

1 TOWN OF SCHODACK COUNTY OF RENSSELAER

2 PLANNING BOARD

3 *****

4 STEWART'S SHOPS

5 US 9 & 20 AND SUNSET ROAD

6 *****

7 THE STENOGRAPHIC MINUTES of the above entitled
8 PUBLIC HEARING by NANCY L. STRANG, a Shorthand Reporter,
on May 6, 2019 at 7:00 p.m. at Town Hall, 265 Schuuman
9 Road, Castleton-On-Hudson, New York 12033

10 BOARD MEMBERS:

11 Denise Mayrer, Chairperson
Wayne Johnson
12 Paul Puccio
John LaVoie
13 James Shaughnessy
Lawrence D'Angelo
14 Andrew Aubin

15 ALSO PRESENT:

Nadine Fuda, Director of Planning and Zoning
16 Craig Crist, Esq., Counsel to the Zoning Board of
Appeals
17 Melissa Knights, Planning and Zoning Secretary
Richard Laberge, PE
18 Charles Marshall, Stewart's Shops
George Hodgson
19 Joe Visalli
Bill Burton
20 Barbara Neiman
Abby Cash
21 Lawrence Cash
Tim Kernel
22 Jim Dolan
Chuck Rodriguez
23 Victor Paladino
Kenneth Stokem
24 Eileen Natoli
Art Warner
25

1 CHAIRPERSON MAYRER: Why don't we read the notice?

2 MS. FUDA: Continued from April 1st meeting. This
3 is May 6, 2019 at 7:00 p.m. Please take notice that the
4 Planning Board in the Town of Schodack will conduct a
5 public hearing continuation on Monday, May 6th,
6 Stewart's Shop - proposed Stewart's Shop with gas
7 sales, location is U.S. 9 and 20 and Sunset Road, the
8 Zone is HCR20, the file is open for review in the
9 Planning office Monday through Friday, 8:30 to 4:00.
10 Said hearing will be held at Schodack Town Hall, 265
11 Schuurman Road, Castleton, New York at which time all
12 interested parties will be given the opportunity to be
13 heard.

14 Please take notice the Town of Schodack will
15 conduct a public hearing on Monday May 6, 2019 at 7:00
16 p.m. on the MS4 Annual Report. The stormwater management
17 plan and report is available for review in the Planning
18 office during normal business hours and online at
19 www.schodack.org. Said hearing will address questions
20 from the public regarding activities of the Town that
21 the Town has undertaken and will undertake in the future
22 regarding stormwater pollution. Said hearing will be
23 held at the Schodack Town Hall, 265 Schuurman Road,
24 Castleton, New York at which time all interested parties
25 will be given the opportunity to be heard. All written

1 comment will need to be submitted to the Planning office
2 no later than May 17, 2019. Nadine Fuda, Director of
3 Planning and Zoning, Stormwater Management Officer.

4 CHAIRPERSON MAYRER: So, for Stewart's what we are
5 going to do tonight is a continuation of the public
6 hearing. So, they will be making their presentation and
7 addressing all the questions that were proposed in the
8 prior meeting. So, we are going to do both the
9 engineering questions and answers and all of that.
10 Then, they will engage with Rich when they need to and
11 after that you will be given time to comment and ask
12 questions and do what you need to do.

13 Let's get everything out there and then we'll talk
14 about it.

15 MR. MARSHALL: I did bring copies of the site plan
16 and the elevations.

17 Good evening. I'm Chuck Marshall from Stewart's.
18 Stemming from the April 1st meeting we did have some
19 answers that we wanted to provide from the public
20 comment. We did not make any plan revisions because we
21 wanted to discuss it with the Board before submitting
22 another set. Provided that we are on the same page with
23 what we are offering for resolving some of the issues
24 that were raised, we will then provide another set to
25 the Town.

1 I sent a letter dated April 29 which outlined all
2 of our appearances which also outlined the items that we
3 felt were the key takeaways from the public comment.

4 The first one which isn't delineated in the
5 responses for what we propose is modifications to the
6 plan - was a series of comments that were made regarding
7 the stormwater and the driveway for the store. Those
8 were proposed in the R20. We did ask for a formal
9 interpretation from the Code Enforcement Officer. That
10 formal interpretation was received. It has been posted
11 by the Town Clerk and is attached to our correspondence.

12 In his letter, the Code Enforcement Officer does
13 indicate that stormwater is essentially not a use, so
14 therefore the basins are permitted in the R20 and that a
15 driveway is an accessory use permitted in the R20. So,
16 our driveway around the rear of the building is a
17 permitted accessory use.

18 This interpretation is that there are no further
19 variances required for the project. So, with the water
20 quality variance that we've already received, the
21 project does not require any further variances from the
22 Zoning Board of Appeals.

23 As was indicated in the past several meetings, we
24 do have New York State DOT concept acceptance on our
25 access configuration. Then, we did receive New York

1 State Historic Preservation Office sign-off on the fact
2 that the buildings are not eligible for historic
3 preservation.

4 So, going through what became the end of the key
5 points from the public hearing were the delivery access
6 along Sunset. As noted on several points throughout,
7 that is a weight restricted road. We did some research
8 in 210-3 of the Town Highway Code. This is not a road
9 that is allowed for exemption from the weight
10 restriction. So, all trucks will enter and exit off 9
11 and 20 and we will post a sign for delivery trucks
12 entering and exiting at that driveway.

13 The next series of comments were regarding the
14 Stormwater Pollution Prevention Plan, the first flush
15 capacity of the system and then what happens to overflow
16 outside the first flush capacity.

17 We believe that we have an appropriately designed
18 system where all hot-spot run-off runs to the Downstream
19 Defender and then to the bioretention area. It is
20 important to know that the first flush is what contains
21 the hydrocarbons and then everything thereafter is just
22 essentially just rain. So, the overflow and the bypass
23 is acceptable.

24 We do provide the positive limiting barrier around
25 the concrete pad for the gasoline canopy and we have

1 provided oil and water hoods in each of the catch
2 basins. We have already provided citations for the
3 details in the plan sets.

4 Because there was such an emphasis on the concern
5 for how long-term effects of the hydrocarbons will
6 affect drinking water, we do provide or a willingness to
7 provide an eight-inch water main that will be brought
8 from the Stewart's corner where there is a 12-inch
9 public main to the western edge of our project site
10 which abuts the Wheeler property. That will be installed
11 by Stewart's, but it will not be tapped into because the
12 water district ends at the property line. So, the Town
13 Board can initiate a district extension or the residents
14 can pitch in for the district extension, but the line
15 will be there to tie into.

16 We have also found that the Town does have the
17 ability to require us to install ground water monitoring
18 wells. We think that this will provide a more historic
19 picture of potential impacts or what is in the ground.
20 Again, we feel that our spill response and our record as
21 complying company will prevent that from happening
22 because spills of that nature will be identified before
23 ground water monitoring does pick it up.

24 In relation to that, we did do soil sampling today.
25 It wasn't just for this meeting, but it happened to be

1 the way that the schedule works out and from our
2 understanding there were no positive hits that cause the
3 concern for spills at the property. We did all four
4 property corners and then some select sites.

5 The final thing that was discussed was the
6 geometric modification of the Sunset Road and Route 9
7 intersection. We think that this is an off-site
8 improvement that Stewart's should not be held solely
9 responsible for. We do believe that should DOT and the
10 Town want to change the geometry of the road, our
11 proposed infrastructure including the sign and the
12 driveway have adequate space where if we provided the
13 Town a 30-foot easement or thereabouts, the Town and DOT
14 would be able to effectively change the intersection to
15 align with Miller Road. We don't think at this time it's
16 appropriate both from a cost perspective and the nature
17 of our project doesn't warrant that type of change. In
18 our conversations with DOT there have been no
19 conversations or suggestion of that.

