

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3

4 *****
5 DIBENEDETTO DANCE STUDIO
6 13 SUNSET DRIVE
7 AMENDMENT TO PREVIOUS SITE PLAN APPROVAL
8 *****

9 THE STENOGRAPHIC MINUTES of the above entitled
10 public hearing BY NANCY STRANG-VANDEBOGART, a
11 Shorthand Reporter, commencing on
12 September 27, 2011 at 8:31 p.m. at the Public
13 Operations Center 347 Old Niskayuna Road,
14 Latham, New York 12110

15 BOARD MEMBERS:

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

23 Also present:

- 24 Joseph LaCivita, Director, Planning and Economic
25 Development
- Michael Tengler, Planning and Economic Development
- Daniel DiBenedetto, Owner
- Fred Pettingill, Latham Fire District
- Nancy Bunker
- Lori Washburn
- John Avakian
- Nancy Styczynski
- Bob Styczynski
- Kathy Montesano
- Bob Ensign

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

5 Joe, would you like to do an
6 introduction?

7 MR. LACIVITA: I think that's another
8 project that Michael will review.

9 MR. TENGLER: What we have for you
10 tonight is an amendment to a previous major
11 site plan approval for the DiBenedetto Dance
12 Studio located at 13 Sunset Drive. The project
13 received final Planning Board approval on
14 March 25, 2003.

15 In late February of 2011 the Planning and
16 Economic Development Department started
17 receiving complaints regarding the excessive
18 parking up and down Sunset Drive. As a result,
19 I contacted the owner, Dan DiBenedetto, to
20 work toward a remedy to the situation. Through
21 subsequent meetings with both the owner and
22 his design engineer, we asked that an expanded
23 parking area be developed on site to lessen
24 the traffic and parking on Sunset.

25 Here tonight to discuss his plans for the

1 parking addition is Daniel DiBenedetto.

2 CHAIRMAN STUTO: What is the application
3 for? What's he trying to do?

4 MR. TENGELER: It's an amendment to his
5 previous site plan for a parking lot
6 enlargement - an addition.

7 MR. LACIVITA: The project that you have
8 before you is answering the neighbors'
9 concerns about parking on the street. Although
10 the street is not posted as no parking, we're
11 trying to do a proactive approach to having
12 the parking contained on site.

13 CHAIRMAN STUTO: So, from how many to how
14 many?

15 MR. TENGELER: From 16 parking spaces and
16 you're adding an additional -

17 MR. DIBENEDETTO: An additional 28.

18 CHAIRMAN STUTO: Okay, would the
19 applicant like to be heard on this?

20 MR. DIBENEDETTO: My major concern is
21 alleviating the parking on both sides of the
22 street that presently is happening. We need
23 the space.

24 Twice a week we have Zumba for ladies.
25 It's very popular right now and we didn't

1 expect the growth that we've gotten from it. I
2 understand that there is a parking problem.
3 So, when the Town approached me, I said that I
4 would be more than willing to put in
5 additional parking to alleviate the problem.
6 The plan is to come in on Sunset Drive. We'll
7 gate it so that it will only be used during
8 our business hours and it wouldn't be a
9 through traffic for normal everyday use; just
10 when we need it for the bigger events and
11 bigger classes. They would exit by Gaffers
12 Court. It would be one-way. Gaffers Court,
13 basically right now is almost totally vacant.
14 There is very little happening on Gaffers
15 Court. So, we would alleviate the problem by
16 parking on Sunset Drive and hopefully take
17 care of the concern with the few residents
18 that are on the street.

19 CHAIRMAN STUTO: You don't have a board
20 or anything to show us on the map; current
21 versus new conditions?

22 MR. DIBENEDETTO: No, I believe that
23 there is a map that you have there.

24 CHAIRMAN STUTO: So, your current parking
25 is on Sunset?

1 MR. DIBENEDETTO: Correct.

2 CHAIRMAN STUTO: And you're proposing
3 more parking off the cul-de-sac on Gaffers?

4 MR. DIBENEDETTO: Yes, at the rear of our
5 property.

6 CHAIRMAN STUTO: And then there is a spot
7 that says future parking if needed; 18 spaces.
8 Is that part of this application?

