

ZONING BOARD OF APPEALS COUNTY OF RENSSELAER

TOWN OF SCHODACK

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STEWART'S SHOPS  
REQUEST FOR A WAIVER FROM  
THE WATER QUALITY PROTECTION LAW

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THE STENOGRAPHIC MINUTES of the above entitled  
matter by NANCY L. STRANG, a Shorthand Reporter, on  
February 11, 2019 at 7:00 p.m. at Town Hall, 265  
Schuuman Road, Castleton-On-Hudson, New York 12033

BOARD MEMBERS:

DAVID CARLACO, CHAIRMAN  
LOU SPADA  
ANTHONY MAIER  
EDWARD BREWER

ALSO PRESENT:

Nadine Fuda, Director of Planning and Zoning  
Craig Crist, Esq., Counsel to the Zoning Board of  
Appeals  
Melissa Knights, Planning and Zoning Secretary  
Vince Laberge, P.E. Laberge Group  
Charles Marshall, Stewart's Shops  
George Hodgson  
Kurt Freeman  
Joe Vasalle  
Larry Pulsifer  
Victor Paladino  
Ann Edson  
Dennis Wheeler  
Margo Singer  
Stanley Paddock  
Diane DiGiorgio  
Julie Hahn  
Stephen Van Hoose, RA - SPDA President  
Tom Raymond  
Bill Burton  
Ken Sokum

1 CHAIRMAN CALARCO: Okay, good evening ladies and  
2 gentlemen. I would like to call this meeting of the  
3 Schodack Zoning Board of Appeals to order.

4 For those who are in attendance tonight, who are  
5 not familiar with the ZBA, we will take a moment to  
6 introduce the people up here.

7 On the end is our Zoning Board Member Lou Spada.  
8 When he arrives in the empty chair, it will be our  
9 attorney Mr. Crist. Sitting next to me is the  
10 Planning/Zoning Director Nadia Fuda. My name is David  
11 Calarco and I am the Chairman. Next to me is our  
12 engineer/consultant Vince Laberge. Next to him is our  
13 Zoning Board member Ed Brewer and on the end is Zoning  
14 Board Member Tony Maier.

15 Okay, gentlemen, first on the agenda tonight is the  
16 approval of the minutes of the last meeting. If you've  
17 had a chance to look those over, have you seen any  
18 corrections to be made or additions or deletions or  
19 anything that was out of the ordinary for you?

20 (There was no response.)

21 If not, do I have a motion to -

22 MR. SPADA: I'll make that motion.

23 CHAIRMAN CALARCO: Second?

24 MR. BREWER: Second.

25 CHAIRMAN CALARCO: Second by Mr. Brewer.

1 All in favor?

2 (Ayes were recited.)

3 Opposed?

4 (There were none opposed.)

5 Okay, thank you.

6 Next on the agenda is Stewart's Shops request for a  
7 waiver from the Water Quality Protection Law.

8 Let me explain for those of you that aren't  
9 familiar with just how this process works. This is not a  
10 request for a variance from Chapter 219 of Zoning Law,  
11 but rather this is from Chapter 223, Water Quality  
12 Protection, which is a completely separate Town Law.  
13 This Board, ZBA, is not acting under what's known as  
14 Appellate Jurisdiction with the authority to grant  
15 variances is given to the ZBA by state statute, or  
16 rather we are acting under what is called original  
17 jurisdiction where is the authority to grant a waiver or  
18 variance to this Water Quality Protection Law was  
19 originally given to the ZBA by the Town Board and the  
20 law itself when they enacted it.

21 Chapter 223-9A states variances to this chapter  
22 shall be pursuant to procedures established in Chapter  
23 219 Zoning, subject to the following additional  
24 requirements: 220 3B; variances in this chapter may be  
25 granted by the Zoning Board of Appeals after a review, a

1 recommendation by the Planning Board. So, although we  
2 follow the procedures established for 219 of the Town  
3 Code which is zoning, this is not a variance from Zoning  
4 Law which must meet the requirements under any state  
5 statute.

6 So, read the public notice?

7 MS. FUDA: So, in your letters there were a few  
8 extra roads in there, so I apologize for that. That's  
9 what happens sometimes when we cut and paste.

10 Please take notice that the Zoning Board of Appeals  
11 in the Town of Schodack will conduct a public hearing on  
12 the following Water Quality Control Law Chapter 223  
13 application on Monday, February 11, 2019 beginning at 7  
14 p.m. - proposed Stewart's Shop Corporation at 1540 and  
15 1538 Columbia Turnpike for gas sales and direct recharge  
16 area of the Water Quality Control Law Chapter 223. The  
17 application is available for review in the planning  
18 office Monday through Friday, 8:30 a.m. to 4:00 p.m.  
19 Said hearing will be held at the Schodack Town Hall 265  
20 Schuurman Road, Castleton, New York at which time all  
21 interested parties will be given the opportunity to be  
22 heard.

23 CHAIRMAN CALARCO: Okay, so this application was  
24 sent to the Rensselaer County Bureau of Economic  
25 Development and Planning and after careful review they

1 have determined that the proposal does not have a major  
2 impact on county plans and that local consideration  
3 shall prevail.

4 Also, gentlemen you have letters in your packets.  
5 As you know, this is a favorable recommendation from the  
6 Planning Board.

7 Mr. Marshall, why don't you come up and make your  
8 presentation to the Board, please?

9 MR. WHEELER: Mr. Chairman, can I have a point of  
10 order, please?

11 CHAIRMAN CALARCO: I'm not so sure that it is  
12 needed, but I will give you a chance to make your  
13 statement.

14 MR. WHEELER: Thank you.

15 The Director did not read the entire letter that  
16 was sent out. First of all, it is customary for the  
17 letter to be sent by registered mail. It was not done.  
18 It was sent by regular mail. We have no idea who  
19 received this notice.

20 Secondly, there was a fatal error and this notice.  
21 It says that the meeting will be held beginning at 7:00  
22 at Route 20 and New Road.

23 MS. FUDA: It doesn't say that. It does say that,  
24 but there is an M there and then there is an at 20 New  
25 Road. I just explained to you that was a mistake and I

1 apologize.

2 MR. WHEELER: Apologizing is good -

3 MS. FUDA: Our mail is sent out by certified  
4 mailing as a bulk mailing. I have the mailing here and  
5 the documents.

6 MR. WHEELER: Well, I am on that list and I did  
7 not get served by mail.

8 CHAIRMAN CALARCO: First of all, the letters are  
9 sent and they are always sent the exact same way.

10 MR. WHEELER: Which is registered returned -

11 CHAIRMAN CALARCO: No, there's no such thing as  
12 registered. They just have to have a notice that the  
13 mail was sent to the address that it was addressed.

14 MR. WHEELER: So, we have a flawed notice of this  
15 meeting.

16 Also, I still believe that it was sent out  
17 incorrectly. As Chairman, your only option is to adjourn  
18 this meeting.

19 CHAIRMAN CALARCO: I appreciate that, sir, but  
20 first of all it was not sent out incorrectly. They are  
21 always sent every single public hearing that we have  
22 and every one of our decisions comes from a results of  
23 a public hearing - is sent out the exact same way which  
24 meets all of the legal requirements.

25 Secondly, as far as the mistake in the notice, let

1 me read you what it says in our law.

2 All the provisions of this chapter relating to the  
3 Board of Appeals shall be strictly construed. The Board  
4 of Appeals as a body of the jurisdiction shall act fully  
5 and can formally with the provisions of this chapter  
6 with the limitations contained herein, provided however  
7 that if the procedural requirements set forth in this  
8 chapter - - this is a procedural requirement - - have  
9 been substantially observed, no applicant or appellant  
10 shall be deprived of the right of application or appeal,  
11 which is exactly what this is.

12 MR. WHEELER: What about the people who are out in  
13 Nassau right now at Stewart's? That's where this is. I  
14 have had calls to my house. One of my neighbors thinks  
15 that a new road is being placed on Sunset Road.

16 CHAIRMAN CALARCO: Okay, so it does say in here  
17 the address of Columbia Turnpike for gas sales, correct  
18 - 1540 and 1538. That's a legal address. If you were to  
19 look that up, where do you think that address would  
20 send you?

21 MR. WHEELER: I'm not talking about that address.  
22 I'm talking about Town Hall address.

23 MS. FUDA: It said hearing.

24 CHAIRMAN CALARCO: Said hearing will be held at  
25 the Schodack Town Hall, 265 Shuurman Road, Castleton,

1 New York.

2 MR. WHEELER: I'm talking about the first  
3 paragraph, sir.

4 CHAIRMAN CALARCO: I don't have it here?

5 MR. WHEELER: You don't have it because it is  
6 wrong.

7 MS. FUDA: It says here - this is the address here  
8 of where it is.

9 CHAIRMAN CALARCO: I do appreciate your concern.  
10 Obviously, a lot of people found their way here. Again,  
11 that was not done with any intent by the Zoning and  
12 Planning Director to deceive. Again, as I read to you,  
13 as long as the requirements in this chapter have been  
14 substantially observed, notices were sent out. Again,  
15 there is no law other than our Town Code which requires  
16 that we send out notices -

17 MRS. WHEELER: What is the standard amount of time  
18 you're supposed to send them out? We just got hours on  
19 Saturday.

20 CHAIRMAN CALARCO: This is not part of the public  
21 hearing. We are here tonight to have this. You are here  
22 and you are here in the public to speak. The hearing is  
23 going to go on.

24 MR. WHEELER: I would ask that my objection be  
25 read into the minutes.



1 MS. FUDA: We have a stenographer. She is taking  
2 all the minutes.

3 MR. WHEELER: Okay, that is a point for future  
4 legal action.

5 MR. MARSHALL: Good evening. I am Chuck Marshall  
6 from Stewart's shops.

7 I just want to give a quick status update on of the  
8 application. We appeared at the Planning Board in  
9 addition to which we had SHPPO clearance for the  
10 non-historic nature of the homes on the property and we  
11 had a meeting with New York State DOT regarding the  
12 access configuration.