20 The traffic studies and our conversations both held
21 with the department does not support warrants for
22 designated left turn signals, nor is there a warrant for
23 pedestrian accommodation for crossing at 20. There is no
24 pedestrian accommodation on the Miller Road side. We do
25 provide pedestrian accommodation across Sunset as there

1 is a currently a cross-walk. Obviously, which should
2 call Henry we provide sidewalks around the project
3 perimeter.

4 With that, there is only one other general question
5 about the Sunset Driveway being steep. There was an
6 assertion that it was possibly 10% but we checked the
7 grading plan and it is approximately 3% and the sidewalk
8 running across is maintained at approximately 2% with
9 ADA compliance.

10 So, with that, that's our position and proposed
11 modifications. Obviously, I will take any questions that
12 the Board may have or if there are a series of questions
13 that are after, we can come back and answer them.

14 CHAIRPERSON MAYRER: Okay.

15 Do you have anything to add?

16 MR. LABERGE: I don't have anything to add. These
17 proposals need to be taken into account with everything
18 else that we have heard and take a look at the project
19 as a whole with these new ideas that were offered in
20 the letter of the 29th.

21 CHAIRPERSON MAYRER: Has the Town Board looked at
22 the extension of the Water District?

23 MR. MARSHALL: So, the Town Board right now only
24 has the application for the sewer district extension.
25 The sense of it from special district was that they

1 wanted to see the site plan portion first before
2 extending the district for a project that might not be.

3 MS. FUDA: They can't extend it any further than
4 their property.

5 CHAIRPERSON MAYRER: Right now.

6 MS. FUDA: Right. They are a one-district user.

7 CHAIRPERSON MAYRER: Okay, I get that.

8 Members? Questions?

9 MR. SHAUGHNESSY: I certainly would support the
10 water extension. I think that it's a good idea. As I
11 understand it, we have to map a plan and report and
12 that's a bit of a process; right?

13 CHAIRPERSON MAYRER: Yes.

14 MR. SHAUGHNESSY: Does the Town Board ever revisit
15 the process on that and how it extends water districts?
16 It would certainly behoove them to make it as simple as
17 possible especially since the provider or the applicant
18 is willing to extend the line. I think that should be
19 looked into.

20 MR. LABERGE: The map, plan and report process is
21 prescribed by municipal Town Law so it's beyond the
22 Town's ability to streamline it. However, for this type
23 of project we are just extending one parcel or one
24 project, so to speak - it's pretty quick. It just has
25 to go to the Town Board. I have not spoken to anybody -

1 the Supervisor or anybody about the potential, but if
2 this Board felt that it was something that they wanted
3 in the future whatever type of action that you take on
4 this, it could be included as a condition at which the
5 Town Board would have to act. So, depending on where we
6 are going, I could have that conversation with the Town
7 Board and see if they have any concern of doing that
8 outside of all the issues that we are considering.

9 CHAIRPERSON MAYRER: I think so, in the sense that
10 this is a missed opportunity. So, that's why I'm
11 suggesting it - that we have that conversation.

12 MR. SHAUGHNESSY: The Stewart's portion would be a
13 line -

14 MR. LABERGE: Right and then they could tie in -
15 residents could tie into that perhaps even one or two
16 down could come up and run -- or maybe we could extend
17 it a little further down. I know that there are
18 concerns that people pass Mr. Wheeler - maybe one or
19 two down below that, but I certainly think that it's a
20 good idea.

21 CHAIRPERSON MAYRER: Then of course the comment on
22 the pedestrian traffic - you have a responsibility on
23 the - not on the Miller Road side, but on the other
24 side; is that what you are saying?

25 MR. MARSHALL: Correct.

1 CHAIRPERSON MAYRER: So, how would one get from
2 the other side of Columbia Turnpike without a
3 pedestrian walkway?

4 MR. MARSHALL: You would have to use the existing
5 signal phases.

6 CHAIRPERSON MAYRER: Other questions, members?

7 MR. JOHNSON: Does that mean that we wouldn't get
8 markings for a crosswalk?

9 CHAIRPERSON MAYRER: That's what I'm trying to
10 sort out.

11 MR. MARSHALL: There would be no markings for a
12 crosswalk other than that -

13 MS. FUDA: The one guy said no - Guy Tedesco.

14 MR. JOHNSON: He didn't want markings without the
15 lights? Is that what he said?

16 MS. FUDA: Yes.

17 MR. LABERGE: Actually, the conversation that I
18 believe was that the DOT wouldn't support crosswalks
19 because there is no terminus on the Miller Road, 9 and
20 20 side for a crosswalk to go to from the proposed
21 project site.

22 In addition, the pedestrian signals would go with
23 the painted crosswalk at this point, to bring it up to
24 current standards. Since they don't even want the paint
25 on the road, so to speak. They also go as a pair, at

1 this point in time.

2 MR. JOHNSON: You need sidewalk on Miller Road?

3 MR. LABERGE: Well, need is different from the
4 standard. I have to find my notes on it, but basically
5 the concept was that there is no pedestrian
6 accommodation currently. It would be a crosswalk and he
7 didn't say no to nothing, but it would be a crosswalk
8 to an unknown. They were not supportive.

9 MR. JOHNSON: Miller Road has a 10-foot shoulder
10 right now which is used by pedestrians. In the near
11 future it's going to be used by bicyclists and
12 pedestrians that are going on the Rail Trail. The Rail
13 Trail is less than a quarter of a mile from Stewart's
14 which generally would be an attraction to somebody who
15 came up from Rensselaer who is trying to get to
16 Columbia County. So, I think that we should seriously
17 look at making it so that there is a place to get off
18 of Columbia Turnpike and put in a drop curve so that
19 they can get into an island somehow and make it to the
20 wide shoulders without walking in the turning lane.

21 MR. LABERGE: The Rail Trail concept - we can
22 bring that into the conversation and see if it has any
23 bearing to DOT's comments.

24 MR. SHAUGHNESSY: Do you have the latest
25 landscaping plan with you - or I guess the most recent

1 one? I was just wondering about the screening around
2 the adjacent properties.

3 MR. MARSHALL: It was the natural or the existing
4 vegetation in southwest corner that will remain. Then,
5 Eastern Hemlocks will be placed in the northwest corner
6 and an additional series of Hemlocks placed over here
7 (Indicating).

8 MR. SHAUGHNESSY: So, how much is remaining on the
9 western boundary - the southwest corner all remains?

10 MR. MARSHALL: Yes, the approximately five trees
11 in the southwest corner remain. There is an existing
12 tree at the proposed driveway. There is a culvert that
13 crosses here and the grade drops down. There is a
14 watercourse. So, that's why everything is kind of to
15 the perimeter and not internal to the site.

16 MR. SHAUGHNESSY: Would there be an opportunity to
17 beef up what is on the perimeter? Maybe make a double
18 row and stagger them, just to give as much screening as
19 possible to what is proposed on the north and the west
20 side?

21 MR. MARSHALL: But there is already screening
22 behind the lights and stuff. You're back into the
23 stormwater basin here (Indicating). So, it would be our
24 position that you have proposed screening in proximity
25 to the site. Then, some on the outside of the

1 stormwater component.

2 MR. SHAUGHNESSY: I was just looking at the part
3 on the outside. Might there be some consideration to
4 maybe increasing that a bit to try to mitigate as much
5 as possible the other adjacent properties and also, to
6 the west.

7 You said that you would be submitting a new site
8 plan. It would just give us a little more to review.

9 MR. MARSHALL: In the area that you are requesting
10 additional screening, the light foot candle
11 measurements are already zero.