9 MR. DIBENEDETTO: Not at the present
10 time.

11 CHAIRMAN STUTO: So, you're holding that
12 in reserve?

13 MR. DIBENEDETTO: Yes. Let's say that in
14 the future we actually expand more, then we
15 have to resubmit and we'd need another 18 to
16 20 spaces or whatever. There is room for
17 expansion because all of that property - the
18 two lots on Gaffers Court belong to this
19 parcel of land.

20 CHAIRMAN STUTO: Do the Board Members
21 want to comment?

22 MR. ROSANO: I'd like to hear the public
23 first.

24 CHAIRMAN STUTO: Fred Pettingill.

25 MR. PETTINGILL: There's just an issue

1 with blocking the fire hydrant, that's all I
2 ask.

3 CHAIRMAN STUTO: You're worried about
4 them blocking the fire hydrant?

5 MR. PETTINGILL: Yes. The Chief couldn't
6 be here this evening due to some training. He
7 asked me to come.

8 CHAIRMAN STUTO: You're with the Town?

9 MR. PETTINGILL: Latham Fire Department.

10 CHAIRMAN STUTO: You're saying that the
11 current design blocks the fire hydrant?

12 MR. PETTINGILL: Where the people are
13 parking on the street, currently.

14 CHAIRMAN STUTO: So, you think that it's
15 a good idea to go forward with this?

16 MR. PETTINGILL: Yes.

17 CHAIRMAN STUTO: Okay.

18 Kathy Montesano.

19 MS. MONTESANO: I'm a resident of the
20 Town of Colonie. I'm Dan DiBenedetto's office
21 manager. I just came to support him and to say
22 that since the inception of the business, he
23 has had a lot of growth, which is a good thing
24 in today's economy. There are a lot more
25 people coming to the studio and as a result,

1 the parking that was allowed in the beginning
2 is no longer sufficient. In order for his
3 business to grow - and I'm sure that no one is
4 trying to put him out of business - that the
5 Town should support his application to put in
6 more parking space.

7 CHAIRMAN STUTO: Thank you.

8 Nancy Bunker.

9 MS. BUNKER: Hi, I'm a pediatrician. I
10 have an office directly across the street from
11 Mr. DiBenedetto's dance studio. A number of
12 concerns have come up.

13 First, I'd like to clarify what the
14 actual certificate of occupancy for the
15 building as it is now?

16 MS. MONTESANO: That would be 400.

17 MS. BUNKER: I'd like to present to the
18 Town - this is from the website - - the Town
19 of Colonie Parking Code; Article 10,
20 Chapter 190-10. It goes into some detail about
21 different venues and how many parking spaces
22 you're required for each type of venue. If you
23 look up private club or private assembly,
24 recreation facility or cultural venue, it's
25 one space per two people, maximum occupancy.

1 So, if he has 400 maximum occupancy, he would
2 need 200 parking spaces. That was my first
3 point.

4 CHAIRMAN STUTO: Does the Planning
5 Department have anything to say about that?
6 I'm not sure how old the building was or if it
7 was grandfathered in.

8 When was the original approval?

9 MR. TENGLER: March of 2003 was the final
10 approval.

11 CHAIRMAN STUTO: That was under our old
12 Land Use Law?

13 MR. TENGLER: Correct.

14 CHAIRMAN STUTO: How many square feet is
15 the building? Do you agree that the CO is for
16 400?

17 MR. LACIVITA: Dan, I don't believe that
18 your occupancy is for 400.

19 MR. DIBENEDETTO: That's what is written
20 on the certificate that we have.

21 MS. BUNKER: The original intent was 28
22 dancers at the time. I have that here on the
23 original proposal from the architects. This
24 goes into detail about how 15 parking spaces
25 will be adequate because they will only have a

1 maximum class size of 20.

2 CHAIRMAN STUTO: Do you have anything on
3 that, Joe?

4 MR. LACIVITA: No, I don't have anything
5 on that.

6 MS. BUNKER: The concern came up for me
7 in the middle of February when there obviously
8 was a lot of snow last winter. I left my
9 office at about 6:00 or 6:15 and I saw that my
10 parking lot was filling up with cars. I was
11 getting ready to leave and I needed to get my
12 plow guy to get in. I needed to be able to
13 salt the parking lot and I didn't want the
14 liability. I went over and I spoke to the
15 Zumba teacher. She was extremely rude to me
16 and we ended up having the police come.