13 At that time there were certain requests made of us  
14 which will be in our next submission to the Planning  
15 Board and we will see.

16 In 2015 we made the same application to the Town  
17 under the Law of Water Quality Control Act which was at  
18 New Road and Route 20, which I believe is why the typo  
19 or copy existed.

20 What we are proposing to do, similar to the 2015  
21 application is relocate our store. This store is moving  
22 from 1607 Columbia Turnpike 1538 and 1540. What we will  
23 do at that time is we will upgrade the double wall  
24 stainless steel tanks that are currently in service at  
25 1607. The report from New York State DC regarding - it

1 is called the facility report and that was submitted  
2 with a January 18 application. We will upgrade to a  
3 double wall fiberglass tank. They will be positioned  
4 approximately here (Indicating). The total volume of  
5 storage will be 27,000 gallons of mixed petroleum  
6 products. What it will be is a 15,000 gallon regular and  
7 then a split 12,000 gallon which will be 6,000 for high  
8 grade and 6,000 for diesel. When you purchase mixed  
9 grade which is 89 octane, the octane's are mixed at the  
10 dispenser.

11 The benefit of switching the tanks is that you go  
12 from a double wall stainless tank which is a corrosive  
13 material to a double wall fiberglass tank. We have been  
14 installing these tanks for 16 years. During that time we  
15 have no releases to the environment from the tank.

16 The tank is basically a tank built within a tank.  
17 In between the two tanks there is a brine solution. The  
18 brine solution is electronically monitored as is the  
19 remainder of the double wall piping. Upon any volume  
20 affecting the brine solution, and alarm is sent to both  
21 the store and our corporate office.

22 To give you a sense of how sensitive are, we had  
23 one instance where there was a pinhole crack in the  
24 internal tank and it set off the alarm and the tanks  
25 were removed and literally the crack was less than 1

1 centimeter. It had no discharge to the environment, but  
2 the sensitivity is so severe that even that small of a  
3 disturbance in the volume of the brine will set off the  
4 alarms.

5 After consideration from Mr. LaBerge's letter, the  
6 storm water essentially all grades to this area here  
7 (Indicating). The outlet structure here was switched  
8 from a Barracuda system to the Downstream Defender. The  
9 benefit was is that the Downstream Defender had both a  
10 higher volume of internal storage and the construction  
11 of the tank made it more of a weir than the conical  
12 shaped system of the Barracuda which essentially could  
13 have overflowed gasoline or oil into the outlet  
14 structure. So, we did that switch.

15 In addition to, we switched all catch basins - they  
16 will be constructed with a hood. The hood will act as a  
17 water/oil separator and debris and will be cleaned out  
18 annually.

19 So, after including those to the storm water  
20 pollution prevention plan, we continue to run the SWPPP  
21 at a 1 to 10, 50 and 100 year storm. Again, this portion  
22 of the site goes to bio filtration and the remainder  
23 will go to a storm tank. We have at this point no change  
24 in the discharge rate off the site.

25 Outside the technology installed in the tanks, what

1 we have is - all of our employees are trained to Level C  
2 Operator status. So, in New York State only one person  
3 theoretically would be required to be a Class C  
4 Operator. However, all of our employees are trained as  
5 such. What that does is that provides them with the  
6 spill prevention, what to do in the case of emergency  
7 shut off and contacting the fire department.

8 Then, finally before the system is put into place  
9 the internal piping - the double wall piping is filled  
10 with a volume and that system is pressurized and checked  
11 for pressurization and then we continue to monitor those  
12 annually.

13 I hate to make it simpler than that because there  
14 is some complexities, but that is it.

15 CHAIRMAN CALARCO: Okay, gentlemen, questions for  
16 the applicant? If quite a bit of material in your  
17 packet.

18 MR. SPADA: I have a question.

19 CHAIRMAN CALARCO: Yes, sir; go ahead

20 MR. SAPDA: You stated that between the two tanks  
21 is a brine solution. Is that monitored for volume was  
22 that monitored for -

23 MR. MARSHALL: No, it is monitored for volume.  
24 Brine is used because if it were a non-solidity based  
25 solution it would freeze. So, when there is electronic

1 monitoring around the two tanks and when that brine  
2 solution is affected positive or negative, the tanks  
3 essentially shut off and set off an alarm. \*In addition  
4 to the brine, everything is contained in two  
5 submersible pumps. There is a submersible pump just  
6 above the tank and that a submersible pump in the  
7 bottom of the tank. So, everything is contained in this  
8 manhole in the top of the manhole is approximately 15  
9 gallon spill bucket, for lack of better terms.

10 MR. SPADA: So, if I am hearing you correctly, if  
11 we had a leak in the outer tank, the brine would reduce  
12 and an alarm would go off.

13 MR. MARSHALL: Correct.

14 MR. SPADA: If we had a leak in the inner tank,  
15 the volume would raise and the alarm would go off.

16 MR. MARSHALL: Correct. If you compare it to what  
17 is in place today at 1607 - 1607 has double wall steel  
18 tanks. They don't have the inter-spatial monitoring  
19 because they are an older generation tank. What they do  
20 have is on the outside of the tanks they have an anode  
21 placed outside that is supposed to attract the metal to  
22 prevent the corrosive nature. Now, we do test the  
23 anodes to make sure their lifespan is in order. These  
24 tanks are definitely more sensitive to changes internal  
25 and external to the environment.

1 Another point similar to what we did at New Road  
2 and Route 20 - when we close the existing store, the  
3 deed restriction will be placed on it preventing  
4 petroleum bulk storage or a convenience store from going  
5 there. So, it's not like you are getting another gas  
6 station. You are replacing the one that you have with  
7 one with increased technology.

8 MR. SPADA: How long has Stewart's used these new  
9 tanks?

10 MR. MARSHALL: It's been 16 years and again that's  
11 without any breach to the environment. The tanks are  
12 warranted for 30 years and there is no regulation in  
13 place for their life span according to DEC.

14 MR. BREWER: How many of these tanks would you say  
15 you have installed over 16 years - approximately at  
16 your stores?

17 MR. MARSHALL: I would say the numbers right  
18 around 200 or maybe 225. We have just under 280  
19 locations with gas and all of our stores where gas  
20 upgrades are kind of due - that's what kind of triggers  
21 this change in location strategy. If we are due for a  
22 tank upgrade, which the 1607 - - so the tanks at 1607  
23 were installed in 1995. So they are again approaching  
24 their lifespan.

25 CHAIRMAN CALARCO: So, what is the expected

1       lifespan of those tanks?

2               MR. MARSHALL: Because we just have been  
3       installing them for 16 years, we expect it to exceed  
4       the 30 years and somewhere in the 40 year range. In  
5       almost all instances, we have been ahead of New York  
6       State DEC standards or EPA standards for testing and  
7       compliance. So, I think we are going to wait 25 years  
8       and we will start testing around the tanks to see if  
9       there are any environmental -

10              CHAIRMAN CALARCO: How is that done?

11              MR. MARSHALL: It would have to be done with  
12       probing. When we look at our current tanks I believe we  
13       test the anodes by using probings for the double wall  
14       steel tanks. Right now we haven't seen the need to do  
15       that.

16              CHAIRMAN CALARCO: I've a question for you. Can  
17       you tell me what is the average size of a human error  
18       caused spill at the pump? Do you know that?

19              MR. MARSHALL: Yes, it is about a gallon and a  
20       half. So, I just have our environmental compliance  
21       guide, but in 2018 we had 368 recorded spills and of  
22       those spills there is a gallon and a half average  
23       spill. So, again, you're talking about just under -  
24       less than 550 gallons or thereabouts. The required DEC  
25       spill threshold is 5 gallons. However, because of the

1 Class C Operator status we asked that all spills get  
2 reported.

3 CHAIRMAN CALARCO: I had some questions that  
4 weren't necessarily about the tanks themselves. That  
5 was one of them.

6 Also, in the proposal that you have in front of  
7 you, you are utilizing both the property on the corner  
8 in the Broughton [sic] property, correct?

9 MR. MARSHALL: Yes.

10 CHAIRMAN CALARCO: I was just wondering in the  
11 event that you were to find contamination on that  
12 Broughton [sic] property - because it used to be a  
13 garage - - I believe there were pumps. What are you  
14 proposing to do to remediate that, if you find it?

15 MR. MARSHALL: So, I called Rich on my way here  
16 and I wasn't sure - at one point he had said that it  
17 was either 1984 or 1994 I think is when he pulled the  
18 tanks and the pumps in front of his garage.

19 I checked today and in the New York State DEC spill  
20 database there is no spill for his property address. We  
21 have come to a financial agreement with Mr. Broughton  
22 [sic] where we will share in the cost responsibility,  
23 should there be contamination found. What happens is  
24 when we do digging of this nature, we used was called a  
25 PID meter. I don't know what the abbreviation stands for



1 but essentially it measures - I think it is a petroleum  
2 indicator or something like that. Basically, it could  
3 tell us parts per million for petroleum-based solution  
4 in a soil sample. If a positive PID hits, I report it to  
5 DEC and what we do again because of the company's  
6 long-term lifespan, we dig until we get a no further  
7 action letter from DEC.

8 CHAIRMAN CALARCO: So, if there is contamination -  
9 - first of all, it is already there.

10 MR. MARSHALL: Right, I mean it's in the  
11 environment today and is not being addressed. So, if it  
12 is there, we find it.

13 CHAIRMAN CALARCO: You are required, aren't you,  
14 to report it?

15 MR. MARSHALL: We are required by DEC to report it  
16 and mitigate it.

17 CHAIRMAN CALARCO: And then you will do whatever  
18 you going to do - whatever remediation is necessary to  
19 restore that to an uncontaminated condition.

20 MR. MARSHALL: We bring the site to what is called  
21 no further action in the department's eyes.

22 CHAIRMAN CALARCO: This is all controlled by DEC,  
23 correct?

24 MR. MARSHALL: It is 100%. But sometimes happens  
25 is that in the case of Broughton's [sic] - as you head

1 east you get to 9 and 20 sometimes the department won't  
2 have you dig to tear up the road, but to the property  
3 boundaries or thereabouts - we expect to mitigate it to  
4 no further action status.