12 MR. SHAUGHNESSY: It's not so much for the lights.
13 It's for the viewpoint for the existing residents. This
14 is just to mitigate to the extent possible that they
15 are looking at the back of a driveway, if you will.
16 It's just something to consider. I'm not putting you on
17 the spot.

18 MR. MARSHALL: Okay.

19 MR. SHAUGHNESSY: Like maybe the northwest corner.
20 I know that there are a couple of adjacent properties
21 there. If you could put a little more investigation
22 into that, I would appreciate it.

23 MR. JOHNSON: Does that plan show the grading on
24 it - on the left side?

25 MR. MARSHALL: The landscaping plan did not have

1 the grading limit but this does. So, we don't propose
2 to affect the grades on the northwest corner.

3 MR. JOHNSON: Again, on the west side - you're
4 going to be how many feet from the property line?

5 MR. MARSHALL: 50.

6 MR. JOHNSON: Are you piping the stream that goes
7 through the culvert? Is that screening both sides of
8 the channel?

9 MR. MARSHALL: It looks like it comes in at 362.
10 No, we don't propose to pipe it. I will double check,
11 but I don't think we propose to pipe it.

12 MR. JOHNSON: You're going to limit the amount of
13 tree removal that will be beyond the grading. I mean no
14 tree removal beyond the grading.

15 MR. MARSHALL: These are the five trees outside of
16 the grading limit that are proposed to stay in this
17 corner. All the trees on the grading plan as you see
18 them are proposed to stay.

19 MR. JOHNSON: When you say five trees, were those
20 trees one foot in diameter?

21 MR. MARSHALL: I meant just the five trees in this
22 corner that we discussed on the proposed landscape
23 plan.

24 MR. JOHNSON: That are existing.

25 MR. MARSHALL: Yes.

1 MR. JOHNSON: There are more than five trees that
2 are on that 50 feet between -

3 MR. MARSHALL: I don't know the diameter, but I
4 don't believe that it's our intention to clear
5 everything. I think that they only showed trees of 18
6 inches or something like that, but I will check and
7 respond accordingly. Three-inch trees are not going to
8 - we are not going to bring them in on the survey. I'm
9 assuming the five trees in that corner were trees of 18
10 inch in diameter or something greater than that.

11 MR. JOHNSON: I want to ensure that we are not
12 going to remove all the trees that aren't greater than
13 12 inches in diameter.

14 MR. MARSHALL: That's what I'm saying. I'll double
15 check to make sure that's what appears on the plan.

16 MR. JOHNSON: Thank you.

17 MR. SHAUGHNESSY: Maybe the demo plan can kind of
18 delineate the extent to which you're going to remove --
19 I wasn't sure that was clear on the demo plan - maybe
20 some notes or something.

21 CHAIRPERSON MAYRER: Okay, members, anything else
22 for now?

23 (There was no response.)

24 Okay, we will start on this side of the room. We'll
25 do what we did last time. We will alternate back and

1 forth.

2 We respectfully request that you consolidate your
3 comments this evening. You will be given five minutes
4 each time and one time only because this is a
5 continuation. So, with respect to that, let's start on
6 this side.

7 Does anyone on this side of the room have any
8 questions that want to come up?

9 We just need your name and address.

10 MS. WARNER: My name is Carol Warner. I live on
11 Bri-Lan Avenue. This is the first meeting that I've
12 been to. I've heard a lot about everything going on.

13 This is a neighborhood that I have lived in for 50
14 plus years and it's a walking neighborhood. It also has
15 people with bicycles and kids with bicycles and even
16 walkers with their babies that have gone from Bri-Lan to
17 Sunset and cut across right where this proposed
18 Stewart's is going to go. I love Stewart's and I have no
19 qualms with business, but I feel that corner is
20 dangerous right now and I'm worried about it being more
21 dangerous in the future with the traffic and if you look
22 at history on 9 and 20 and Miller Road, you will find
23 that there are many accidents there without a business
24 there. I just think that it's very unsafe for the people
25 that have lived there for many years and the traffic and

1 that it will increase on that corner. That corner is
2 very unsafe.

3 If the light doesn't change and there is not a
4 turning lane, I don't see it being safe. I think a light
5 that is lost because of the traffic that is going to
6 occur there is not worth anybody's dollars and cents.
7 That's all I have to say.

8 CHAIRPERSON MAYRER: Thank you, very much.

9 MR. HODGSON: Hi, my name is George Hodgson and I
10 live on Sunset Road, 150 feet from the site. I still
11 have grave concerns about air emissions and groundwater
12 contamination that the project will create.

13 I already spoke before you all on April 1st. I will
14 try not to reiterate those points now, but just focus on
15 what has happened since April 1st.

16 With regard to the Building Inspector's letter,
17 April 9th - Stewart's wrote a letter to the Building
18 Inspector requesting some determinations and the
19 Building Inspector responded back on April 18th.

20 I just want to point out that the Planning Board
21 oversees site plan review and issuing special permits.
22 The Building Department is not tasked with those things.
23 While the Building Inspector has his opinion that the
24 Stewart's plan would be permissible, you all are the
25 lead agency and it's up to you and you alone to approve

1 this project only when you've ensured that it's a
2 benefit and you're comfortable with it.

3 Diving into the Building Inspector's letter, he
4 states that a driveway along the rear of the building is
5 a permitted accessory use.

6 I just wanted to bring up a thing from April 1st. I
7 feel that conclusion ignores the issue that I raised
8 previously. I agree that driveways are allowed on
9 residential land and commercial land. My concern is
10 whether the Board can approve a plan that calls for
11 gasoline delivery trucks in addition to tractor trailer
12 deliveries and commercial waste haulers to be driven
13 regularly on residential land. This proposed driveway is
14 anything but an accessory. It's an essential part of the
15 gas station project. Without gas trucks being able to
16 drive on its residential driveway, this gas station
17 wouldn't be viable. If this gas station is too big to
18 fit on the HC zone property, then it must be reworked so
19 that it does fit on the HC zone property. Otherwise, you
20 are approving a gas station being built on residential
21 land.

22 Also in the Building Inspector's letter he states
23 support for the gas station's western most stormwater
24 facility being placed on residential land. He states
25 "stormwater facilities do not constitute an independent

1 use of property, but rather stormwater facilities are a
2 development feature which may be required in connection
3 with improvement and use of property for a principal or
4 accessory use.”.

5 I agree with this logic. Stormwater facilities are
6 a feature that are required in connection with the gas
7 station. Since stormwater isn’t a designated use in and
8 of itself, it makes sense that the gas station’s
9 stormwater facility should itself be considered a gas
10 station for the purposes of determining its placement
11 per its schedule of use regulations. Since a gas
12 station’s stormwater facility is itself part of a gas
13 station and gas stations are not allowed in residential
14 land, you must not allow a gas station’s stormwater to
15 extend under residential land.

16 Just like with the driveway, if the gas station is
17 too big to fit on the HC zone property, then it must be
18 reworked so that it does fit on the HC zone property.
19 Moving onto Mr. Marshall’s April 29th letter that was
20 brought up earlier: He wrote a recap letter reiterating
21 the project and trying to sell us on the various points
22 of concern.

23 He states that directing the first flush through
24 the Downstream Defender eliminates any hydrocarbons from
25 entering the groundwater. This is a point that I am

1 reiterating from last time, sorry. That claims
2 contradictory to the February 1st letter that Mr.
3 Marshall wrote to Mr. Laberge introducing the Downstream
4 Defender and the attachments to which demonstrate that
5 the Downstream Defender's efficiency for moving
6 hydrocarbons is potentially lower than 80%. Furthermore,
7 an oil/water separator like this did nothing to remove
8 contaminants that are already dissolved in the water
9 which is of particular concern due to today's gasoline
10 blends with ethanol.

