

**MINUTES OF A REGULAR MEETING  
OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF THOMASTON  
June 18, 2018**

The Board of Trustees met on Monday, June 18, 2018 at the Village Hall, 100 East Shore Road, Great Neck, New York at 7:30 p.m..

**Present:** Mayor Steven Weinberg, Deputy Mayor James Sharkey, Trustee Jill Monoson, Trustee To-on Pang, and Trustee Burton Weston

**Absent:** None

The Mayor opened the meeting at 7:31 p.m.

**Public Hearing on Application of 661 Northern Associates, LLC for an Incentive Zoning Permit**

The Mayor opened the public hearing on the application of 661 Northern Associates, LLC for and Incentive Use Permit for the property located at 661 Northern Boulevard and also known as Section 2, Block 140 Lot 793 in the OB District. Wayne Edwards, Esq. of Sahn Ward & Coschignano, PLLC and David Mammima, R.A. of H2M Architects + Engineers presented the application on behalf of 661 Northern Associates, LLC pursuant to Village Code §203-70.3, to use the subject property, for the retail sale and service of pre-owned automobiles. Andrew Weinstock, Principal Member of 661 Northern Associates, LLC was also present. The Nassau County Planning Commission had reviewed the application and, having no objections or modifications with respect to the application, recommended that the Board take such action as the Board deems appropriate. The minutes of the public hearing were transcribed stenographically, and are on file as part of the minutes of this meeting. There was a period of questions and comments from the Board. After all interested persons were heard, the public hearing was closed and the Board discussed the application.

**RESOLUTION 18-55**

Upon motion of Trustee Monoson, seconded by Trustee Weston, and unanimously approved, the following resolution was adopted:

WHEREAS, 661 Northern Associates LLC heretofore made application to the Board of Trustees for incentives and bonuses as permitted by Village Code §203-70.3, and for site plan approval, with respect to property in the OB Zoning District, and known as 661 Northern Boulevard, also known as Section 2, Block 140, Lot 793 on the Nassau County Tax Map (the "Premises"), as reflected in Case No. 96-20iz), and

WHEREAS, the Board of Trustees of the Village of Thomaston heretofore held a public hearing with respect to such application, as required by law, and

WHEREAS, the Board of Trustees has reviewed various documents in support of this application, including the following documents (which are collectively referred to herein as the "Plans"):

"Biener Audi, Pre-Owned Center, 661 Northern Boulevard, Great Neck, New York 11021, Village of Thomaston, Town of North Hempstead, prepared by H2M Architects + Engineers, Project BEIN 17-01, February 2018, drawings:

G0.0, Rendering A0.1,  
Alignment & Paving Plan A1.0,  
Grading & Drainage Site Plan A1.1,  
Site Lighting Plan A1.2,  
Site Landscaping Plan A1.3,  
Floor Plan A 2.0,  
Elevations A 3.0,  
Signage Plan A 3.1,

and

WHEREAS, the Board of Trustees has heretofore issued a Negative Declaration pursuant to the State Environmental Quality Review Act with respect to the potential environmental impacts of the proposed incentives and bonuses, and the proposed use of the Premises, and

WHEREAS, the Nassau County Planning Commission has issued its Resolution 10239-18, pursuant to General Municipal Law §239-m, recommending that the Board of Trustees act on the pending application as it deems appropriate, and expressing no objections or recommending any modifications with respect to the pending application, and

WHEREAS, the Board of Trustees has held all required public hearings, and given public consideration, to the pending application, and

WHEREAS, the Board of Trustees hereby determines that approval of the application on the terms and conditions herein stated would be in the best interests of the Village, and would provide an appropriate use of the Premises, and

WHEREAS, the Board of Trustees further determines that the proposed use of the Premises pursuant to this approval would not have an adverse effect on adjoining properties nor on the character of such properties or the neighborhood, and

WHEREAS, the Board of Trustees further determines that the proposed use of the Premises would be consistent with the character of the other properties in the OB District,

NOW, THEREFORE, BE IT

RESOLVED, that the Board of Trustees hereby grants the aforesaid application for incentives and bonuses, and the aforesaid site plan application, upon the following terms and conditions herein set forth:

NOW, THEREFORE, the Board of Trustees of the Village of Thomaston finds as follows:

1. Approval of this application is in the best interests of the Village of Thomaston and its residents.
2. Approval of this application is compatible with the surrounding uses of properties, and the proposed use of the Premises would be compatible with the uses of surrounding properties and other properties in the OB District.
3. Approval of this application will not result in significant adverse environmental impacts which will result from the proposed use, nor sufficient environmental impacts to require mitigation measures other than those proposed by the applicant and/or included in this resolution.
4. Approval of this application is conditioned upon terms and conditions as will fully mitigate any adverse environmental and other impacts which may result from the use of the incentives and bonuses approved by the Board of Trustees in this application.
5. The community benefits and amenities to be provided in exchange for such incentives or bonuses have a value fairly proportionate to the value of the incentives or bonuses granted by the Board, and fairly proportionate to the value of the intrusion on the character and attributes of the community, and the impacts upon the community, caused by the increased development which would be permitted by the approval of incentives and bonuses for the Premises as requested in this application.
6. The bonuses and incentives described and requested in the application are approved in all respects, and are as follows:
  - a. The premises may be used for retail sales and service of pre-owned motor vehicles.
  - b. Waste materials from the Premises shall be stored in a manner so as to be screened from view, and to be rodent free and pest free. Removal of all waste materials from the Premises shall be provided by the owner and occupant, at their sole cost and expense, at regular intervals, and shall be conducted in a manner so as not to inconvenience surrounding property owners nor create an unsightly, unhealthy or unsafe condition, all as reasonably determined by the Village Building Inspector or the Board. Solid waste removal (including recyclable material) from the subject premises shall be provided by the owner or occupant, at the sole cost and expense of the owner and applicant.

c. The owner and occupant shall maintain the existing screening along the northerly property line of the subject premises, at the sole cost and expense of the owner and occupant, to the reasonable satisfaction of the Village Building Department.

d. The owner and occupant, at their sole cost and expense, shall maintain the sidewalk adjacent to the subject premises, and clear any ice, snow or other material therefrom promptly following the conclusion of any weather event which causes such accumulation.

e. The owner and occupant, at their sole cost and expense, shall install lighting with opaque shielding, satisfactory to the Village Building Department, to prevent light spill onto adjacent properties.

f. There shall be no test driving of vehicles on any street within the Village (other than Northern Boulevard) , except as may be authorized by resolution of the Village Board of Trustees.

g. There shall be no permanently installed automobile washing equipment on the premises.

h. No body work or painting of vehicles may be conducted at the Premises. No auto repair shall be conducted upon the Premises except within an enclosed building, and any such activity within such enclosed building may take place only during the hours of 7:30 am and 5:30 pm on Mondays through Fridays, or 8:00 am and 4:00 pm on Saturdays. There shall be no such activity on Sundays.

i. Exterior doors to the service bay, and interior doors in the detailing bays, shall be kept closed at all times, other than for ingress and egress of vehicles or personnel.

j. Roof air conditioning and other mechanical equipment shall be placed as far from adjoining residential properties as reasonably feasible, and adequate screening shall be installed to mitigate noise impacts on such residential properties, to the reasonable satisfaction of the Building Department.

k. Any trees removed or damaged during the course of construction shall be replaced in kind, to the maximum degree feasible and to the satisfaction of the Building Department.

7. No use, or construction or improvement of the Premises, pursuant to this incentive zoning approval shall commence until the Village of Thomaston, and any other agency with appropriate jurisdiction, has issued all required permits.

8. The Premises shall not be utilized for the parking or storage of trucks, commercial vehicles, or non-working or salvage motor vehicles of any kind.

9. Additional screening at the perimeter of the Premises shall be installed as may be required at the written direction of the Village Building Inspector or the Board of Trustees, to the extent that it is reasonably necessary to obscure activities at the Premises, and must be installed promptly after receipt of such written direction.

10. Except as otherwise expressly provided herein, the exterior lighting of the Premises and the facility, and the landscaping, will be only as shown on the Plans or as otherwise approved by the Board.

11. The Declarants shall comply with any and all other representations made at the public hearings by the Declarants, or its representatives, not inconsistent with the conditions of this Declaration.

12. There shall be no outdoor or exterior signage, or interior signage visible from adjacent properties, or illumination of signs, except as approved by resolution of the Board of Trustees, without a public hearing.

13. If the Village Building Inspector determines that, as a result of development or use of the Premises, erosion or water draining from the Premises is burdensome to storm water drainage installations along Northern Boulevard, or is damaging to any adjoining landowner, then the Owner and occupant shall abate such erosion or drainage to the reasonable satisfaction of the Village Building Inspector, through drywell installation or other means approved by the Village Building Inspector.

14. The owner and applicant shall reimburse the Village for professional and administrative expenses associated with the review of this Incentive Use Permit application, up to a maximum of Fifteen Thousand dollars (\$15,000.00). The Village shall provide applicant with itemized invoices for its expenses as they are incurred and payment shall be made by applicant and owner within thirty (30) days of receipt of same.