5 CHAIRMAN CALARCO: The other thing I had was - I  
6 know that in addition to removal of the old tanks at  
7 the current site, again, in the progress for that, what  
8 would you do to test for possible contamination that  
9 was there?

10 MR. MARSHALL: I have forgotten the standard. I  
11 have forgotten the exact citation, but we are  
12 responsible - - if we open the tank hole into under the  
13 dispensers, the fuel island in the canopy and if we  
14 find contamination, we are responsible to report that  
15 to DEC and dig until it is mitigated. Now, what we will  
16 have to do obviously in that instance for the potential  
17 sale and leases - we will have to indemnify the future  
18 owner. Obviously, that is our responsibility and we  
19 will take care of it.

20 CHAIRMAN CALARCO: And you are planning to hook up  
21 to both sewer and water - public sewer and water,  
22 correct?

23 MR. MARSHALL: The Edward's property is currently  
24 in the Town's water district. This month we will submit  
25 an application to the Town Board for the expansion of

1 the sewer district and the connection thereof.

2 CHAIRMAN CALARCO: We have the information that  
3 you sent us about the Defender or separator and all  
4 that. I read most of that. I should say that I read all  
5 of it and understood most of it. It is quite technical.

6 I know that Mr. Laberge has read that, as well.  
7 Then, you go to another sort of filter after that,  
8 correct?

9 MR. MARSHALL: Well, it would be before that. So,  
10 in all the catch basins we mount - - the installed  
11 catch basins will be fitted with a hood based system  
12 which mounts onto outlet piping. That acts as kind of a  
13 debris collector and should prevent or separate oil and  
14 water.

15 CHAIRMAN CALARCO: What are you doing ultimately?  
16 Where is the end result of any stormwater runoff go?

17 MR. MARSHALL: There is a discharge into whatever  
18 the receiving water body is.

19 CHAIRMAN CALARCO: How about the storm water  
20 chambers you had on your other map?

21 MR. MARSHALL: Those kind of act as a kind of a  
22 baffle system before treatment. I think they detain  
23 water before it gets -

24 CHAIRMAN CALARCO: You're actually holding it so  
25 that it doesn't go anywhere.

1 MR. MARSHALL: Yes, per storm water guidelines we  
2 are not permitted to discharge at a faster rate. I  
3 think as per some of the current standards, we are not  
4 able to discharge excess water from what is currently  
5 discharged from the site. Obviously, that's why we  
6 separate the regular site from the gas component.

7 CHAIRMAN CALARCO: Gentlemen?

8 MR. MAIER: These gas pumps - all of them have got  
9 drains so if there was a 5 gallon or 6 gallon spill, it  
10 gets caught under the pad. Isn't that the way they  
11 work?

12 MR. MARSHALL: I don't believe the pad has  
13 positive limited barriers, if you want to call them  
14 that. Essentially, it's the etching around the  
15 concrete. If that something the Board would like, we  
16 can do that.

17 MR. MAIER: I thought it was mandatory.

18 MR. MARSHALL: It's not mandatory. Because the gas  
19 component is separated from the rest of the storm  
20 water, it is not a component that is required.

21 MR. MAIER: Thank you.

22 MR. MARSHALL: There's a theme of questions and  
23 you would like me to come up afterwards, I will gladly  
24 do so.

25 CHAIRMAN CALARCO: If the Board comes up with more

1 questions, it might.

2 Thank you, sir.

3 There is nothing else for now.

4 Before I open up the steering to the public comment  
5 portion, let me go over a couple of things. First, when  
6 you are called upon, please come up to the microphone,  
7 state your name and address for the record and then I  
8 asked that you please speak directly and slowly into the  
9 microphone so that our stenographer here can actually  
10 record your comments.

11 Second, please be considerate of anybody that would  
12 like to speak here. Try not to filibuster so that  
13 everyone can have a reasonable opportunity to speak.

14 Third, this is your opportunity to make comments to  
15 the Board and present any relative information, if you  
16 think we should know on this application. However, we  
17 will not be answering questions or engaging and back and  
18 forth dialogue. Please direct your comments to the Board  
19 and not to the applicant and not to the audience.

20 Lastly, please keep your comments germane to the  
21 Water Quality Protection Law. It is not under the  
22 purview of this Board nor will we be considering things  
23 that relate to special permit or site plan that are  
24 under the jurisdiction of the Planning Board. That would  
25 include things like traffic issues at the site, the

1 actual site plan layout, questions about water issues,  
2 lighting, noise, economic considerations, alternative  
3 sites or even the historic nature of the Edward's  
4 building. The public will have ample opportunity to  
5 address these concerns at the Planning Board's public  
6 hearing. So, again, please keep your comments relevant  
7 to the Water Quality Law and the presentation by Mr.  
8 Marshall.

9 Okay, is there any member of the public would like  
10 to make a comment on this application?

11 Yes, sir, state your name and address.

12 MR. HOBSON: Hi my name is George Hobson and I  
13 live at 1523 Sunset Road, 150 feet from the proposed  
14 site.

15 As a matter of note, in the beginning Ms. Fuda said  
16 that the application was available for review at the  
17 planning office. I found that to not be the case. When I  
18 went to the office - will come in the office you had to  
19 submit a FOIL request which could take five days to  
20 receive access to view that application. I just wanted  
21 to make that point because I tried to go in and view the  
22 application.

23 I have some quick prepared comments.

24 CHAIRMAN CALARCO: Sure.

25 MR. HOBSON: Thank you.

1           We just heard about the modern tank within a tank -  
2           double well tank system and all the technology and it in  
3           the applicant tonight is asking for the gas station with  
4           those tanks to be exempt from the Water Quality Control  
5           Law. As he stated, it is not a federal law, but a state  
6           law. It is written by our own Town Board right here in  
7           Schodack. There are one or two lines that I would like  
8           to read to everyone.

9           I would like to read that the aquifers and other  
10          groundwater sources are among the most important natural  
11          resources within the Town. The purpose and intent of  
12          this chapter is to establish, protect, preserve and  
13          promote the safe use of the existing and potential  
14          groundwater supply from development activities that may  
15          adversely affect the quality of availability of the  
16          water. Such protection is particularly warranted sense  
17          significant Town aquifers are located directly beneath  
18          the ground surface. I would say that while these are  
19          modern tanks, our water control quality law is a modern  
20          law written in 2003 when the Town Board knew about  
21          double wall tanks and barriers and despite all of that  
22          they chose to prohibit gas stations from occupying  
23          spaces like this. I have a link if anyone wants to check  
24          but DEC reported that there were 16,000 reports of  
25          spills annually in New York and that 90% of those are

1       petroleum products.

2               Can ask a question of the applicant or is that  
3       outside -

4               CHAIRMAN CALARCO:   No.

5               MR. HOBSON:   I understand the CVA is all about  
6       weighing somebody's desired use of the land with the  
7       laws that are in place and weighing the risks and the  
8       benefits. I know that with the presentation it was made  
9       to be very safe, but I feel that anything compared to  
10      where there is right now no gas under the ground and  
11      proposing to store 27,000 gallons of it - I view that  
12      as riskier than having no gas under there.

13              To my point, I feel like we are weighing the risks  
14      and the rewards and so that is the risk. The reward  
15      would be - - there is no real reward.

16              Today, if I find myself at the intersection of  
17      Miller and 9 and 20, I could drive .3 miles north across  
18      the Town line to a fuel stop or half a mile east to the  
19      mobile or half a mile south to the existing Stewart's.  
20      Maybe 50 years ago, if there were no gas stations for a  
21      much larger area, having a station here could be an  
22      improvement in the quality of life for the residents.  
23      Today in this environment there is no need for a gas  
24      station to be granted this waiver.

25              One other note is that the application was listed



1 on the agenda - it has the three parcel IDs. I added it  
2 up in there is 2.8 acres and all and it's listed as an  
3 HC project - highway/commercial zone. I feel that is  
4 inaccurate because the majority of the land involved is  
5 zoned residential - R20. Parcel 178.14.5 is zoned R20  
6 and it makes up 1.5 acres of the 2.8 acres. So, while  
7 you may decide to do this I feel that doing this on  
8 residential land is insult to injury to strip a  
9 residential buffer of that designation. This inches a  
10 dirty and dangerous business closer and closer to the  
11 core of our neighborhood.

12 For these reasons, I ask that you request a Full  
13 Environmental Assessment Form which is an option to you  
14 under the SEQR guidelines. Given how important the space  
15 and the water is, I don't feel that the Short  
16 Environmental Assessment Form is adequate because it  
17 leaves too much unknown. Thank you.

18 CHAIRMAN CALARCO: Thank you, sir.

19 Is there any other member of the public that would  
20 like to make a comment on this application?

21 MR. FREEMAN: Absolutely, I would. I am Kurt  
22 Freeman and I have from 1522 Sunset Road. I would like  
23 to echo my neighbor's sentiments and point out that if  
24 you look at the mouth of the pad of the proposed site,  
25 I believe it is the northwest corner where the

1 elevation here that is highest. As someone who will be  
2 enjoying some of that 5,000 gallons of spilled fuel in  
3 my water, I would like to profoundly register my  
4 objection to this.

5 CHAIRMAN CALARCO: Next? Anyone else?

6 MR. VASALLE: Joe Vasalle, 1381 Sunset Road. I am  
7 a former Planning Board Member and Professional  
8 Engineer. I would like to read a few comments that I  
9 had and that I will leave this with you so if there are  
10 any extra questions - - it is my understanding that  
11 under the Town aquifer law a waiver requires a  
12 recommendation from the Town Planning Board that in  
13 essence says that all NYS DEC standards will not be  
14 violated. I assume that recommendation would also  
15 include an assurance that all New York State Sanitary  
16 Code Provisions under the State Public Health Law would  
17 not be violated. Without a final site layout plan  
18 details about the sizing and the capture efficiency of  
19 the oil/water separator, and environmental assessment  
20 of the potential for hazardous and toxic waste on the  
21 proposed site, I don't understand how the Planning  
22 Board can possibly make a recommendation about whether  
23 this project will meet the requirements with the  
24 aquifer law and state water quality standards.