11 I don't know if this is the appropriate venue, but
12 I would ask that the Chairwoman or the Engineer could
13 explain to me the plan's direct first flush into the
14 Downstream Defender.

15 From reviewing the plans, it appears from the
16 expert that I spoke to that there is a junction box near
17 the gas can where the entirety of the hot-spot flow is
18 sent. It forks out at two pipes that are at equal
19 elevations. One goes to the Downstream Defender and one
20 goes to the Storm Tech system. The Storm Tech's system
21 is larger. It would seem that this would direct the
22 majority of the flow to the Storm Tech's system where it
23 would be just injected into the ground directly. I don't
24 know if we could catch up on that - or maybe there are
25 plans that make that clear. I would appreciate being

1 educated on that.

2 Even if the Downstream Defender were designed to
3 capture the first flush, no run-off from the hot-spot
4 area should be untreated into the groundwater this close
5 to drinking water sources. What happens if someone is
6 refueling their car when it's raining? Would the run-off
7 from the storm fill the Downstream Defender's volume and
8 then all the drips and spills would pass into the storm
9 tank and into the groundwater directly?

10 Additionally, I don't like the idea of splitting
11 the site's run-off and only planning on treating half of
12 the site's run-off. It seems like a recipe for
13 disaster. If Stewart's is really taking every precaution
14 to ensure that the project has no environmental impact,
15 they may be treating the entire site's run-off. There is
16 no magical force, not even positive limiting barriers
17 that will keep contaminants on one side of the store and
18 not the other. Think about cars with fuel leaks or
19 customers refueling and spilling coolant which is wiper
20 fluid, spill gas cans from snowblowers or quads. The
21 tanker trucks and delivery trailers will be circling the
22 entire site. They all present dangerous forms of run-off
23 that could happen anywhere on the site. Once it's on
24 the ground, if it's not in the hot-spot area, it would
25 travel through the stormwater pipes, into the groundwater

1 and into my neighbor's well 100 feet away.

2 Stewart's has offered to extend the eight-inch
3 water main to the edge of the project site, as Mr.
4 Marshall mentioned, to facilitate nearby parcels to
5 later petition the Town for access. I view this as an
6 acknowledgment by Stewart's that their project will have
7 negative impact on the neighbor's drinking water.

8 I spoke with Nadine in and around February about
9 the opportunity to connecting to the water district and
10 she gave me a rough estimate of about \$100 a foot to
11 extend an existing watermain, not to mention the cost of
12 getting the main to my street and into my home. My home
13 is about 150 feet away, so even with Stewart's running
14 that main, my cost to connect to municipal water would
15 approach 15 grand. I think that it's absurd to approve a
16 project that endangers the wells and puts the neighbors
17 at such financial and health risk. My access to the
18 water district isn't even guaranteed because I would
19 need to petition the Town Board for approval to extend
20 it.

21 Lastly, just a couple quick concerns: I haven't
22 heard anything about the April 1st public hearing with
23 regard to the benzene in the air and the water. Benzene
24 contamination is still a problem. This is the third
25 public hearing for the project that I have not received

1 notice for. I live 150 feet away, well under the 300
2 foot radius used for notices. I have lived in Schodack
3 for six months. My name is on the assessment roll. I'm
4 glad I'm here, but I would expect notices.

5 I FOIled the contents of this project's file on
6 Friday and found none of the materials submitted from
7 the public on the April 1st public hearing were
8 included. I knew that it existed and I asked about it. I
9 was told that the material was moved to a separate file.
10 I have concerns about who else FOIled this material and
11 didn't know that it was missing. As a member of the
12 public, my way of voicing my concern is to get it
13 captured on the record and my submissions are
14 disappearing and reappearing in the record, it leaves me
15 with concern that the Board and any other reviewing
16 entities aren't privy to that information.

17 In closing, the project will contribute dangerous
18 contamination into the air and the water so immediately
19 impact the health and well-being of residents. I urge
20 you to gather more information about the environmental
21 impacts of this project. Please protect the health and
22 safety of my home and family. Thank you.

23 CHAIRPERSON MAYRER: Thank you.

24 Okay, we're back to this side of the room.

25 MS. NEIMAN: Margaret Neiman, 14 Inglewood Road.

1 I've presented a couple of times.

2 I just want to go back to something that was stated
3 here when a member of the Edwards' Family was here. We
4 all have to acknowledge that they have every right to
5 sell their property to whoever. I'm assuming and maybe
6 I'm wrong that it's the rule of the Planning Board to
7 ensure that the project is one of the benefits of the
8 community and not just two entities being the Edwards'
9 Family and Stewart's and that it's a totally safe
10 project. I'm hearing a lot of environmental concerns.

11 The gentlemen from the Edwards' Family who spoke at
12 previous meetings said that they were not successful
13 with marketing the property, but when I presented that
14 last time, nobody ever acknowledged that there were any
15 for sale signs or efforts at marketing that property.
16 I'm not sure about that.

17 He also accused those who are against this project
18 as a vocal minority. I have a really hard time with that
19 accusation being that I'm not hearing anybody coming
20 forth saying we want this, other than the Edwards'
21 Family and Stewart's. Everybody that I'm hearing - and
22 I've been here for the past three or four meetings don't
23 want it. It's very clear. So, who are these people who
24 strongly support the project? Considering that all the
25 years that the Edwards' Family had their business and

1 the community supported them, my question is: Is this
2 how they show their appreciation for the community that
3 supported them?

4 So, we have already talked about environmental
5 issues. We have talked about safety issues with traffic.
6 When I presented the last time, I addressed the idea -
7 are you agreeing that it's okay to go from a low
8 traffic professional building - doctor's office and it
9 could be a lawyer's or attorney's or accounting office
10 or whatever to a high traffic convenience store? I don't
11 see that makes sense.

12 Again, the bottom line is that it's really up to
13 our Town to show who they care about. Do they care about
14 Stewart's and their profit and the Edwards' Family
15 profit, or do they care about the residents who are
16 concerned about the environmental safety, the traffic
17 safety and the property values of the homes that they
18 have lived in?

19 CHAIRPERSON MAYRER: Thank you.

20 We're over here now.

21 MR. VISALLI: My name is Joe Visalli, 1381 Sunset
22 Road.

23 Actually I did have a question for the Board before
24 I start. I was wondering about the reinforcement in the
25 guardrail in the back. Is that just kind of considered

1 and rejected?

2 CHAIRPERSON MAYRER: They will put it on the final
3 plan.

4 MR. VISALLI: Good. Nobody mentioned it.

5 MR. SHAUGHNESSY: I think what the question was:
6 Was it being reviewed? I recall that comment being
7 made.

8 CHAIRPERSON MAYRER: On the guardrail?

9 MR. SHAUGHNESSY: Yes.

10 CHAIRPERSON MAYRER: Did you ask the question?

11 MR. SHAUGHNESSY: No, I think he did.

12 MR. VISALLI: It was in the back there. I was
13 concerned that as trucks are coming around especially
14 at night when it's snowing or whatever - the engineer
15 of record would probably have to review that.

