

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3 *****
4 DIBENEDETTO DANCE STUDIO
5 13 SUNSET DRIVE
6 AMENDMENT TO PREVIOUS SITE PLAN APPROVAL
7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled
9 proceeding BY NANCY STRANG-VANDEBOGART,
10 a Shorthand Reporter, commencing on
11 December 20, 2011 at 7:08 p.m. at the Public
12 Operations Center 347 Old Niskayuna Road,
13 Latham, New York 12110

14 BOARD MEMBERS:

- 15 PETER STUTO, Chairman
- 16 MICHAEL SULLIVAN
- 17 LOUIS MION
- 18 TIM LANE
- 19 BRIAN AUSTIN
- 20 PAUL ROSANO
- 21 ELENA VAIDA, Esq., Attorney for the Planning Board

22 Also present:

- 23 Victor Caponera, Esq.
- 24 Joseph LaCivita, Director, Planning and Economic
25 Development
- Michael Tengler, Planning and Economic Development
- Daniel DiBenedetto, DiBenedetto Dance Studio
- Nancy Bunker
- Robert Ensign
- John Tourtellott
- Lori Washburn
- Walter Woodka

1 CHAIRMAN STUTO: Okay we'll call up the
2 next item on the agenda. This is the
3 DiBenedetto Dance Studio, 13 Sunset Drive,
4 amendment to previous site plan approval
5 presented by Victor Caponera.

6 Joe or Mike, if you could give us some
7 background. We saw this not too long ago.

8 MR. TENGELER: The DiBenedetto Dance
9 Studio at 13 Sunset Drive. This is an
10 amendment to a previous site plan approval.
11 They were before the Board on September 27th of
12 this year where they were proposing an
13 overflow parking lot in the rear of the
14 building. This is in reference to some over
15 parking on Sunset. Basically, there was some
16 discussion with the Board - some suggestions
17 given by the Board and some questions from the
18 Board.

19 Victor Caponera is here tonight to talk
20 on behalf of Dan DiBenedetto and the dance
21 studio.

22 CHAIRMAN STUTO: Okay, how many parking
23 spots are there now?

24 MR. TENGELER: There are currently 16, I
25 believe, on-site now.

1 MR. CAPONERA: Yes.

2 CHAIRMAN STUTO: They're conducting the
3 Zumba classes which are generating quite a bit
4 of parking and a use that exceeds the original
5 approval.

6 MR. TENGELER: Correct.

7 CHAIRMAN STUTO: Mr. Caponera?

8 MR. CAPONERA: Thank you, Mr. Chairman.

9 Just as a matter of housekeeping, you
10 were talking about the west end. Was that
11 January 24th?

12 CHAIRMAN STUTO: That's what we're
13 looking at tentatively on the calendar.

14 MR. CAPONERA: You also talked about the
15 Boght.

16 CHAIRMAN STUTO: I don't know that we're
17 going to do them on the same night, but we're
18 looking to get those done. They're not on the
19 calendar yet.

20 MR. CAPONERA: Good evening Members of
21 the Board, members of the audience. I'm Victor
22 Caponera representing Mr. DiBenedetto who owns
23 13 Sunset Drive.

24 For everyone's knowledge, I represented
25 Mr. DiBenedetto before he bought this property

1 and I represented Mr. DiBenedetto when he came
2 before the previous Board for the approval to
3 construct his dance studio back in 2002.

4 I was here the last time the Board took
5 this matter up. Unfortunately, I wasn't here
6 on behalf of Mr. DiBenedetto. I would like to
7 go over parts of the narrative that I've
8 submitted to basically give a historic
9 background with what's going on and what
10 happened.

11 There were a lot of good questions that
12 were asked by the Board that I think I could
13 answer, because I was involved with it through
14 its inception.

15 To begin with, it's important to note
16 that the property is a little over 2.1 acres.
17 If you received your site plans you'll see
18 that the property is rather an irregular
19 piece. It's actually two triangles if you look
20 at it. I have it outlined in yellow. One part
21 of the building faces Sunset Drive. That's
22 obviously shown in the site plan and the other
23 part that actually faces Gaffer's Court is the
24 other part of what I call a triangle.

25 Let me mention for the Board's

1 edification that when I came before the Board
2 in 2002, I correctly stated then as I'll state
3 now that Mr. DiBenedetto runs basically a
4 private dance studio at this establishment. In
5 so doing, he has private classes at this
6 establishment and it's no different than it is
7 now in terms of what 90 percent or 95 percent
8 of his operation is - which is to work with
9 smaller groups - 10 to 15, which is exactly
10 what we said in 2002 and exactly what goes on
11 there today.

12 The facility was approved with 15 parking
13 spots and the hours of operation were
14 basically 9 a.m. to 10 p.m., six days a week.

15 I'd also mention to the Board's knowledge
16 that if you look at the site plan, you'll
17 notice this property is in what's called a
18 highway commercial office/residential zone.
19 The entire piece is within what we call an
20 HCOR zone. That means that the property in an
21 HCOR zone doesn't allow single family
22 residential use. In order to get single family
23 residential use, or even a two family, you
24 need a special use permit. That's the Zoning
25 as of January 4, 2007.

1 Secondly, I'll mention that Sunset Drive
2 is a public street and there are no signs on
3 Sunset Drive that prohibit parking. We all
4 know that you can do that legally, so long as
5 you don't interfere with other property owners
6 or park in front of hydrants and the like.
7 When the Planning Board had its meeting - and
8 I put down in my paper that it was October 11th
9 and I think that it was in
10 September - basically he stated that this is
11 mostly used for private and semi-private
12 instruction. However, in order to stay afloat,
13 as we're all trying to do in this economic
14 climate, Mr. DiBenedetto is allowing a Zumba
15 class to go on which as I understand has more
16 than 15 or 20 people. It can have up to 80
17 people.

18 Is that fairly correct?

19 MR. DIBENEDETTO: Yes.

20 MR. CAPONERA: Obviously, it's created
21 parking issues and I'm told that there are a
22 couple of neighbors; the resident at 9 Sunset
23 and the resident across the street - directly
24 across the street that have been bothered by
25 this and has addressed this to Members of the

1 Planning Department; Mr. Tengeler and I think
2 Mr. LaCivita. So, since that time - since the
3 time that Mr. DiBenedetto was in here, he has
4 called me back into the fray and asked me to
5 give assistance in trying to work out a
6 reasonable solution to this.

7 In so doing, we've hired Cotler
8 Architects who were involved initially with
9 the project and we've gone back and forth a
10 multitude of times with Mike Tengeler. We've
11 met on-site. We've looked at various ways to
12 resolve this issue. I believe that we have
13 taken care of that.

14 The other thing that I'll note for the
15 Board is in an HCOR zone, you need a minimum
16 of 20,000 square feet and this property, as I
17 said, is a little over two acres. Also, you're
18 allowed up to 18,000 square feet of entity per
19 acre in an HCOR zone.

20 Also, under the code, under 190.41-A2
21 entitled "On Street Parking":

22 "On street parking is encouraged where
23 appropriate with build-outs on the sidewalk."

24 I'm just quoting from the Code.

25 Additionally, under 190.41-83F entitled "Off

1 Street Parking”

2 “Shared access points are encouraged and
3 a single access to adjoining party lots or
4 interconnection between adjoining parking lots
5 is encouraged.”

6 It also talks about spill over parking
7 which is exactly what we’re talking about here
8 tonight. This Zumba operation is not an
9 operation that goes on 100 percent of the
10 time. It’s an operation that happens an hour
11 twice a week and it may be happening
12 potentially three times a week. It doesn’t
13 happen all the time. That’s why you need spill
14 over parking. Under the Code, it specifically
15 states that when you have spill over parking,
16 pervious materials are encouraged and could
17 include grass pavers and gravel surfaces.

18 CHAIRMAN STUTO: Is spill over parking
19 defined in the Code?

20 MR. CAPONERA: I didn’t look under the
21 definition, Mr. Chairman. I would define this
22 as a spillover because I know that I’ve used
23 this same scenario in other applications
24 before the Board. You have certain situations
25 where you need spillover.

1 CHAIRMAN STUTO: I even consulted with an
2 engineer - one of the TDEs - and you're not
3 paying for it. They said an occasional
4 parking, maybe twice a year or four times a
5 year - it would be appropriate to have gravel.
6 A couple times a week would be considered more
7 than just spillover. That's my opinion. That's
8 what I've been advised. That's where my
9 orientation is right now.

10 MR. CAPONERA: Interesting. I know that
11 recently the Board approved spillover parking
12 for employees in another location in the Town
13 and I know that's used more than twice a year.

14 CHAIRMAN STUTO: Can you be more specific
15 on that?

16 MR. CAPONERA: Do you know what the
17 address was, Mike?

18 MR. TENGELER: I believe it was the
19 Scarborough's Restaurant on Old Niskayuna.
20 There was a 12 car extension -- I don't know
21 if you consider it spillover, per se, but it's
22 a 12 car extension that went around the back
23 of the lot that went through our office for
24 administrative approval.

