

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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THE PROPOSED GIBBY'S PLAZA
175 TROY SCHENECTADY ROAD
RETAIL STRIP PLAZA WITH DRIVE THRU

THE TAPED AND TRANSCRIBED MINUTES of the above
entitled proceeding BY NANCY STRANG-VANDEBOGART
commencing on January 26, 2010 at 7:02 p.m. at the
Public Operations Center 347 Old Niskayuna Road,
Latham, New York 12110

BOARD MEMBERS:

- CHARLES J. O'ROURKE, CHAIRPERSON
- THOMAS NARDACCI
- PAUL ROSANO
- TIMOTHY LANE
- PETER GANNON
- MICHAEL SULLIVAN
- ELENA VAIDA
- PETER STUTO, Jr. Esq., Attorney for the Planning Board

Also present:

- Joe LaCivita, Director, Planning and Economic Development
- Kevin DeLaughter, Planning and Economic Development
- Dennis Deeb, Developer

1 CHAIRMAN O'ROURKE: First on the agenda
2 is Gibby's Plaza.

3 We're going to change the format a little
4 bit. Anybody that's been to Planning Board
5 meetings in the past - we're going to have a
6 brief summary from our Planning and Economic
7 Development Department, then we're going to
8 turn it over to the developer. After the
9 developer, if there is a town designated
10 engineer involved, they will then take the
11 floor. It will then open up to questions from
12 the board and after we're through with those
13 questions, we'll open it to the public.

14 So, that being said, Kevin can you tell
15 us a little bit about Gibby's Plaza?

16 MR. DELAUGHTER: This is a request for an
17 extension for approval. They were granted
18 January 28, 2008 for a 9,600 square foot
19 retail plaza located at 175 Troy-Schenectady
20 Road. The approval was granted on January 28th
21 and it has expired and they're asking for a
22 one year extension of that approval.

23 CHAIRMAN O'ROURKE: Developer?

24 MR. DEEB: I'm Dennis Deeb and I'm the
25 owner and developer of 175 Troy Schenectady

1 Road. I'm requesting from the Planning and
2 Economic Development of the town for an
3 extension of the approval. There has been
4 hardship in developing the property. There has
5 been challenging economic times and everybody
6 knows that. We would appreciate your patience
7 and flexibility regarding this.

8 CHAIRMAN O'ROURKE: Mr. Deeb you notified
9 the Planning Department?

10 MR. DEEB: I notified the Planning
11 Department.

12 CHAIRMAN O'ROURKE: On what date did you
13 notify -

14 MR. DEEB: Initially we sent the letter
15 to the Town of Colonie which was routed to the
16 Planning Department on September 22, 2009.

17 CHAIRMAN O'ROURKE: It says CC. Did you
18 send one to the Planning Department as well?

19 MR. DEEB: Actually it was forwarded. I
20 was the one that gave it to the Town
21 Supervisor's office. I gave it to Allison in
22 the Supervisor's office and she forwarded it
23 to the Planning Department.

24 CHAIRMAN O'ROURKE: That was in
25 September. See, here is my difficulty and

1 hopefully we can get through this. It's now
2 the 26th of January. Your approval was up on
3 the 8th. It's past the point of being able to
4 be approved.

5 MR. DEEB: I've had conversations with
6 the Supervisor's office and Mr. LaCivita.

7 CHAIRMAN O'ROURKE: And I understand that
8 and I hope that it's no fault -- I mean when
9 you work with the town developing the project,
10 who did you deal with?

11 MR. DEEB: Most of the development was by
12 the prior owner. I bought the property and the
13 owners had initially brought it through
14 concept approval and I purchased the property
15 in September of 2007. All my discussions at
16 that time were with Mike Lyons.

