

**BLOOMINGDALE PLANNING BOARD**  
**101 Hamburg Turnpike**  
**Bloomingtondale, NJ 07403**

Minutes  
Regular Meeting 7:30pm  
January 16, 2014

**CALL TO ORDER**

**SALUTE TO FLAG**

**LEGAL**

This is a Special Meeting of the Bloomingdale Planning Board of January 14, 2014 adequate advance notice of this meeting has been provided by publication in the Herald and News and also posted on the bulletin board at the Council Chamber entrance in the Municipal Hall of the Borough of Bloomingdale, Passaic County, in compliance with the New Jersey Open Meetings Act, N.J.S.A. 10:4-6 seq.

**FIRE CODE**

Per State Fire Code, I, Edward Simoni, am required to acknowledge that there are two "Emergency Exits" in this Council Chamber. The main entrance through which you entered and a secondary exit to the right of where you are seated. If there is an emergency, walk orderly to the exits, exit through the door, down the stairs and out of the building. If there are any questions, please raise your hand now.

**MEMBERS PRESENT (\*denotes alternate)**

Mark Crum	Bill Graf	*Robert Lippi
Bill Steenstra	Edward Simoni	*Barry Greenberg
James W Croop	Kevin Luccio	*Robert Voorman
Ken Fioretti	Ray Yazdi	

**MEMBERS ABSENT/EXCUSED**

Craig Ollenschleger – ex  
Richard Murek - ex

**APPOINTING OF ALTERNATES**

Comm. Greenberg seated for Comm. Ollenschleger

**APPROVAL OF MINUTES**

-September 26, 2013

Motion made by Comm. Graf 2<sup>nd</sup> by Comm. Crum to approve minutes of 9/26/13 with amendments. Voice vote shows all in favor

-November 14, 2013

Motion made by Comm. Graf 2<sup>nd</sup> by Comm. Steenstra to approve minutes of 11/14/13 with amendment. Voice vote shows all in favor.

-December 12, 2013 – inclusive of transcript

Motion made by Comm. Steenstra, 2<sup>nd</sup> by Comm. Croop to approve minutes of 12/12/13 inclusive of transcript. Voice vote shows all in favor.

### **PUBLIC HEARING OF APPLICATION #654**

#654 Quick Check Corporation Block 30.01 Lots 32, 33 & 34

(Seated members: Simoni, Crum, Croop, Graf, Greenberg, Luccio & Steenstra)

See attached transcript

Motion made by Comm. Steenstra, 2<sup>nd</sup> by Comm. Graf to approve application #654 with amendments that have been set forth on the record. Roll Call shows 7-0 in favor or approval.

### **PENDING APPLICATIONS**

#650 Raymond Lombard Block 43 Lot 13 145 Glenwild Ave

#652 Cybelle Guerrero Block 7 Lot 17 291 Macopin Road

#656 Glenn Kramer Block 75.01 Lt 5 28 Ridge Road

### **BILLS**

*Anthony Sartori – Retainer for January \$600, Meeting attendance 1/14/14 \$450, Meeting attendance 1/16/14 \$450*

*Darmofalski- Meeting attendance 12/05/13 \$360, Meeting attendance 12/12/13 \$480,*

*\*App #655 Coviello \$240, \*App #654 Quick Chek \$600, \*App # 656 Kramer \$600,*

*\*Delford Gardens(water line) \$120*

*North Jersey Media- Legal ad 2014 calendar \$45.21, Legal ad Resolution App #653*

*Gerber \$36.49*

*NJPO- 2014 Membership Dues \$360*

*(\*Escrow)*

Motion made by Comm. Greenberg, 2<sup>nd</sup> by Comm. Crum to pay bills as listed. Voice vote shows 11-0 in favor.

### **PUBLIC DISCUSSION**

Motion made by Comm. Croop, 2<sup>nd</sup> by Comm. Luccio to open meeting to public discussion. Voice vote shows all in favor.

Motion made by Comm. Greenberg, 2<sup>nd</sup> by Comm. Luccio to close meeting to public discussion. Voice vote shows all in favor.

### **ADJOURNMENT**

Motion made by Comm. Luccio, 2<sup>nd</sup> by Comm. Steenstra to adjourn meeting at 9:21pm. Voice vote shows all in favor.

Respectfully submitted,

Barbara Neinstedt, Secretary  
Bloomingtondale Planning Board

1 BOROUGH OF BLOOMINGDALE STENOGRAPHIC.  
2 PLANNING BOARD TRANSCRIPT OF  
3 REGULAR MEETING PROCEEDINGS  
4 101 Hamburg Turnpike  
5 Bloomingdale, New Jersey  
6 Thursday, January 16, 2014  
7 Commencing at 7:36 p.m.

8 - - - - -X

9 IN RE: :  
10 APPLICATION NO. 654 :  
11 QUICK CHEK CORPORATION, :  
12 Applicant. :  
13 Block 30.01 Lots 32, 33, and 34  
14 132 Hamburg Turnpike,

15 - - - - -X

16 B E F O R E:  
17 EDWARD SIMONI, CHAIRMAN  
18 MARK CRUM  
19 JAMES W. CROOP  
20 KEN FIORETTI  
21 BILL GRAF  
22 BARRY GREENBERG  
23 ROBERT LIPPI  
24 KEVIN LUCCIO  
25 RICHARD MUREK  
BILL STEENSTRA  
ROBERT VOORMAN  
Anthony Sartoni, Esquire, Board Attorney  
Thomas Boorady, Engineering Consultant  
Barbara Neinstedt, Board Secretary

26 TRANSCRIBED BY AND BEFORE:  
27 ToniAnn Acquaro, Professional Court Reporter, and Notary  
28 Public of the State of New Jersey.

29 Job No. 1787986

<div>Page 2</div> <div>1 APPEARANCES:</div> <div>2</div> <div>3 AZRAK &amp; ASSOCIATES, LLP</div> <div>4</div> <div>5 Counsel for the Applicant Quick Chek Corporation</div> <div>6</div> <div>7 627 Turnpike</div> <div>8 Pompton Plains, New Jersey 07444</div> <div>9 BY: FREDERIC F. AZRAK, ESQUIRE</div> <div>10 (973) 839-9062</div> <div>11 frederic@azraklaw.com</div> <div>12 and</div> <div>13 WOLFGANG ROBINSON, ESQUIRE</div> <div>14 wolfgang@azraklaw.com</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 4</div> <div>1</div> <div>2</div> <div>3</div> <div>4 MS. NEINSTEDT: Let's get on with Application</div> <div>5 No. 654, Quick Chek Corporation.</div> <div>6 Once again, let the professionals present their</div> <div>7 application. Try not to interrupt them. I know</div> <div>8 sometimes it's difficult. Unless if you see something</div> <div>9 glaring or you feel that something was missed in prior</div> <div>10 testimony, let's try not to go backwards too much, if</div> <div>11 your satisfied, and try to stay focussed on the</div> <div>12 testimony given here tonight.</div> <div>13 Mr. Azarak?</div> <div>14 MR. AZRAK: Thank you very much, Mr.</div> <div>15 Chairman.</div> <div>16 Happy New Year to the entire Board. We</div> <div>17 appreciate your time again in scheduling these meetings.</div> <div>18 Frederic F. Azrak, A-z-r-a-k, Azrak and</div> <div>19 Associates representing Quick Chek.</div> <div>20 Tonight we have some revisions that we have</div> <div>21 proposed based on comments by the Board, your engineer.</div> <div>22 And we would like to do that very quickly and show you</div> <div>23 what we have done in order to meet those comments. And</div> <div>24 I would like to do that with Mr. Olivo, who has already</div> <div>25 been sworn in at the last meeting and finished his</div>
<div>Page 3</div> <div>1 INDEX:</div> <div>2</div> <div>3 EXPERT WITNESS PAGE</div> <div>4 CHARLES OLIVO, PE, Stonefield Engineering 5</div> <div>5 THOMAS TREWEEKE 13</div> <div>6 JOHN MCDONOUGH, PP, Licensed Planner 19</div> <div>7 PUBLIC COMMENT</div> <div>8 RICHARD FOURNIER 47</div> <div>9</div> <div>10 EXHIBITS:</div> <div>11 APPLICANT'S DESCRIPTION PAGE</div> <div>12 Exhibit 18 Revised Site Plan, dated 6</div> <div>13 January 2, 2014</div> <div>14 Exhibit 19 Curriculum vitae of John 19</div> <div>15 McDonough, PP</div> <div>16 Exhibit 20 Three-pages of color 23</div> <div>17 photographs</div> <div>18 (Exhibits retained.)</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 5</div> <div>1 testimony, just to bring him up because most of the</div> <div>2 changes are related to traffic.</div> <div>3 MR. SARTONI: Mr. Olivo, will you come</div> <div>4 forward, sir?</div> <div>5 Mr. Olivo, will you state your full name and</div> <div>6 spell your last name for the record?</div> <div>7 THE WITNESS: Certainly. Good evening, Mr.</div> <div>8 Chairman, members of the Board. Charles Olivo, O-l-i-v</div> <div>9 as in Victor -o.</div> <div>10 MR. SARTONI: And your address for the</div> <div>11 record, sir?</div> <div>12 THE WITNESS: 75 Orient Way, Rutherford New</div> <div>13 Jersey.</div> <div>14 MR. SARTONI: You were previously sworn; is</div> <div>15 that correct?</div> <div>16 THE WITNESS: That is correct.</div> <div>17 MR. SARTONI: And you recognize that you</div> <div>18 remain under oath.</div> <div>19 THE WITNESS: I do.</div> <div>20 MR. AZRAK: May I proceed?</div> <div>21 MR. SARTONI: Yes.</div> <div>22 EXAMINATION BY MR. AZRAK:</div> <div>23 Q. Mr. Olivo, there have been recommendations</div> <div>24 that were made and issues that were presented at the</div> <div>25 prior two meetings. We have now revised the plan and</div>