25 CHAIRMAN STUTO: Paved or unpaved?

1 MR. TENGELER: Unpaved.

2 CHAIRMAN STUTO: How big is the rest of
3 the parking lot?

4 MR. TENGELER: I think around 16 spots
5 roughly in the parking lot. There is another
6 12 in the back that are unpaved.

7 CHAIRMAN STUTO: So, it's a relatively
8 small percentage which is the spillover.

9 MR. LACIVITA: Very much so.

10 CHAIRMAN STUTO: That didn't come before
11 this Board?

12 MR. LACIVITA: No.

13 CHAIRMAN STUTO: That's enough, Joe.
14 Thank you.

15 MR. CAPONERA: So, as Mike indicated
16 there are currently 16 parking spots. If you
17 look at the site plan, those 16 parking spots
18 are all located in the front of the building.
19 So, what we have done is when we met with
20 Cotler on site - there is a proposal to
21 provide a one-way driveway that goes to the
22 back of the property and the back of the
23 property is substantially flat - to provide
24 additional parking in the back. We've also
25 worked with the Town, the Highway Department

1 and they've indicated that they have no
2 problem or issue with allowing a curb cut to
3 go onto Gaffer's Court to allow the parking to
4 go in the rear and then go out Gaffer's Court
5 onto Route 2. That is a provision that we feel
6 is appropriate and will work very nicely in
7 this situation. The bottom line is that it
8 brings 62 parking spots on site.

9 CHAIRMAN STUTO: How many are paved?
10 Currently there are 15?

11 MR. CAPONERA: There are 16.

12 CHAIRMAN STUTO: I just want to be clear
13 and make sure we understand what's going on.
14 Because if you have uses that attract 80
15 people, we need how many spots total.

16 MR. CAPONERA: If you have 80 - it
17 depends on how you want to go with this
18 interpretation, but under 194E7K entitled
19 "Private Club" One parking space is required
20 for two persons of occupancy.

21 Now, you remember the last time there was
22 a discussion about a 280 maximum occupancy in
23 this building. A question was raised how did
24 that happen?

25 CHAIRMAN STUTO: You can explain it and I

1 have also clarified it with Codes and the Fire
2 people.

3 MR. CAPONERA: My understanding is that
4 it's not so much a function of what goes on
5 with the Planning Board as much as it is the
6 size of the building and what the Fire Code
7 allows for maximum occupancy.

8 CHAIRMAN STUTO: That doesn't mean that
9 you're approved for those uses.

10 MR. CAPONERA: That's exactly correct.
11 So, that was a discussion that was bantered
12 around and nobody really had an answer. I
13 think that is the answer.

14 What we're proposing, Mr. Chairman, and
15 Members of the Board, is that given the fact
16 that Mr. DiBenedetto doesn't -

17 CHAIRMAN STUTO: I want to stay on the
18 number of parking spots. You're going to have
19 the uses where 80 people come. You're going to
20 add how many spots to the 16 that are already
21 there?

22 MR. CAPONERA: We're going to have 62
23 on-site.

24 CHAIRMAN STUTO: How many of those are
25 paved?

1 MR. CAPONERA: There are 16 right now are
2 paved.

3 CHAIRMAN STUTO: How many of them do you
4 propose to be paved?

5 MR. CAPONERA: Okay, he's going to pave
6 nine more and those would be located along the
7 front and along the side, so you'd have a
8 total of about 30-ish.

9 CHAIRMAN STUTO: That would be 25. Then
10 62 minus the 25 that are paved -

11 MR. CAPONERA: 37. Okay anyway, you asked
12 a question a moment ago and said, what is the
13 required parking? It's whatever the maximum
14 occupancy that the Board determines our
15 proposal, as you can see in my narrative, is
16 to reduce or cap the maximum occupancy in this
17 building. This board is, in my opinion, within
18 its power to do that. Our suggestion is,
19 certainly 280 is crazy, 140 is crazy, 120 is a
20 number that we feel we'll never go beyond. The
21 requirement under the Code for 120 would be a
22 minimum of 60 parking spots. Now, in addition
23 to the 62 that we're proposing onsite, we also
24 have a letter in the record from the
25 Styczynskis that live across the street who

1 have offered six of their parking spots to be
2 able to use. In addition, there is a property
3 owner on Gaffer's Court that was here the last
4 time.

5 I don't know if he's in the room right
6 now because he had a presentation before the
7 enlightened jurisdiction of the Sign Review
8 Board right across the hall. He has an
9 additional 10 spots that he has - as I walked
10 in tonight - just offered to allow us. We were
11 working on it earlier and he had some other
12 business to attend to.

13 So, technically there is 62 onsite, 6
14 offered just across the street from the
15 Styczynskis and we have a letter that's on
16 record, and an additional 10 that just off the
17 cul-de-sac of Gaffer's Court.

18 CHAIRMAN STUTO: Are you going to get a
19 permanent easement for those other spots - the
20 10 and the 6?

21 MR. CAPONERA: I don't think that I can
22 get an easement going across the street, but I
23 can certainly get an agreement with Mr.
24 Ensign. He can speak to that as he is here
25 tonight.

1 CHAIRMAN STUTO: You can get some kind of
2 permanent easement on that property. Is that
3 what you're proposing, or no?

4 MR. CAPONERA: It depends on what
5 Mr. Ensign is willing to do. Again, just for
6 the record because I read a letter -

7 CHAIRMAN STUTO: Can you indicate where
8 Mr. Ensign's parking is being proposed? It's
9 not indicated on the map.

10 MR. CAPONERA: It's not shown on the map.
11 We didn't have this discussion with Mr. Ensign
12 until I was walking in here tonight. It would
13 be located in this general area (Indicating)
14 along Gaffer's Court.

15 I'll note that I've walked the site. I'm
16 sure every Member of the Board has been over
17 there. I'm sure you've been on Gaffer's Court.
18 Gaffer's Court is a pretty quiet street, based
19 on my walking of the street. It's newly paved.
20 There doesn't appear to be a lot going on over
21 there other than people dumping garbage on my
22 client's property, which happens with some
23 regularity.

24 We've also had discussions with the
25 Police Department and they've verified the

1 same that sometimes some unusual things happen
2 over there. By doing this, my opinion is that
3 we're going to create more traffic. There is
4 going to bring more cars on that road and
5 hopefully none of the unusual items are going
6 to continue to happen on that street. That's
7 our proposal, Mr. Chairman, and Members of the
8 Board.

9 CHAIRMAN STUTO: Let me ask a couple of
10 clarifications just so that we understand it
11 better and then we'll turn it over.

12 Your parking is going to touch Gaffer's
13 and you proposed to have a right of way, or
14 opening there, or permanent way to get on and
15 off of Gaffer's both ways at all times,
16 24 hours a day?

17 MR. CAPONERA: Correct.

18 CHAIRMAN STUTO: Two ways.

19 MR. CAPONERA: Absolutely.

20 CHAIRMAN STUTO: Where is the paved
21 parking and where is the gravel part? I'm not
22 sure if that's indicated on the map.

23 MR. CAPONERA: I don't believe that it's
24 indicated, Mr. Chairman. The paved parking
25 would extend beyond the pavement of Gaffer's

1 Court - I'll call it the roundabout - and
2 extend into the parking area in the rear. In
3 other words, it would be what is proposed to
4 be paved.

5 CHAIRMAN STUTO: Where it says 37 new
6 parking spaces?

7 MR. CAPONERA: Yes, where the cloud
8 is - if you go right towards where the
9 cul-de-sac is, the paving would lead into that
10 area. That's ether area that we're proposing
11 to have crusher run - what we call an
12 impervious surface.

13 CHAIRMAN STUTO: I'm not understanding
14 you - where the crusher run goes.

15 MR. CAPONERA: The crusher run would be
16 in this area where the 37 new parking spots
17 are.

18 CHAIRMAN STUTO: I thought you just said
19 that was paved.

20 MR. CAPONERA: No. I said going into the
21 parking lot. Off of Gaffer's Court would be
22 paved.

23 CHAIRMAN STUTO: Where are the 25 new
24 paved spots?

25 MR. CAPONERA: They would be located

1 along the front. There are not 25. There are
2 currently 16 paved that you see there and then
3 you have these other 10; so actually 26. That
4 would all be paved.

5 CHAIRMAN STUTO: Where is this new light
6 pole that says new gravel lot? That's another
7 gravel lot that you are proposing with an in
8 and out?

9 MR. CAPONERA: Yes. That's additional
10 parking. Again, the pavement would extend off
11 of Gaffer's into the parking lot so that there
12 wouldn't be any crusher run or stone up to the
13 area. It would be paved into the parking lot
14 but not the parking lot, per se. What we are
15 proposing would be crusher run.