17 After a series of emails, we realized
18 that we were not going to resolve the
19 situation and so that's when I started working
20 with the Planning Board.

21 The cars park up and down the street.
22 There have been repeated incidences of parking
23 in front of the fire hydrants, blocking
24 people's driveway, people have been parked on
25 my lawn, perpendicular to the street. People

1 have been parked in the turn around at a fan
2 angle so that part of the car is on the grass
3 and part of the car is in the circle. They
4 have a whole fan of cars going around. They
5 were double parking in the circle. There is a
6 berm in front of this building. We frequently
7 have 15 cars parked in regular spaces. We'll
8 have another 15 cars parked across the front
9 of the berm and 15 cars parked around the back
10 of the berm. He has another dozen cars parked
11 on the turnaround and a dozen cars on the
12 other side of the street. So, we're talking
13 six dozen cars that we're dealing with.

14 In the middle of winter when there was
15 snow, the snow plows were on either side. We
16 had parking on both sides of the street. The
17 narrow channel between the parked cars was
18 barreled was wide enough for a compact car. It
19 was not wide enough for a fire engine. It was
20 not wide enough for a snow plow, a tow truck,
21 a full size ambulance or a National Grid truck
22 if there was a power outage. So, basically
23 they were blocking all but the most narrow
24 channel in the middle of the street. When
25 there was snow, they were blocking a lot of

1 people's driveways. They couldn't see where
2 the driveways were because of the snow and
3 they were frequently blocking the hydrants.
4 They were parking on other business' lots.

5 Apparently, the Zumba teacher told her
6 students that they had permission to park in
7 other lots when they did not have the
8 permission and she refused to keep people off
9 my lot until I put the sign up. Me and several
10 other businesses put the sign up that said, no
11 unauthorized parking or you will be towed. The
12 problems persisted. As I said, we're talking
13 about five or six dozen cars at a time, two
14 days a week.

15 We have his initial application that said
16 he would be having dance classes with a
17 maximum of 24 people. So, obviously there is a
18 difference between 400 and 24. If he truly has
19 400 maximum occupancy, he needs 200 parking
20 spaces and he has 15 currently. I didn't quite
21 understand how many more he could put on
22 Gaffers Court. That brings up a number of
23 problems as well.

24 First, the Gaffers Court parking lot
25 would be fairly far away from his current

1 location where the building is. We're talking
2 about a lot of dance classes that are in the
3 evening. There are the same safety risks to
4 the women dancers who are walking up and down
5 the dark alley at night.

6 CHAIRMAN STUTO: Actually, the way it's
7 positioned, it's adjacent to the back of the
8 building. It's here if you want to look at it.

9 MS. BUNKER: It drops down at the back of
10 the building.

11 CHAIRMAN STUTO: You arguing with his
12 certificate of occupancy, obviously.

13 MS. BUNKER: His certificate of occupancy
14 should be adjusted to what he has currently
15 for his parking. In particular with some of
16 the bigger dinner dance parties, it's very
17 disruptive. It's going into the late hours of
18 the morning or the early hours of the morning
19 and that day. There was a party a couple of
20 years ago that went to 2:00 in the morning and
21 this would be very disruptive to the neighbors
22 on that side of the street if they have a lot
23 of traffic coming and going. It's a
24 residential street and there are still
25 residents on the street.

1 MR. LANE: We're not here to argue the
2 certificate of occupancy.

3 MS. BUNKER: At this point it's currently
4 a danger. This parking lot that is proposed is
5 too little. It's too late. It's too far away
6 and it's too disruptive of the neighbors who
7 are already there.

8 CHAIRMAN STUTO: We have no authority
9 over the certificate of occupancy. We will try
10 to communicate with the Planning staff to
11 research what you're saying. We're trying to
12 do that now a little bit. I'm not sure what
13 the appropriate forum is for that.