<p style="text-align: right;">Page 6</p> <p>1 incorporated those and if you would just review very 2 quickly with the board those issues that we have 3 revised. 4 A. Certainly. These are new exhibits so I 5 marked those for the record. 6 MR. SARTONI: Are we on Exhibit 18; is that 7 correct? 8 MS. NEINSTEDT: It's 18. 9 MR. AZRAK: Just for the record, there is one 10 B exhibit and there is A1 through 17. 11 MR. SARTONI: Sir, you will mark that as A18 12 with today's date, Please. 13 (Applicant's Exhibit 18 marked for 14 Identification.) 15 MR. SARTONI: Mr. Olivo, while that is being 16 done, for the benefit of the public that may or may not 17 have been here previously, you were qualified in this 18 proceeding to testify in connection with traffic 19 matters; is that correct? 20 THE WITNESS: Yes, that is correct. 21 MR. SARTONI: You were testifying as a 22 traffic engineer on behalf of the applicant. 23 THE WITNESS: Yes. 24 MR. SARTONI: Go ahead, sir. 25 THE WITNESS: Referring to Exhibit A18, this</p>	<p style="text-align: right;">Page 8</p> <p>1 like it, it will supercede. 2 MR. SARTONI: Thank you. 3 THE WITNESS: What I will do, I will start 4 with the bottom left of the exhibit and I will work 5 essentially counterclockwise through some of the changes 6 that have been made. 7 The first change is located on the driveway along 8 Bailey Avenue. There was conversation about making the 9 movement, a right-turn movement to exit the site and 10 continue on Bailey Avenue better in terms of 11 accommodating vehicle traffic. What we have done is 12 modified what was originally a straight curb to provide 13 a radius there of 10 feet to guide a vehicle out of the 14 site onto Bailey Avenue. 15 As you move northerly on Bailey Avenue, the next 16 change to this plan, there are two signs proposed 17 located on either side of the ingress-only driveway into 18 the loading area. And those two signs, each sign would 19 read proposed, "Delivery Vehicle Only Entrance," sign. 20 That would be on either side of the driveway, again, to 21 encourage delivery vehicles only, and have the patron 22 vehicles of the store go on to use the driveway further 23 south on Bailey Avenue. 24 In addition to that, there was discussion with 25 regard to the interface of vehicles that are exiting</p>
<p style="text-align: right;">Page 7</p> <p>1 is a colorized version of the revised site plan which 2 has been provided within the Board's application set. 3 And this is, again, the version showing the changes that 4 have been made since the last time we were here. There 5 was some discourse about some modifications that would 6 create better maneuverability on the site, as well as 7 accommodate parking for the self storage. 8 So what I will do is start at the bottom left -- 9 MR. SARTONI: Excuse me. Before you do that, 10 can you give us what the exhibit is labeled and can you 11 give us the date? 12 THE WITNESS: Yes. The exhibit is entitled 13 "Site Plan" with the last revision date of January 2, 14 2014. 15 MR. SARTONI: Prepared by? 16 THE WITNESS: Prepared by Bohler Engineering. 17 MR. SARTONI: Is this replacing a previous 18 exhibit in this proceeding? 19 THE WITNESS: It would be. The previous 20 exhibit was A8, and that, again, was a colorized version 21 of the site plan prepared by Bohler Engineering. 22 MR. SARTONI: Mr. Azrak, does A18 supercede 23 A8? 24 MR. AZRAK: For our application, our 25 presentation, yes. For the Board, depending on how you</p>	<p style="text-align: right;">Page 9</p> <p>1 that aisle past the loading zone into the area of the 2 gas canopy and near the B&amp;T Self Storage. 3 And what we have done as part of the 4 modification, working with Bohler Engineering, is extend 5 and formalize the area with a stop bar, very clear 6 pavement markings that channelize a vehicle into that 7 area. What that allows is for the driver's eye to 8 extend past that dumpster enclosure area. So it 9 essentially opens up that view shed to allow for 10 vehicles to recognize one another in that area of the 11 site. 12 Just to the north of that, in the area of the 13 self storage, there have been two stalls striped, 14 approximately 9 feet by 30 feet for U-Haul vehicles to 15 park in that area. And, again, that is just to the, 16 what I will call the north of the landscaped area and 17 property line separating the Quick Chek property and the 18 self storage property. 19 Moving just to the east of that, there are now 20 two parking stalls proposed outside of the area which 21 has been shown at 600 square feet of office for the self 22 storage facility, one ADA stall with an accessible 23 space, and the ADA route shown into a flat landing area, 24 and then into a doorway with signage proposed that 25 identifies that building -- or that space as the office</p>

<p style="text-align: right;">Page 10</p> <p>1 for the self storage. So one ADA stall and one regular 2 parking stall in that area.</p> <p>3 And those are essentially the changes made from 4 the last hearing to this hearing.</p> <p>5 MR. AZRAK: Thank you. I have no further 6 questions.</p> <p>7 Mr. Chairman, I would ask, we have submitted this 8 to your board engineer, and these were recommendations 9 that were worked on together. I don't know if it's 10 appropriate at this point to find out if there are any 11 other things that need to be addressed in that before I 12 move to my next witness.</p> <p>13 MS. NEINSTEDT: The next thing I was going to 14 do was ask Mr. Boorady and any of the board members if 15 they had any questions.</p> <p>16 MR. AZRAK: I appreciate it. Thank you.</p> <p>17 CHAIRMAN SIMONI: Mr. Boorady, first.</p> <p>18 MR. BOORADY: Yeah, I think this plan is a 19 big improvement. It does reflect what we have talked 20 about. I only have one minor comment, and that's if you 21 throw your eyes to the dimension that says "10 foot 22 arc."</p> <p>23 CHAIRMAN SIMONI: Why don't you have Mr. 24 Olivo point it out for everybody?</p> <p>25 MR. BOORADY: Right, that is the Bailey</p>	<p style="text-align: right;">Page 12</p> <p>1 piece of property and half on the another?</p> <p>2 MR. AZRAK: I could address that very 3 quickly. That is going to be part of the cross easement 4 access, so that will be a condition that will be 5 approved by your board attorney when we submit that. 6 That is why I haven't submitted it up to now, because we 7 are making changes. So I want one document to go in.</p> <p>8 MR. BOORADY: If it helps to reenforce that, 9 the borough code permits what you are proposing. It is 10 Section 92-22, off-site facilities. It allows for 11 off-site parking within 1500 feet of a site so it is 12 actually permitted and encouraged by the code to share 13 parking facility.</p> <p>14 MR. GREENBERG: So three commissioners' 15 parking spaces are off site.</p> <p>16 MR. SARTONI: I think the commissioner's 17 comment is well taken. And I think Mr. Azrak has stated 18 it will be covered in connection with the cross easement 19 agreement. I think we are fine with that.</p> <p>20 MS. NEINSTEDT: Does anybody down here have 21 any questions?</p> <p>22 MR. CROOP: Just for the parking, that is all 23 striping, that isn't curbing there in front of the B&amp;T 24 office?</p> <p>25 THE WITNESS: That will be thermoplastic</p>
<p style="text-align: right;">Page 11</p> <p>1 Avenue entrance and exit that exists today that is going 2 to be improved. And the 10 foot radius to the curb line 3 extends over the crosswalk, which might be an ADA 4 barrier, so it could have been just a drafting item, but 5 I would like to maybe stop that curb, so that the 6 sidewalk can continue on.</p> <p>7 THE WITNESS: We should be able to 8 accommodate that.</p> <p>9 MR. BOORADY: I just want to make sure 10 somebody walking from Hamburg Turnpike north or from 11 Bailey Avenue south towards Hamburg Turnpike can cross 12 the driveway and not have any barriers. It's just an 13 ADA traffic thing.</p> <p>14 Other than that, I think it reflects what my 15 concerns were and I have no other questions or comments.</p> <p>16 MR. SARTONI: Mr. Azrak, can you stipulate on 17 behalf of the applicant that that change would be made 18 if the plan were to be approved?</p> <p>19 MR. AZRAK: Yes. I have already looked at 20 the staff and everyone and we will change that.</p> <p>21 MR. GREENBERG: I just have one question 22 probably for our engineer.</p> <p>23 Is there any issue that arises from the fact that 24 the handicapped space and the additional parking space 25 that is provided for the storage unit is half on one</p>	<p style="text-align: right;">Page 13</p> <p>1 striping.</p> <p>2 CHAIRMAN SIMONI: Any other questions from 3 this side of the panel?</p> <p>4 Okay. Mr. Azrak, can you bring in the next 5 witness?</p> <p>6 MR. SARTONI: I need a motion to open it to 7 the public.</p> <p>8 MR. STEENSTRA: So moved.</p> <p>9 MR. GREENBERG: Second.</p> <p>10 CHAIRMAN SIMONI: Anybody from the public 11 wishing to come up and ask Mr. Olivo any questions on 12 what he just presented?</p> <p>13 Seeing no one wishing to come up.</p> <p>14 MR. STEENSTRA: I make a motion to close.</p> <p>15 MR. GREENBERG: Second.</p> <p>16 MS. NEINSTEDT: All in favor all.</p> <p>17 BOARD MEMBERS: Aye.</p> <p>18 MR. AZRAK: Our next witness will be Mr. 19 Treweeke from B&amp;T Storage.</p> <p>20 T H O M A S T R E W E E K E, after having 21 been duly sworn, was examined and testified as follows: 22 MR. SARTONI: Would you state your full name 23 and spell your last name?</p> <p>24 THE WITNESS: Thomas Treweeke, 25 T-r-e-w-e-e-k-e.</p>