16 CHAIRMAN STUTO: You're going to have two
17 entrances on Gaffer's?

18 MR. CAPONERA: That's the proposal.

19 CHAIRMAN STUTO: I'm not an engineer. I
20 don't know.

21 MR. AUSTIN: Mr. Caponera, are all the
22 parking spots going to be striped too?

23 MR. CAPONERA: Yes, absolutely.

24 CHAIRMAN STUTO: You're going to stripe
25 the crusher run?

1 MR. CAPONERA: Are you proposing to do
2 that?

3 MR. DEBENEDETTO: You can't.

4 MR. CAPONERA: You wouldn't be able to do
5 that. The ones in the front will be paved and
6 the one in the back is not proposed.

7 CHAIRMAN STUTO: Okay, I'll turn it over
8 to the Board.

9 Paul, are you ready for questions yet?

10 MR. ROSANO: I think I'd like to hear
11 from the public first.

12 CHAIRMAN STUTO: Do you have more for
13 your presentation?

14 MR. CAPONERA: Yes, a little bit more.

15 CHAIRMAN STUTO: Okay, I'm sorry. Please
16 go forward.

17 MR. CAPONERA: So, I eluded to this a few
18 moments ago but I just want to make this part
19 of the record that the Planning Department has
20 confirmed with the Town Highway Department - I
21 should say the Town of Colonie Highway Safety
22 Committee, as well as the Latham Fire
23 Department that they have no problem with
24 having the curb cut on Gaffer's Road. That's
25 important because you need their input and

1 their basic approval, allowing the spillover
2 parking to come into and out of Gaffer's
3 Court. That is, for the most part, as I said,
4 is a newly paved road which has only one
5 residence on it. It's very private and pretty
6 secluded. I mentioned that it's going to have
7 additional traffic.

8 We also can say that the owners of
9 Maggie's Gift Shop at the corner of
10 Route 2 and Gaffer's - that gentleman appeared
11 at the last Planning Board meeting as well as
12 Mr. Ensign who is here with us tonight.

13 For the record, Mr. Ensign met
14 Mr. DiBenedetto for the first time the last
15 time they were here, which I think was in
16 September. I think that there was some comment
17 made that he's a friend of Mr. DiBenedetto. I
18 spoke with Mr. Ensign as we walked in and he
19 met him once the night that they met here.
20 Obviously, they've talked. He, as I indicated,
21 has absolutely no problem with the current
22 proposal that would allow any spillover to
23 park on the 10 or 12 spaces that he has along
24 Gaffer's Court.

25 I've sat and I've discussed this at great

1 length with Mr. DiBenedetto obviously to
2 require all of this parking lot to be paved
3 would be cost prohibitive to him. He's gotten
4 quotes. The one that I have here in my
5 possession is a quote from Leto and I believe
6 that number came in before he added the
7 additional spaces in this are right here
8 (Indicating); close to \$37,000 to do the
9 preparation work and to pave it.

10 The number is \$34,677 and this estimate
11 is A. Leto Construction Company and it's dated
12 10/20/11.

13 CHAIRMAN STUTO: To do what you're
14 proposing?

15 MR. CAPONERA: No, to actually pave the
16 entire area in the back. What we're proposing
17 would be closer to \$40,000. If we could do
18 what we are proposing, to pave the areas in
19 the front, and to pave into and off of
20 Gaffer's Court, to these parking areas and
21 then use what we call crusher run would be
22 about half that.

23 The bottom line here is that
24 Mr. DiBenedetto is trying to continue his
25 business. He's certainly struggling to do this

1 and I think that the proposal to have the
2 maximum occupancy to 120 rather than the 280,
3 which is up there -- and I physically went
4 into the building and I physically saw it.

5 CHAIRMAN STUTO: That doesn't mean that
6 you're approved for 280. That's your maximum
7 fire capacity.

8 MR. CAPONERA: Absolutely, and that's not
9 what we're looking for. We've never looked for
10 that. My client is prepared to say that he'll
11 cap it at no more than 120 at any time. I
12 think that in discussing with Mr. DiBenedetto,
13 I think that once a year he'll have a party or
14 something and have more than 80 people there,
15 but that's not anything that happens on a
16 regular basis and that's my point. We're
17 trying to do this in a very reasonable way to
18 provide cross parking over on Gaffer's Court
19 which will create a situation where cars won't
20 have to park along Sunset Drive. I think that
21 this would work very nicely. I think that's
22 pretty much it.

23 CHAIRMAN STUTO: Would anyone on the
24 Board like to speak before the public?

25 MR. ROSANO: Yes, I have a couple of

1 questions.

2 Victor, what were the added ones to the
3 front of the location?

4 MR. CAPONERA: In the front of the
5 building, Mr. Rosano, there are 16 spaces that
6 are the closest to the building. If you look
7 at the site plan, we propose to add 6 spaces
8 closest to the road and four spots over by
9 where the cul-de-sac is; that's an additional
10 10.

11 MR. ROSANO: Now, you're taking up part
12 of the berm?

13 MR. CAPONERA: I'm not sure if part of
14 the berm would be taken out, but we would take
15 out part of the grass that's there, yes.

16 MR. ROSANO: The drive on the right
17 side - the drive is going to be one-way going
18 in.

19 MR. CAPONERA: That's the proposal and
20 I'll tell you why. I have discussed this with
21 the owners of 11 Sunset, who are here tonight.
22 I spoke with them just before we started. He
23 and along with Mike Hanna own this property.
24 It's an attorney and CPA firm. They've been
25 there for a million years, I'm told, or

1 thereabouts.

2 There was a discussion about drainage.
3 Before this property was built, everything
4 sheet drained onto this parcel and when it was
5 built through some of puddling that happens
6 over here (Indicating). We discussed this with
7 Cotler about how to alleviate that and berm
8 this up. Everything kind of drains over to
9 this existing stormwater (Indicating), and
10 that was a proposal. To make that a two way
11 would probably cause more of a problem than it
12 would solve for Mr. Hanna and his partner's
13 property to the right. I had preliminary
14 discussions with Mike Hanna about doing a
15 shared access driveway here where everyone
16 could use each other's. I believe that this
17 parcel has about 14 spaces, but I guess
18 basically due to an issue of potential
19 liability issues, they opted not to do that.
20 There was a proposal to have a rear access so
21 that everyone could park. We also talked about
22 putting some kind of a structure up here
23 (Indicating), a fence to stop vehicles from
24 going through. I was also told that during the
25 time when the Vanilla Bean was in operation

1 - and I don't know how many of you are old
2 enough to remember that - that was a pretty
3 busy little place. Cars were parked all over
4 the place. I'm told that on occasion when you
5 were coming down Gaffer's they went onto my
6 client's property and drive right over and
7 onto the Hanna parcel. That didn't make them
8 very happy. So, they actually put a pole of
9 some kind of a structure to keep that from
10 happening. It's a pretty flat piece there. If
11 you can get beyond the dumping of trees and
12 stumps and stuff that is in that area, you can
13 see how someone could potentially and in fact
14 do that.

15 MR. ROSANO: I want to go back to my
16 original question. On the six in the front, I
17 noticed that you have added a couple of trees
18 to that berm. That berm, from my experience,
19 has been a parking lot and it's the only other
20 thing that I can call it. Are you going to put
21 any kind of curbing in or something to stop
22 people from double parking there? I guess
23 you're going to have one row of six. What's to
24 stop another row from backing up to that
25 group?

1 MR. CAPONERA: You mean over here

2 (Indicating)?

3 MR. ROSANO: Yes. I don't want to see any
4 parking on there.

5 MR. CAPONERA: I understand. We could do
6 that; absolutely.

7 MR. ROSANO: I have more questions for
8 later.

9 CHAIRMAN STUTO: Anybody else before we
10 go to the public?

11 **(There was no response.)**

12 CHAIRMAN STUTO: The people who are
13 interested in this project, can you just raise
14 your hand so we can get an idea?

15 **(Several audience members raised their hands.)**

16 CHAIRMAN STUTO: Some of you I definitely
17 remember your testimony. I'll try to get this
18 right.

19 Okay, first is 11 Sunset; Walter Woodka.

20 You own a business next door, is that
21 right?

22 MR. WOODKA: Yes.

23 CHAIRMAN STUTO: You don't live there.

24 MR. WOODKA: No.

25 My name is Walter Woodka and I own the

1 property next door with Mike Hanna. I have a
2 couple of concerns. We have had problems in
3 the past. Where the parking lot is going, to
4 come out onto Route 7 from the proposed road,
5 you're going to probably go right and you're
6 not going to look left at the circle.

7 CHAIRMAN STUTO: Are you saying at
8 Gaffer's?

9 MR. WOODKA: Yes.

10 MR. LACIVITA: They wouldn't be changing
11 that at all.

12 MR. WOODKA: Because what is going to
13 happen is that people in that parking
14 lot - because we have a street light on
15 Sunset, they're going to go over the lawn
16 through our driveway and come out on Sunset.
17 There is a street light to get out. That's one
18 concern that I have.

19 CHAIRMAN STUTO: I see what you're
20 saying.

21 MR. WOODKA: I'm there at night; up to
22 9:00 at night during tax season and I see
23 people come from the parking lot over and come
24 out -- it's a mass exodus when they end the
25 session. I've seen people and I've got

1 pictures where they come over the lawn on our
2 driveway and leave.