25 So, the proper sizing which I guess I have heard

1 for the first time tonight that somebody is at least  
2 talking about it - but the proper sizing of the  
3 oil/water separator should be based on knowing the final  
4 drainage area, the magnitude of the designed rainstorm,  
5 the frequency of cleaning and the capture efficiency of  
6 the equipment as a function of rainstorm magnitude,  
7 amongst other parameters. Because the storage facility  
8 plan includes the potential purchase of an adjacent long  
9 time auto repair facility, the possibility of toxic or  
10 hazardous waste being present is quite likely in  
11 becoming a threat to groundwater standards due to the  
12 discharges from oil/water separators were due to such  
13 materials being moved - as these hazard materials being  
14 moved during the construction and demolition phases.  
15 This stuff needs to be evaluated by the Planning Board  
16 before any reasonably accurate and complete  
17 recommendation to the ZBA can be met.

18       Aside from that, somebody mentioned the tanks were  
19 removed in the 80's. If you know anything about auto  
20 repair facilities, there are other sources of  
21 contamination, especially in the old days when they were  
22 dumping oils possibly battery acid - there are the  
23 issues of hydraulic fluids in the lifts and any solvents  
24 and decrease oils that might have been used to the floor  
25 drains out somewhere in that property. It's not just

1       petroleum product.

2               So, what is needed to be done is really an  
3       environmental assessment first. So, you go in there and  
4       take some soil samples; subsurface as well as on the  
5       surface and collects some water samples, have them  
6       evaluated - - in my opinion, it's not enough to do  
7       something broad like a petroleum index, but you should  
8       be looking at specific contaminants like benzene for  
9       example and possibly lead and other solvents rather than  
10      as was suggested in a general parameter monitor.

11             The New York State Sanitary Code has minimum  
12      distance requirements between storm water discharges and  
13      wells. I don't know if any measurements have been done.  
14      There is a bunch of residential wells in that area all  
15      around it. I don't think that there has been any  
16      measurements done. Part of it is that we don't have a  
17      final plan. So, it would be very difficult to see if  
18      those standards were actually meant.

19             It is my understanding that the Planning Board -  
20      this might not be quite true because apparently some  
21      information has been passed, but when I wrote this a day  
22      ago it was my understanding that the Planning Board had  
23      not provided the ZBA any of this information, much less  
24      a final site plan. Without such information I don't  
25      understand how the ZBA can possibly conclude that the

1 provisions in the intent of the aquifer law or the state  
2 groundwater regulations or the State Sanitary Code is  
3 being met. Thank you.

4 CHAIRMAN CALARCO: Thank you.

5 MR. PALADINO: Good evening. My name is Victor  
6 Paladino and my wife and I live at 1304 Partridge  
7 Drive, Castleton, New York in the Sunset Hills  
8 Development. We have lived there for 20 years.

9 The prospect of having 27,000 gallons of gasoline  
10 and other petroleum products over and aquifer, even it's  
11 in a state of the art tank - and I will accept that just  
12 for discussion purposes - is a frightening aspect. I  
13 have a well and everybody in the Sunset Hills  
14 Development has a well. I'm sure you know that. The  
15 probability of a major spill is low, but the impact if  
16 the spill occurs would be devastating. The idea that  
17 there is any kind of petroleum tanks that close to the  
18 aquifer strikes me as a bad idea. I really think that  
19 this body should carefully consider the effect on the  
20 hundreds of homes that have wells in this area and the  
21 impact on them if a worst-case scenario would unfold.  
22 Thank you.

23 CHAIRMAN CALARCO: Thank you.

24 MR. PULISFER: My name is Larry Pulsifer and I  
25 live at 11 Kevin Lane, right on the border of this.

1           What I am concerned with is the water run-off. Is  
2           this blacktop on the whole thing or is it going to be  
3           pitched? Where's the water going to go when it rains?  
4           I'm asking this because about 40 years ago I had water  
5           come off the highway, flood my backyard -- about 2  
6           inches of oil.

7           When I went to Mr. Tillsworth [sic], a state  
8           engineer and they had the house torn down across the  
9           road and a pipe hooked up out there and made the water  
10          drain on the other side of the low land swamp. That's  
11          because it started as water in my backyard and it was  
12          from the highway and it was an illegal trespass. What I  
13          am wondering is if they blacktop this new area, is it  
14          going to be pitched into my backyard and will water  
15          runoff come back there again?

16          I went through this with house on the corner of  
17          Brylon [sic] and 9 and 20 when they built that - they  
18          pitched it to my backyard. I protested and they had to  
19          hook it up to a storm drain across the road instead of  
20          the natural pitch in my backyard. The next house - we  
21          are working on that now. They pitched that down. They  
22          had to change that.

23          I don't want other people's water in my backyard.  
24          If they build this here and I'm on the borderline, how  
25          much water is going to come off the blacktop? Are they

1 going to pitch the blacktop away from me or in my  
2 backyard? Which way will it go? I don't know about  
3 the water in the tanks or anything, but I know about the  
4 surface water. I just don't want any water my backyard,  
5 like the state did. This happened about 30 or 40 years  
6 ago when they had a house down there.

7 CHAIRMAN CALARCO: Thank you.

8 MS. EDSON: My name is Ann Edson; E-D-S-O-N. I  
9 live in 1518 Sunset Road. I've been here going on 32  
10 years. I have five doors from the corner of nine and 20  
11 on the left side next to Kurt, who is here tonight. We  
12 are neighbors. This property has been in the family as  
13 recently as when Kurt moved in and the property has  
14 been in the family before then since 1936 and we have  
15 seen many changes at the corner of 9 and 20. I am  
16 concerned about the wells.

17 I have been involved with a contaminated well  
18 backup in Nassau with the Louis Luffel [sic] situation  
19 when I was young when I first moved here from  
20 Massachusetts and lived in Town with a sewer and  
21 Water, so I wasn't quite familiar as a youngster to all  
22 the problems that could be created by water pollution.  
23 It is a main concern of the neighbors and I would say  
24 that this Board do a diligent job and look into all the  
25 aspects one way or another of what could happen with the

1 27,000 gallon tank and other runoffs that are going to  
2 be taking place over at the corner. There are other  
3 issues that we will address later with the Planning  
4 Board, but it is a concern. You have children in the  
5 neighborhood coming in and out and all these older  
6 homes. I had one and may be and selling it in the  
7 future. I was just widowed recently. You've got a lot of  
8 young families moving in there. Not that us old people  
9 don't like clean water but you do have a lot of  
10 youngsters like these people that are here tonight. So  
11 please consider that. Thank you.

12 CHAIRMAN CALARCO: Thank you, ma'am.

13 MR. WHEELER: I am still Dennis Wheeler, 1529  
14 Sunset Road. I have a concern relative to the placement  
15 of those tanks right here. The latest plan - and it get  
16 changed every month, but the plan that I saw calls for  
17 tractor trailers to come down Sunset Road and make a  
18 right-hand turn into Stewart's to fill those tanks.

19 As one of the previous speakers, Kurt, mentioned,  
20 the elevation is the highest at the front. I assume  
21 Stewart's will be at the Route 20 level. The truck will  
22 be coming down Sunset and making a right and going back  
23 up to fill those tanks. At some point the tractor will  
24 be headed up and the tank portion of the truck headed  
25 down which is a perfect scenario for a rollover.



1           Additionally, I researched the tankers that  
2           Stewart's will be using. I interviewed one of the  
3           truckers who was filling Stewart's. The tankers that  
4           come down Sunset Road weigh 1,006 pounds, if they are  
5           filled with gas. If they have diesel, they are heavier.  
6           Right at the beginning of Sunset Road is a sign that  
7           says weight limit 10 tons. So, we're going to have a 50  
8           ton truck coming down this road and making a sharp right  
9           turn. I just see the scenario of that rolling over.

10           None of these catch basins or double tanks will  
11           stop that from polluting the aquifer.

12           CHAIRMAN CALARCO:   Anyone else?

13           MS. HODGSON:   Hi, I'm Lauren Hodgson and I just  
14           moved into 1523 Sunset with my husband and two children  
15           who you have all met now. We just moved three months  
16           ago from Troy because we were looking for a safe and  
17           peaceful place to raise our family.

18           Needless to say, I am devastated hearing about this  
19           project and that is an understatement. I am facing  
20           immediate loss of property value, loss of enjoyment and  
21           a direct threat to my health. I heard about the project  
22           and this meeting from a neighbor, otherwise I still  
23           would have no idea that this project would be going  
24           forward. I did not receive notice of this meeting.

25           So, we are only 150 feet from the site, but we are

1 racing to catch up on the news.

2 My husband has met with Nadine twice and we weren't  
3 able to get any of the plans or the proposal. She said  
4 that we should do a Freedom of Information Request which  
5 we have submitted, but as I said we only have had less  
6 than a week. So, this is a bad welcome to Schodack.

7 This is all being pushed forward in secret with  
8 details purposely being withheld from me.

9 Today I know that we are here to talk about the  
10 tanks and I will have a lot to say about the project as  
11 a whole, but I will focus on the tanks.

12 So, my well is about 500 feet from the proposed  
13 tanks that Stewart's would like to put in. Stewart's  
14 would like you to believe that these are fail-safe and  
15 nothing bad will ever happen but that is simply not  
16 true. The piping and pumps and the volume of fuel flow  
17 that goes along with the tanks has a real risk to our  
18 environment and to our water source. Moving thousands of  
19 gallons per hour on a routine basis is risky and riskier  
20 than not putting it in at all. Since I cannot connect to  
21 municipal water at this time, my only available water  
22 source relies on keeping the surrounding area around my  
23 house clear of contaminates. Otherwise, I don't have  
24 potable water to bath my children, make my meals and  
25 drink my water. So, if this project does move forward, I

1 would just like to ask Stewart's to pay for all these  
2 costs to get me hooked up to municipal water.