<p style="text-align: right;">Page 14</p> <p>1 MR. SARTONI: And your address for the</p> <p>2 record?</p> <p>3 THE WITNESS: 126 Hamburg Turnpike.</p> <p>4 MR. SARTONI: That's Bloomingdale?</p> <p>5 THE WITNESS: Bloomingdale.</p> <p>6 EXAMINATION BY MR. AZRAK:</p> <p>7 Q. Mr. Treweeke, you are the owner of B&amp;T</p> <p>8 Storage; is that correct?</p> <p>9 A. Yes, I am.</p> <p>10 Q. And you operate B&amp;T Storage personally, it's</p> <p>11 your business?</p> <p>12 A. Yes.</p> <p>13 Q. As a component to that, there is also a</p> <p>14 U-Haul --</p> <p>15 A. Franchise.</p> <p>16 Q. -- business and franchise?</p> <p>17 A. Yes.</p> <p>18 Q. How long have you been running the U-Haul?</p> <p>19 A. U-Haul, about 15 years.</p> <p>20 Q. There used to be, correct me if I'm wrong, a</p> <p>21 moving company that used to operate years ago?</p> <p>22 A. Yes.</p> <p>23 Q. And that has ceased operating; is that</p> <p>24 correct?</p> <p>25 A. Yes. About five years ago.</p>	<p style="text-align: right;">Page 16</p> <p>1 comments about the easement agreements that are going to</p> <p>2 be put in place for your customers to come through the</p> <p>3 main entrance, the driveway from Hamburg Turnpike --</p> <p>4 A. Yes, I have.</p> <p>5 Q. -- is that correct?</p> <p>6 A. Yes, I have. Correct.</p> <p>7 Q. You also, have you not, reviewed the site</p> <p>8 plan and the amendments that were just presented here</p> <p>9 tonight?</p> <p>10 A. Yes, I have.</p> <p>11 Q. Are you in agreement with the ones that</p> <p>12 affect you?</p> <p>13 A. Yes.</p> <p>14 Q. And with regard to the number of people, how</p> <p>15 many people will come on your site, do you think, on a</p> <p>16 daily basis?</p> <p>17 A. I would say ten to fifteen.</p> <p>18 Q. And that is over a course of?</p> <p>19 A. Seven in the morning to nine at night.</p> <p>20 Q. Alright. And employees, you're an employee</p> <p>21 of the business --</p> <p>22 A. My wife and I.</p> <p>23 Q. -- your wife and yourself?</p> <p>24 Are you there full time or --</p> <p>25 A. Nine to one every day but Sunday.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. As a result of that ceasing operations, how</p> <p>2 has the traffic, has it increased or decreased?</p> <p>3 A. It's decreased.</p> <p>4 Q. As part of your business with B&amp;T Self</p> <p>5 Storage, people rent these storage units; is that</p> <p>6 correct?</p> <p>7 A. Yes, they do.</p> <p>8 Q. And how do they pay for this, by the way?</p> <p>9 A. Most of them today pay auto pay. It comes</p> <p>10 out of their checking account or credit card.</p> <p>11 Q. So they are not coming to make payments?</p> <p>12 A. At one time we had many people come in to</p> <p>13 make payments, but not anymore.</p> <p>14 MR. SARTONI: Sir, if you would, would you</p> <p>15 just move that microphone close to you and please speak</p> <p>16 into the microphone? Can you repeat your last response?</p> <p>17 THE WITNESS: Most of our payments are now</p> <p>18 done by auto pay so people don't have to come in. It's</p> <p>19 now taken out of the their checking account or their</p> <p>20 credit card.</p> <p>21 Q. Have you been attending each one of the</p> <p>22 meetings, the last two and -- obviously, this one, but</p> <p>23 the last two?</p> <p>24 A. Yes, I have.</p> <p>25 Q. And during that time, you've heard the</p>	<p style="text-align: right;">Page 17</p> <p>1 MR. AZRAK: And that's all the questions I</p> <p>2 have for Mr. Treweeke.</p> <p>3 MS. NEINSTEDT: Thank you, Mr. Azrak.</p> <p>4 Start at this end. Anybody on the board have any</p> <p>5 questions for Mr. Treweeke?</p> <p>6 Thank you.</p> <p>7 MR. GREENBERG: I do. I have just a couple</p> <p>8 questions.</p> <p>9 The U-Hauls that are there are mainly for the</p> <p>10 people who are renting the units to transport stuff to</p> <p>11 your facility?</p> <p>12 THE WITNESS: I would say fifty-fifty.</p> <p>13 MR. GREENBERG: And I see there is parking</p> <p>14 there for two units or two U-Haul trailers or whatever</p> <p>15 they are, trucks.</p> <p>16 THE WITNESS: Yes.</p> <p>17 MR. GREENBERG: What is to stop you from</p> <p>18 extending the U-Haul business and having fifteen trucks</p> <p>19 and no place to park them? Is that your intention?</p> <p>20 THE WITNESS: No, it's not. If anything, it</p> <p>21 has been going in the other direction. They have been</p> <p>22 transferring trucks to people on the highway. We have</p> <p>23 had fewer trucks over the years than we have had before.</p> <p>24 MR. GREENBERG: I'm just looking at this.</p> <p>25 There is not a lot of room to park there.</p>

<p style="text-align: right;">Page 18</p> <p>1 THE WITNESS: We have had a lot of vehicles  2 on that property over the years. We used to run a  3 moving business. We don't anymore.  4 MS. NEINSTEDT: Any other questions from the  5 Board members?  6 MR. SARTONI: May I?  7 CHAIRMAN SIMONI: Yes.  8 MR. SARTONI: Is B&amp;T Self Storage, is that a  9 corporate entity? Is that a corporation?  10 THE WITNESS: It's T. Treweeke Incorporated,  11 trading as B&amp;T Self Storage.  12 MR. SARTONI: I'm sorry, so it is your -- T.  13 Treweeke, you said?  14 THE WITNESS: Incorporated.  15 MR. SARTONI: Who are the principals or the  16 owner of that corporation?  17 THE WITNESS: Myself and my wife.  18 MR. SARTONI: And the U-Haul, you call it the  19 U-Haul business, is that part of the same operation or  20 is it a separate entity?  21 THE WITNESS: No. Well, we don't own U-Haul.  22 MR. SARTONI: You are a franchisee?  23 THE WITNESS: Yeah.  24 MR. SARTONI: You are a franchisee?  25 THE WITNESS: Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 been duly sworn, was examined and testified as follows:  2 MR. SARTONI: State your full name and spell  3 your last name for the record.  4 THE WITNESS: Hello, my name is John  5 McDonough. That is M-c- capital D-o-n-o-u-g-h.  6 Q. And your address for the record, sir?  7 A. My address is 101 Gibraltar Drive, Morris  8 Plains, New Jersey.  9 MR. SARTONI: You are representing, to short  10 circuit this because we have some familiarity with Mr.  11 McDonough, you are representing Mr. McDonough as a  12 licensed professional planner to present professional  13 planner testimony, sir?  14 MR. AZRAK: I am.  15 MR. SARTONI: You will be presenting  16 professional planning testimony, sir?  17 THE WITNESS: That is correct.  18 MR. AZRAK: I will just let him identify it.  19 EXAMINATION BY MR. AZRAK:  20 Q. This is your curriculum vitae; is that  21 correct?  22 A. Yes, it is correct.  23 Q. And this is marked as A19?  24 A. Yes.  25 MR. SARTONI: Mr. McDonough, you were</p>
<p style="text-align: right;">Page 19</p> <p>1 MR. SARTONI: And it's yourself and your wife  2 that operate that also?  3 THE WITNESS: Yeah.  4 MR. SARTONI: I have nothing further.  5 MS. NEINSTEDT: Seeing no one else on the  6 Board wishing to ask questions, I need a motion to open  7 to the public.  8 MR. STEENSTRA: So moved.  9 MR. CRUM: Second.  10 CHAIRMAN SIMONI: Anyone in the public  11 wishing to come forward to ask Mr. Treweeke questions  12 about the testimony.  13 Seeing no one come forward, I need a motion to  14 close.  15 MR. CROOP: So moved.  16 MR. CRUM: Second.  17 CHAIRMAN SIMONI: All in favor?  18 BOARD MEMBERS: Aye.  19 MR. AZRAK: My last witness, Mr. Chairman,  20 will be John McDonough, our professional planner.  21 And while he is setting up, I would like to mark  22 as A19 his curriculum vitae.  23 (Applicant's Exhibit 19 marked for  24 Identification.)  25 JOHN MCDONOUGH, after having</p>	<p style="text-align: right;">Page 21</p> <p>1 recently qualified before this Board as an expert  2 witness in the field of professional planning; is that  3 correct, sir?  4 THE WITNESS: Yes, I was.  5 MR. SARTONI: And at that time, you set forth  6 on this record that, of course, you were licensed in the  7 State of New Jersey.  8 THE WITNESS: That is correct. License  9 remains valid and in good standing.  10 MR. SARTONI: I was going to say that that  11 license remains in full force and effect?  12 THE WITNESS: It does.  13 CHAIRMAN SIMONI: I was beginning to think he  14 was a board member.  15 MR. AZRAK: Now your posture just qualifies  16 you. That's good. I like that, Mr. Chairman.  17 Q. Mr. McDonough, you were hired by Quick Chek  18 to review the site plan and the proposed application; is  19 that correct?  20 A. Yes, I was.  21 Q. And would you please describe to the Board  22 your methodology and what you do?  23 A. Absolutely. What we do is take a look at  24 existing conditions, proposed conditions, and then, of  25 course, the zoning criteria that apply to the property</p>