3 CHAIRMAN STUTO: How would you say that
4 the parking works now?

5 MR. WOODKA: Right now it's fine until
6 tax season. Tax season, if we get snow, my
7 parking lot is going to become -

8 CHAIRMAN STUTO: No, how does their
9 parking work now?

10 MR. WOODKA: They're all over the street.
11 When they leave, they'll go over the lawn.

12 CHAIRMAN STUTO: So, it's not good.

13 MR. WOODKA: Correct. It's not good.

14 We also have clients with trucks. So, I
15 need the space. It's not that I'm selfish and
16 I'd like to help the dance studio out, but if
17 a man comes in with a truck with all his
18 equipment -- during tax season, I have elderly
19 clients coming in there for 5:00. With the
20 parking lot getting smaller, it's just a
21 matter of one of my clients hitting somebody
22 or getting hit and they're going to come to me
23 and say somebody hit my car.

24 In terms of our parking lot to the
25 proposed parking lot a fence, a berm, some

1 trees, just to eliminate cars coming over our
2 lawn.

3 MR. AUSTIN: I'm sorry. I didn't mean to
4 interrupt but there is on the plans, if you
5 take a look at the plans, it does call for a
6 new solid fence.

7 MR. WOODKA: Which I just found out.

8 MR. AUSTIN: So that would maybe prevent
9 that.

10 CHAIRMAN STUTO: The exit is in the back
11 section.

12 MR. WOODKA: Then the other issue is that
13 it might in the back there - at the end of the
14 street - which you said you were going to put
15 a street light or some kind of lighting - it
16 gets active at about 9:00 at night. If you're
17 going to put a proposed parking lot in, it's
18 just going to extend the activity.

19 CHAIRMAN STUTO: There do seem to be
20 lights on the plans. I don't mind you looking
21 at this one if you want to share it with the
22 neighbors.

23 MR. WOODKA: That was the only issue that
24 I had was with the parking going over the lawn
25 and down our driveway.

1 CHAIRMAN STUTO: Are you referring to the
2 back or on the side of your lot? The fence on
3 this diagram appears to be on the back of your
4 lot.

5 MR. WOODKA: Yes, Route 9.

6 So, a berm or a fence and that's fine.
7 That's the only issue that I had.

8 CHAIRMAN STUTO: Thank you.

9 John and Terry Tourtellott.

10 MR. TOURTELLOTT: Just very briefly,
11 several members of our family go there during
12 Zumba class. I think that it's a pretty
13 beneficial program that they have over there.
14 My only request is do whatever is reasonable
15 to solve the problem. I think that we can
16 agree that there is an uncomfortable situation
17 there at best. It's a big benefit to the
18 neighborhood and the people on that side of
19 Town. It's just a parking lot, so I hope that
20 it can get worked out.

21 CHAIRMAN STUTO: Thank you.

22 Lori Washburn, 9 Sunset.

23 You look to be the next lot over from
24 Mr. Woodka, correct?

25 MS. WASHBURN: Right. My concern is first

1 of all, behind my lot you're putting a parking
2 lot. I'm concerned about that. I just heard
3 tonight that there is going to be lighting.
4 That is a dark end of the street. It's a dark
5 back field, and frankly I go out there with
6 flashlights because there is activity going
7 on.

8 If you're going to put a parking lot
9 behind my house, I want a barrier because I
10 don't want street lights shining into my
11 backyard.

12 CHAIRMAN STUTO: You're residential?

13 MS. WASHBURN: Yes. I've been there 51
14 years.

15 CHAIRMAN STUTO: If you look at the map,
16 they're proposing a solid six-foot fence that
17 ends about a quarter of the way onto your
18 property. I don't know if you can see that.

19 MR. WASHBURN: I don't want to have car
20 lights into my bedroom window and I don't want
21 people staring at me if I'm sitting in my back
22 yard. I don't feel safe right now in my own
23 home. I park on the street. My side view
24 mirrors are played around with. I've had my
25 car broken into after one of the Friday night

1 parties. I can't walk down the street. They
2 come down so fast that it's a dangerous
3 situation. I've had two mirror accidents
4 because of the cars parked all the way up to
5 Pioneer Savings Bank and they can't see as
6 they're pulling out. They park so close to my
7 car one night, I couldn't even get out. It
8 took me 10 minute to back up 15 or 20 times to
9 make a three-point turn to get out of the
10 front of my own house. It's very dangerous and
11 I want the protection from what is going to go
12 on in the parking lot. No matter what you say,
13 there are going to be people that find a dark
14 parking lot and they're going to use it for
15 whatever they want.

16 CHAIRMAN STUTO: Thank you.

17 It is lighted and there is a fence that
18 goes partially over your property. I'm not
19 sure if it's adequate or not. Do you want to
20 look at the map closer and tell us what you
21 think?

22 Nancy Bunker.

23 MS. BUNKER: I would be here on this map
24 (Indicating).

25 I've walked back here and it seems as

1 though there is really not as much space back
2 here as shows up on the map. This is a very
3 steep drop off here (Indicating). It really
4 seems like a fairly narrow channel between 11
5 Sunset Drive and the drop-off. You'd have to
6 have the road, you'd have to have the fence,
7 you have to have a certain amount of easement
8 between the roads and the fence in terms of
9 the snow plows. It's a little ambitious to
10 have this much going on in this area because
11 it doesn't seem like it's that wide of a
12 stretch.

13 We have had problems even within the last
14 month. We did have someone towed from my lot
15 because I'm trying to -- as the snow starts
16 coming I'm going to have to be able to get a
17 snowplow guy in and out of the property. He
18 usually comes in the evening. Obviously, it's
19 a pediatric practice. We have pregnant women,
20 we have small children, we have elderly people
21 bringing their grandchildren in. We cannot
22 have ice or snow problems on my lot. I need to
23 have a plow guy able to get in there. They
24 need to plow every single spot. They need to
25 be able to salt every single spot.

1 CHAIRMAN STUTO: Is that your driveway at
2 the end on the left?

3 MS. BUNKER: That's where I am. So, we've
4 had one person towed already within the last
5 month or so. I guess it was the beginning of
6 November. I had to interrupt the Zumba class
7 last week.

8 CHAIRMAN STUTO: Who did you have towed?
9 A customer, or a patient of yours?

10 MS. BUNKER: No, it was a Zumba student.

11 CHAIRMAN STUTO: Towed out of your lot,
12 is that what you're saying?

13 MS. BUNKER: Towed out of my lot because
14 they were parked in the lot and we can't have
15 that as it gets closer to snow season.

16 The other thing is they tend to block the
17 entrance to my driveway so I had to interrupt
18 the Zumba class a couple of weeks ago. I
19 stopped everything and they sent the person
20 out to move the car. It happens so often and
21 I've not interrupted that many classes before,
22 but they cannot be blocking everyone's
23 driveway, which they have been doing.

24 The concern also is that it's still very
25 little parking and as you say, it's gravel.

1 Now the biggest problem is going to be in the
2 winter when we have snow on either side of the
3 road. It's a very narrow road and if you have
4 snow piles on either side - the lawns are
5 fairly small in this area, so they can't
6 really put the snow on the lawns. The snow
7 ends up piled up on either side of the street
8 on a fairly narrow channel and you have people
9 parking on both sides of the street. You
10 cannot get a full-size car down there. You
11 cannot get a snowplow down there. You cannot
12 get a fire engine down there. You cannot get a
13 tow truck down there. You cannot get a full
14 size ambulance down there. You cannot even get
15 a pickup truck or a utility vehicle down there
16 because you have snow piles on both sides of
17 the street. As I said, you have parking on
18 both sides of the street.

19 We also noticed that last winter when the
20 snow piles were there, they couldn't tell
21 where people's driveways were, so they'd
22 actually park in the street. They were
23 blocking the entrances to people's driveways.
24 So, we had a big problem last winter and I'm
25 sure this winter we'll probably get the snow

1 that's going to come back. Obviously, if you
2 get a truck down here, you're not going to be
3 able to turn it around. So, if you have
4 parking all along here (Indicating) have
5 either a snow plow or tow truck come down
6 here - they're not going to be able to
7 maneuver here (Indicating) and they may not
8 even be able to back up. You're going to end
9 up with a complete gridlock where nobody can
10 come into the street and nobody can leave the
11 street because you have large trucks and snow
12 plow for a tractor trailer which we sometimes
13 get down the street and they will not be able
14 to back up because it's so tight. So, you end
15 up running the risk of having a complete
16 blockage of this street. These parking spaces
17 are gravel. The big problem will be when there
18 is snow on the street, but nobody is going to
19 want to park in a gravel parking lot in the
20 winter when it's going to be icy. They won't
21 be able to plow, the salt will not be
22 effective in a gravel parking lot and the
23 gravel will still be icy but the salt will
24 slide between the gravel.

