIO: We have to also

5 address the dam.

6 MR. ZIGLER: Yes. That will be

7 done.

8 If we are going to go back to the

9 homeowners, we will go to the Town

10 Code, we will go over here to Kevin,

11 and ask what do you need and what do we

12 need to do? What do you want us to do.

13 MR. STACH: Since Kevin is the

14 most intimately knowledgeable about

15 this situation with this property,

16 perhaps he should write a short letter

17 on the implications there are with the

18 Town accepting it, versus the Town not

19 accepting it.

20 MR. MAHER: Sure.

21 MR. STACH: And his opinion if

22 he is opposed to the Town accepting it,

23 referring to Kevin's memo.

24 MR. MC MENAMIN: And with

25 recommendations on what we should ask

1 - PROCEEDINGS - 173

2 this Applicant to do to stop the

3 problem from getting worse.

4 MR. MAHER: Obviously, all I can,

5 as the Town Engineer, and as Corps

6 officer, whatever title you want to

7 give me, all I can do is make them do,

8 legally, is make them abide by the DEC

9 guidelines, which they have to, but the

10 point I keep making is, if they do,

11 there's still the issue of, if we take

12 it over, we assume the liability of

13 whatever happens downstream.

14 And that's my concern.

15 MR. STACH: Also realizing that

16 the Board has the SEQRA review that

17 allows them to communicate potential

18 environmental impacts caused by this

19 subdivision, which will have more

20 impervious area -- --

21 MR. MAHER: Which they'll address

22 in their storm water management plan,

23 so ---

24 MR. STACH: Right. So, if

25 there's a way this Applicant can

1 - PROCEEDINGS - 174

2 mitigate the potential downstream

3 impacts through whatever way he can and

4 then ----

5 MR. MAHER: He will have to

6 address what runs off on his site.

7 It's just that the entire water

8 shed has nothing to do with it, with

9 his site. It's only this site itself.

10 MR. STACH: If you are designing

11 for the hundred year storm here,

12 typically. Right?

13 MR. ZIGLER: Yes.

14 MR. STACH: So, does it help

15 downstream flooding if they oversized

16 the retention systems?

17 MR. MAHER: No. That

18 statistically doesn't work ---

19 MR. STACH: Okay.

20 MR MAHER: --- and legally I

21 don't know if we can make them do that.

22 I don't think it is reasonable

23 and fair to put that kind of burden on

24 this new Applicant, or any new

25 Applicants coming in.

1 - PROCEEDINGS - 175

2 All we can do is make them abide

3 by the DEC standards as they exist

4 today.

5 Whether we take it over or not is

6 a different issue.

7 I know they will build it to DEC

8 standards. They have to. My concern is

9 down the road, who will assume the

10 responsibility?

11 MR. STACH: I understand, but if

12 there is an existing deficiency

13 downstream, you can't make it worse.

14 MR. MAHER: Right.

15 MR. STACH: And simply meeting the

16 hundred year regulatory requirement

17 may not be an adequate hurdle to not

18 making it worse. Because, as you said,

19 those things are in motion.

20 MR. MAHER: True, but let's say a

21 hundred year storm, right now, let's

22 say --- to throw a number out -- throws

23 a thousand gallons a minute off the

24 site and when they do all of the

25 building and road, it creates five

1 - PROCEEDINGS - 176

2 thousand gallons, so they have to put

3 in a system to make sure that only a

4 hundred gallons a minute leaves the

5 site, which they will do.

6 They have met the requirements.

7 They've met the regulatory

8 requirements. That's it. It's over.

9 But you look at the next step and

10 the next step is, who maintains it now,

11 after it is built? Who is responsible

12 for it after it's built?

13 That is the issue I have at this

14 point.

15 I know it will be engineered to

16 the best it can be, with today's

17 standards and today's knowledge, but ---

18 MR. PUCCIO: What's downstream

19 that you are so nervous about?

20 MR. MAHER: There's a meandering

21 stream that is very shallow. Ingaglia

22 Drive itself, there's not much

23 elevation difference between it and the

24 Minnesceongo at that point.

25 Now, the water also takes a turn,

1 - PROCEEDINGS - 177

2 going underneath Jessup Lane, before it

3 gets out to Willow Grove Road.