<p style="text-align: right;">Page 22</p> <p>1 in question. To the extent that the applicant is  2 seeking site plan approval and subdivision approval  3 here, along with variance relief, we apply the statutory  4 criteria towards that relief that the applicant is  5 seeking.  6 What I would like to do is start with a look back  7 at the property in question, and the surrounding area.  8 We heard a lot of testimony about the particulars of the  9 site itself. And certainly when we are dealing with a  10 variance situation, neighborhood compatibility is a key  11 part of that test. So, the photographs that I show will  12 help to photo document my findings with respect to the  13 neighborhood and the site itself.  14 I have another handout. I think we need another  15 sticker.  16 MR. AZRAK: We would like to mark that, Mr.  17 Chairman, as A20.  18 THE WITNESS: And, Mr. Chairman, for the  19 record, A20 is going to be a three part exhibit. It's  20 going to be 11-by-17 in size. Each board member will  21 get a copy. We stapled together three sheets. The  22 first page will be an aerial photograph, the second and  23 third sheets are ground photographs that were actually  24 taken by myself.  25 Who gets the sticker copy?</p>	<p style="text-align: right;">Page 24</p> <p>1 district, we are here in the B1 and we abut the R10  2 district as we work our way back onto Bailey Avenue. So  3 that does trigger some zoning relief that the applicant  4 will need. Again, essentially a function of an existing  5 condition, with respect to the location of the driveways  6 and the buffer along that common boundary line. And we  7 will elaborate on that as we go.  8 But the property itself is a huge lot with  9 respect to your zoning here in town. And that is  10 important from a planning standpoint as we look at  11 things such as signage, and bulk criteria as we go  12 forward. It is 21 times the zoning requirement, so it's  13 conceivable that this site could be subdivided 21 ways  14 for commercial uses, which is an important thing, again,  15 to consider as we look at the signage package and the  16 components that the applicant is proposing here.  17 We have somewhat of a hodgepodge of uses along  18 the property. We have the Quick Chek on the lower  19 left-hand corner, which has actually been there for  20 forty years. We've got the auto garage. We've got the  21 storage facility, which you can see transitioning to the  22 back, as well.  23 And we do show the proposed subdivision line  24 also, which triggers another somewhat interesting  25 variance to the extent that we are creating a lot that</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. SARTONI: I do.  2 MS. NEINSTEDT: Mr. McDonough, would there be  3 an extra copy for Mr. Fioretti?  4 MR. SARTONI: I need an extra copy from you,  5 also.  6 Mr. Fioretti is seated right in the first row.  7 (Applicant's Exhibit 20 marked for  8 Identification.)  9 Q. Please continue.  10 A. So A20, again, we will start with the first  11 page which is an aerial photograph that was downloaded  12 from the Bing website. For orientation purposes, north  13 will be straight up. What we have done is we outlined  14 the property in question with yellow, we added some  15 labels as well, which I will explain.  16 But we can see that we are here in the south end  17 of town, near the Butler border. We have Hamburg  18 Turnpike as the main thoroughfare in this particular  19 photograph. And we can see that at this junction along  20 Hamburg Turnpike, we've got a number of businesses, that  21 are concentrated.  22 As we work our way to the north, we start to  23 transition to more residential-type uses, as we work our  24 way on to Bailey Avenue.  25 Now, the site is at the junction of a business</p>	<p style="text-align: right;">Page 25</p> <p>1 does not front on the public street. And that is a  2 requirement that comes directly out of the land use law.  3 It is somewhat of a unique control in the land use law  4 and it's a variance that we call a planning variance,  5 because it comes right out of the statute and not out of  6 a municipal ordinance. We will elaborate on the  7 jurisdiction for that, as well, as we go forward.  8 In terms of the site itself and what is proposed  9 here, we are going to unify the hodgepodge of uses,  10 particularly along the front of the property with a  11 single concentrated use. Again, I will refer back to  12 A10, which is the board on the easel to the right, that  13 this is going to project a nice unified image of the  14 site, certainly in comparison to what you will see in  15 the surrounding photographs as we go onto the next page.  16 On Page 2, in the upper left-hand corner is a  17 view of the existing Quick Chek store to be renovated.  18 Again, bearing in mind, this is something that is now  19 40 years old in your community, certainly being upgraded  20 by virtue of the facelift that the applicant is  21 proposing here and the improvements associated with it.  22 Frame No. 2, we have transitioned over to the  23 self storage office in the front of the site, that is to  24 be removed. Also, interestingly, associated with the  25 Quick Chek facility is a cleaning facility, as well, a</p>

7 (Pages 22 - 25)

<p style="text-align: right;">Page 26</p> <p>1 dry cleaner facility, that is going to be eliminated --  2 not a dry cleaner, a laundromat that is going to be  3 eliminated, as well. So that is another upgrade at the  4 site that eliminates this hodgepodge that we are talking  5 about.  6 Frame No. 3, we see a view of the existing  7 garage. That is to be removed and then associated with  8 the garage, we got the storage area in the front for  9 repair vehicles as part of the inventory of vehicles  10 waiting for maintenance. We have got some signage  11 associated with the front of the site, and the uses that  12 are there now. We are going to improve that package, as  13 well, as you will see when we talk about the site  14 upgrades.  15 Frames 5, 6, 7, and 8 give us a sense of the  16 surrounding neighborhood context.  17 Frame No. 5, looking over on the other side of  18 Hamburg Turnpike, we have a sheet metal facility, we  19 have a tavern restaurant, a contractor facility.  20 Frame No. 6, panning to the right of the prior  21 view, we can see an auto parts business on the other  22 side of Hamburg Turnpike.  23 And in Frame No. 7, as we transition further  24 along the turnpike, we see that we have a liquor store,  25 before finally transitioning over to Bailey Avenue where</p>	<p style="text-align: right;">Page 28</p> <p>1 I'm sorry, from the intersection of Hamburg Turnpike and  2 Bailey Avenue.  3 So those are existing offsets that the applicant  4 is simply looking to utilize those driveways for the  5 convenience store and gas station access and egress for  6 this particular facility.  7 Hand and hand with that we do have that planning  8 variance, which is the Section 35 variance to allow for  9 a lot that does not front on a public street.  10 Importantly, access is provided, and we will elaborate  11 on that, but that is really the purpose behind that  12 clause in the statute to have properties fronting on a  13 street is so that emergency vehicles can access them.  14 That access has always been there and will be there as  15 part of the cross easement agreement that you heard Mr.  16 Azrak talk about moments ago.  17 Additionally, besides the planning variance and  18 the D variance, we've got a C variance for the buffer to  19 the residential district; 10 feet is the separation that  20 is required. Zero feet is what is existing; zero feet  21 is what is proposed.  22 There is also a parking variance, I believe a  23 remnant parking variance. As a result of the new  24 ordinance, 22-2013. We eliminated a number of variances  25 including the quantity, 32 spaces are being provided</p>
<p style="text-align: right;">Page 27</p> <p>1 we have got that residential component.  2 And interestingly, the buffering that you see in  3 the right-hand portion of the photograph is going to  4 remain as proposed under this development. So that  5 protection will stay in place. Notwithstanding the fact  6 that from an analytical standpoint, we have a zero-foot  7 buffer between the subject property and the adjacent  8 property. And again, that is an existing condition that  9 is not being altered.  10 That's the background upon which we frame our  11 conclusions. We also have a nice foundation of  12 testimony from experts that have gone before me.  13 When we are dealing with the relief that the  14 applicant is seeking for here, the focus is going to be  15 more on the deviations under the conditional use  16 standard, as opposed to the use itself. The first form  17 of relief that the applicant will be seeking from your  18 B1 zone is, in fact, a conditional use variance.  19 And that's a D3 variance under the statute, to  20 allow the two driveways that come off of Bailey Avenue  21 essentially to remain in their present configuration,  22 which are nonconforming with respect to the requirement  23 for a gasoline station. And that would be 25 feet -- or  24 less than 25 feet from the residential buffer, or the  25 R10 buffer on Bailey Avenue and less than 25 -- 50 feet,</p>	<p style="text-align: right;">Page 29</p> <p>1 which now conforms with the ordinance, and the stall  2 size meets the ordinance requirement of 9-by-18, but we  3 do have some stalls that have a bollard in there, I  4 don't know if it has been resolved to the extent that we  5 have determined, but I will put proofs in that regard as  6 to maintaining a bollard within that 9-by-18 space.  7 Additionally, we need a number of signage  8 variances that are essentially a function of the use we  9 have here as a gas station, which does require price  10 indicators. Under the statute, those price indicators  11 are required for this type of a land use. That does  12 trigger some area-related variances and height-related  13 variances associated with that signage package.  14 Specifically, just to run down the relief  15 associated with each: The Quick Chek sign is 20 feet  16 tall, it's allowed to be 18 feet tall under the  17 ordinance. The B&amp;T sign is going to be 12 feet high,  18 whereas 10 feet is what is allowed under the ordinance.  19 The logo for Quick Chek is going to be 43.3 square feet,  20 whereas, 12 square feet is what is allowed under the  21 ordinance. The area for the B&amp;T Storage is 20 feet,  22 whereas, 12 is allowed. And then, finally, the fueling  23 area panel is going to be 76.6 square feet versus 24  24 square feet. Those are all related to the free standing  25 signs.</p>