25 Some of these are big dances where they

1 have formal gowns and high heels and some of
2 the ballroom dance classes where the women
3 will not be wearing sturdy shoes and they'll
4 be hiking along this gravel area trying to get
5 into and out of the dance classes. So, there
6 are actually some safety issues for the
7 dancers in bad weather when you're taking into
8 effect a gravel parking lot. So, there are
9 still a lot of issues that have really not
10 been resolved about this. A lot of this
11 parking is still kind of far away. You've got
12 a little bit here, but if you need more, you
13 have some way up here. Nobody is going to walk
14 that far, especially in high heels. So, you're
15 going to end up still parking on our property.
16 I'm still going to have problems getting my
17 plow guy in and out of the street. I don't
18 think that the gravel is really going to be
19 the solution to the problem. People are going
20 to want to park where they feel safe. They're
21 going to end up parking on the street and the
22 problem is still going to continue.

23 Zumba, I'm sure, is a great exercise. I'm
24 sure the women - it's good for them to do it,
25 but this may not be the proper venue for a

1 class as popular as the Zumba class. It's a
2 very small area and this is a lot of the
3 parking space will end up being very
4 disruptive for the other two neighbors. I
5 really have some trouble believing that you're
6 going to have room for a fence and enough room
7 for everyone to move around because the drop
8 down the embankment is very close and I
9 suspect would be very subject to erosion
10 unless they got stabilized somehow. So, you've
11 got cars and snowplows going here, but you've
12 got the embankment here (Indicating) and
13 you're going to have to plow the snow and
14 you're going to have some washout down the
15 embankment, so it's going to get potentially
16 even more narrow.

17 CHAIRMAN STUTO: Those contour lines are
18 going up hill, is that what you're saying?

19 MS. BUNKER: There is a drop off right
20 here (Indicating). This is much lower. It's
21 going down so you're going to end up having a
22 lot of erosion and you could have damage from
23 the snow plows and a fairly narrow passageway
24 between the two parts of the lot. They're
25 going to end up getting closer to 11 Sunset

1 Drive because of the erosion on this side.

2 CHAIRMAN STUTO: Very good comments.

3 Mike?

4 MR. SULLIVAN: I have a question.

5 Victor, you mentioned that you're going
6 to cap - you suggested capping the maximum
7 number of people to 120.

8 MR. CAPONERA: Correct.

9 MR. SULLIVAN: Would that be for the
10 special events?

11 MR. CAPONERA: Correct.

12 MR. SULLIVAN: What would be done with
13 the Zumba class? Would that still remain
14 capped at 80 or do you have plans to -

15 MR. CAPONERA: There aren't any plans to
16 increase it. We want to try to make this work
17 as best as we can.

18 MR. SULLIVAN: Okay because I would be
19 very concerned if the class were to grow to
20 120. The class seems to contribute much more
21 than the two to one ratio. Board Members had
22 mentioned that there were 72 cars for 80
23 students. So, I would not want to see that
24 class enlarged.

25 MR. CAPONERA: I agree 100 percent.

1 MR. SULLIVAN: My only concern, and Dr.
2 Bunker hit on it, if that parking lot is not
3 desirable, we're still going to have parking
4 in the street. We're really not solving the
5 problem. I know that we're trying to solve the
6 problem that if it's not a safe environment or
7 suitable for walking in the shoes that -

8 MR. CAPONERA: Can I just comment on
9 that? Let's just be honest. Ballroom dancers
10 don't wear their spiked shoes walking. They
11 wear boots. There is a changing room in there.
12 Mr. Tengeler has seen it and I've seen it. You
13 go in and that's where you take your boots off
14 and you put your spikes or whatever the heck
15 you're talking about. They're not going to be
16 walking on any of this property with their
17 high heeled shoes on. Let's just clear that up
18 right off the bat.

19 The other thing about where the Doctor is
20 commenting about some structural issues - we
21 had this designed by a professional. I would
22 humbly say to the Board that you need to
23 listen to what a professional architect says
24 about what can and cannot be put back here.
25 I'm not at all concerned about the workability

1 and the functionality of this.

2 MR. SULLIVAN: What can be done with the
3 parking if after leaving the class, they can't
4 get out of Gaffer's Court because there is no
5 signal at the end of Gaffer's?

6 MR. CAPONERA: You're suggesting that
7 they can't go right?

8 MR. SULLIVAN: No, they can't take a
9 left, easily. My concern is that the parking
10 lot will not be desirable. People will not
11 park there if there is too much of a problem
12 to exit after the class. If they come in on
13 Sunset, park in the lot, leave after the class
14 but wish to go east, they can't take a left
15 then they will not want to park there. They
16 will park on the road.

17 MR. CAPONERA: I would say to the Board
18 that first of all, the proposal back here - I
19 don't want you to think like it's some kind of
20 rubble with people. It's going to be very well
21 manicured, I presume and you can use other
22 items of crusher run that binds itself so that
23 there are not any crevices or anything like
24 that.

25 Mr. DiBenedetto plows his own property,

1 just for the Board's edification. He's been
2 going it ever since he's owned the property.
3 There is a tremendous amount of storage
4 capability on this property. Remember I stated
5 to you that it's about 70 percent greenspace.
6 As we all know, we only need 35 percent in the
7 Town of Colonie. The Village of Colonie only
8 requires 20 percent greenspace. This is 70
9 percent greenspace. There is a plethora of
10 space to put the snow. There isn't going to be
11 an issue there. He is going to meticulously
12 maintain this and he will require the people
13 that are using his class to park there.

14 MR. SULLIVAN: Okay, you answered my
15 question. My point is how do we make sure that
16 is actually used?

17 MR. CAPONERA: That could be made a
18 requirement that he do that. In fact right now
19 he has I think maybe two people directing
20 people as they come in to make sure that they
21 don't interfere with anyone's parking lot and
22 what have you on Sunset. And I will repeat to
23 the Board what I said before. There is no
24 prohibition on Sunset to parking on the
25 street. I'm just saying that. I'm not saying

1 that we want to. I'm saying that we're giving
2 the Board what I consider to be a very
3 reasonable proposal to resolve this for
4 spillover parking. I'm also stating to the
5 Board that this doesn't happen all the time.
6 It would be one thing if I came in and said
7 every day there is a Zumba class for three
8 hours a day and there are 80 people that are
9 going to be parking there. There will be 70
10 cars. It doesn't happen.

11 MR. SULLIVAN: I think that the residents
12 have demonstrated that it is a problem though.

13 MR. CAPONERA: And that is exactly why we
14 are making this proposal. There are two
15 residents here that may have a problem.
16 Everybody else that we talked to doesn't have
17 a problem. For those two, we have come to the
18 Board, spent thousands of dollars in putting
19 together a proposal that will solve that
20 problem. You've heard a great deal of talk
21 about how narrow this road is and how when
22 it's plowed, cars can't get down there. That's
23 not Mr. DiBenedetto's problem.

24 MR. SULLIVAN: Having cars on the road
25 contributes to the problem.

1 MR. CAPONERA: Which is exactly why we're
2 presenting to the Board what we are
3 presenting.

4 MR. SULLIVAN: Which is why I want to
5 make sure that they use the parking.

6 MR. CAPONERA: Absolutely, and you're
7 absolutely correct. I would state that it
8 would be a requirement that they use that.

9 MR. SULLIVAN: Okay, thank you.

10 CHAIRMAN STUTO: What do you think about
11 the two curb cuts on Gaffer's? Can't that be
12 designed with one curb cut? You don't think
13 that's a conflict?

14 MR. SULLIVAN: I'm not as concerned with
15 that as I am on the exiting Gaffer's with all
16 these 80 students leaving at once, trying to
17 exit and take a left off Gaffer's.

18 MR. LANE: They're all not going to be
19 leaving by Gaffer's.

20 MR. SULLIVAN: If they're using the
21 parking lot, they'll have to because it's
22 one-way.

23 MR. LANE: They can't go back?

24 CHAIRMAN STUTO: No, it's all one way.

25 MR. CAPONERA: If you have a problem with

1 that, we can make it a two-way. I think that
2 all you'd have to do is increase it by a foot
3 or two to make it a two-way.

4 MR. SULLIVAN: I thought that someone had
5 objected to that. I thought that was raised
6 earlier.

7 MR. CAPONERA: There was a discussion by
8 Mr. Hanna when I spoke to him on multiple
9 occasions since the last time you were here
10 discussing this and he had the concerns about
11 the drainage and I was trying to accommodate
12 him on that aspect of it.

13 MR. SULLIVAN: I would prefer to see the
14 two-way.

15 MR. CAPONERA: I understand what you're
16 saying but one thing is for sure, the folks
17 here - the 20 spots are going to go out to
18 Sunset. The other ones, typically you think
19 they'd want to go out there - they can always
20 take a right. It's not like they can't go
21 left, but if you're more comfortable with a
22 two-lane in this area so that they'd have that
23 opportunity, I don't have a problem with that
24 either.

25 MR. SULLIVAN: I would be because I think

1 without that option, if they can't take a left
2 when they want; they're not going to park
3 there.