3 I would tell you that it's not an appropriate  
4 project. The rules for restricting these tanks were made  
5 for a reason and to protect all of our citizens in the  
6 Town from an accidental release. That would be  
7 devastating to the water supply and it's not necessary.

8 There are enough gas stations in this area  
9 presently. There are four gas stations within a .6 mile  
10 radius of this intersection and this proposal wants to  
11 increase the concentration even further. It's not a  
12 benefit and it's not what the community wants. Frankly I  
13 feel like we are not ready to make this decision. There  
14 hasn't been a through third-party environmental analysis  
15 of impacts and for something this important, I would  
16 think that we would want a third-party analysis and not  
17 just the information presented by the applicant. So, I  
18 would ask you to please wait and gather more information  
19 before making this decision.

20 MS. SINGER: Good evening. My name is Margot  
21 Singer, S-I-N-G-E-R. I live at 9 Huckleberry Road in  
22 the Sunset Hills Development. I would just urge the  
23 Zoning Board of Appeals to act very cautiously and ask  
24 for more information as was just stated by the previous  
25 speaker. We don't have all the plans here. There is so

1 much at risk here. At risk for - I don't know what -  
2 another gas station or convenient store and I happen to  
3 actually love the ice cream in Stewart's.

4 This is a tremendous risk, all kidding aside, to  
5 our water. Those of us who have wells - we depend on  
6 clean water, not only for drinking and bathing but for  
7 our families and our pets and our gardens. Once your  
8 water is contaminated, that's kind of it. This is a  
9 precious resource and that's why we have strong aquifer  
10 laws that should be attended to and paid attention to  
11 and we just don't have enough information here. We need  
12 a more thorough environmental assessment done so that we  
13 have all the information to make good policy. Thank you.

14 CHAIRMAN CALARCO: Any other member?

15 MR. PADDOCK: Good evening. My name is Stanley  
16 Paddock and I own 1539 Columbia Turnpike on the corner  
17 of Miller and 1537 Columbia Turnpike. I've been there  
18 for over 25 years. I had a couple of questions in  
19 listening to this.

20 One thing that I think that it's important not to  
21 overlook and that is all the storm drains on Columbia  
22 Turnpike go toward Albany and then they cut right along  
23 the side of Schodack Autobody and go along the line and  
24 then they are exposed and then they past the power lines  
25 and then they go parallel to the power lines heading

1 back and backing around and then they go underneath  
2 Miller Road into a registered wetlands. That might be a  
3 consideration in the whole situation. That might not  
4 want to be overlooked.

5 I'm not sure that somebody said as far as they were  
6 expanding the sewer district. I was just wondering at  
7 whose expense that would be. I don't exactly know what  
8 the entails, but I don't know if this commercial  
9 endeavor - if the taxpayers should pay for that in any  
10 way. That's basically what I have to offer and to  
11 question.

12 CHAIRMAN CALARCO: Anyone else, please?

13 MS. DIGIORGIO: Hi, my name is Diane DiGiorgio;  
14 D-I-G-I-O-R-G-I-O. I live on 11 John's Lane over in  
15 Byer's Estates. I like Stewart's. I love their coffee.  
16 I'm glad that we have Stewart's in our community, but  
17 this is the wrong site for this project. As other  
18 speakers have very eloquently said, it just presents  
19 too much of a risk to our aquifer, it's too close to  
20 residential areas and I think that a better site can be  
21 found for this. I urge the Board to consider all the  
22 threats that were previously mentioned both with regard  
23 to possible contamination, the water run-off and  
24 possible other threats to our water supply which is  
25 really fundamentally our most precious resource. Make

1 the right decision for the community. Thanks.

2 MS. HAHN: Hi, my name is Julie Hahn and I am not  
3 a homeowner, but I do rent 1550 Columbia Turnpike in  
4 Castleton, approximately two houses going east of where  
5 the proposed site is.

6 First of all I didn't know that this meeting was  
7 going on until somebody else had let me know about it. I  
8 didn't even know this was going on.

9 I do want to point out to you that with all of the  
10 information that I have acquired tonight from the  
11 various speakers that the idea - what really sparked an  
12 interest in me was when the lady had mentioned about  
13 gardening. I am an avid gardener. I take a lot of pride  
14 in gardening at an organic level and when I say organic,  
15 I mean strictly organic. I do not use any pesticides. I  
16 do not use any contaminated water forms or anything of  
17 the sort. I keep my own compost going so that I'm not  
18 contaminating my soil with other soils that are out  
19 there. Now, keeping all that in mind and listening to  
20 everybody speaking, that would be a great disservice to  
21 people like me that really enjoy being sustainable with  
22 the land that I have been given. There is a lot of the  
23 homeowners around here - - I was a homeowner for years  
24 in a different county so I do appreciate how the  
25 homeowners feel. If I was an owner, I would certainly be

1       seeing a lot more than what I am but being a renter in  
2       this area, I know that I could move at any time. At this  
3       current time, I am focused on the sustainability of  
4       keeping my organic garden organic. I don't want to  
5       contaminated. I don't want to find out if I'm here six  
6       or seven years from now that the garden that I have been  
7       feeding to my grandchildren who reside in a different  
8       county could have been contaminated by something if  
9       there was a spillage of whatever type - contamination to  
10      our water.

11           I like the idea of somebody saying a third-party  
12      coming in and taking a look at all of this. I like the  
13      idea that somebody had mentioned about doing a full  
14      contamination like search at the site where the previous  
15      gas station was and not just looking for the petroleum.

16           I grew up around auto mechanics. It goes way back  
17      far in my family history and I know what people did with  
18      a lot of their waste back in the day. I don't know much  
19      about that property of only resided in this area for a  
20      few years. I don't know how long they ran but I would be  
21      very worried about it becoming disturbed in part of the  
22      natural makeup of the area that we have now. Thank you.

23           MR. VAN HOOSE: Good evening, Board. Thank you,  
24      Chairman Calarco. My name is Stephen Van Hoose, 3  
25      Edinburgh Drive, East Schodack, New York.

1           So, as a matter of record the letter I am about to  
2           read does have some commentary on the tanks that it also  
3           speaks to the overall project. I would like to read this  
4           as a matter of record to submit since I did not have the  
5           opportunity to do it during the public comment period of  
6           the February 4 Planning Board meeting as it was not an  
7           item on the agenda.

8           CHAIRMAN COLARCO: Wait a minute. Are you saying  
9           this has nothing to do with the Water Quality Law?

10          MR. VAN HOOSE: There is commentary about the  
11          tanks in this letter relevant to the water law.

12          This is a letter on behalf of the Schodack Planning  
13          Development Association that we submitted to Mr. Gary  
14          Dake, president of Stewart's Shops.

15          Dear Mr. Dake: We are a group of Schodack residents  
16          who enjoy and appreciate Stewart's convenient shops and  
17          great products. We recognize that Stewart's is in the  
18          process of building new, larger stores throughout its  
19          market territory. But we also hope that Stewart's  
20          corporate philosophy is one that is environmentally  
21          friendly and seeks to provide both safety and  
22          convenience for its customers and nearby residents.

23          With this in mind, it is our belief that Stewart's  
24          is making a big mistake in attempting to locate a new  
25          store in Schodack Center at the corner of Sunset Road,



1 Miller Road and Columbia Turnpike.

2 The proposed location consists of two lots totaling  
3 about 2.4 acres with the intent of using about 1.75  
4 acres. One lot is currently owned by the Edward's family  
5 and a large house on it was a chiropractic center for  
6 many years.

7 The second lot, adjacent to the Edwards property,  
8 has a long history of use as an auto repair shop and in  
9 the past a gas station. Both use septic tanks for waste  
10 disposal and private wells for water. The Stewart's  
11 application for site development permit from the Town of  
12 Schodack would demolish this beautifully maintained  
13 house, one of Schodack's most historic homes and  
14 construct a standard Stewart's Shop in its place. The  
15 auto repair shop, very old and somewhat historic, would  
16 also be demolished. Hopefully its site would cleaned up  
17 and remediated of any legacy storage tanks along with  
18 removal of hazardous waste that may have accumulated  
19 over the years and contaminated the soil and  
20 groundwater. This service station goes way back, so it  
21 may have left a wide range of contaminants including  
22 solvents in a wide range of petroleum products.

23 The proposed site has many traffic issues owing to  
24 the narrow rural road nature of Sunset Road in the busy  
25 intersection where a significant amount of traffic comes

1 and goes on Miller Road to the I-90 exit 10 interchange.  
2 This intersection has had a number of accidents over the  
3 years and the type of traffic that Stewart's attracts  
4 will significantly increase the chances for more  
5 accidents.

6 The only viable entrance to the proposed site for  
7 heavy truck gas and food products delivery is from  
8 Sunset Road which has a 10 ton limit and minimal road  
9 with. This portion of Sunset Road and its culverts will  
10 need to be upgraded to accommodate these heavy loads the  
11 only exit for these trucks will be onto Columbia  
12 Turnpike and it appears that while deliveries are being  
13 made, the trucks will likely block customer traffic from  
14 entering or leaving safely.

15 Without a major soil filled to enable a larger site  
16 space to allow these large delivery trucks to go around  
17 the back of the store, on-site traffic flow will likely  
18 create safety issues. And because on-site traffic will  
19 not be allowed to exit left onto Sunset Road, most all  
20 customers will have to use Columbia Turnpike where a  
21 significant traffic queue can impede right and left  
22 turns. In short, the site is not safe for customers or  
23 passing traffic and will create difficulties for safe  
24 gasoline and food products delivery.