16 CHAIRPERSON MAYRER: Right and it would be in the
17 final plan.

18 MR. SHAUGHNESSY: If they thought it was
19 necessary. Somebody has to determine whether it's
20 necessary or not based on -

21 MR. VISALLI: It's still up for grabs, okay.
22 That's fair enough.

23 I had suggested sheeting and a guardrail.

24 I think my comments today - I wrote a letter and I
25 will give it to you when I finish. I don't think I can

1 get through this in five minutes so what I'm going to
2 try to do is paraphrase this and just pick up the
3 important points. It's all got to do with the Aquifer
4 Law. We all know that the Aquifer Law - again, I'm just
5 going to this quickly - there are two basic things in
6 there for a variance you need to basically demonstrate
7 that there is going to be - that the public health and
8 safety will be maintained. Secondly, that DEC
9 groundwater standards will not be violated. There is
10 also an implication that when you read that law that by
11 installing this oil/water separator, that's really all
12 that is required. That is not true. The presence of an
13 oil/water separator really doesn't say anything about
14 health and safety, nor did it say anything about
15 groundwater standards. How do you go about really
16 finding out if we are at least making a prediction
17 because it's obviously in the future? The only way
18 you're going to deal with groundwater standards is by an
19 appropriate geological analysis first, some groundwater
20 modeling and then you ascertain whether or not your
21 modeling was correct by a periodic sampling of
22 monitoring wells. It's really the only way of doing
23 that.

24 I want to note that while groundwater modeling is
25 not mentioned in the Aquifer Law, geographical analysis

1 is. Chapter 223 - 9C and also groundwater monitoring is
2 included.

3 So, as we started off with this, we know that
4 gasoline sales in the recharge area are prohibited by
5 the Aquifer Law. So, it requires a variance.

6 I went to the files and try to find out what the
7 basis was for the recommendation that the Planning Board
8 made to the ZBA and basically I found two things. One is
9 that there is a double wall tank - gasoline tank with
10 interstitial monitoring which is a really good thing.
11 The second thing of course was the oil/water separator.
12 So, that's basically it. That's what was presented to
13 the ZBA. I am not sure who on the Board here really took
14 a look at this other than Dick. So, I went to find out
15 some information about the oil/water separators.

16 I looked at a number of manufacturers, a number of
17 different municipalities that recommend these things and
18 it's pretty clear that an oil/water separator is really
19 designed to separate water and oil. Although as George
20 mentioned, the previous speaker, it's not 100%
21 efficient. Some does get through. As you read through,
22 though, you find out that gasoline typically ethanol
23 blends are not necessarily captured by this. What ends
24 up happening is that particularly with ethanol - with
25 water in gasoline, you get an emulsion. The emulsion

1 keeps the gasoline in suspension and so it flows with
2 the water out and not trapped in the oil/water
3 separator. The information also makes it clear that the
4 gasoline can react and dissolve oil. So, that can also
5 flow out of this oil/water separator.

6 Then, I went and took a look at DEC groundwater
7 standards. It talks about the aromatic compounds in
8 gasoline. So, benzene is one - ethyl benzene, toluene,
9 xylene plus oil and grease. All of those are groundwater
10 standards. Ethylene glycol is another one. I know
11 Stewart's sells ethylene glycerol. I have seen people
12 buy it there and dump it right there. Some can spill, so
13 that's another chemical that is part of the groundwater
14 standards. I looked for the record to even see if there
15 was a mention of any of these aromatics. There are none.
16 So, I guess from my point of view, there is also the
17 other point that the oil/water separator is not 100%
18 efficient for oil and grease. We know that oil and
19 grease, if it gets into the environment, is persistent.
20 It really doesn't biodegrade. It kind of sticks around.
21 It is fairly chemically inactive. So, it can build up
22 over time in the groundwater.

23 So, in my view what the Planning Board really
24 should have done is order Stewart's to do something
25 similar to what they would have done for a septic tank

1 system. You do your deep holes analysis to try to
2 determine what the soil layers look like over there. You
3 do your percolation tests. It's the same thing because
4 an oil/water separator is basically a glorified septic
5 tank. That's what it basically is.

6 So, I have a bunch of suggestions. I am thinking
7 that this is something - particularly whether it is
8 applicable here - I mean it, it is to me, but certainly
9 going forward for anything else that is on the aquifer.
10 So, I couldn't find a thing that really addresses the
11 two concerns of the Aquifer Law; public health and
12 safety and no violation of groundwater standards.

13 So, my conclusions from all this are that the
14 Planning Board failed to consider any of these aromatic
15 compounds and anti-freeze. I am still not 100% sure that
16 stormwater from the entire site is taken into account
17 when it is called for in the Aquifer Law - the entire
18 lot is supposed to be - - from an impervious surface, it
19 is supposed to go into this oil/water separator. I think
20 the Planning Board failed to consider that the gasoline
21 and gasoline blends were going to create this emulsion
22 that is going to pass through the oil/water separator.

23 I'm still not sure about the - George mentioned
24 this stuff about the first flush. I'm still not sure how
25 the separator is sized relative to the flow that is

1 anticipated for whatever storm - design storm is
2 required. The Planning Board also failed to take into
3 account that the catcher efficiency is not 100%. They
4 didn't take into account the persistent nature of oils
5 and grease. They failed to do any geological analysis -
6 any groundwater sampling, monitoring or modeling that
7 might have provided a reasonable technical basis for the
8 recommendation that she made. There are drinking water
9 wells that are fairly close to the site. Part of the
10 health and safety requirement as well as the groundwater
11 standards --- there should have been some sort of
12 analysis.

13 So, for these reasons, I conclude that the Planning
14 Board had no basis - no reasonable technical basis for
15 making a favorable recommendation to the ZBA for a
16 variance to the Aquifer Law. Consequently, I'm asking
17 the Planning Board to rescind its recommendation,
18 pending the completion of a reasonable technical
19 analysis. I suggest one here. For the same reasons I
20 intend on delivering this letter to the ZBA - for the
21 same reasons, plus the fact that the ZBA had a clear
22 conflict of interest by using the same engineer and
23 lawyer as the Planning Board did for advice and
24 information. I am going to be asking the ZBA to rescind
25 its variance that it granted to Stewart's pending a new

1 recommendation from the Planning Board.

2 Those are my comments. I will give you the letter.

3 CHAIRPERSON MAYRER: Thank you, very much.

4 First of all, the Board will not be taking up any
5 motion to rescind the motion to the ZBA. Furthermore,
6 any action on the ZBA is completely independent of this
7 Board. So, whether we make a favorable or unfavorable or
8 no recommendation, the ZBA can do whatever they wish.
9 There has been plenty of times where we have made
10 favorable recommendations and they have turned us down
11 and vice a versa. Those are independent functions.

12 If there is an issue with what the ZBA did in terms
13 of this variance, then I would suggest that the proper
14 activity, if you choose, is to take it up with the ZBA.
15 However, our motion has no bearing ultimately on what
16 they do. They can act independently and do whatever they
17 want. That is the first thing.

18 He's asking me about whether the engineer needs to
19 respond, but I responded with respect to what the Board
20 did. That's what he was asking. That's what I did. He
21 didn't know I was going to do that.

22 Second of all, in an attempt to continue the public
23 hearing, is there anyone else that wishes to make
24 comment on this side?

25 (There was no response.)

1 Okay, so, we are done on the side.

2 MR. BURTON: Good evening. My name is Bill Burton
3 and I live at 1532 Sunset Road. My property is directly
4 across from the Stewart's shop location.

5 I still see that their driveway comes out on on
6 Sunset and is directly across from my driveway. Am I
7 going to get permission to go out onto the turnpike in
8 the front of my property so I can get out of my
9 property? Does anybody understand what's going on here?
10 If you go there at that corner anywhere from 4:00 in the
11 afternoon to I would say 9:00 at night - sometimes 3:00
12 in the morning, cars and motorcycles on one wheel drag
13 race through that intersection. The noise is horrendous.
14 My house vibrates. I am quite a ways from the road. So,
15 nobody takes into any account the traffic.