4 MR. LANE: That pretty much settles my
5 questions about the traffic. I agree with you
6 about the gravel. I think it's not going to be
7 so much an issue with melting so as far as the
8 traffic, etcetera. Other than that, as long as
9 they can cross through and that's not a big
10 problem to do that, it works for me

11 MR. CAPONERA: We can do that. It's not
12 that big of a deal.

13 MR. AUSTIN: I agree with Mike. I'd like
14 to see that one-way become a two-way because
15 that would give more opportunities or more
16 options with people in the back to exit out
17 the front - if they do want to go east and
18 turn at the light on Sunset.

19 MR. CAPONERA: Consider it done.

20 MR. AUSTIN: That was easy.

21 I like the lighting. I like the fence. I
22 like what you're doing in the back there. It
23 all looks good on paper, but when you put a
24 gravel crusher run parking lot, without
25 striping, without lines, it's just going to be

1 a massive free for all. There is no definition
2 of where people should park or whether people
3 should go with the two curb cuts. There is
4 actually a spot where it looks like it
5 overlaps. Those two parking lots look like
6 they overlap, so that they could actually
7 cross over to the other parking lot without
8 going to the curb cut or they can just cross
9 over to the grass that might be in between
10 those two parking lots.

11 MR. CAPONERA: I would like
12 Mr. DiBenedetto to address that.

13 MR. DIBENEDETTO: We do have a solution
14 to where you say people are not going to be
15 sure where to park. It's simple. Wherever
16 there is a parking spot, put a post. People
17 know that they drive right up to that post and
18 that's where they are supposed to be. That
19 would solve striping. I don't have a problem
20 doing that either. I don't have a problem
21 putting the posts in and saying this is where
22 you park. It's going to take a couple of times
23 for them to become acclimated to it, but we'll
24 have someone out there directing them, showing
25 them. After you learn and you do it a couple

1 of times, it becomes second nature.

2 MR. AUSTIN: That sounds great. It seems
3 like a former Board Member that I know - it
4 looks like you're putting 10 pounds of sand in
5 a five pound bag. You're trying to fit too
6 many spaces where it just wouldn't be
7 comfortable. It doesn't seem like it quite
8 fits. There are spaces shoved in every which
9 way.

10 MR. DIBENEDETTO: I guess the architect
11 was trying to get the maximum number of spaces
12 that he could get out of the land.

13 MR. CAPONERA: Plus, we didn't want to
14 push it behind these parcels over here
15 (Indicating) - at number nine. I told him when
16 he was doing this to keep it as far away as he
17 can, rather than pushing over to this area
18 (Indicating). That's the reason that it looks
19 the way that it looks.

20 You heard Mrs. Washburn talk about
21 wanting to keep her sense of privacy. I will
22 tell you that it's fairly wooded back here
23 (Indicating). And to eliminate that would
24 eliminate further privacies. So, that's one of
25 the reasons that I had a design architect look

1 at this. By the way, I knew Mr. Holland and
2 that is a quote that I used often.

3 MR. AUSTIN: I think that's all I had.

4 MR. MION: My concerns were the same that
5 Mike brought up. I think I like what you're
6 doing. I think that you're working to clear up
7 the problem out there. I think that the
8 biggest issue now is to get people that are
9 going to your facility off the street. I think
10 that to help that would be the people out
11 there directing traffic. Hopefully that will
12 work. I think that you're doing everything
13 that you can do.

14 CHAIRMAN STUTO: I'll offer my comment
15 now.

16 I'm sympathetic to you, the applicant, in
17 the sense that he's trying to keep a business
18 going, but I think that he has imposed on the
19 neighbors too much. I think that more of these
20 lots should be paved. Having 80 customers at a
21 time, if you want to go with a two to one
22 ratio, I think that there should be 40 paved
23 parking spots. I'll be very specific on that.
24 If you want to add more gravel for occasional
25 overflow from that, that's my personal

1 opinion. I don't think that you're paving
2 enough lots. I also agree that it looks like
3 you have 10 pounds of sand in a five pound
4 bag, the way that is laid out. I'm no
5 engineer, but it just looks too cramped
6 together. I agree that the two-way is a good
7 idea. I guess those are my major comments. I
8 think that you need more paving. I think that
9 the layout could be done better. I wouldn't
10 want to limit it to 120. I think that it's
11 more than enough and I'd like to keep some
12 restraint on that.

13 MR. LACIVITA: Can I offer something on
14 the paving issue? From what I've seen in other
15 municipalities and so on, especially in the
16 northern part where you get a lot of snow, the
17 entry paths into parking lots are typically
18 the paved areas and the parking spaces
19 themselves are actually gravel area. If you're
20 looking at a specific calculation that Peter
21 is talking about of 40 percent, you may be
22 able to get the same amount of parking by
23 having the plowed area where your people are
24 coming in and then turning off - have that
25 paved and leaving the actual parking spaces

1 gravel.

2 MR. CAPONERA: I see what you're saying.

3 MR. LACIVITA: They do that a lot in New
4 Hampshire and Maine and in those types of
5 areas. You actually will get probably a
6 greater number of parking based on what Peter
7 is looking for that way.

8 CHAIRMAN STUTO: I think that you're in
9 the center of Latham and you should do it
10 right. I think that it should all be paved. I
11 don't have a lot of experience with that, Joe.
12 Maybe they have good experience with it in New
13 Hampshire. That's my opinion.

14 MR. LANE: I'm not sure why you would
15 think it should all be paved.

16 CHAIRMAN STUTO: The striping, it's
17 easier to pull out and it's less messy. There
18 are very few examples of gravel lots.

19 MR. LANE: Why is there a concern? He
20 does his own plowing. We're not doing it.

21 CHAIRMAN STUTO: Safety, mess. They are
22 his customers and his neighbors.

23 MR. LANE: Why would it be more safe than
24 the gravel?

25 CHAIRMAN STUTO: I think that it's easier

1 to maintain and easier to keep smooth and
2 safe. I think that it should be done right.

3 MR. AUSTIN: Tim, I think that if you see
4 all the stuff mentioned here and the open
5 spaces in this area (Indicating) that's going
6 to be the ground. That grass isn't even going
7 to exist after a while. All that definition
8 with the parking spots is great, but I think
9 that it's going to be one big gravel pit.
10 That's going to affect the parking, as well.

11 MR. CAPONERA: People have a vision of
12 gravel and there is also - have you ever heard
13 of limestone, or stone dust? I have a place up
14 north and that's what we use and it's better
15 than a driveway because it doesn't heave with
16 the weather. It's a smooth and it's permeable.
17 It allows for the drainage which is a
18 suggested requirement under your Code when you
19 have this kind of parking. When it's not used
20 all the time, they are recommending that you
21 do permeable pavement and I have to be honest.
22 It's as smooth as this floor that I'm standing
23 on. Again, I'm talking about the stone dust.

24 CHAIRMAN STUTO: I have a place up north
25 as well. There are dirt roads and dust. It's a

1 mess and it's a maintenance issue. I've
2 experience with it as well.

3 MR. CAPONERA: I'm just trying to provide
4 a feasible economically reasonable way to
5 solve everyone problem. I know that Mr.
6 DiBenedetto is not in a financial position to
7 pave this whole driveway or parking lot. He's
8 been put in a pretty tough situation here and
9 he's trying to accommodate the two folks on
10 Sunset that have the concerns. We understand
11 that and we've taken great strides to try to
12 alleviate that.

13 MR. BUNKER: One of the concerns with the
14 gravel is that if you have some patches of ice
15 and some of the tires are on gravel and some
16 of the tires are on ice and you start spinning
17 the tires, then the gravel doesn't have
18 anything for the cars to stick to so the car
19 is going to be fishtailing a bit even when
20 it's standing still. You're going to have
21 pedestrians fairly close to the cars and
22 you'll have the cars parked really close
23 together, but once you start spinning the
24 tires trying to get out of an icy rut, you're
25 going to have the cars going back and forth

1 and bumping into each other and possibly
2 hitting pedestrians.

3 MR. CAPONERA: As I mentioned before, Mr.
4 DiBenedetto has maintained this parking lot.
5 He has maintained it since he built the
6 structure. I suspect that issue is a
7 non-issue.

8 CHAIRMAN STUTO: He's maintaining it now,
9 but he could sell the building.

10 MR. CAPONERA: If he sells the building,
11 it's got to come back in with this Board if
12 something else changes. You would have the
13 opportunity to make a change at that point.

14 CHAIRMAN STUTO: For a change of an
15 owner?

16 MR. CAPONERA: If it was a different type
17 of operations.

18 CHAIRMAN STUTO: But if it's the same
19 use -- or he may get tired of doing it or
20 whatever.

21 MR. ROSANO: Just a couple of things,
22 Victor. This is just housekeeping

23 When we first came here, if you had gone
24 out and assisted the people with parking like
25 you do now, you probably wouldn't be here

1 tonight. When this first started, the problem
2 was that no one was going out directing people
3 away from people's driveways and parking lots.
4 So, I'll go back to my good neighbor speech.
5 If you had been a good neighbor back in
6 September, we wouldn't be here talking about
7 this tonight.