17 CHAIRMAN O'ROURKE: Right, your principal
18 contact would have been Mike Lyons.

19 MR. DEEB: I contacted Mike through here
20 and he advised me to send a letter to the
21 Supervisor's office. It wasn't until the end
22 of the year that I received direction on what
23 the process would be. It was obvious at that
24 point that there would be nothing left for us
25 to do.

1 CHAIRMAN O'ROURKE: Why? See, you're
2 leading me right down the main path here.

3 MR. DEEB: No, I made the contact. I did
4 everything that I had to do. I made subsequent
5 calls. I understand what you're saying. I
6 don't have a timeline prepared, but I had all
7 the documentation that I could get together -

8 CHAIRMAN O'ROURKE: Let me explain to you
9 the difficulty this board is in now. If the
10 Town Board did not adopt a resolution,
11 grandfathering in these projects, you wouldn't
12 be before us tonight. Does that make sense?

13 The development projects that went in
14 before the Land Use Law changes in 2007 had
15 been grandfathered in. Supervisor Mahan made
16 the decision for one more year to extend them
17 again. So I'm just trying to get to the facts
18 in regard to - we sent a letter on
19 September 22nd to the Supervisor of this town
20 and how it's now the 26th of January - 18 days
21 after your development -

22 MR. DEEB: I put it in your hands. I
23 would have much rather had this discussion in
24 October.

25 CHAIRMAN O'ROURKE: In regard to the

1 interest of the town, I want to find out why
2 it took four months for a letter to circulate
3 from the Supervisor's office to Planning and
4 Economic Development to get you on the
5 schedule before you're expiration date of your
6 project.

7 MR. LACIVITA: C.J., if I could interject
8 something here. You all have in your packets a
9 copy of the original letter from Mr. Deeb and
10 it looks like it was stamped in
11 September 25, 2009.

12 Shortly after him sending it to the
13 Supervisor's office September 22, 2009 and not
14 knowing that this was actually circulating
15 within the office, I received an e-mail which
16 I have here in my packet from Allison dated
17 November 12th regarding this. I then reached
18 out to Mr. Deeb and we started having
19 conversations from that point. We actually had
20 this scheduled earlier to get Mr. Deeb on in
21 the early part of January. Unfortunately there
22 were some family concerns or he had to go out
23 of the area so we made a cogniscent decision
24 together, understanding that it did lapse past
25 the provision of the time frame that Mr. Deeb

1 and I did discuss. We could have had it here
2 earlier and in a timely basis, but for him to
3 be better served I'd prefer him being here
4 than not. This board had taken actions before
5 when we didn't have presence of the developers
6 and didn't act favorably. Mr. Deeb and I did
7 have that conversation so I asked him to be
8 present possibly for this evening. So if there
9 is any delay or any reason why it went past
10 the extension time, that was a conversation
11 that I had with Mr. Deeb.

12 MS. VAIDA: I also wanted to chime in
13 here. The Land Use Law basically says, as you
14 know, that the final approval will be valid
15 for two years. Actually, it doesn't really
16 specify what the procedure is for requesting
17 an extension. It just says that it may be
18 extended for one additional period upon
19 written request.

20 In looking at the papers that were
21 submitted, the letter from Mr. Deeb is time
22 stamped or date stamped by the Planning and
23 Economic Development Department way within the
24 time period. So as far as I'm concerned, I
25 think that he did timely comply with the

1 current Land Use Law in terms of making a
2 written request for an extension.

3 MR. STUTO: The date of approval is
4 deemed to be when it's filed with the Town
5 Clerk. That may give us a little more time.
6 Anybody know when that was filed with the Town
7 Clerk?

8 Kevin, do you know?

9 MR. DELAUGHTER: I do not know.

10 CHAIRMAN O'ROURKE: Well, it's usually a
11 couple of weeks, right?

12 MR. DELAUGHTER: Typically, what's filed
13 in the Clerk's office is either a letter from
14 the department following up on the Planning
15 Board action or the Planning Board minutes.