16 I still don't know how I'm going to get out of my
17 driveway. Does anybody know how I can get out of my
18 driveway when this goes through? Right now, I have 15
19 minute waits in the morning and the afternoon when the
20 cars come to avoid it - they come through the
21 neighborhood area and they come along Sunset and up and
22 across the light.

23 I am still baffled how I'm supposed to get out of
24 my driveway. The back of my land is the lowest point in
25 this whole scheme of events.

1 On the other side of me there is a Mr. Nussbaum who
2 has bought Mr. Halsey's property in his right up against
3 my fence. There are no trees. You talk about getting
4 some trees on Stewart's, there - 18 trees, five trees,
5 six trees, spruce and all kinds of things. If you look
6 at that property behind me now, there are no trees left.
7 He stripped the land. This was never taken into account
8 for some reason. You guys want trees, but this whole
9 thing comes off and there are no other trees on the side
10 of me behind me on the Stewart's facility side. I have
11 one giant tree off my sundeck that is a beautiful tree
12 and some of the leaves and branches tower until Halsey's
13 property - or, now Nussbaum's. Nussbaum shaved the side
14 of my tree to my line. That tree is probably going to
15 die now. So, I'm kinda baffled about how the Town Board
16 cares about the residents.

17 Stewart's had their original location where the
18 pizza places and they moved a little way up the street
19 and now they're moving a little ways down the street.
20 This will be the third time. How many people that live
21 in this community have been able to move their houses
22 and get away from this? There's no way we can move our
23 houses. It's no benefit to us with the Stewart's going
24 in there. There's not one iota of benefit. The only
25 thing it does is create more traffic jams. I just don't

1 know why you don't care more about the people than
2 Stewart's. At this point, if my land gets flooded
3 because the run-off is going to go on my land in the
4 back, I'm not going to be able to use my land. Does that
5 mean I don't pay any taxes, then? It's not usable then,
6 especially when Nussbaum is stripping his and. All that
7 water is going to come down there now anyway. Nothing is
8 ever thought about on a long-term basis when they give
9 all of these permits to all these different companies
10 that want to do things here. We still have a lot of
11 people living here. If all you want is businesses here,
12 then you should buy all these people's houses up, give
13 them a good price for their house and let them go live
14 someplace else. Then, you can have all the businesses
15 you guys want. That's all I've got to say.

16 CHAIRPERSON MAYRER: Okay, thank you.

17 Just a point of clarification on the Nussbaum
18 project: He has never come in front of the Board, nor
19 did he apply for permits. So, a stop work order was
20 issued.

21 MR. BURTON: It's too late. All the trees are
22 gone.

23 MS. FUDA: He has a site development permit. He
24 just bought that property. He has not been before this
25 Board for any site plan. So, he is under an acre. He

1 had the right to clear that property. He got shut down
2 today by the Department of Labor. The Building
3 Department also put a stop work order on him because he
4 did take down the porch without a demolition permit.
5 So, that's where we are with Mr. Nussbaum.

6 CHAIRPERSON MAYRER: Okay, we're back to this.
7 Anybody over here?

8 MR. KERNEL: Good evening. My name is Tim Kernel.
9 I live at 1530 Sunset Road, right next to Mr. Burton.

10 The proposed project is right across the street and
11 there are a lot of comments that have been made tonight
12 that I agree with.

13 I thank Barb Neiman for her comments because they
14 are very appropriate. The two things I am concerned
15 about - first of all, is the water. The house that I
16 live in now has a well and I mentioned before that it
17 has a 40 foot deep well. The cost to have that water in
18 my home is the cost of the electricity to run my pump. I
19 don't know what it's going to cost because I'm afraid
20 that even if you put in public water down the road in
21 front of my house and I can tap into it, I don't know
22 what that is going to end up costing me. It would be
23 real nice if the Town gave the few houses close by whose
24 wells are probably going to be affected by the situation
25 - that we were given waivers of some kind so that we

1 could hook up to Town water without it being a very high
2 cost for us.

3 My second concern is the property values of the
4 people - the people close by to this property. I moved
5 into this home 30 years ago because of the school
6 district, because the proximity of I90, the quiet
7 neighborhood that I have with the folks that live around
8 me and now with the Stewart's coming in across the
9 street, it's going to end up reducing the property value
10 of my home. I'm sure that it is. Who's going to want to
11 buy a house that is that close to a business that is
12 running almost 24 hours a day? It's just too much to
13 understand how you folks can just sit back - - I know
14 that you are not approving it yet. I know that it is in
15 the process, but it just seems like every time I come to
16 one of these meetings, it's looking more and more like
17 it's going to end up happening. All of us - we are doing
18 our best to tell you why we don't think it should
19 happen. Sometimes you have to sit back - folks on the
20 Board - think about what you would feel if you lived in
21 one of these houses, this close to this project. When I
22 see that, I think that you probably would have a second
23 thought. Thank you.

24 CHAIRPERSON MAYRER: Thank you.

25 MR. RODRIGUEZ: My name is Chuck Rodriguez. I live

1 at 121 Lake Road. I came to listen to the argument.

2 The same recurrent theme is coming up. What does
3 the law about putting this over the aquifer - is it
4 interpreted? Is there a decision; yes we can do it, no
5 we can't? This seems like it's going back and forth and
6 it's coming up every time. Is there an environmental
7 attorney looking at that law, or anybody interpreting
8 that law for the Town?

9 CHAIRPERSON MAYRER: We have engineering looking
10 at it and they interpret the law - and our attorney,
11 actually. We are only talking about Stewart's tonight.

12 MR. RODRIGUEZ: That's all I want to know. It's
13 going back and forth like no, you can't do it; yes, you
14 can do it. No one is saying yea or nay. It's confusing
15 me. The law is the law and I'm wondering -

16 CHAIRPERSON MAYRER: The truth is - on the
17 interpretation of the aquifer protection, with the
18 proper mitigation factors in place, you can do the
19 project like this.

20 MR. RODRIGUEZ: Okay, thank you.

21 MR. PALLADINO: Good evening. My name is Victor
22 Paladino and my wife and I live at 1304 Partridge Drive
23 in the Sunset Hills Development.

24 Opposition to this project is not limited to the
25 people who live in the immediate area although I really

1 feel for them.

2 My wife and I walked around the entire Sunset Hills
3 Development, both the new and old parts and spoke to
4 probably 99% of the residents there. We found one person
5 - an elderly gentleman - he thought this project was a
6 good idea. Everybody else thinks this is a terrible
7 idea. I don't think it is an organized vocal minority.
8 It is a disorganized majority of the people who urge you
9 to disapprove this project.

10 As to some specific concerns, it was heartening to
11 hear from the gentleman from Stewart's that they are not
12 going to allow the delivery trucks to enter and exit on
13 that proposed Sunset Road driveway, but there still arcs
14 serious concerns about it. If you could just imagine
15 someone who's driving south on 9 and 20 making a right
16 onto Sunset Road, just as a Winnebago or large truck or
17 any vehicle for that matter is making a left-hand turn
18 out of the Stewart's to get into the intersection, it is
19 an accident waiting to happen. I have driven through
20 this intersection every day for 20 years. I fare in the
21 concern that this is already a dangerous intersection.

22 Another concern is imagine you are at the
23 intersection of 9 and 20 and you're at the light heading
24 north and want to make a left-hand turn onto Sunset
25 Road. At the same time, imagine there are cars in the

1 southbound lanes that want to make a left-hand turn onto
2 Miller Road. You cannot see oncoming traffic. So, if you
3 are sitting there and there is no traffic that wants to
4 turn left onto Miller Road, it looks fine. If there are
5 cars in the left hand turn lane to turn onto Miller Road
6 when you want to make a left-hand turn onto Sunset Road,
7 you cannot see southbound traffic. The fact that DOT and
8 Stewart's doesn't want to put a left turn lane in their
9 is mind-boggling. That's another accident waiting to
10 happen.