4 I mean, to be honest with you,

5 that culvert system, I never would have

6 even done that. I can't do anything

7 about it now, except pray that somebody

8 can take it out.

9 Now, we have the other folks on

10 Crosstreet Lane, as you are coming off

11 of Willow Grove, they just have been

12 flooded out --- I forget the name --

13 they were flooded out several times.

14 MR. MC MENAMIN: The soccer

15 fields?

16 MR. MAHER: Correct. Exactly.

17 MR. MC MENAMIN: And they did work

18 there.

19 MR. MAHER: Correct.

20 MS. FILGUERAS: Haverstraw

21 filled it in on the other side.

22 MR. MAHER: Right.

23 MR. MC MENAMIN: He only has to

24 guarantee no net increase from his

25 site?

1 - PROCEEDINGS - 178

2 MR. MAHER: Correct. That is

3 correct.

4 MR. MC MENAMIN: But if has net

5 increase in the Minnesceongo now, that

6 is what you are concerned about, the

7 Homeowners' Association not maintaining

8 the system, and not operating

9 officially going forward, which could

10 also happen on the five subdivisions up

11 stream ---

12 MR. MAHER: Right. My concern is

13 not whether that happens. My concern

14 is whose responsible for it if it

15 happens? That is my concern.

16 Would it happen? Yes. The

17 evidence is there today.

18 The storms are getting heavier

19 and more intense. That's a known fact.

20 That is why the storm systems are

21 failing. Because they're designed for

22 --- they were designed for a standard

23 used back in the eighties. Everybody in

24 the field knows that.

25 So, we can't correct mistakes

1 - PROCEEDINGS - 179

2 from the 1980's. It's impossible.

3 If you wind up with pipes so big,

4 it's an enormous expense, but if we

5 can't fix what's downstream, do we

6 accept the responsibility of causing

7 potential floods downstream, by

8 accepting control, ownership, and

9 maintenance of what's upstream of the

10 site.

11 That's my concern. Because of
12 the consequences what is upstream of
13 the site.

14 THE CHAIRMAN: It's a liability
15 issue that's between you and the Town
16 Board.

17 MR. MAHER: I will make my
18 recommendations, let the Town Board do
19 as they see fit, with advise from the
20 Town Attorney.

21 MR. HONAN: We have to make sure
22 we keep the focus on the planning

- 23 function of the Board and not so much
- 24 the legal issue or solving the worlds
- 25 problems and dropping it on the back of

1 - PROCEEDINGS - 180

2 this developer.

3 This developer, he has certain

4 criteria he has to meet.

5 Once he's met that to the full

6 satisfaction of the Board and meets his

7 legal obligations, we may be compelled

8 to accept the application.

9 The question is whether the Town

10 wants to accept dedication of the

11 infrastructure and there has been some
12 discussion about that already.

13 My understanding was that the way
14 the Town was leaning to, was to first
15 verify the infrastructure that is
16 already in place is up to standards,
17 that the pipes are the right size, et
18 cetera.

19 I think it was the Building
20 Department who leaned towards having
21 this developer make an application for
22 dedication, and for the Town to accept

23 it, so that the Town can maintain the

24 systems, to make sure they stay open

25 and not get clogged and remain properly

1 - PROCEEDINGS - 181

2 functioning and not cause

3 downstream flooding.

4 That was my understanding.

5 If this Board is allowed to look

6 at downstream, a mile away about

7 potential problems, for worsening

8 weather or global warming, then no

9 application will ever be accepted by

10 the Board.

11 We have to keep our eye on it. I

12 understand Kevin's concern.

13 MR. MAHER: I wasn't saying that

14 the Board should look at the legality

15 of accessing the road.

16 That is the Town Board's

17 responsibility to make that decision.

18 I'm saying, this thing can be

19 designed and can be built properly. It

20 will be built properly. No question

21 about that. I'm not saying this

22 project shouldn't be built.

23 I am saying when it comes time

24 to turn over the keys, does the Town

25 want to accept the responsibility?

1 - PROCEEDINGS - 182

2 That's all I'm saying.

3 MR. HONAN: The Town should let

4 the developer know what its intentions

5 are -- --

6 MR. MAHER: Absolutely.

7 MR. HONAN: --- I think one of

8 the issues were some of those small,

9 remote retention areas and whether they

10 should be redesigned.