25 There is concern that wastewater from the proposed

1 store and runoff from paved surfaces may contaminate  
2 groundwater for surrounding residents. Stewart's will  
3 need to obtain a waiver for placing gasoline tanks on  
4 this site as it sits in the recharge zone of the town  
5 aquifer which supplies drinking water for many  
6 residents. While the gas storage tanks themselves might  
7 not leak and cause groundwater problems, we have  
8 concerns about site runoff which will contain fluids  
9 leaked by autos and trucks. While runoff can be  
10 mitigated to a certain extent, safety and environmental  
11 friendliness would dictate a very large oil/water  
12 separator that would treat the runoff from at least a 50  
13 - 100 year storm. To be safe, wastewater should be put  
14 into a sewer for discharge into the East Greenbush  
15 system, and water should come from public water rather  
16 than an on-site well.

17 While we believe that nearby sites can be found  
18 that allow for better and safer traffic flow, the one  
19 possible benefit of developing the proposed site is the  
20 cleanup of any hazardous or toxic waste on the site of  
21 the auto repair shop. An environmental assessment should  
22 be conducted with soil and groundwater sampling to  
23 ascertain whether there are any legacy hazardous or  
24 toxic materials, solvents, lead, gasoline, oil on-site  
25 and if there is, provide a cleanup implementation plan.

1 Today, Stewart's has not proposed any such investigation  
2 or cleanup plan. As a responsible corporate citizen that  
3 professes to be environmentally friendly, we hope that  
4 Stewart's will conduct the needed environmental  
5 assessment.

6 The existing buildings at the site are some of the  
7 oldest and most distinctive buildings in the community,  
8 making for a unique entrance to our community. We  
9 believe that suitable alternative sites can be found  
10 nearby that allow for better and safer traffic flow and  
11 that would serve to protect the unique character of one  
12 of the most prominent entrances to our community. While  
13 we welcome Stewart's in our community, we expect that  
14 Stewart's will act as a responsible community steward by  
15 considering other sites for its new and expanded shop.  
16 Sincerely, The Schodack Planning and Development  
17 Association and concerned residents.

18 Thank you.

19 CHAIRMAN CALARCO: Yes, sir.

20 MR. RAYMOND: Good evening, everybody. I am Tom  
21 Raymond and I live in the Town at 6 Oakwood Street in  
22 East Greenbush. I have been listening to the discussion  
23 back and forth and I am a professional engineer as well  
24 and I wanted you to be aware of some studies that were  
25 done a while ago by the State of New York the kind of

1 gets upstream of weather we have got the right geometry  
2 and the right turning radius and all the other things  
3 that are kind of down from the decision process. These  
4 would be the actual considerations of the site and  
5 these are called water resources management strategies;  
6 WRMS, for short. They were written jointly by the New  
7 York State Health and Department of Environmental  
8 Conservation and they were intended to give a bird's  
9 eye view - sort of a view from 35,000 feet looking down  
10 as to where the aquifers are.

11 The aquifers that were located were divided into  
12 two pieces. One was called a primary aquifer which is  
13 where public water supplies are drawn and the others  
14 were called principal aquifers where either private  
15 water supplies, household wells or a pristine source for  
16 future development should be protected. So, I think from  
17 a planning and an overview perspective, before we get  
18 too far down into the weeds so to speak, that we have a  
19 good idea of where this site is and where any site is -  
20 Amazon picked one. You want to know where your site is  
21 relative to those aquifers and really study what should  
22 go on to protect them. Now, my understanding is the site  
23 - - I like Stewart's too, by the way. This is not the  
24 point. Whether this site is an appropriate spot to have  
25 duly protected state-of-the-art petroleum storage tanks

1 kind of jumps ahead of the fact of whether it should  
2 even be over in aquifer at all. Now, I think that the  
3 zoning folks and the appeals folks need to really  
4 consider that even though it is state-of-the-art  
5 fail-safe, whether that in fact would protect something  
6 as precious as our water supply.

7 We all remember the northeast truck stop just down  
8 the road. That was done in the days where we didn't have  
9 water resources management strategies and they used  
10 railroad tank cars to bury them and that was  
11 state-of-the-art in 1907. They all leaked. We had a  
12 hazardous waste site and that's been cleaned up at a  
13 considerable time and expense and turned into productive  
14 use through great effort. So, these kinds of things are  
15 out there. I do believe that what I have heard here as  
16 we need to do a full environmental assessment and not  
17 just the short form to be sure that this project is  
18 reasonable in that sense. It might not dot I's or cross  
19 T's, but do we want to build something over in aquifer?  
20 That's the acid test that we really should be asking. If  
21 the answer is no, then we need to find perhaps an  
22 alternative spot in the Town where we could build it.  
23 That's what I think the deliberations should be centered  
24 upon before we get too far along on specifics. Thanks  
25 very much.

1 CHAIRMAN CALARCO: Is there any other member of  
2 the public that would like to make comment, please?

3 MR. BURTON: Good evening. My name is Bill Burton.  
4 I live right across the street from the site on 1532  
5 Sunset.

6 The last time there was a storage facility put to  
7 the left of me, my land got flooded because of the  
8 terrain and when they graded the land all the water ran  
9 into my property. I had a lake back there and it  
10 destroyed all of my woodworking equipment. It was a lot  
11 of equipment because I used to have a woodworking shop.  
12 So, I lost all that. In this situation, I'm not sure how  
13 they're going to grade the property because I am a lot  
14 lower than Edwards. My driveways between those two exits  
15 and I can't even get out of my driveway now in the  
16 morning because of all the traffic that cuts through the  
17 side streets and misses that arrow light at the  
18 intersection. I have to wait sometimes two or three  
19 lights to get out of my driveway. You've got  
20 tractor-trailers coming in above my driveway and exiting  
21 out below my driveway on the little tiny road. They are  
22 pretty long trucks and I don't understand how they can  
23 be done and still give me access out of my place which  
24 had nothing to do with the gas situation that we are  
25 talking about tonight.

1 I am concerned about the run-off because when the  
2 land is graded and has a lot to do with what happens to  
3 my property. I am not an engineer, but I have heard in  
4 the past - you're talking a spill of over a gallon when  
5 it does happen at the pumps. 8 ounces of gasoline would  
6 lit the house foundation to blow up and I don't know how  
7 many people are aware of that. You have a lot to deal  
8 with as far as the gasoline that's going over there. So,  
9 that's all I have to say right now at this point. I  
10 would like you to consider that. There are houses around  
11 here and what gas could do if it explodes. Thank you.

12 MR. CALARCO: Thank you, sir.

13 MR. SOKUM: Ken Sokum, 1001 Maple Hill Road. I had  
14 the good fortune that I am near the water for the  
15 village in I am on village water even though I am not  
16 in the village area, so I don't have some of the  
17 concerns that the people in the audience have  
18 referenced regarding their water and it seems like  
19 quite a luxury, given the situation that they are  
20 facing. I have a number of concerns. Just a note on  
21 something that Stephen mentioned. That SPDA letter  
22 that's out there, the Schodack Planning and Development  
23 Association letter is reaching about 100 signatures at  
24 this point in time - the one to Gary Dake at  
25 Stewart's. I think given what we have had in terms of



1 storms that using the 50 to 100 year storm - is to  
2 guarantee some degree of safety of a system is no  
3 longer viable. I think we really need to look, given  
4 how frequently we've had what have been called 100-year  
5 storms we are hearing and other locales thousand year  
6 storms. I think we really need to be looking at a 500-  
7 year storm in terms of protecting ourselves. Whether  
8 you believe it or not, we all know our temperatures are  
9 going up for whatever reason and that's really wreaking  
10 havoc with our weather. We don't know what our weather  
11 is going to be and what it's going to do. So, we have  
12 to basically look forward and plan for those things. A  
13 couple of years ago I had a fellow by the name of Mark  
14 Valerie come and speak to public officials and we  
15 pushed to have people from the Zoning Boards in the  
16 area and from the Planning Boards and the Planning  
17 Directors and we had probably three dozen turn out to  
18 basically talk. His talk was Hell or High Water and he  
19 talked about rising waters in the climate change. It's  
20 not just rivers that rise, ground water rises too. So,  
21 given that there are wetlands in the immediate vicinity  
22 of this area just a cross over towards 90 - - as those  
23 waters rise, they will inundate other areas. So, things  
24 that are currently above ground water can be in  
25 groundwater. When you have a system like this you would

1 supposedly have a state-of-the-art tank and it also has  
2 a lot of fittings and piping and everything that  
3 carries this to the pumps to get it out. We have this  
4 where people are filling these things and while we  
5 heard about the average sort of customer spill being  
6 something like a gallon and a half, we didn't hear what  
7 the top end of that was. I assume it could be quite a  
8 bit higher than a gallon and a half to meet that  
9 average. We also didn't hear what the average spill is  
10 that somebody does when they're filling up a tank. We  
11 know we have had some of those spills in Town already.  
12 As a Town that has voted to protect its aquifer, you've  
13 passed an aquifer protection law and the whole idea  
14 about was to get away from the idea of putting any kind  
15 of gas station over the aquifer. We seem to be  
16 continuing to allow exemptions to that and I don't know  
17 if anybody has been denied the ability or not given an  
18 exemption when they have asked for it to put a gas tank  
19 over an aquifer. I didn't hear about it. As some  
20 people know, I have been attending Planning Board  
21 meetings and this is my first Zoning Board meeting. I  
22 have attended Planning Board meetings often over the  
23 last dozen years or so for about a seven year period  
24 straight. I attended almost every one of them. I  
25 haven't heard any kind of denials related to something

1       like a gas tank over the aquifer. You are our line of  
2       defense on that. We need you to be the one that looks  
3       at this and says what is really exceptional about this  
4       that is such a hardship to somebody that we have to put  
5       a gas tank in this particular location over the  
6       aquifer? Where is the hardship here? Who's really  
7       suffering if we don't do this and if we don't allow  
8       this use for this particular property? I don't know  
9       where the suffering is. Stewart's is a large rich  
10      company and hopefully a good corporate citizen. Why do  
11      they have to have it in this area? I can think of an  
12      area just east up the road where they can put this  
13      where they used to have a gas station before that would  
14      seem to be a better location and terms of the suburban  
15      population. Again, that would be over the aquifer. I  
16      kind of think back to what rationales went into putting  
17      the current Stewart's location which is east of this  
18      site on it and what justifications they came up with at  
19      that point in time to locate that station there and  
20      what plans they made about that particular storage  
21      system versus the storage system. I'm sure they said it  
22      was state-of-the-art it was going to be a lot better  
23      than the existing ones. We are hearing that again this  
24      time.