14 MS. BUNKER: I'm not sure either. I'd
15 love to know.

16 CHAIRMAN STUTO: Okay, well, we'll work
17 on that.

18 MR. LACIVITA: I have a question of Dan
19 or Kathy.

20 What is the square footage of the actual
21 dance floor that is currently in use?

22 MR. DIBENEDETTO: It's 3,600 feet. We
23 have tables surrounding the floor so it's
24 probably 1,300 to 1,400 square feet.

25 MR. LACIVITA: So, even though we're not

1 here to argue the documents, if all those
2 tables were moved, you could get more people
3 standing in assembly format. When you have
4 your tables and chairs around the perimeter of
5 your dance floor, how many people do you have
6 for your classes? What is the maximum capacity
7 you can have for your class?

8 MR. DIBENEDETTO: When I personally run
9 my classes, I can take 18 to 20 people - for
10 my ballroom classes. The Zumba is a separate
11 entity because they don't require a lot of
12 space. If you watch, there is a lady
13 approximately every three feet going across.
14 She takes about 60 to 70 people in her
15 classes.

16 If you have 70 people, that's 12 dozen
17 cars. Still they come a couple of people to a
18 car. So, what we have done to try to alleviate
19 the problem is to allow them to park on some
20 of our greenery so that we can get the
21 situation taken care of. I'm not trying to
22 infringe on any of the neighbors. We realize
23 that there are problems. We came and talked to
24 Mike and he said, let's do something about it.

25 CHAIRMAN STUTO: Does that answer your

1 question?

2 MR. LACIVITA: Actually, yes. What I'm
3 looking at now is a certificate of occupancy
4 dated September 4, 2009 and I need to have
5 this relooked at. The main dance studio is 280
6 people. So, I'm not quite sure where the 400
7 is coming from. The occupancy that is shown on
8 this certificate of occupancy says 280.

9 MS. BUNKER: So, 145 parking spaces is
10 what is needed.

11 CHAIRMAN STUTO: Let's not get into a
12 debate on this.

13 Mike, this is your project. Do you have a
14 sense of the parking problem, yourself?

15 MR. TENGLER: Yes. It's up and down
16 Sunset - both side of the street.

17 CHAIRMAN STUTO: What do you think the 22
18 spaces is going to do? To what extent will
19 that alleviate that?

20 MR. TENGLER: Honestly, it will alleviate
21 parking at least on one side of the street.
22 There won't be parking on both sides of the
23 street. Honestly, I believe that the banked
24 spaces, as well, will make a bigger dent in
25 the parking.

1 CHAIRMAN STUTO: Why would the applicant
2 not want to expand it further to the 18
3 spaces?

4 MR. DIBENEDETTO: Well, I would like to
5 expand it in the future, but right now cost is
6 a consideration. We've gotten enormous
7 estimates just to rectify this at the present
8 time. We're talking not hundreds of dollars,
9 we're talking thousands of dollars to try to
10 alleviate this problem.

11 CHAIRMAN STUTO: I would assume that it
12 would not be in the hundreds.

13 MR. DIBENEDETTO: Right now, we can
14 conceivably put the 28 spaces in and then
15 possibly next year consider taking more of the
16 trees down and putting in more spaces.

17 CHAIRMAN STUTO: Ma'am, do you have
18 further comments?

19 MS. BUNKER: I think that in your packet
20 from the Town there is a letter from the Fire
21 Chief addressing some of the concerns about
22 getting the fire trucks up and down the street
23 and some of the emergency vehicles. So, we do
24 have the support of the Fire Department in
25 terms of the safety issues.

1 I run a pediatric practice and if there
2 were an emergency and my office needed to have
3 an ambulance - sometimes they come with the
4 fire trucks as well if they need some of the
5 heavier equipment. I want to make sure that
6 there is full access for emergency vehicles.

7 The situation has gotten significantly
8 worse since February. The parking lot that is
9 proposed is not going to be at all adequate.

10 CHAIRMAN STUTO: Thank you.

11 Lori Washburn.

12 MS. WASHBURN: Originally, we were told
13 that this was going to be a private dance
14 studio. We shook hands out here in the parking
15 lot after the Planning Board meeting and said,
16 welcome to the neighborhood.