11 Finally, the fact that there is no crosswalk is of
12 great concern. Stewart's is placing itself there to
13 entice people to walk across that road from the
14 neighborhood that is off of Miller Road. Currently,
15 there is a wide shoulder there that is used by bicycles
16 and pedestrians and that is the means by which people
17 are going to get to the Stewart's. It is death-defying
18 to cross that intersection without a crosswalk in a
19 crossing line. I would just hope that if you are
20 hell-bent on this ill-considered project that nobody
21 wants except for some rich guy in Saratoga wants to make
22 more money, please take these concerns into account. I
23 know you have a difficult job. There's probably nothing
24 that you can do that isn't going to make somebody
25 unhappy. I just hope you take the non-economic concerns

1 of the residents, the taxpaying residents of this
2 community into account. Thank you.

3 CHAIRPERSON MAYRER: Thank you.

4 MR. STOKEM: I think the point that Joe mentioned
5 regarding anti-freeze is particularly valid concern. If
6 you're driving along in your engine is overheating,
7 where do you look to pull into? A service station, or
8 the closest that you can find next to it. You are
9 boiling over. That's going to be there in the station.
10 Apart from that, I would support almost all the
11 concerns that anybody has brought up here. I guess the
12 issues here are representations. Who is representing
13 the town other than just us as individuals coming up
14 and trying to ask you to represent us? Where do the
15 liabilities lie? In more than a dozen years of coming
16 to these meetings, I often think the reaction of the
17 Boards is because of liability concerns. I don't think
18 that's all that they take into consideration. I think
19 it's a big factor. If you don't do with the law kind of
20 indicates that you should do relating to the developer,
21 you're worried about liability in terms of the
22 developer coming back at the Town.

23 Its citizens raise all these concerns about traffic
24 and potential accidents and other concerns in it's all
25 on the record here. What are the Town's liabilities,

1 given that everybody's told you that this stuff is
2 likely to happen or potentially happen? Is the Town
3 liable for and what is that going to cost the Town in
4 the long run? What liability is there to somebody if
5 their water systems no longer work and their well is no
6 longer reliable to them and somebody has to start
7 putting in a water system to offset that? Winds up
8 paying for that? Is it the town or who - the citizens?
9 So, there is this balance of liability and I assume that
10 this is the tight rope that a board such as yours is
11 designed to walk. When you choose not to do a full EIS
12 on a project, which seems to be more often than not and
13 maybe the bigger the project the more likely there is
14 not an EIS, that seems to open everything up to
15 liability. You should do a full EIS. It seems like a lot
16 of the stuff gets sorted out in the liabilities maybe
17 get put on more people because you brought in all these
18 engineers that are telling you that it's okay to do this
19 like this and it's okay to do this that way. It seems to
20 me that the reluctance to do a full EIS on these kinds
21 of things is what opens up the Town to liability and the
22 residents to liability because ultimately we are the
23 ones who pay the Town's liabilities and we're the ones
24 who suffer the consequences of loss of property use,
25 loss of property value and all those kinds of things.

1 It's a tough job that you have to do.

2 I don't understand why time and time again there is
3 a reluctance to do a full EIS. I know that cost more
4 time and cost more money, but I think it's much more
5 likely to get you the best ultimate resolution of a
6 concern in the best understanding of what the concerns
7 are in the liabilities are and it is reassuring to us
8 Town members out there that allow this process to go
9 through and happen. Is it too late to do that in this
10 situation? I guess decisions are already made and you
11 can't go back and do a full EIS. I guess maybe that's
12 the situation you're in here. You still need to bring in
13 all these concerns and potential liabilities that the
14 Town are bringing to you and saying my property is going
15 to lose the value. My property is going to have water in
16 it. My well is jeopardized. My children's abilities to
17 breathe clean air is jeopardized by a project such as
18 this.

19 I guess ultimately a lot of what I call for is you
20 as our fellow citizens - we look to you and to your
21 humanity and as other people have asked, what would your
22 perspective be if this is being put next to you? What if
23 it was your home that was near this? Who is supposed to
24 make that call for us in the Town if it's not you? You
25 are not automated. A lot of you are professionals. We

1 really look to you to try to look out for our interests
2 and if we can't get it done here, my God where else can
3 we get it done? There is nothing else left to us. So
4 please bring your humanity as well as your intellect and
5 professionalism and give us a resolution that we can
6 have confidence in.

7 CHAIRPERSON MAYRER: Thank you.

8 MS. CASH: Hi. Abby Cash, Woodward Road.

9 Actually something you said inspired me to say
10 something because you pointed out that there were
11 identified litigation factors with regard to the water
12 problem. As we have been talking here, it was suggested
13 that our proposed mitigation factors with regard to the
14 traffic situation. Any of the number of issues that were
15 brought up, there are proposed mitigation factors. We
16 don't hear what you hear. We don't know what they are.
17 We need to, quite frankly, you something current. I want
18 to be in the room where it happens. I want to hear what
19 you hear, when you hear it. That's what our whole jury
20 system and justice system department system is about.
21 It's not somebody telling me what somebody else said or
22 interpreted it for me. I want to hear what you hear. I
23 want to make the decision and you hear it with those
24 words or not. I would appreciate that. Thank you.

25 CHAIRPERSON MAYRER: Just for the record, there

1 are no other meetings about this. These meetings are
2 all public. So, just so you know that. There are no
3 other meetings that take place. I think the reference
4 earlier was the Zoning Board. That is a meeting that is
5 also public. You can go to that. It is published.
6 That's what Joe was referring to about the variance.
7 That is at the Zoning Board. That is also a public
8 meeting.

9 MS. CASH: There were mitigating factors -

10 CHAIRPERSON MAYRER: That was the question. The
11 interpretation of the Aquifer Protection Law for the
12 purposes of a gas station - what is that
13 interpretation? With the proper mitigation in place, it
14 is an allowed use. That's what that issue is. It has
15 nothing to do with hearing anything else.

16 Just for the record, there are no other meetings.
17 We don't meet, period, except here.

18 Anyone else?

19 MR. WARNER: I'm Art Warner and I live at 16
20 Bri-Lin Avenue.

21 This has got to be the first meeting I have been to
22 about this issue. The Town struggles to find pieces of
23 property that are of value that are kept up and I
24 consider the Edward's building one of these pieces of
25 property - it is nice to look at. It's nice to see in

1 the Town and on and on. I find it mind-boggling to think
2 that Stewart's would propose a site that would
3 demolition this building and probably add to one of the
4 most vulnerable intersections.

5 I talked to Mrs. LaGoy at Curtis Lumber a couple of
6 times about it. Probably the most vulnerable spot to
7 have accidents happen and anything else - - I have seen
8 numerous accidents there. The issue is all about the
9 dollar and everything else and whether there is more
10 profit at that corner then where Gumba's used to be and
11 the old Stewart's and everything else. It is a given. I
12 listen to a lot of the other residents and hear about
13 groundwater and everything else.

14 I would like to have you raise your hands if you
15 were for it or not but I know I would be out of step
16 doing that. Say 15 years down the road - - as the crow
17 flies, probably 1/2 mile from where the Stewart's is
18 thinking about putting their building in - - the
19 majority of our development is on wells. It is a 50/50
20 that some of it is Town water and the other 50% are on
21 wells. Say that 15 years from now none of you Board
22 Members are here. Say we wind up in the same situation
23 as Hoosick Falls. The wells have now all been - - there
24 was a leakage and something; this, that and everything
25 else. So, now what to do? These residents who are on

1 wells go to the Town water. It is pay the price or else
2 or whatever or your property is not worth the value or
3 whatever.