<p style="text-align: right;">Page 30</p> <p>1 With respect to the wall mounted signs, we have a  2 couple of variances, as well. The Quick Chek area in  3 aggregate is 104.3 square feet versus 70 feet allowed  4 under the ordinance. B&amp;T is looking for relief to allow  5 for 56 square feet, whereas, 49 square feet is allowed  6 under the ordinance. And the height of each sign is  7 slightly over the allowance for wall signs. Quick Chek  8 is going to be 4.6 feet versus 3 feet. And the B&amp;T is  9 3.5 feet versus 2 feet.</p> <p>10 Lastly, the canopies. We are looking to maintain  11 canopy signage on three sides given the three points of  12 visibility. Only one canopy sign is allowed under the  13 ordinance and the aggregate area would equate to 22.6  14 square feet, whereas 9 is allowed under the ordinance.</p> <p>15 That is the relief package that the applicant is  16 seeking. We will start first and foremost with the D3  17 variance that I look for justifications under the  18 Coventry Standard. Again, when we point out that the  19 use, per se, is not at issue here, but it's purely the  20 deviations related to the driveway locations being less  21 than the offsets required under the ordinance.</p> <p>22 And, typically, what the case law tells us here  23 is to focus on the problems that may be associated with  24 those deviations. One of which, I believe, has already  25 been addressed relates to privacy. And the fact that</p>	<p style="text-align: right;">Page 32</p> <p>1 without detriment in your community. That Quick Chek  2 has been there, and I think there is real-world proof  3 that it can exist without detriment.</p> <p>4 In terms of the positive criteria, I see a  5 connection with Purpose A under the statute, the  6 promotion of the general welfare. Again, what we are  7 looking at here is a customary cohabitation of a  8 convenience sales, a retail sales, and a fuel sales use.  9 It goes back to the time of the general stores having  10 fuel pumps in the front. This is the modern or  11 contemporary version of that. And it is certainly what  12 I would call on par with a neighborhood commercial type  13 of use located along a collective roadway in your  14 community, so it serves both the motoring public and the  15 local public, as well. And in that regard it is  16 certainly promoting Purpose A, promotion of the general  17 welfare.</p> <p>18 Essentially, what Quick Chek is looking to do  19 here is what 80 percent of its competitors do and that  20 is to have a convenience store with a fuel service  21 component tied to it. That's case here in the United  22 States where 80 percent of the gas does come from  23 C-store combinations.</p> <p>24 Other purposes that we looked at, is Purpose I,  25 promotion of the desirable visual environment. Again,</p>
<p style="text-align: right;">Page 31</p> <p>1 there is no physical change between what you have now  2 and what you will have under the proposal and again,  3 pointing back to the visual where you saw that nice  4 healthy row of evergreens maintaining the divide between  5 the driveways and the subject proposal.</p> <p>6 In terms of noise, again, no physical change  7 between what is there now.</p> <p>8 Glare is also a consideration with respect to the  9 driveway locations and the offsets, but you've heard the  10 testimony that the applicant the going to provide lights  11 with the cutoff associated with the fixtures and the  12 shielding that will provide for no spillage onto the  13 adjoining properties. So that is dealt with as well.</p> <p>14 In terms of neighborhood character and the impact  15 of having these driveways where they are located, this  16 is a site that is zoned for activity, and as I look  17 under the requirements of the B1 district, this is a  18 zone that would permit or allow for 46 different types  19 of land uses here. So it is certainly an area that  20 contemplates some form of activity. The applicant, in  21 my opinion, is not proposing anything above and beyond  22 what may be delivered here, particularly if the property  23 were subdivided in a number of ways.</p> <p>24 In terms of the zone itself, this is a  25 long-standing conditional use that has co-existed</p>	<p style="text-align: right;">Page 33</p> <p>1 moving the site more into harmony with both the  2 neighborhood behind it and that commercial corridor  3 along Hamburg Turnpike. We are looking at consolidation  4 of uses and certainly a cleaner architecture. You heard  5 through Mr. Cahill's testimony about over 140 plants  6 being pulled onto the site. So we have an architectural  7 improvement here, a landscape architectural improvement  8 as well. And that promotes a desirable visual  9 environment.</p> <p>10 We also see the advancement of Purpose M, the  11 efficient use of land. The two uses, again, cohabitate  12 very well. It takes about three minutes to fuel up,  13 about three minutes to run into a convenience store, get  14 your basic items and leave. So there is certainly an  15 economy of scale associated with this addition to this  16 business.</p> <p>17 Lastly, Purpose G is the provision for a variety  18 of uses in appropriate locations. I think we certainly  19 meet particularly suitability here by virtue of the fact  20 that that convenience store is already there, and we are  21 located along the prime corridor in your community.  22 That is the positive criteria.</p> <p>23 The negative criteria, I believe we addressed  24 with those specific problems that may be associated with  25 the use. To the extent that from a conclusion</p>

<p style="text-align: right;">Page 34</p> <p>1 standpoint in terms of the use, I see no substantial  2 detriment in terms of public health, in terms of refuse  3 generation, waste generation, air pollution, water  4 pollution and the like. Certainly no substantial  5 detriment in terms of public safety.</p> <p>6 You heard a lot of testimony through Mr. Olivo  7 with respect to the traffic movements. And I think the  8 board asked good questions that have been addressed. It  9 was the response to your engineer's comments about the  10 B&amp;T in the back, as well. I think that has evolved to  11 the extent that the entirety of the site will operate  12 safely and efficiently.</p> <p>13 So public safety, public health, public welfare  14 have all been addressed by this applicant as part of the  15 foundation that has gone before me.</p> <p>16 In terms of your zone plan and ordinance, I see  17 no substantial impairment to the 1996 Master Plan, the  18 reexamination that came in 2001, and 2007. In fact, I  19 see these improvements on par with the goals to, quote,  20 increase tax revenues, quote, create stable environments  21 with a balanced mix of land uses, quote, and lastly,  22 quote, enhance the appearance of commercial areas,  23 unquote, as goals in your master plan.</p> <p>24 The master plan certainly recognizes the retail  25 sector as a largest job generator in the borough,</p>	<p style="text-align: right;">Page 36</p> <p>1 like. That is something that has existed with the  2 property since its inception, access to the rear for  3 those storage facilities will continue as part of this  4 application. And the fact that the frontage is being  5 cut off has no bearing whatsoever on the functionality  6 of this site and the access to the site.</p> <p>7 In fact, the access is going to be improved, by  8 the opening of what was formally the loading zone, which  9 is now presently closed off to the extent that we do  10 have improved access to the back of the property, as  11 well. So I see that as a benefit towards the Section 35  12 relief also. So from a functionality standpoint, we are  13 actually improving access to the rear of the site.</p> <p>14 The D3 variance I dealt with, the planning  15 variance, the C variance.</p> <p>16 And, lastly, in terms of the sign package, what I  17 will do is let Exhibit A10 speak for itself, that the  18 sign package as a whole relates to the use as a whole,  19 provides for clear and safe identification of the site  20 from multiple vantage points.</p> <p>21 You can certainly see that the signs that are  22 proposed, both on the building, the canopy, and the  23 free-standing sign are in harmony, they are on scale  24 with the massive scale of the site itself. These signs  25 are not going to appear overbearing, notwithstanding the</p>
<p style="text-align: right;">Page 35</p> <p>1 particularly for youth and encourages the vast  2 utilization of what may well be underutilized sites.</p> <p>3 All said, from a use standpoint, I think the  4 statutory criteria under the Coventry standard are met.</p> <p>5 The bulk variances sort of file in line with  6 that. The fact that we have a parking stall that does  7 has a bollard associated with it, is typical with an  8 industry standard. That bollard is set all the way back  9 to the extent that it will not interfere with the  10 vehicle extending out into the aisle or interfere with  11 circulation. Certainly it is something we commonly see  12 in the industry and I think holding the benefits of the  13 application as a whole, weighing them against any  14 detriments, the balancing test under the C2 standard is  15 easily met here.</p> <p>16 In terms of the planning variance, the statute  17 provides under Section 35 that every lot must front on a  18 public street. To gain relief from that aspect, we have  19 Section 36, which specifically says that the board may  20 grant relief if the circumstances of the case do not  21 require the structure to be related to a street. And,  22 in particular, the board of adjustment can direct the  23 issuance of a permit subject to conditions that will  24 provide for adequate access for emergency vehicles,  25 including firefighting equipment, ambulances, and the</p>	<p style="text-align: right;">Page 37</p> <p>1 fact that they are larger than the ordinance  2 requirements. And, again, bearing in mind that we are  3 looking at a consolidation of uses here. We are taking  4 a very large site and limiting it to just a few signs on  5 it. I believe that the master plan contemplates more  6 signage at this location by virtue of the fact that  7 there can be more lots and more businesses located along  8 it.</p> <p>9 So I will fold the signage relief with the  10 benefits outweighing the detriments pulling down the  11 benefits of the application as a whole and the need for  12 clear and safe identification of the site as a  13 justification.</p> <p>14 I believe I have run down all the list of  15 variances, the C's, the D's, and the planning variance.  16 In a nutshell, I think this is a good application from a  17 planning standpoint. I think it meets the statutory  18 criteria. All of the relief that the applicant is  19 seeking can be met. Clearly variances can be granted  20 without substantial detriment to the public good or  21 without substantial impairment to the zone plan and  22 ordinance.</p> <p>23 That's the end of my direct.</p> <p>24 Q. One last question. You were here when Mr.  25 Cahill testified as to those variances, as well?</p>