15. The applicant, or any successor in interest, shall provide payments to the Village as follows:

a. A thirty thousand dollar (\$30,000.00) payment in lieu of a community amenity and as an incentive for obtaining the Incentive Use Permit from the Village (the “Incentive Payment”), to be paid within sixty (60) days after the date of this determination, or prior to the issuance of any demolition or building permit, whichever shall first occur.

b. 661 Northern shall make a minimum payment (the “Minimum Payment”) to the Village on March 1st during each fiscal year of the Village for ten (10) years commencing March, 2019 which shall equal the excess (if any) of: (i) the result obtained (the “Base Amount” for the applicable fiscal year) when the Village tax rate for each such fiscal year is multiplied by a deemed assessed value for the Premises of \$19,491 (this deemed assessed value will be increased by 1% of the cost of any capital improvements effected to the Premises in connection with an alteration requiring a building permit from the Village), minus (ii) the amount of the real estate tax payment actually made to the Village for the Premises for the fiscal year beginning on March 1st of such year. The annual Minimum Payment will be computed as described above based on the deemed assessed value indicated above, and will not be affected if the actual assessed value of the Premises (as initially or ultimately determined by the appropriate assessing authority) differs from such deemed assessed value. Notwithstanding the foregoing, the Minimum Payment shall not be less than \$6,723.42.

c. If at any time the real estate tax payment for any fiscal year commencing on or prior to March 1, 2028 shall be either increased or decreased (including any effective decrease by way of any refund of such real estate tax payment required or offered in settlement to be paid by the Village), then the Minimum Payment for such year shall be re-computed and reconciled between Declarants, on the one hand, and the Village, on the other hand, with a reconciliation payment being made within 10 business days after any such increase or decrease.

d. If the Declarants become entitled to a refund (the “Original Refund”) with respect to any fiscal year commencing on or prior to March 1, 2029 (either because such a refund is ordered by a court or because the Declarants and the Village settle the associated certiorari proceeding or tax grievance proceeding in such manner as to require payment of a refund by the Village), then:

i. The amount of the Original Refund, exclusive of any interest thereon, will be subtracted from the amount of taxes originally paid for such fiscal year, yielding the reduced tax amount (the “Reduced Tax Amount”);

ii. The Minimum Payment for such fiscal year will be re-determined by subtracting the Reduced Tax Amount (instead of the actual taxes originally paid) from the Base Amount for such fiscal year, yielding the revised minimum payment (the “Revised Minimum Payment”);

iii. The Revised Minimum Payment will be subtracted from the Original Refund, and, if the result is greater than zero, the Village will pay this amount to the Declarants in lieu of the Original Refund (the “Revised Refund Amount”), if the result is not greater than zero, then no refund shall be paid by the Village; and

iv. If any interest is payable by the Village with respect to the Original Refund (the “Original Interest”), then the amount of interest actually payable by the Village shall not be the amount of the Original Interest, but, instead, shall be the amount known as the revised interest (the “Revised Interest”). The Revised Interest shall equal the amount of the Original Interest, multiplied by the ratio of the Revised Refund to the Original Refund.

e. As a specific example: if (i) Declarant makes a tax payment of \$8,000 to the Village for the 2017/18 fiscal year in accordance with a tax bill delivered by the Village, (ii) the Village tax rate for 2017/18 is \$35.00 per \$100 assessed value, and (iii) Declarant subsequently files a tax certiorari claim with respect to such year as a result of which the Village is ordered to refund the sum of \$1,500 (or if the Village offers to refund such sum in settlement of such claim), then the Village will make a net payment to Declarant equal to \$1,178.15. In this example, the “Base Amount” (assuming no capital improvements to the Premises) is \$6,821.85; the “Minimum Payment” as originally determined is zero; the “Original Refund” is \$1,500; the “Reduced Tax Amount” is \$6,500 [i.e. 8,000-1,500]; the “Revised Minimum Payment” is \$321.85 [i.e. \$6,821.85-\$6,500]; and the “Revised Refund Amount” is \$1,178.15 [1,500-321.85]. If interest in the amount of \$50 was owed on the Original Refund (i.e. the “Original Interest” was \$50), then the “Ratio” would be (1,178.15/1,500) and the “Revised Interest” would be \$39.27.