4 I don't understand the one in Clinton Heights - -
5 the business in Clinton Heights where they put up the
6 Stewart's down there. There really isn't any homeowners
7 that are affected. It is all along the highway. They are
8 businesses. Hoffman's Car Wash and the parts place and
9 stuff like this. It's not impacting people that are
10 property owners. I just find it mind-boggling that this
11 would even be a consideration. Say that this whole thing
12 gets approved and in a year - - I'm just hypothetically
13 saying, but say it doesn't work. Say this plan does not
14 work. You start racking up maybe loss of life. At Sunset
15 and 9 and 20 has always been - - if anybody is going to
16 get T-boned there, it is somebody trying to get to
17 Sunset and be the caution light. It is the same way
18 somebody on 9 to 20. It is one of those issues.

19 I'm probably going to be here another 10 or 15
20 years, if I'm lucky. It just seems like that it should
21 be more considered. The problem is that this is probably
22 the nicest looking place in the world, but it would not
23 take the impact that Stewart's would take that would be
24 on that corner. I don't understand it. That's all I got
25 to say.

1 CHAIRPERSON MAYRER: Thank you.

2 MR. DOLAN: My name is Jim Dolan. Thank you for
3 giving me the opportunity to talk.

4 I think the Town needs to have a moratorium on gas
5 storage and gas sales over the aquifer and we need to
6 see how we are doing with all the other gas stations
7 that we have. Do we know that they are not leaking? Do
8 we know they are not impacting the aquifer? We could be
9 making things bad by continuing past practices and that
10 appears to be what would happen if we approve this one.
11 So, let's look at what we have now before we allow
12 anything else. We need to have a moratorium on gas
13 stations over the aquifer. How about spillage on these
14 properties? How much spillage is coming from the various
15 gas stations we have? How many Stewart's locations are
16 we going to have on 9 and 20 in that area? We have
17 already had two Stewart's in that area and now are going
18 to have a third. They're just going to keep building
19 more and more Stewarts? They have already had two tries.
20 Why do we need to give them a third in that general
21 area. I don't think we really need another one. If
22 approval is given to this project as well as other gas
23 stations in Town, there needs to be monitoring of the
24 site; groundwater monitoring, up gradient, down
25 gradient, quarterly reports to the Town posted online. I

1 think I remember from last time that there's going to be
2 oil/water separators. Those need to be inspected at
3 least quarterly by professional engineers and reported
4 to the Town and posted online. I think all drainage from
5 the site - antifreeze, gasoline - - everybody has been
6 in a gas station with a pump doesn't stop and comes out
7 all over the place - a gallon or two on the ground.
8 That's going to go in our aquifer. I think all drainage
9 from the site ought to go to a tank and be collected and
10 be held off-site for treatment, if the project is to be
11 allowed.

12 I live on Reno Road and I use that intersection a
13 lot coming through to 9 and 20 from the opposite side of
14 the street. I couldn't imagine the neighbors who live in
15 that area just down the road on sunset. This is a
16 residential area and they're going to have lights 24/7.
17 There will be noise. I like to see the storms at night.
18 I like to see darkness. They going to have lights all
19 the time. It certainly will impact.

20 The wells can be damaged. I think it has been
21 discussed by others.

22 Certainly, who's going to want to live there in
23 those homes next to a big store with lights on all the
24 time? Their home values are going to go down. Who's
25 going to compensate them? The Town is not going to

1 compensate them. The Town is not going to cut their
2 taxes. They're going to have to sell their houses for
3 25% or 30% on the value of their houses. I don't think
4 that's fair. The Town needs to have a plan to compensate
5 them before they approve the project. It's going to hurt
6 their property values and I don't think the Town has
7 that. I think the project because of traffic, noise,
8 lighting will have a significant impact on the
9 environment. I think a DEIS is needed. If a deg dec has
10 already been issued - I'm not a lawyer. I am a chemical
11 engineer and have worked with DEIS and SEQRA quite a
12 bit. I believe a neg dec can be reversed if it is
13 determined that additional information comes to light.

14 I think the two hearings that you have had or the
15 one hearing over two days that you have had on this
16 project has brought a lot of additional information to
17 light. I believe your lawyer can confirm this but I
18 believe that you can issue a pos dec and require an
19 environmental impact statement. Thank you for your
20 consideration. I appreciate the good work that you guys
21 do.

22 CHAIRPERSON MAYRER: Thank you.

23 MS. NATOLI: Good evening. Eilene Natoli -
24 N-A-T-O-L-I. Often when there is confusion - which
25 there is at every meeting that I have been coming to -

1 about what is and what isn't allowed in the Aquifer
2 Protection Law, I think that the attorneys and the
3 members and in fact the courts look to the intent of
4 the law.

5 Denise, Wayne, you know what the intent of the law
6 is. You lived through that year-long negotiation that
7 the Town Board and Planning Board and many groups in our
8 Town went through to consider what was necessary to make
9 this law as strong as possible. The intent of the law
10 was to protect our drinking water - our aquifer. I think
11 that should guide you - whatever the mitigating factors
12 are that you can consider procedures, technology,
13 etcetera but also in the law it clearly states that
14 whenever there is a crisis upon you and determination of
15 a project going forward, it is the strictest law
16 prevails. The strictest law on our books and a lot has
17 changed since I left office and we enacted that law - is
18 the water quality control law. We take measures to be
19 very clear about what the highest potential threats to
20 our aquifer. Certainly, there are many but gasoline
21 sales and storage is what our engineers, Dr. Lafleur,
22 the Girvin and Firlazzo Law Firm who guided us through
23 this whole process year-long made very clear to us that
24 was at the top of the list.

25 I already made a point a couple of weeks ago about

1 all of the spills that have occurred just with pilot
2 being placed on top of the northeast truck stop. I told
3 you there have been 14 spills they are already after the
4 law was enacted and there are many more. So, please take
5 into consideration those two important points; the
6 intent of the law that the Town intended when we pass
7 the law and that the strictest law prevails. Thank you.

8 CHAIRPERSON MAYRER: Thank you.

9 MR. CASH: Lawrence Cash. I live on Woodward Road.

10 The aquifer is the main reason I am speaking here.
11 We have heard it from a lot of local residents. I live
12 several miles from the site, but it is the same aquifer.
13 The pollutants don't go anywhere but back into our wells
14 - all the water. It affects the whole community and not
15 just the immediate neighbors.

16 I was looking at this site plan for Stewart's and
17 they mention that the delivery trucks and the delivery
18 trucks to Stewart's - they may know how to circumvent
19 the Stewart's and go out the right exit. There are
20 hundreds and thousands of trucks that are traveling up
21 this road and this is as confusing as hell. I don't know
22 how these people are going to know not to go out on
23 Sunset, or whatever. It just seems like this is too much
24 unto little space. That is my main concern; safety in
25 the aquifer. Thank you.

1 CHAIRPERSON MAYRER: Okay, members, Rich? Anybody?

2 MR. LABERGE: I don't have any comments.

3 CHAIRPERSON MAYRER: Do I have a motion to close
4 the public hearing?

5 MR. SHAUGHNESSY: Yes.

6 CHAIRPERSON MAYRER: Second?

7 MR. PUCCIO: Second.

8 CHAIRPERSON MAYRER: All in favor? (Ayes were
9 recited.)

10 Opposed?

11 (There were none opposed.)

12 Where is the above entitled proceeding regarding
13 Stewart shops was concluded at 7:31 p.m.)

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CERTIFICATION

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

NANCY L. STRANG

Dated _____