10 (Pages 34 - 37)

<p style="text-align: right;">Page 38</p> <p>1 A. Yes.</p> <p>2 Q. Do you agree with his analysis and</p> <p>3 incorporate that, as well?</p> <p>4 A. I do. It's refreshing to have a foundation</p> <p>5 below me when I give my planning proofs and I do rest</p> <p>6 upon those proofs that have come before me.</p> <p>7 MR. AZRAK: I have no further questions.</p> <p>8 CHAIRMAN SIMONI: Thank you, Mr. McDonough.</p> <p>9 Mr. Lippi?</p> <p>10 MR. LIPPI: How long has this garage been</p> <p>11 there?</p> <p>12 THE WITNESS: I don't know the answer to</p> <p>13 that.</p> <p>14 MR. STEENSTRA: It's been this a long time.</p> <p>15 I think the building was rebuilt sometime in the '60s.</p> <p>16 MR. CROOP: There was an addition put on and</p> <p>17 they rebuilt it in the mid '70s.</p> <p>18 MR. LIPPI: As a repair facility?</p> <p>19 MR. CROOP: Yes.</p> <p>20 MR. LIPPI: Has anything been addressed as to</p> <p>21 any hazmat that may or may not be on that property?</p> <p>22 THE WITNESS: I believe there has been.</p> <p>23 MR. CROOP: That was strictly only ever a</p> <p>24 repair shop.</p> <p>25 MR. LIPPI: We don't know what is in the</p>	<p style="text-align: right;">Page 40</p> <p>1 already.</p> <p>2 MR. GREENBERG: Okay. But it's not on your</p> <p>3 property.</p> <p>4 THE WITNESS: I didn't say that it was.</p> <p>5 MR. GRAF: Mr. McDonough, not to rehash the</p> <p>6 testimony about what Mr. Cahill discussed at our last</p> <p>7 meeting; however, will you give your thoughts on why the</p> <p>8 outside seating has to be in the area where it is? And</p> <p>9 why the applicant could not suggest moving it to</p> <p>10 somewhere else away from Bailey Avenue?</p> <p>11 Just to summarize, and I'm sure perhaps you</p> <p>12 remember, some of the discussion at the last meeting and</p> <p>13 previous meetings were the great potential for being a</p> <p>14 public nuisance there, especially to the residents of</p> <p>15 Bailey Avenue. Not to repeat the whole thing, but is</p> <p>16 there anyplace else on that site where you can see where</p> <p>17 that outside seating could be placed?</p> <p>18 THE WITNESS: What I like about the location</p> <p>19 is that it is tucked in the corner. It is certainly</p> <p>20 what I would call a defensible space, as opposed to an</p> <p>21 area that may be hidden on the property. Planners like</p> <p>22 to talk about exposed defensible spaces, where activity</p> <p>23 can be seen.</p> <p>24 If this becomes a problem area, it is certainly</p> <p>25 there within the public view. And we have eyes on the</p>
<p style="text-align: right;">Page 39</p> <p>1 ground. I didn't get to read every single bit of it,</p> <p>2 but I am not actually part of the voting. But being in</p> <p>3 the automotive business my whole life, things happen.</p> <p>4 I, just for the safety and welfare of people that will</p> <p>5 be there, I think that that could be an issue when you</p> <p>6 tear down a building.</p> <p>7 MR. AZRAK: If I could just respond to that.</p> <p>8 I was told by my client that all our due diligence has</p> <p>9 been completed on the environmental. We have about</p> <p>10 \$200,000 of environment cleanup that will be completed.</p> <p>11 That is our responsibility and that will be done.</p> <p>12 MR. LIPPI: Okay. I just thought that would</p> <p>13 be interesting, that's all. It's important in this day</p> <p>14 and age.</p> <p>15 MR. AZRAK: Absolutely. We agree.</p> <p>16 CHAIRMAN SIMONI: Any other questions from</p> <p>17 the Board?</p> <p>18 MR. GREENBERG: I have one question. On Page</p> <p>19 3 you have that picture and you are showing the</p> <p>20 residential buffer that is going to remain. That is not</p> <p>21 on your property, correct?</p> <p>22 THE WITNESS: Right.</p> <p>23 MR. GREENBERG: So it's nice that you are not</p> <p>24 taking down somebody else's plants.</p> <p>25 THE WITNESS: That is an aspect that is there</p>	<p style="text-align: right;">Page 41</p> <p>1 street that can observe that. Again, you also know that</p> <p>2 Quick Chek has a number of security cameras on the</p> <p>3 property to monitor the activity on the site. And, as</p> <p>4 stated, it's in Quick Chek's interest to maintain a</p> <p>5 viable crime-free site. We are not looking for nuisance</p> <p>6 activity on the site whatsoever?</p> <p>7 So, for those reasons, I think it's certainly an</p> <p>8 appropriate location. It provides for convenience</p> <p>9 seating. It doesn't interfere with the operation of the</p> <p>10 site. It makes good use of what is otherwise somewhat</p> <p>11 of an unusual shape, a triangular shape. But I think it</p> <p>12 is put to good functional use. It's relatively small</p> <p>13 scale, too.</p> <p>14 MR. GRAF: In that the applicant, even based</p> <p>15 on our last meeting, the applicant has made no effort</p> <p>16 whatsoever to even suggest moving it elsewhere, I</p> <p>17 understand that is where you folks want to keep it, you</p> <p>18 kind of made that very clear.</p> <p>19 However, in my mind, it does present a real</p> <p>20 potential for public nuisance to the residents</p> <p>21 especially on Bailey Avenue. And my view would be that</p> <p>22 one should find another place for it on the site. For</p> <p>23 instance, perhaps near the entrance to the store where</p> <p>24 it can be more properly monitored, if that becomes</p> <p>25 necessary, from the folks that are running the store.</p>

11 (Pages 38 - 41)

<p style="text-align: right;">Page 42</p> <p>1 So, anyway, that is just my view.</p> <p>2 THE WITNESS: Thank you.</p> <p>3 MR. AZRAK: If I may just quickly comment. I</p> <p>4 think the record supports Mr. Cahill's testimony as to</p> <p>5 placing that somewhere else was problematic for the</p> <p>6 traffic, for the parking. So, I don't think that it's</p> <p>7 correct to say that Quick Chek refuses to do it.</p> <p>8 MR. GRAF: I don't think we ever heard</p> <p>9 anything from Mr. Cahill in regard to why it couldn't be</p> <p>10 moved, sir.</p> <p>11 MR. AZRAK: And the record, obviously, is</p> <p>12 there. My recollection of the record was that, that we</p> <p>13 were looking at other areas on the other side of the</p> <p>14 building and that interfered with the parking and would,</p> <p>15 obviously, impact on the driveway space. So it was a</p> <p>16 little bit of that, and that is part of the reason, if I</p> <p>17 might say, it was there.</p> <p>18 CHAIRMAN SIMONI: Thank you, Mr. Azrak.</p> <p>19 Any other questions from the Board.</p> <p>20 MR. CRUM: Excuse me. I know everybody has</p> <p>21 talked about the seating. What if you removed it</p> <p>22 completely rather than trying to find another place and</p> <p>23 that eliminates any opportunity for loitering or</p> <p>24 problems of that nature?</p> <p>25 You are a convenience store where you are going</p>	<p style="text-align: right;">Page 44</p> <p>1 I can tell you.</p> <p>2 CHAIRMAN SIMONI: I think that maybe I'm</p> <p>3 making it simplistic, but I believe if there is a</p> <p>4 problem with the seating, it's bad for business and</p> <p>5 Quick Chek will take care of it.</p> <p>6 MR. AZRAK: I appreciate that comment and on</p> <p>7 top of that we stipulated to a Title 39. So I mean, if</p> <p>8 for some reason we are not doing our due diligence and</p> <p>9 maintaining our store, which we maintain all stores,</p> <p>10 that's why it's a great facility. We always have the</p> <p>11 police issue. We are not encouraging; we will take care</p> <p>12 of it ourselves, I just wanted that to be part of the</p> <p>13 record.</p> <p>14 CHAIRMAN SIMONI: Any other questions?</p> <p>15 MR. SARTONI: Just for the record, Title 39</p> <p>16 is the motor vehicle code, which allows the police to be</p> <p>17 on the site, but not to suggest that they are going to</p> <p>18 be policing, to use that terminology, people that will</p> <p>19 be seated out there.</p> <p>20 MR. STEENSTRA: Can I ask the engineer --</p> <p>21 MR. BOORADY: Just real quick. There is no</p> <p>22 seating inside?</p> <p>23 MR. AZRAK: No, there is not. Not in this</p> <p>24 facility. We felt we were not going to request that,</p> <p>25 but in all of our other facilities we do have inside</p>
<p style="text-align: right;">Page 43</p> <p>1 to have a lot of customers coming and going. There is</p> <p>2 not going to be a need for a lot of people to be hanging</p> <p>3 around outside sitting down. They are coming and going.</p> <p>4 So why not just remove it and make it easier, rather</p> <p>5 than have this conversation, well, if you do it this way</p> <p>6 or that way; take it out.</p> <p>7 MR. AZRAK: I hear you. I can only respond</p> <p>8 by saying that all of the Quick Chek applications have</p> <p>9 these components both inside and outside. And we found</p> <p>10 no problems in any of the new stores that have been</p> <p>11 opened since the seating has been permitted. And we</p> <p>12 find that the customers actually look forward to it</p> <p>13 because it's just part of the convenience that they look</p> <p>14 for in Quick Chek. So all I can tell you is we've never</p> <p>15 had a problem with it before.</p> <p>16 I think Mr. Cahill testified as to the cameras.</p> <p>17 We put extras based on the comments that Mr. Graf had in</p> <p>18 one of the meetings. We put an extra camera in that</p> <p>19 areas, and he testified to that as well. The number of</p> <p>20 cameras and the surveillance, the fact that we have a</p> <p>21 manager on site twenty-four/seven with outside people,</p> <p>22 with the gas, so there are people outside monitoring</p> <p>23 this. There are people inside monitoring it. And we</p> <p>24 feel that if that were a problematic issue with Quick</p> <p>25 Chek, Dean Durling would not put up with it; that's all</p>	<p style="text-align: right;">Page 45</p> <p>1 seating.</p> <p>2 MR. BOORADY: But you do not in this</p> <p>3 facility?</p> <p>4 MR. AZRAK: No.</p> <p>5 MR. STEENSTRA: Mr. Boorady, you may not know</p> <p>6 the answer to this question, maybe you do, but I think</p> <p>7 someone in the room probably does. You just built a new</p> <p>8 facility down by William Paterson College.</p> <p>9 MR. AZRAK: Yes, we did. I actually handled</p> <p>10 that application.</p> <p>11 MR. STEENSTRA: And that has outdoor seating?</p> <p>12 MR. AZRAK: Yes, it does.</p> <p>13 MR. STEENSTRA: With all of the college</p> <p>14 students, has there been any problem there?</p> <p>15 MR. AZRAK: No.</p> <p>16 MR. SARTONI: Just so the record is clear,</p> <p>17 Mr. Azrak, you are stipulating there will be no inside</p> <p>18 seating?</p> <p>19 MR. AZRAK: That's correct. And it would</p> <p>20 show on the plan if we were presenting that.</p> <p>21 CHAIRMAN SIMONI: One last time, any other</p> <p>22 questions?</p> <p>23 Seeing everybody on the Board satisfied, I need a</p> <p>24 motion to open to the public.</p> <p>25 MR. GREENBERG: So moved.</p>