17 CHAIRMAN STUTO: Are you a resident?

18 MS. WASHBURN: Yes. I live two doors
19 down.

20 CHAIRMAN STUTO: On the same side of the
21 street.

22 MS. WASHBURN: Yes. From the day that the
23 doors were opened, they have had more people
24 than what we were told that this business
25 would entail.

1 The people from 11 couldn't be here
2 tonight. They had a family emergency. Their
3 big concern is that they never had a drainage
4 problem in their parking lot until the
5 building was built.

6 CHAIRMAN STUTO: What year was the
7 building built?

8 MS. WASHBURN: I don't know. It took
9 forever for it to be built.

10 CHAIRMAN STUTO: Are you the original
11 owner of the building?

12 MR. DIBENEDETTO: Yes.

13 CHAIRMAN STUTO: What year was that?

14 MR. DIBENEDETTO: The building was
15 completed approximately two and a half years
16 ago.

17 CHAIRMAN STUTO: Thank you.

18 MS. WASHBURN: The drainage in their
19 parking lot is - they now have water every
20 time that it rains.

21 CHAIRMAN STUTO: I'm going to ask this
22 question again. What is the square footage of
23 the whole building?

24 MR. DEBENEDETTO: Between 5,300 and 6,000
25 square feet.

1 MS. WASHBURN: And during the winter they
2 have ice problems. They never had this before.

3 Recently, they have Friday night parties
4 that are BYOB and people have drove from their
5 parking lot -- actually they were parked on
6 their lawn or whatever and cut through and
7 turn into 11's parking lot to leave. So,
8 they've torn up their lawn every night that
9 this Zumba -

10 CHAIRMAN STUTO: Number 11 is a
11 residence?

12 MS. WASHBURN: No, it's a business. There
13 are some times that they're late. They're tax
14 attorneys. They've had to kick people out of
15 their parking lot. The Electrostatic Air
16 Cleaning people had to constantly ask people
17 to leave their parking lot. The minute that
18 they leave, they look in the rearview mirror
19 and they go back and park in it. They have to
20 turn around in Starbucks, come back in and
21 say, listen I told you -- they don't want the
22 liability of other people parking in their
23 parking lot.

24 Tonight there were 72 cars parked for
25 Zumba. That didn't include five cars that

1 parked in Pioneer Savings Bank. There was no
2 parking left on the street. They turned around
3 and they broke into Pioneer Savings Bank.

4 It's just become unbearable. This is not
5 what we were told that this business was going
6 to be when we came to the Planning Board
7 meetings. It was just going to be a private
8 dance studio. There wasn't going to be any
9 disruption to the neighborhood. We wouldn't
10 even know that they were there because it was
11 quiet. As soon as Zumba leaves, they have
12 another class that follows sometimes.

13 The traffic - I can't tell you how fast
14 these people drive up and down our road. I
15 have to leave work early on Tuesday and
16 Thursday. I have to take time off in order to
17 get home in order to find a parking spot. I
18 can't go grocery shopping and I can't do
19 anything because if I leave, I have no place
20 to park. I have an apartment on the side of
21 the building, so my entrance is on the side. I
22 have to park in the street. My father parks in
23 the driveway - he and his girlfriend. I can't
24 park in the driveway because they can't get
25 out. He's a fireman and he has to sometimes go

1 to the fires. This isn't what we were told
2 that this business was going to be. It's just
3 gotten to the point where we have thrown up
4 our hands.

5 The Electrostat Air Cleaning complains.
6 They had to go out and buy signs in order to
7 cover their butts if they needed to tow
8 somebody. Dr. Bunker had to go and get signs.
9 Everything is being put on the residents. We
10 are the ones that are suffering here.
11 We were happy when we left the Planning Board.
12 We welcomed him to the neighborhood, but
13 that's not what we got here. From the day that
14 they opened their doors in 2009, there has
15 been more than what we were told there was
16 going to be. I risk my life every time that I
17 go out to my car. I also work with the Fire
18 Department. If I have to leave and it's
19 between 5:00 or 6:00, God forbid. You risk
20 your life opening your door to get into your
21 car. These people walk across your lawn. I've
22 got photos of one car that every week parks on
23 11's lawn. They park on our lawn. I've got
24 photos of them blocking multiple driveways,
25 including mine. Last week and I had to sit

1 there and play policeman on my own property
2 saying, you can't park there and they say why?
3 And I said, you're blocking my driveway - from
4 your wheel well to your bumper, that's
5 blocking my driveway. They say, well, you can
6 back out and around me. My dad can't. He can't
7 back out of his driveway around one car and
8 not hit the car that's on the other side of
9 the road.