11 MR. MAHER: Absolutely.

12 THE CHAIRMAN: What's your

13 recommendation?

14 MR. STACH: You are looking for

15 guidance from the Town Board, or the

16 Homeowners' Association.

17 MR. HONAN: Off-the-record,

18 please.

19 (At this time, an off-the-record

20 discussion was held.)

21 MR. STACH: As I understand,

22 regardless of who maintains it, the

23 infrastructure, there is no need to not

24 at least indicate whether you are

25 leaning toward a standard plan, rather

1 - PROCEEDINGS - 183

2 than the cluster plan.

3 THE CHAIRMAN: What does the Board

4 feel?

5 MR. MC MENAMIN: The average

6 density is the superior plan.

7 MR. KREASE: I agree. We will go

8 with the ---

9 MR. ZIGLER: I have a suggestion;

10 we are going to go to the Town Board

11 and ask direction for the improvements.

12 I can just hear stuff back here

13 to my right, so I think it might be

14 beneficial if next month you can call

15 it a SEQRA hearing or an informative

16 hearing and let's see what the

17 neighbors do, or say.

18 Let's get their input and maybe

19 we can solve some of something here.

20 If we go to the Town Board, they

21 will go to Town Board and people will

22 be questioning the Town Board maybe,

23 and the Town Board has nothing to do

24 with the planning.

25 It may be beneficial to have a

1 - PROCEEDINGS - 184

2 Public Hearing and notify the people

3 and they can come out and speak and we

4 will see where their concerns are and

5 that we will see how we can help

6 address them.

7 MR. STACH: You are allowed to

8 hold a Public Hearing for informational

9 purposes, which is not the same as a

10 Public Hearing on an application.

11 It is a Public Hearing for the
12 purpose of gleaning information for
13 the neighbors.

14 MR. ZIGLER: I have no problem
15 with that.

16 THE CHAIRMAN: What do we need to
17 do? Notice of intent to become lead
18 agency?

19 MR. STACH: There is an
20 informational hearing for the purpose
21 of hearing the neighbors.

22 MR. ZIGLER: Right.

23 MR. STACH: The DEC has permanent

24 authority over the stream.

25 MR. ZIGLER: Remember that is a

1 - PROCEEDINGS - 185

2 DEC stream.

3 THE CHAIRMAN: So, I need a motion

4 for notice of intent to be Lead Agency?

5 MR. KREASE: I will make that

6 motion.

7 THE CHAIRMAN: I need a second?

8 MR. ROGERS: I will second that,

9 Mr. Chairman.

10 THE CHAIRMAN: All in favor?

11 (Unanimous affirmative vote was

12 heard.)

13 THE CHAIRMAN: Opposed?

14 (No responses heard.)

15 THE CHAIRMAN: Motion carries.

16 Next, we will set a public

17 hearing for April twenty-five.

18 MR. STACH: April 25th, and if

19 maybe Mary can coordinate the public

20 hearing notice with Steve and I for the

21 wording?

22 MS. PAGANO: Yes. I don't know

23 how to word it.

24 MR. STACH: We can coordinate the

25 wording ---

1 - PROCEEDINGS - 186

2 (Off-the-record discussion.)

3 THE CHAIRMAN: I need a motion to

4 set a public hearing?

5 MR. ROGERS: I will make that

6 motion, Mr. Chairman.

7 THE CHAIRMAN: Second?

8 MR. PUCCIO: Second, to schedule a

9 public hearing.

10 MR. ZIGLER: Thank you. We will

11 put a map up and we will extend it down

12 to the Minnesceongo Stream.

13 THE CHAIRMAN: Next, I need a

14 motion to accept the minutes of

15 February 28th, 2013?

16 MR. ROGERS: I will make that

17 motion to accept the minutes.

18 THE CHAIRMAN: Second?

19 MR. KREASE: I will second that.

20 THE CHAIRMAN: All in favor?

21 (Unanimous affirmative response

22 was heard.)

23 THE CHAIRMAN: Opposed?

24 (No responses heard at this

25 time.)