8 MR. CAPONERA: Perhaps.

9 MR. ROSANO: Probably not.

10 The question that I have: How many days
11 do we have Zumba a week?

12 MR. DIBENEDETTO: Two.

13 MR. ROSANO: What's to stop you from
14 doing six?

15 MR. DIBENEDETTO: That would, in our
16 opinion be more of a traffic jam.

17 MR. ROSANO: If you have the opportunity,
18 Mr. DiBenedetto - if you have an opportunity
19 tomorrow to increase the number of Zumba
20 classes - say you get some more good luck.
21 Would you do it?

22 MR. DIBENEDETTO: Probably not.

23 CHAIRMAN STUTO: But nothing would
24 prevent him doing that.

25 MR. DIBENEDETTO: That's true. It

1 wouldn't prevent me, but if I increase the
2 number of Zumba classes, then my own personal
3 classes would suffer. So, I wouldn't have
4 enough time for my own business.

5 MR. ROSANO: I just want that on the
6 record.

7 MR. DIBENEDETTO: I do want to address
8 the spinning of the tires and spikes on the
9 gravel. How many times have we been in a
10 parking lot that's paved that hasn't been
11 plowed well or salted. Do you not spin your
12 tires? Does your car not fishtail? It does.
13 I've been doing commercial plowing since I was
14 20 years old. I don't want to tell you my age
15 but it's over 20 years. I've maintained
16 parking lots - commercial lots for businesses
17 and driveways. I know what plowing is. I know
18 that I have to maintain it because if I don't
19 I'm looking at liability if somebody does
20 fall. So, I'm not insensitive to what has to
21 be done. I plowed numerous driveways and
22 parking lots with gravel or stone or dirt. My
23 uncle at one time owned a big lot on Central
24 Avenue where Price Chopper is now in Colonie.
25 That was all his land. I used to plow his

1 roadways. That was dirt and stone. Once the
2 ground freezes, it doesn't matter what's on
3 there. It's pretty consistent when you plow
4 it. If you want the lot plowed that's gravel,
5 you have skid plates that go underneath the
6 bottom of the plow. I'm sure some of you know
7 that. That's how you stop from ripping
8 everything up.

9 MR. ROSANO: The last thing is - the berm
10 out front with the two pear trees, I'd like to
11 see that increased to enough trees to
12 eliminate any chance of someone parking out
13 there.

14 MR. DIBENEDETTO: There are three trees
15 there right now. We have a big boulder on one
16 portion of it and a smaller boulder on the
17 other side to help prevent drive through. I
18 can do other things.

19 MR. CAPONERA: We can work with the
20 department.

21 MR. ROSANO: That's what I'm saying.
22 That's why I said it's a housekeeping issue.
23 We can just add something there to absolutely
24 guarantee that nobody is going to park there.

25 MR. CAPONERA: There is a picture right

1 there (Indicating).

2 MR. ROSANO: I've been there many times.

3 CHAIRMAN STUTO: I'm not sure how to move
4 this forward. I'd like to see some
5 redevelopment.

6 MR. AUSTIN: We're just talking about
7 redesigning and in just looking at -

8 CHAIRMAN STUTO: You want to isolate the
9 issues about what we're approving? Should we
10 approve more than 80 feet? Anybody have an
11 opinion on that? I think that it should be
12 limited to that.

13 MR. LANE: The parking spaces?

14 CHAIRMAN STUTO: The use of the property.

15 MR. LANE: It's 280 now.

16 CHAIRMAN STUTO: No it's not. That's just
17 for fire purposes.

18 MR. LANE: So you want to limit the
19 classes to 80; that's what you're saying?

20 CHAIRMAN STUTO: Yes.

21 MR. AUSTIN: Class size is going to be
22 120.

23 CHAIRMAN STUTO: They say that they have
24 the occasional events.

25 MR. AUSTIN: So, the class size would be

1 80 and the event could be 120.

2 MR. LACIVITA: Let me see if I understand
3 the problem here. The real problem exists when
4 Zumba happens. That's usually a one to one
5 driver. When you're looking possibly at the
6 maximum capacity of 120 where that might be a
7 ballroom event where you're going to get two
8 people driving per car, your numbers will be
9 lower; potentially.

10 CHAIRMAN STUTO: If you want to take his
11 argument, they should have 80 parking spaces.
12 He's proposing 62.

13 MR. LACIVITA: Right, but he has offsite.

14 CHAIRMAN STUTO: He's proposing that 25
15 will be paved.

16 MR. LACIVITA: And he's got offsite
17 parking as well to bring that up.

18 CHAIRMAN STUTO: That doesn't make me
19 comfortable because those could go away in a
20 day - the offsite.

21 MR. CAPONERA: Mr. LaCivita makes a good
22 comment. How many times do you do these
23 ballroom things?

24 MR. DIBENEDETTO: Currently, three maybe
25 four times a year.

1 MR. CAPONERA: Okay, so three or maybe
2 four times a year, he'll have a ballroom
3 event.

4 CHAIRMAN STUTO: That's where the gravel
5 is appropriate, in my mind. The gravel is
6 appropriate for those four times a year.

7 MR. CAPONERA: In those cases, those
8 people come as couples. I think that the
9 highest time you've had 100 people there maybe
10 120?

11 MR. DIBENEDETTO: We've reached 120 a
12 couple of times.

13 MR. CAPONERA: You're talking about 60
14 cars. They all come as couples.

15 CHAIRMAN STUTO: Joe is also saying that
16 Zumba is one per one ration for car per
17 customer.

18 MR. CAPONERA: I don't think that Zumba
19 is one per one. According to the statute it's
20 a two to one ration. For every occupancy, it's
21 a two to one.

22 CHAIRMAN STUTO: And we can decide
23 differently and make a different
24 recommendation. The reality of the record and
25 the reality of the testimony would suggest

1 that it's more than that.

2 I just want to add definition and give
3 you direction.

4 MR. CAPONERA: I appreciate that. I
5 really do.

6 CHAIRMAN STUTO: Even if we believe you,
7 I'm trying to think of a way to structure it
8 so that the normal limit is 80 and there may
9 be an occasional limit of 120. Can we
10 verbalize that in our approval? How would we
11 define dance classes versus something else?

12 MS. VAIDA: You're talking about the
13 party events?

14 CHAIRMAN STUTO: I'm trying to draw a
15 distinction between what they're trying to
16 describe that happens two to four times a
17 year.

18 Special events - we'll try to come up
19 with a definition because I think that they're
20 coming back. Special events - no greater than
21 six times a year. I don't know if you could
22 live with that; 120.

23 MR. CAPONERA: Yes.

24 CHAIRMAN STUTO: Regular dancing; 80.
25 The other Board Members can speak up.

1 MS. VAIDA: Do you need a Christmas
2 dance?

3 MR. DIBENEDETTO: When we have our
4 Christmas dance, our anniversary dance -

5 MS. VAIDA: Isn't that special events?

6 MR. DIBENEDETTO: Yes.

7 MR. CAPONERA: That's a 120. We're
8 talking about the Zumba thing.

9 MS. VAIDA: Other than Zumba, what is the
10 average size of a class?

11 MR. DIBENEDETTO: On Friday night dances;
12 40 to 50. That's what we're averaging. That
13 would fall way under.

14 CHAIRMAN STUTO: We've added some
15 definition to that.

16 MR. MION: Maximum of 80 participants
17 during normal business. A maximum of 120
18 participants for special events, not to exceed
19 six times per year.

20 CHAIRMAN STUTO: How many parking spaces
21 and then paved versus gravel?

22 MR. CAPONERA: There is a requirement for
23 a two to one ratio under the code. If you
24 limit the maximum to 120 then you're required
25 to have a minimum of 60.

1 CHAIRMAN STUTO: I would suggest 40 paved
2 and 20 gravel. That's my opinion. I could be
3 overruled by the Board.

4 You're okay with that layout up there,
5 Mike?

6 MR. SULLIVAN: I'd like to see it with
7 one curb cut on Gaffer's and perhaps
8 extend -- I know that you were trying to be a
9 good neighbor and not encroach upon that but
10 if a fence was provided, which it seems to be,
11 I would think that you would have that area
12 between the parking lot and the residential
13 lots.

14 MR. CAPONERA: It sounds like to me that
15 you want us to go back and retool the parking
16 in the back.

17 MR. SULLIVAN: I would like to see that
18 in a more of rectangle with a common aisle
19 with an exit at the back.

20 MR. LANE: I don't agree with that, to be
21 honest with you. I have no problem with the
22 gravel at all.

23 CHAIRMAN STUTO: Why don't we gravel all
24 the parking lots in the Town then? You do it
25 right or you don't do it right.

1 MR. SULLIVAN: What about the paved aisle
2 with gravel parking spots? That's what they do
3 at the soccer fields. The soccer fields have a
4 paved road at the end.

5 CHAIRMAN STUTO: Are they playing soccer
6 in the winter now?

7 MR. SULLIVAN: No, but there is a
8 considerable amount of traffic in there. It is
9 wet and you can track it out a distance but -

10 MR. MION: Do you have any idea what it
11 would cost to pave another 15 in the back?

12 MR. CAPONERA: We don't.

13 MR. DIBENEDETTO: We had the original
14 estimate for 30 parking spaces at \$35,000.

15 MR. CAPONERA: For 35 parking spaces,
16 from Leto it was about \$35,000.

17 MR. MION: We were just sitting here and
18 looking. You have 25 up front and if you do
19 another 15 in the back, you'd get two spaces
20 on the side and then the rest is gravel.