<p style="text-align: right;">Page 46</p> <p>1 MR. LUCCIO: Second.</p> <p>2 THE WITNESS: All in favor?</p> <p>3 BOARD MEMBERS: Aye.</p> <p>4 CHAIRMAN SIMONI: Is there anyone in the</p> <p>5 public wishing to come forward to question Mr. McDonough</p> <p>6 on the presentation he has just given?</p> <p>7 Seeing no one wishing to come forward from the</p> <p>8 public, I need a motion to close the public portion.</p> <p>9 MR. CRUM: So moved.</p> <p>10 MR. LUCCIO: Second.</p> <p>11 CHAIRMAN SIMONI: Second Mr. Luccio.</p> <p>12 All in favor?</p> <p>13 BOARD MEMBERS: Aye.</p> <p>14 MR. AZRAK: Prior to giving a very short</p> <p>15 summary of what has transpired here at the last three</p> <p>16 meetings, I first want to make sure for the record that</p> <p>17 all of our exhibits have been move into evidence. I</p> <p>18 know that we have been identifying them, but I just to</p> <p>19 make sure that is clear and that there are no objections</p> <p>20 to that.</p> <p>21 And when it's appropriate I would like to make</p> <p>22 some comments and summarize.</p> <p>23 MR. SARTONI: You need to open it to public</p> <p>24 discussion.</p> <p>25 CHAIRMAN SIMONI: I need a motion to open the</p>	<p style="text-align: right;">Page 48</p> <p>1 that correct?</p> <p>2 MR. FOURNIER: Yes.</p> <p>3 CHAIRMAN SIMONI: Please be seated and make</p> <p>4 yourself as comfortable as possible. Just move that</p> <p>5 microphone as close as you can.</p> <p>6 MR. FOURNIER: I just had a couple of quick</p> <p>7 questions. I live basically across the street from the</p> <p>8 site and I was just wondering is this going to be,</p> <p>9 during commuter hours, is there going to be a tremendous</p> <p>10 amount of traffic now, because it is pretty crowded as</p> <p>11 it is. It's a little bit of the concern, not to mention</p> <p>12 the fact that there is going to be a gas station built</p> <p>13 across the street from me with all the signs and</p> <p>14 everything.</p> <p>15 For the record, Bloomingdale has not been able to</p> <p>16 support four gas stations over the years. There has</p> <p>17 been two or three service stations that have just closed</p> <p>18 down because of lack of people going there. I just</p> <p>19 thought it would be a better site to be located like on</p> <p>20 a highway, like Route 23 or so, not quite so local.</p> <p>21 And I just had a few concerns like that. I don't</p> <p>22 know if they all have been covered.</p> <p>23 CHAIRMAN SIMONI: Mr. Azrak, would you like</p> <p>24 to ask questions?</p> <p>25 MR. AZRAK: I have no questions of this</p>
<p style="text-align: right;">Page 47</p> <p>1 public comment.</p> <p>2 MR. GREENBERG: So moved.</p> <p>3 MR. CRUM: Second.</p> <p>4 CHAIRMAN SIMONI: All in favor?</p> <p>5 BOARD MEMBERS: Aye.</p> <p>6 MS. NEINSTEDT: Once again, anyone in the</p> <p>7 public looking to come forward for any comments for the</p> <p>8 Quick Chek application, please come forward.</p> <p>9 MR. FOURNIER: I guess I would.</p> <p>10 CHAIRMAN SIMONI: Okay.</p> <p>11 MR. FOURNIER: I just have a couple quick</p> <p>12 questions. I'm not accustomed to public speaking.</p> <p>13 MR. SARTONI: Do you have a comment</p> <p>14 concerning this application, sir?</p> <p>15 MR. FOURNIER: I live across the street.</p> <p>16 RICHARD FOURNIER, after having</p> <p>17 been duly sworn, was examined and testified as follows:</p> <p>18 MR. SARTONI: State your full name and spell</p> <p>19 your last name for the record.</p> <p>20 MR. FOURNIER: My name is Richard Fournier,</p> <p>21 F-o-u-r-n-i-e-r.</p> <p>22 MR. SARTONI: And your address for the</p> <p>23 record, sir?</p> <p>24 MR. FOURNIER: 119 Hamburg Turnpike.</p> <p>25 MR. SARTONI: That's here in Bloomingdale; is</p>	<p style="text-align: right;">Page 49</p> <p>1 witness except to, I don't know if you were around when</p> <p>2 the traffic expert testified, but he covered all of</p> <p>3 those areas and concerns as to the number of cars that</p> <p>4 would be traveling through this area and how they would</p> <p>5 travel.</p> <p>6 MR. FOURNIER: You may say that you don't</p> <p>7 think it will increase the traffic flow, but I would</p> <p>8 think that would be the whole idea of putting the</p> <p>9 service station there.</p> <p>10 And just to get back to the picnic table, that</p> <p>11 will probably be used for people to smoke, because we</p> <p>12 always go for walks around there and that people always</p> <p>13 hang out there, smoking their cigarettes.</p> <p>14 MR. AZRAK: I have no questions of this</p> <p>15 witness. I appreciate his comments.</p> <p>16 MR. CROOP: Mr. Fournier, if I may, I happen</p> <p>17 to work at 129 Hamburg Turnpike so I watched this store</p> <p>18 every day for the last four or five years. And I</p> <p>19 personally don't believe the additional traffic will be</p> <p>20 anything more. Actually, it may be improved from what</p> <p>21 we see in the morning, because, obviously, you know the</p> <p>22 Quick Chek driveway right now, you know how it comes out</p> <p>23 and they back up. I'm sure you hear the horns blowing</p> <p>24 just like I do.</p> <p>25 MR. FOURNIER: There have been a few</p>