25           If we keep perpetuating putting new winds on here,

1 we will never get to a situation where we don't have gas  
2 tanks over the aquifer which is the ideal state which I  
3 think this law sought.

4 I heard something in terms of the discharge that  
5 there is some sort of receiving body for the runoff that  
6 comes off of the site but I never did hear exactly where  
7 it ends up. Where does it go ultimately when it  
8 discharges? Is it ultimately going into the aquifer or  
9 is it going into some other nearby water body or is the  
10 discharge going into people's yards or other properties?  
11 I never did hear where that was. The storm drain? I  
12 didn't catch that. So, the discharge from the side from  
13 the filters and everything in the holding ponds  
14 eventually goes into a storm drain? I don't think that's  
15 normally the practice that we follow but it would be  
16 interesting to learn that.

17 I am hoping that you will be our protection on this  
18 for our town. If we can't rely on you our neighbors who  
19 sit on this Board, I don't know who else we can rely on.  
20 So, you can see there is a lot of people here. I think  
21 there would have been a lot more if the notice was  
22 clearer because when I looked at that notice which  
23 didn't come to me personally but it gave me the  
24 impression that it was talking about the site up by  
25 Nassau and not the site. So, I could see where people

1 could easily be - not understand what it's for. I ask  
2 you to please hold the line for us in terms of this and  
3 not allow it on our aquifer at all. Thank you.

4 CHAIRMAN CALARCO: Thank you.

5 Anyone else that would like to make comment on this  
6 application?

7 (There was no response.)

8 Sir, would you like to come up again?

9 MR. PULSIFER: I'm Larry Pulsifer and I spoke  
10 before. I forgot when you mention - - I have two wells  
11 that are less than 100 feet from this property. They  
12 are just on the edge, right there (Indicating). That's  
13 why I have such a concern with water runoff. Any runoff  
14 is going to put my wells - - I have the two wells right  
15 there.

16 CHAIRMAN CALARCO: Thank you, sir.

17 Okay, is there any other member of the public that  
18 would like to make public comment at this time?

19 (There was no response.)

20 No? Are we sure? When I close the public hearing,  
21 that will be it folks. Were not going to entertain  
22 comment after this.

23 MR. HODGSON: When I forgot to mention as well as  
24 that the applicant said something - - and please  
25 correct me - just to the effect that we had had no

1 releases from our USTs, our storage tanks. In your  
2 research, ask where the releases are coming from. From  
3 the DEC statistics that I was able to find, 30% of the  
4 releases come from the tanks themselves, 30% are from  
5 the dispenser and 30% are classified other where they  
6 weren't immediately able to discern that. So, while  
7 having no releases from the tanks is good, we should  
8 understand where they are coming from. Thank you.

9 CHAIRMAN CALARCO: Are we sure? Okay, at this  
10 point I will close this part of the public hearing. I  
11 have it at 8:27 p.m.

12 Okay, so members are there some questions you know  
13 may have or some things you would maybe like to ask Mr.  
14 Laberge before I ask you - something on the top of your  
15 head or something that glaringly stands out the you  
16 would like to find out about?

17 MR. BREWER: Regarding the issues about the  
18 runoff, I just want to hear from you that it has been  
19 considered and I would like to hear about it.

20 MR. LABERGE: Okay, so we have reviewed the site  
21 plan for the Planning Board as well and the site  
22 runoff generally collects in the rear of the site and  
23 heads to the north. That is the pattern now and that is  
24 the pattern that is proposed. It's not really on that  
25 plan, but it's on their storm management plan because

1       there is a bio-retention filter on the north end of the  
2       site and after the hydrodynamic separator - the  
3       Defender I think is the brand name - and water  
4       separator, the water goes from there into the bio-  
5       retention filter. So, then it is discharged down into  
6       the low point of the site.

7               The southern part of the site by Sunset Road kind  
8       of has a separate little system with the water coming  
9       under sunset road, flows into - - again, it is not on  
10      this plan so it's hard to describe it - it flows into a  
11      small detention area which then flows into a sand  
12      filter, which then discharges again into the low area  
13      and moves to the north.

14             So, our analysis shows that the water is currently  
15      there and on the proposed plan is that the water will be  
16      discharged in that area. Again, the purpose of those  
17      chambers that are under the parking lot near 9 and 20  
18      are to act as a detention volume so the water is  
19      detained until it slowly is released over time. So,  
20      that's kind of an overview of the system.

21             Does that answer your question?

22             MR. BREWER: Yes. Does it go into the storm drain?  
23      Where does it go?

24             MR. LABERGE: No, it ends up in the rear of the  
25      property and again the flow currently is towards the

1 north and the applicant is held to the amount of water  
2 that goes north and what we call the pre-development  
3 condition in the current condition. They can only allow  
4 the same amount of water to go to the north after they  
5 get done rearranging and changing the site the way they  
6 want to. Again, the real purpose of those chambers in  
7 front is to act as detention. They have a slightly - to  
8 have a more impermeable surface meaning more runoff  
9 where the detention is there to hold the water volume  
10 and there is what is called an outlet control structure  
11 that basically has a small hole and not a big pipe that  
12 releases the water slowly over time. So, the concern is  
13 always about the rate of flow. It may have more volume  
14 but it is the rate of flow that you hold any  
15 development activity to. So, that is one of the issues  
16 that the Planning Board looks at and that's why I am  
17 familiar with it.

18 CHAIRMAN CALARCO: They are prohibited - am I  
19 correct - to discharging into the storm drains?

20 MR. LABERGE: Well, let's see. That's kind of a  
21 broad range question in each site is quite specific.  
22 So, DOT owns that road and generally they are not in  
23 favor of additional water going into their storm water  
24 system. In addition, the topography probably doesn't  
25 really lend to that situation. So, while I can't say



1       that it would be absolutely prohibited, I'm not sure  
2       would be welcomed or possible via gravity.

3               CHAIRMAN CALARCO: Mr. Spada, anything?

4               MR. SPADA: Yes. Dave, you received a letter from  
5       the Laberge Group and the bottom paragraph states that  
6       according to the engineering firm that it is the  
7       recommendation that the Zoning Board of Appeals can  
8       grant an approval without jeopardizing health and  
9       safety of the public that is violated under under the  
10      hearsay of DEC water quality standard. Is that correct?

11              MR. LABERGE: So, my letters of February 4 and I  
12      believe there is one January 29. That kind of work in  
13      concert. The issue at hand is the issue of whether the  
14      Board can grant a variance for storage of fuel  
15      underground because that's not allowed under the  
16      current water quality control act regulations. So, my  
17      comments go directly to that. So, what we reviewed as  
18      part of that analysis for the different systems that  
19      deal with storage of petroleum fuel underground. We  
20      have heard a lot tonight about the double wall tank in  
21      the special monitoring which we have used the term  
22      state-of-the-art but that is where DEC is now in terms  
23      of their regulations for petroleum bulk storage. That  
24      is allowed virtually across the state by DEC. I  
25      personally know of no areas where it is not. So, in

1 terms of the tank system, that's very important to note  
2 that it is highly monitored and any type of spill gets  
3 detected before it hits the environment.

4 Then, we thought and analyzed a little bit about  
5 the filling of the tank. We heard also tonight a lot  
6 about the truck entrance and all that but that really  
7 wasn't the concern that we analyzed. We were just  
8 thinking about the connections in the technology that  
9 are used between that delivery vehicle and that storage  
10 tank. Again, the current best practice prevents the type  
11 of spills that again are catastrophic. The interlocking  
12 connections that are done prior to the slowing of the  
13 material - the fuel - the petroleum product - - there  
14 are safety interconnections on the pump. If there is  
15 some leakage because of bad management by the delivery  
16 personnel - we heard tonight about the 15-gallon sump  
17 that is within the connection. So, that was one area  
18 that we were comfortable with as well.

19 Then, the fuel has to get from the tank to  
20 everybody's cars.

21 We are all talking about storm water because storm  
22 water is one of the major ways that petroleum products  
23 get spread around. The first thing that is very helpful  
24 here is the canopy over these pumps. The storm water  
25 that falls - the water that ends up in and around the

1 dispensers is limited. It comes off of cars. It might  
2 come from a windy precipitation event. So, that helps a  
3 lot in keeping any spills or anything that hits the  
4 surface near the dispensers. The other part is that you  
5 have to get from the tank to the dispensers. We talked a  
6 little bit about some of the connection. I think one of  
7 the comments was about fittings and such. The Stewart's  
8 information actually talks about - they use double blind  
9 flexible piping to minimize fittings and connections  
10 that can often fail or a joint can fail. That, in  
11 itself, is again placed in a conduit. So, it's almost  
12 triple contained. The double-blind is really the primary  
13 protection and I think the conduit is really just for  
14 the ease of replacing anything in the future if they  
15 have to. So, I won't rely on that. But, with that in  
16 mind, and the fact that the dispensers have sumps and  
17 they are again monitoring to see if anything is dripping  
18 down in there - sealed sumps that won't get into the  
19 soil - - again, we were satisfied with that system of  
20 getting the fuel from the underground storage to the  
21 dispensers was good. So, those were kind of the three  
22 components - or actually for - - the tank, the delivery  
23 to the tank, the connection to the dispensers and then  
24 the dispensing to a vehicle where we found potential for  
25 spills. The other places are kind of controlled by

1 technology of computer special monitoring and things  
2 like that. So, obviously there are a lot of issues  
3 around but again we are looking at does that petroleum  
4 fuel have an abnormal chance of getting out the system  
5 into the environment?