16 MR. DEEB: I have a letter from the Town
17 of Colonie which summarizes, but I believe
18 that it was contingent upon site revisions
19 which were subsequently done and submitted. I
20 have a document that was from Mike Lyons
21 stamped March 5, 2008.

22 MR. STUTO: Thank you.

23 CHAIRMAN O'ROURKE: Thank you.

24 Tom?

25 MR. NARDACCI: I don't have anything,

1 thank you.

2 CHAIRMAN O'ROURKE: Paul?

3 MR. ROSANO: Nothing.

4 CHAIRMAN O'ROURKE: Elena?

5 MS. VAIDA: I don't have a problem with
6 this at all. I don't think that it's his fault
7 that it didn't get before us.

8 CHAIRMAN O'ROURKE: Tim?

9 MR. LANE: In consideration to what
10 occurred and also in light of the economic
11 climate I think that it's all perfectly
12 understandable.

13 CHAIRMAN O'ROURKE: Mike?

14 MR. SULLIVAN: I just had a question and
15 it may be for Kevin, actually.

16 In the plans for the building, it shows a
17 connection to a future town road. Are there
18 any plans for that or is that a paper road at
19 this point?

20 MR. DELAUGHTER: That is actually part of
21 a planned development district. We have it in
22 the review process known as Swatling Acres.
23 That road would be developed with that
24 project. I'm not sure exactly what the status
25 is of that right now. We have plans in for

1 review.

2 MR. SULLIVAN: Okay. It would go out
3 behind K-Mart and come out onto Swatling?

4 MR. DELAUGHTER: Yes.

5 MR. SULLIVAN: Okay, thank you.

6 MR. DEEB: I can go a little further on
7 that. On the site plan it shows future
8 entrances on that road.

9 CHAIRMAN O'ROURKE: Right. Once the town
10 accepts the offer of dedication on that road,
11 you're closing the Route 7 - if my memory
12 serves me.

13 Peter?

14 MR. GANNON: Mr. Deeb, I just have a
15 quick question. In your letter to Supervisor
16 Mahan, you propose an indefinite extension of
17 the grandfather provisions.

18 Maybe this is a question for my
19 colleagues on the board.

20 MR. STUTO: It's a one year extension
21 under the Land Use Law.

22 MR. GANNON: Is there any provision or
23 protection in there that prevents a new owner
24 from gaining those provisions if Mr. Deeb
25 decides to walk away from this project?

1 MR. STUTO: If he sells it, the new owner
2 will have the benefit of a one year extension,
3 if that's what you're asking.

4 MR. GANNON: The new owner gets the same
5 benefit?

6 MR. STUTO: Yes.

7 MR. NARDACCI: C.J., before we take a
8 vote, I want to make a quick statement.

9 On this project I had previously
10 abstained because of a conflict of interest.
11 An architectural firm that is a client of my
12 public relations firm had done some work on
13 this project and I had abstained. Tonight I'll
14 also be abstaining.

15 CHAIRMAN O'ROURKE: Okay, thank you, Tom.
16 Do I have a motion from the board?

17 MR. LANE: I'll make a motion.

18 CHAIRMAN O'ROURKE: For the extension, we
19 have a motion.

20 MR. LANE: Yes, for that one year
21 extension.

22 CHAIRMAN O'ROURKE: Do I have a second?

23 MR. ROSANO: Second.

24 CHAIRMAN O'ROURKE: Second from Paul
25 Rosano.

1 All those in favor?

2 *(Ayes were recited.)*

3 CHAIRMAN O'ROURKE: Opposed?

4 *(There were none opposed.)*

5 CHAIRMAN O'ROURKE: Good luck Mr. Deeb.

6 MR. DEEB: Thank you.

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9 *(Whereas the proceeding concerning the*

10 *above entitled matter was adjourned*

11 *at 7:13 p.m.)*

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CERTIFICATION

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

NANCY STRANG-VANDEBOGART

Dated February 12, 2010

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