<p style="text-align: right;">Page 50</p> <p>1 accidents over the years.</p> <p>2 MR. CROOP: But with them moving the driveway</p> <p>3 back to where the B&amp;T entrance is away from the</p> <p>4 building, it was testified to, it is really going to</p> <p>5 improve the traffic flow because now everybody will be</p> <p>6 able to get into the lot and find a place to park, plus</p> <p>7 they are adding like another ten spots. So I think that</p> <p>8 is really going to improve.</p> <p>9 THE WITNESS: The Quick Chek alone has always</p> <p>10 been very busy. And it's a wonderful store, but the</p> <p>11 fact of having a gas station across the street.</p> <p>12 MR. CROOP: As to your comment, I have worked</p> <p>13 in the automotive field in Bloomingdale since 1975. And</p> <p>14 most of the gas stations or repair shops that have moved</p> <p>15 on or stopped selling gas, it generally was not for lack</p> <p>16 of business. It was generally more to environmental</p> <p>17 concerns, landlord concerns, because I was involved, not</p> <p>18 directly with them, but I knew all the players in town</p> <p>19 at all the times. And like I said, for most of them it</p> <p>20 wasn't --</p> <p>21 THE WITNESS: Them closing for lack of</p> <p>22 business.</p> <p>23 MR. CROOP: -- lack of business.</p> <p>24 I am giving you the benefit of my experience.</p> <p>25 MR. FOURNIER: It was a little disconcerting</p>	<p style="text-align: right;">Page 52</p> <p>1 everything that we've asked for, that is a pleasure and</p> <p>2 that comes from experience of 38 years, being all over</p> <p>3 and finding secretaries and attorneys and engineers that</p> <p>4 sometimes don't have those abilities. So Bloomingdale</p> <p>5 has that. I would like to thank them personally on</p> <p>6 behalf of Quick Chek.</p> <p>7 Quick Chek has been part of your town, as you</p> <p>8 know, for 40 years. They believe in Bloomingdale,</p> <p>9 that's the reason for the application that we filed.</p> <p>10 They could have closed the store and moved elsewhere,</p> <p>11 but they believe in the borough.</p> <p>12 We believe that this proposal has shown that it</p> <p>13 will rejuvenate older stores, consolidate, beautify</p> <p>14 older sites. We are removing varied cars, trucks, other</p> <p>15 uses as our planner has testified to and unifying those.</p> <p>16 We are corrected loading and parking issues, we are</p> <p>17 adding detention. We are adding a CDS unit, which now</p> <p>18 will clean the water, which is not presently on the</p> <p>19 site. We are adding more employment opportunities to</p> <p>20 the borough. We encourage that to be within the</p> <p>21 borough, because then people know the people who are</p> <p>22 being serviced. We are encouraging one-stop shopping.</p> <p>23 We are adding services, expanding the C-store and all of</p> <p>24 our services within the convenience store and adding a</p> <p>25 gas component.</p>
<p style="text-align: right;">Page 51</p> <p>1 all of a sudden having a gas station directly across the</p> <p>2 street from you.</p> <p>3 MR. CROOP: Absolutely. Understandable.</p> <p>4 MR. FOURNIER: Thank you for your time.</p> <p>5 CHAIRMAN SIMONI: Anyone else wishing to come</p> <p>6 forward for public comment?</p> <p>7 Seeing no one else wishing to come forward, I</p> <p>8 need a motion to close the public comment.</p> <p>9 MR. GREENBERG: So moved.</p> <p>10 MR. LUCCIO: Second.</p> <p>11 CHAIRMAN SIMONI: All in favor?</p> <p>12 BOARD MEMBERS: Aye.</p> <p>13 CHAIRMAN SIMONI: Mr. Azrak?</p> <p>14 MR. AZRAK: Thank you. I would just like to</p> <p>15 first start off thanking the Board for your attention</p> <p>16 and patience and your questions and your concerns. I</p> <p>17 think ultimately it has now evolved into a really nice</p> <p>18 site that the town can be proud of.</p> <p>19 I would also like to thank the Board</p> <p>20 professionals, both your attorney and your engineer.</p> <p>21 And very importantly we would like to thank your</p> <p>22 secretary. It's nice to come into a town, and I can</p> <p>23 tell you we are all over New Jersey and New York, to</p> <p>24 come into a town and have the reception, your questions</p> <p>25 answered on a timely basis, very competent responses to</p>	<p style="text-align: right;">Page 53</p> <p>1 We are increasing the tax base, although you</p> <p>2 can't use that to vote on it, although let's be real and</p> <p>3 serious about bringing the use and improving it does</p> <p>4 have that capacity. So we can't forget that.</p> <p>5 We have, through our professionals, shown the</p> <p>6 proposed renovations, submitted the proofs necessary on</p> <p>7 the subdivision, the site plan, conditional use</p> <p>8 variance, bulk variance, the planning variance.</p> <p>9 And I would like to close with this: That Dean</p> <p>10 Durling and Quick Chek made a commitment 40 years ago to</p> <p>11 the borough and tonight we are asking that you also</p> <p>12 recommit to us by approving this application.</p> <p>13 We thank you very much.</p> <p>14 MR. SARTONI: Thank you, Mr. Azrak.</p> <p>15 CHAIRMAN SIMONI: It's that time for every</p> <p>16 application that I ask for a motion for this application</p> <p>17 as to whether to approve or not.</p> <p>18 MR. STEENSTRA: Mr. Chairman, I make a motion</p> <p>19 to approve Application No. 654 with the amendments that</p> <p>20 have been stated on the record in the last meetings.</p> <p>21 MR. GRAF: I'll second that, Mr. Chairman.</p> <p>22 CHAIRMAN SIMONI: Any discussion?</p> <p>23 With that, we will need a roll call vote to</p> <p>24 approve Application No. 654.</p> <p>25 MS. NEINSTEDT: Commissioner Croop?</p>



<p style="text-align: right;">Page 54</p> <p>1 MR. CROOP: Yes.</p> <p>2 MS. NEINSTEDT: Crum?</p> <p>3 MR. CRUM: Yes.</p> <p>4 MS. NEINSTEDT: Graf?</p> <p>5 MR. GRAF: Yes.</p> <p>6 MS. NEINSTEDT: Greenberg?</p> <p>7 MR. GREENBERG: Before I vote, I just want to</p> <p>8 say I had an issue here with their creating a landlocked</p> <p>9 piece of property in the back, which it goes against</p> <p>10 everything in my brain to do that. But that being said,</p> <p>11 I think what we are doing is approving the site as much</p> <p>12 as -- when a gas station comes in, granted it's a gas</p> <p>13 station plus a convenience store and that's an</p> <p>14 improvement, I think that is a major improvement to the</p> <p>15 site. So I think the pluses that are going into effect</p> <p>16 here far outweigh the negatives, so for that reason I am</p> <p>17 very happy to approve this.</p> <p>18 MS. NEINSTEDT: Luccio?</p> <p>19 MR. LUCCIO: Yes.</p> <p>20 MS. NEINSTEDT: Steenstra?</p> <p>21 MR. STEENSTRA: Yes.</p> <p>22 MS. NEINSTEDT: And Simoni?</p> <p>23 CHAIRMAN SIMONI: Absolutely, yes.</p> <p>24 MS. NEINSTEDT: The motion carries.</p> <p>25 MR. CROOP: Mr. Chairman, when I came in here</p>	<p style="text-align: right;">Page 56</p> <p>1 I like to say. I guess I've sat here, probably one of the</p> <p>2 senior members of time sitting here and it's been a</p> <p>3 pleasure to deal with you. You have presented your</p> <p>4 case, all of you, very well. I know it gets contentious</p> <p>5 at times, I am sure you do, too, but we are beyond that.</p> <p>6 Thank you.</p> <p>7 CHAIRMAN SIMONI: Very well presented</p> <p>8 application.</p> <p>9 MR. SARTONI: Mr. Azrak, if I can impose on</p> <p>10 you to get to exhibits to us. If I can see you for just</p> <p>11 a second?</p> <p>12 Let's take a ten minute recess.</p> <p>13 (Hearing concluded 8:54 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 55</p> <p>1 tonight, I just want to comment that Mr. Greenberg's</p> <p>2 statement is probably almost what I was going to say.</p> <p>3 When I walked into the room, I said, I hope their</p> <p>4 planner is on their A game tonight, and Mr. McDonough</p> <p>5 did a tremendous job in his presentation that I didn't</p> <p>6 even feel the need to ask him questions.</p> <p>7 MR. AZRAK: I know he prompted you to say</p> <p>8 that. He has a client here.</p> <p>9 MR. CROOP: No, he didn't.</p> <p>10 CHAIRMAN SIMONI: It is my hope that this</p> <p>11 development of this Quick Chek facility is the catalyst</p> <p>12 of that entire corridor that starts moving things along.</p> <p>13 It is a beautiful plan. No plan is ever perfect. But</p> <p>14 Quick Chek has been in the neighborhood, like you said,</p> <p>15 for 40 years, and we wish you a lot of luck.</p> <p>16 MR. AZRAK: We thank you very much.</p> <p>17 MS. NEINSTEDT: I would like to make a</p> <p>18 comment. That picture has been sitting in my office</p> <p>19 with all the other exhibits and it happened to be the</p> <p>20 one right in front. And many people that were just</p> <p>21 coming to the office said: Wow, that is really nice.</p> <p>22 So we are going to hang it on the wall.</p> <p>23 MR. AZRAK: We thank you very much. We</p> <p>24 appreciate your time.</p> <p>25 MR. STEENSTRA: Just one more thing I would</p>	<p style="text-align: right;">Page 57</p> <p>1 CERTIFICATION</p> <p>2</p> <p>3 STATE OF NEW YORK )</p> <p>4 : ss:</p> <p>5 COUNTY OF NEW YORK )</p> <p>6 I, TONIANN ACQUARO, a Notary Public for</p> <p>7 and within the State of New York, do hereby certify:</p> <p>8 That the witness whose examination is</p> <p>9 hereinbefore set forth was duly sworn and that such</p> <p>10 examination is a true record of the testimony given by</p> <p>11 that witness.</p> <p>12 I further certify that I am not related</p> <p>13 to any of the parties to this action by blood or by</p> <p>14 marriage and that I am in no way interested in the</p> <p>15 outcome of this matter.</p> <p>16 IN WITNESS WHEREOF, I have hereunto set</p> <p>17 my hand this 16th day of January, 2014.</p> <p>18</p> <p>19</p> <p>20 ToniAnn Acquaro,</p> <p>21 Professional Court Reporter</p> <p>22 and New York State Notary, 01AC6200255</p> <p>23 My Commission Expires January 26, 2017</p> <p>24 (The foregoing certification of this transcript does not</p> <p>25 apply to any reproduction of the same by any means,</p> <p>unless under the direct control and/or supervision of</p> <p>the certifying reporter.)</p>