16. The Village shall have authority to enforce the terms and conditions of this Declaration and the Resolution. In the event of the breach or threatened breach by the Declarants of any covenant or restriction of record, the Board shall be entitled to any and all remedies available to it at law or in equity, and in the event that the Village shall incur any expense to enforce any of its rights or remedies, the cost of same, including reasonable attorneys’ fees, shall be paid by the Declarants in the event that the Village is the prevailing party. This Declaration is not intended to provide or create any remedy or enforcement authority on behalf of any person or entity other than the Village, its officers, agents, boards and agencies.

17. This Declaration shall be binding upon the Declarants and its successors and assigns, and on any future tenant or other occupant of the Premises, and shall run with the land. This Declaration, and the terms and conditions contained herein, shall be irrevocable, and may be cancelled, modified or amended only with the written consent of the Board and the Declarants. Whenever this Declaration references an obligation of the Declarants, compliance shall also be an obligation of any future owner, tenant, operator or other occupant, and their respective successors and assigns.

18. Each of the conditions stated herein is considered essential to the proper operation and use of the Premises, and should any of them be invalidated for any reason, the incentive use permit shall be null and void, and of no effect.

19. In the event of default in any payment required by this determination, this approval shall be null and void, and any permits issued pursuant hereto shall be deemed revoked upon determination of the Board of Trustees.

20. Within 60 days after the date of this determination, and before any permit shall be issued by the Village for the use or improvements permitted by this determination, the applicant and owner of the property shall record in the office of the Nassau County Clerk (at the applicant's sole cost and expense) a declaration of covenants and restrictions in a form approved by the Village Attorney prior to recording, and encompassing all conditions of this approval except those which the Village Attorney determines are not appropriate for inclusion therein. The applicant shall provide the Village with a copy of such recorded document as promptly as reasonably possible after completion of such recording.

The vote on this resolution was:	Mayor Weinberg:	Aye	Deputy Mayor Sharkey:	Aye
	Trustee Monoson:	Aye	Trustee Pang:	Aye
	Trustee Weston:	Aye		

**RESOLUTION 18-56**

Upon motion of Mayor Weinberg, seconded by Trustee Weston, and unanimously approved, the following resolution was adopted:

RESOLVED, that the Board of Trustees shall enter into executive session to obtain legal advice from the Village Attorney.

The vote on this resolution was:	Mayor Weinberg:	Aye	Deputy Mayor Sharkey:	Aye
	Trustee Monoson:	Aye	Trustee Pang:	Aye
	Trustee Weston:	Aye		

The Board convened in executive session, during which the Board took no action. Upon completion of the executive session, the Board returned to public session.

**Bids for Road Improvements (2018-01)**

The Board discussed sealed bids received for Road Improvements (2018-01)

**RESOLUTION 18-57**

Upon motion of Deputy Mayor Sharkey, seconded by Trustee Weston, and unanimously approved, the following resolution was adopted:

WHEREAS, the Village of Thomaston heretofore has duly advertised for sealed bids for Road Improvements (2018-01); and

WHEREAS, sealed bids received in response to that advertisement were duly opened June 8, 2018, and have been reviewed by Village personnel; and

WHEREAS, the total amounts of the respective bids were calculated and determined to be as follows:

Stasi Industries, Inc.	\$83,156
Stasi General Contracting LLC	\$103,201
John McGowan & Sons, Inc.	\$105,586
American Paving & Masonry Corp.	\$131,107; and

WHEREAS, the Board of Trustees has received and reviewed the submitted bids, and the information gathered by the Village personnel;

NOW, THEREFORE, BE IT

RESOLVED, that the bid submitted by Stasi Industries LLC be, and hereby is, rejected, in the best interests of the Village, on the ground that the bid is incomplete and fails to include material information which was required by the bid instructions, and which was required to be submitted prior to bid award; and it is further

RESOLVED, that the bid of Stasi General Contracting LLC be, and hereby is, accepted, in the best interests of the Village, as the lowest responsible bid substantially meeting all bid requirements; and it is further

RESOLVED, that the contract for the Village of Thomaston Road Improvements (2018-01) is awarded to Stasi General Contracting LLC, and the Mayor or his designee is authorized to execute any documents reasonably necessary to effectuate such award and proceed with the contract work.

The vote on this resolution was:	Mayor Weinberg:	Aye	Deputy Mayor Sharkey:	Aye
	Trustee Monoson:	Aye	Trustee Pang:	Aye
	Trustee Weston:	Aye		

**Adjournment**

At 8:55 p.m., there being no further business, the motion to adjourn was made by Deputy Mayor Sharkey, seconded by Trustee Monoson, and unanimously approved.

Respectfully Submitted,

Denise M. Knowland  
Village Administrator