6 The final thing is the human error at the  
7 dispenser, in addition to the other things that we  
8 talked about where again now if there is a spill, the  
9 gasoline evaporates at a very high rate in almost all  
10 weather. So, what happens is we want to make sure that  
11 any storm water that washes away any of the spill heads  
12 towards the appropriate storm water collection area and  
13 that in this case is the storm water hydrodynamics  
14 separator with the oil/water separator.

15 It is important also to know that oils and fuels  
16 are usually washed off pavements immediately. I think a  
17 lot of people know - - I used to ride a motorcycle years  
18 ago and the most dangerous time on the road was that  
19 first rainstorm because that's when things get greasy,  
20 so to speak. So, the sizing of this unit is not sized  
21 for a 100 year storm. It's the first part of the flow  
22 that you want to hit this unit and separate the oil from  
23 the water and retain it in the unit until it is  
24 maintained. If there is something bigger in excess of  
25 the 5 gallons we heard about tonight being required to

1 be reported, the Defender, the brand name, has the  
2 capacity of up to 70 gallons to store oil and water -  
3 the petroleum product and it. At that point, the spill  
4 would've had to of been reported in the whole system  
5 would be checked out by DEC at that point or proclaiming  
6 the maintenance, assuming at that point the spill is  
7 also stopped. So, that's how we approach this particular  
8 issue of the variance under the water quality control  
9 act. We have heard a lot of issues here tonight that are  
10 of concern but again, we look at this very - I guess  
11 relatively very narrow issue of intent in gas dispensers  
12 and items that are directly elevated to that cause an  
13 inordinate health and safety risk to the public. Will  
14 they cause and inordinate safety to the New York State  
15 DEC groundwater standards? It is our opinion that again  
16 the standards are so high by DEC that this does protect  
17 those things. That's how we got to our letter.

18 MR. SPADA: Okay, thank you.

19 CHAIRMAN CALARCO: Okay, gentlemen. I think Mr.  
20 Laberge just summed it up well. He pointed out the fact  
21 that this is a very narrow look and very narrow scope  
22 that we actually have. There may be many issues with  
23 this application that people have and that when  
24 presented to the Planning Board may sink this  
25 application. There may be things that the Planning

1 Board reviews that they say - just for the sake of  
2 discussion we would just pick one. The fact that maybe  
3 they are unable to get over the traffic issues and  
4 resolve them to the point where they are satisfied.  
5 Again, they may deny this application just based on  
6 something like that. There are a lot of other issues  
7 and they will be taken up by the Planning Board. Before  
8 us is the narrow scope of the waiver from the water  
9 quality which is simply as Mr. Laberge stated the  
10 storage of petroleum in the ground in the tanks and how  
11 to get that there.

12 You were given the same package that I have. If you  
13 did your due diligence and read it, it is a lot of  
14 information. I want say it was exhaustive but it was  
15 extensive on the engineering involved. Just because the  
16 public was not privy to this or did not get there FOIL  
17 request filled in a timely fashion - which that is the  
18 Town Clerk's job and not ours - doesn't mean that the  
19 information wasn't there. People always like to blame  
20 boards of having some ulterior motive and try to do some  
21 sort of underhanded dirty work when in essence were just  
22 trying to do our jobs as prescribed under the law. The  
23 law says that people have a right to ask for these  
24 waivers from this law particularly if they can provide  
25 information and engineering that proves that they can

1 mitigate the potential impacts. I read everything that  
2 was presented to me; Mr. Laberge's letters, the letters  
3 from the applicant, all the information and again, it  
4 was quite a bit of it. Maybe it was something that was  
5 confusing to understand but the information that I have  
6 says to me that they presented the possibility of  
7 mitigating any potential impact from the storage of that  
8 gasoline or those petroleum products or fuels. He went  
9 so far as to question about storm water runoff, human  
10 error at the pump and things like that.

11 The water quality law mentions none of that as  
12 being a definitive for our purview. However, I think  
13 that members of this Board having had some experience  
14 with this issue, we have taken it upon ourselves to  
15 branch out a little bit just so we can convince  
16 ourselves that there is an something that we are  
17 overlooking. There is always the idea, like I said, that  
18 we are not considering things and we are not really  
19 giving a hard look. I guess the thing that people don't  
20 understand is that Mr. LaBerge is the Town consulting  
21 engineer. As an expert to the Town, he has a fiduciary  
22 responsibility and he protects this Town from harm and  
23 loss. That's it that means; fiduciary.

24 You don't work for the applicant in any way, do  
25 you?

1 MR. LABERGE: No.

2 CHAIRMAN CALARCO: You don't represent his  
3 interests or the engineers interests? You represent the  
4 interests of the Town of Schodack?

5 MR. LABERGE: Yes.

6 CHAIRMAN CALARCO: So, this recommendation comes  
7 as a fiduciary responsibility. So, when I have a well  
8 respected engineer like Mr. Laberge write the letters,  
9 do the review - - in the review that he has done as  
10 well beyond the letters that were received by us. He  
11 spent - - I think you mention one time about how many  
12 hours you spent. We spent considerable hours reviewing  
13 this and I just don't believe that there is any reason  
14 for them to make a false statement as to the  
15 reliability of that engineering and the reliability of  
16 it to protect the safety of the public and not erode  
17 the New York State DEC Water Quality Standards. So, I  
18 want speak for you, John but I will speak for myself.  
19 It's very difficult for me to sit here, take in all  
20 that information and turn to Mr. Laberge as a layperson  
21 and tell him that I don't think he knows what is  
22 talking about. That your professional opinion is not  
23 worth what the Town and what the applicant - actually  
24 the applicant pays you - to review this.

25 MR. MARSHALL: Let's review that for second. The



1 applicant pays into escrow.

2 CHAIRMAN CALARCO: You pay for the fee is, yes.  
3 But the Town pays him for that. So it's very difficult  
4 for me to sit here and tell him you really don't know  
5 what you're talking about. To have a suggestion that  
6 there be a third-party brought in, which he is - -  
7 he's not the Planning Board or us and he's not the  
8 applicant - he is a third-party - but there should be a  
9 third-party brought in to oversee his work and his  
10 review because they don't believe he knows what he's  
11 talking about - I just find that ridiculously  
12 insulting.

13 Excuse me, we are done with the public comment. You  
14 don't have to like what I'm saying. The fact is we are  
15 talking about here is the review of this project was way  
16 more extensive than anyone in this audience has even  
17 referred to - way more extensive. The fact is we have  
18 done this before. Gentlemen, we have seen the same exact  
19 application for the Stewart's in Nassau - the same exact  
20 aquifer at the other end of Town. By the way, nobody who  
21 cares about this Stewart's cared about that Stewart's.  
22 With the same water in the same aquifer. The bottom line  
23 is: we went through this. We know that the reliability  
24 of the applicant's information has been reviewed by our  
25 own engineer is honest and true. I agree that we may not

1 be able to prevent some of the human error. I don't  
2 think the approval process relies on the elimination of  
3 every single potentiality an accident that could happen.  
4 If that was the case, no one would get in their car and  
5 drive to work in the morning. Unless you gentlemen find  
6 something that was presented to you tonight that refutes  
7 the engineer review by Mr. Laberge and his company, I'm  
8 just not so sure how you can make a determination that  
9 his recommendation is not sound. I'd like to hear your  
10 thoughts on that.

11 MR. MAIER: I kind of agree with you, Dave. I  
12 think that Mr. Laberge has gone a lot further than  
13 anybody else. I have read this thing over to. I'm not  
14 saying that I understood it all but I tried. I think,  
15 as you said, Mr. Laberge is the expert.

16 CHAIRMAN CALARCO: Anyone else?

17 MR. SPADA: My questions were answered. I asked in  
18 good faith and I think it was answered. That's my  
19 comment.

20 CHAIRMAN CALARCO: Gentlemen, so next would be  
21 lead agency under seeker for the action only and not  
22 for the project but just for the action of granting or  
23 denying a variance and waiver to this water quality  
24 law. So, do I have a motion for lead agency?

25 MR. MAIER: I'll move.

1 CHAIRMAN CALARCO: Mr. Maier?

2 MR. SPADA: Second.

3 CHAIRMAN CALARCO: Mr. Maier seconded by Mr.  
4 Spada.

5 All in favor?

6 (All members voted in the affirmative.)

7 Now, would someone like to make a negative  
8 declaration based on the EAF and the information  
9 contained in this entire packet?

10 MR. BREWER: I'll make that.

11 CHAIRMAN CALARCO: Mr. Brewer; and I will second  
12 that for a negative declaration unjust the issues of  
13 the variance or not.

14 All in favor of that?

15 (All members voted in the affirmative.)

16 Opposed?

17 (There were none opposed.)

18 Now, a motion - do we have a motion to grant or  
19 deny this variance? This is a waiver from the Water  
20 Quality Protection Law based on again, all the  
21 information contained in the letters in the packet from  
22 both the applicant, Mr. Laberge. There is quite a bit of  
23 it that will be entered into the record.

24 Would someone like to make a motion to either deny  
25 or grant?

1 MR. MAIER: Make a motion and see if someone  
2 seconds it.

3 CHAIRMAN CALARCO: Do I have a second?

4 MR. SPADA: I'll second.

5 CHAIRMAN CLARACO: Seconded by Mr. Spada.

6 Discussion on the motion?

7 (There was no response.)

8 No?

9 Okay, call the roll, please.

10 MS. FUDA: Mr. Spada?

11 MR. SPADA: Yes.

12 MS. FUDA: Mr. Maier?

13 MR. MAIER: Yes.

14 MS. FUDA: Mr. Calarco?

15 CHAIRMAN CALARCO: Yes.

16 MS. FUDA: Mr. Brewer

17 MR. BREWER: Yes.

18 CHAIRMAN CALARCO: Thank you very much, ladies and  
19 gentlemen. I appreciate your patience and again, you  
20 will have an opportunity to go to the Planning Board.

21 (Whereas the above entitled proceeding was  
22 concluded at 9:03 p.m.)  
23  
24  
25

## 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 \_\_\_\_\_