21 CHAIRMAN STUTO: Mike is proposing
22 something and it's not my best solution.

23 Do you want to describe it to them?

24 MR. CAPONERA: I'll try to follow this
25 visually.

1 MR. SULLIVAN: My suggestion would be to
2 extend this fence and have one access off of
3 Gaffer's here (Indicating). Have the aisle
4 paved here and down the center here and have a
5 rectangular here such that you have spaces
6 here and here (Indicating). You'll have a
7 common aisle that's paved and an aisle coming
8 off of Gaffer's through here. This would be
9 two-way and these spaces here could be crusher
10 run. This would be extended as needed to get
11 the appropriate number of spaces.

12 MR. LACIVITA: Dan, the cul-de-sac does
13 not exist right now, correct?

14 MR. DIBENEDETTO: No, it's more like a
15 rectangle.

16 MR. CAPONERA: It's not a cul-de-sac.
17 It's a rectangle. I think that the cul-de-sac
18 reflects the property line of the Town.

19 MR. LACIVITA: But you only have one
20 access point coming off this parking lot;
21 correct? That's really becoming a hammerhead.

22 MR. CAPONERA: Yes. Just so that everyone
23 knows on the Board - that's a great point,
24 Joe.

25 This cul-de-sac shows it as a cul-de-sac,

1 but it's really not a cul-de-sac. The road
2 actually ends up here (Indicating), if you
3 went back there. This just is the property
4 line owned by - I presume that Gaffer's is a
5 Town road. The access going to Gaffer's is one
6 access point. You see what I'm saying? It gets
7 a little confusing when you look at it. So
8 there is only one access point into Gaffers
9 and it just kind of joins there. I do see what
10 Mike is suggesting in terms of trying to do it
11 that other way and then do it horizontally - I
12 should say rectangularly.

13 I have to offer this to the experts that
14 are doing this. I understand what you're
15 trying to accomplish and it makes sense.

16 CHAIRMAN STUTO: Do the residents have
17 any questions or comments?

18 MR. ENSIGN: My name is Robert Ensign. I
19 have property on Gaffer's Court. I spoke at
20 the last meeting. It appears that there is a
21 problem on Sunset and Dan is trying to fix it.
22 I'm reiterating what I said before. If you
23 don't do something before the snow flies,
24 you're going to have bigger problems. Let him
25 can put it in now while there is a window to

1 do it before winter - to alleviate some of it.
2 If you bring him back in three weeks, you blow
3 the window.

4 CHAIRMAN STUTO: It's not our fault that
5 he didn't come back with a plan that was
6 acceptable to us.

7 MR. ENSIGN: I'm not on Sunset, but I'm
8 looking at a business owner that's trying to
9 fix the problem. I'm looking at neighbors with
10 concerns. I understand your concern. You want
11 to do it the best way that it can possibly be
12 done. It's in the middle of Latham. I kind of
13 agree. But if the law says that you can use a
14 permeable surface, who are we -

15 CHAIRMAN STUTO: There is porous pavement
16 and we can, in our judgment, decide which is
17 the best one that they use. The current
18 proposal is that he just pave the driving
19 parts and he can leave the actual parking
20 spots as gravel.

21 MR. ENSIGN: If you can just approve some
22 of this that everyone can agree on tonight,
23 you'll alleviate the problems this winter and
24 the neighbors will be happy.

25 CHAIRMAN STUTO: I don't see any

1 practical way to approve it tonight. I just
2 don't know how to do it. It's an engineer
3 problem that needs an engineer solution.

4 MR. ENSIGN: It's just you're opening up
5 a door -

6 CHAIRMAN STUTO: We didn't open it up.

7 MR. ENSIGN: Things happen. No one
8 purposely did anything.

9 CHAIRMAN STUTO: Understood, but don't
10 say that we opened something up. I don't agree
11 with that statement that we're opening
12 something up. We're trying to fix it.

13 MR. WOODKA: It must be frustrating to be
14 a small business in the Town of Colonie
15 sometimes where the success of the operation
16 is becoming the biggest problem. It doesn't
17 seem like there is anywhere to get help except
18 to show up once a month and get the feedback
19 and come back -

20 CHAIRMAN STUTO: That's not true. We gave
21 him feedback and we gave it to our staff and
22 he came back with something less than what was
23 suggested. We're very friendly with
24 businesses; we try to be. We bend over
25 backwards and we try to make ourselves

1 available. I disagree with that.

2 MR. CAPONERA: I understand what the
3 Board wants. We're going to work to do this.
4 I'm thinking out loud now. Obviously, the snow
5 is coming but could we allow Dan to get an
6 opening in here in the meantime and just maybe
7 keep that plowed open for your people in the
8 winter?

9 MR. DIBENEDETTO: If we could have them
10 park back there now -

11 MR. CAPONERA: Temporarily until we get
12 this thing resolved, because then we solve a
13 substantial part of the problems by at least
14 allowing a curb cut to get established and
15 come back with a plan that the Board looks at
16 or they could be satisfied with.

17 MR. LANE: It's too late for paving
18 anyway.

19 MR. CAPONERA: You can't pave. They shut
20 down last Friday, I think it was.

21 CHAIRMAN STUTO: I'm not opposed to
22 temporary parking back there.

23 MR. CAPONERA: It alleviates a big
24 problem and I think that if we can get the
25 Board to give its okay, we can go ahead and

1 get that established.

2 CHAIRMAN STUTO: I need to know what
3 you're suggesting that we approve.

4 MR. CAPONERA: I'd like you to allow us
5 to get a curb cut off this rectangular area
6 onto the back of the property and allow my
7 client to at least get this an open area where
8 people can park. He could probably flag it off
9 right now in terms of stakes and things of
10 that nature to just kind of define where it
11 is, and he can have Cotler Architects get that
12 staked out.

13 CHAIRMAN STUTO: Joe, are you allowed to
14 do that as a minor site plan on a temporary
15 basis?

16 MR. LACIVITA: You can actually do
17 grading limits up to one acre under the
18 stormwater regulations. He could actually
19 apply for a grading permit on his own now, if
20 he wanted to start the process to do some
21 offsite parking here.

22 CHAIRMAN STUTO: Can you give him access
23 to that road?

24 MR. LACIVITA: He can get that through a
25 highway permit. This is a dedicated road. It's

1 not a private road?

2 CHAIRMAN STUTO: Gaffer's Court - if I'm
3 a betting man, I'm saying that it's a
4 dedicated street.

5 MR. LACIVITA: Then he could get a
6 highway permit and could actually go through
7 and get a grading permit and get all the
8 stormwater erosion in and get the process
9 moving now and even put a sub base in all
10 under stormwater grading.

11 MR. TENGELER: We actually put this
12 through all the Town Departments and actually
13 that was one of the comments that the Highway
14 Department did have was that a Town of Colonie
15 Highway work permit would be the only thing
16 needed for the tie in on Gaffer's Court.

17 MR. CAPONERA: So, he can get going on
18 it, with your permission.

19 CHAIRMAN STUTO: I have no objection to
20 that.

21 MR. CAPONERA: We'll retool this and you
22 know we'd love to come back and you can look
23 at this again.

24 MR. LACIVITA: We can't pave anyway. So,
25 the key is to get something cleared so we

1 don't have the issue on Sunset and you can do
2 that legally by getting a grading permit.

3 MR. LANE: So we don't have to vote on
4 anything. We just can say okay, get the
5 grading permit, he gets the curb cut -

6 MR. LACIVITA: He's able to do that by
7 the standards currently in place.

8 CHAIRMAN STUTO: When do you think you'll
9 turn around new plans?

10 MR. CAPONERA: I'll talk with Cotler
11 tomorrow and show him what we got. I'd say
12 within 10 days we could turn it around.

13 CHAIRMAN STUTO: We'll try to get you
14 back on as soon as possible.

15 MR. CAPONERA: I'll work with the
16 department. They'll get us on as soon as
17 possible.

18 CHAIRMAN STUTO: Okay, then you have
19 clear direction. Thank you.

20 MR. CAPONERA: Thank you very much for
21 your time, everyone.

22

23 ***(Whereas the proceeding concerning the above***

24 ***entitled matter was adjourned at***

25 ***8:34 p.m.)***

CERTIFICATION

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3
4 ***I, NANCY STRANG-VANDEBOGART, Shorthand***
5 ***Reporter, and Notary Public in and for the***
6 ***State of New York, hereby CERTIFY that the***
7 ***record taken by me at the time and place***
8 ***noted in the heading hereof is a true and***
9 ***accurate transcript of same, to the best of***
10 ***my ability and belief.***
11
12
13

14 -----
15 ***NANCY STRANG-VANDEBOGART***
16
17

18 ***Dated January 12, 2012***
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22
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25