10 There are 72 cars and if they're having
11 29 parking spots - where are the other 40 cars
12 going to go? It's just insufficient.

13 CHAIRMAN STUTO: John Avakian.

14 MR. AVAKIAN: I just came tonight to see
15 what this was all about. I own the gift shop
16 that was formally the Vanilla Bean. I also
17 bought the property on 5 Gaffers Court. I
18 don't understand - are you guys against the
19 parking lot or for the parking lot?

20 CHAIRMAN STUTO: They're saying that it's
21 wholly inadequate.

22 MR. BUNKER: And it's not going to be
23 sufficient.

24 MR. AVAKIAN: I just didn't understand
25 what the issue was. If it was the issue of

1 them blocking the driveway, I don't understand
2 why the Town couldn't put a sign there that
3 says no parking from here to the corner. If
4 there was an issue with that, you could call
5 the cops and have them towed.

6 CHAIRMAN STUTO: How do you feel about
7 it?

8 MR. AVAKIAN: To be honest with you,
9 there is nothing that's going on with my
10 street because there is nothing there. There
11 are cars that zoom down Gaffers all the time.
12 Basically, they make a wrong turn and they go
13 look for a turnaround.

14 I was wondering if they were going to
15 connect Gaffers to Sunset.

16 CHAIRMAN STUTO: No, that was not the
17 plan.

18 MR. AVAKIAN: I'm not against them having
19 parking there, even though I live on Gaffers.

20 CHAIRMAN STUTO: Thank you.

21 Anybody else from the audience?

22 MR. ENSIGN: My name is Bob Ensign. I own
23 836 Loudon Road. I have almost 500 foot
24 frontage on Gaffers Court.

25 CHAIRMAN STUTO: You have been here

1 before?

2 MR. ENSIGN: A few times. I've been lucky
3 enough that the Town has been good to deal
4 with for many, many years.

5 CHAIRMAN STUTO: What business are you
6 in?

7 MR. ENSIGN: I own Ensign Auto Body and
8 Motoring Madness. I own that with my wife. I
9 have almost 500 foot of frontage on Gaffers. I
10 have 160 foot of frontage on Route 9.

11 There is a parking problem that he's
12 trying to resolve the best that he can
13 resolve. Finances are a big thing in this
14 economy. He's trying to resolve something.

15 I didn't see the site plan of what he
16 wants to do, but I'm sure that it's going to
17 be very expensive. He has quite a bit of
18 property there. His building is beautiful.

19 I've done paperwork late at night when my
20 door is open. It's about 150 feet from his
21 business; up to 2:00 on Friday nights. I don't
22 hear any noise. I hear a couple of pubs across
23 the street on Route 9, but I don't hear
24 anything from the back.

25 Gaffers Court is a dead end right now.

1 It's been dumped on and used as a depository
2 for all kinds of things. I went in and I
3 cleaned up a lot because I care about my
4 property and I care about my surroundings.
5 This morning there was a homeless guy sleeping
6 on the road - on the pavement. The Colonie
7 Police were called.

8 With more people going through Gaffers,
9 it's going to alleviate the dumping and a lot
10 of problems. Gaffers is also posted no
11 parking. If he opens up to Gaffers to help
12 alleviate his problem and the problem on
13 Sunset, I would highly recommend removing the
14 no parking signs. I'm in full support of what
15 he wants to do. It's good for the community,
16 in that area. It's good for his growing
17 business. It's good for everybody around us.
18 Gaffers has a very sharp corner on it there.
19 He's going through Sunset to his parking lot,
20 gating it - if I'm correct. Again, I'm blind
21 to the site plan. I'm going by what I've
22 heard.

23 You're going to gate it so that you can
24 open it more or less when your clients come
25 through.

1 As you're coming from the dead end
2 portion of Gaffers and you're going toward
3 Route 2, there is a very sharp corner with
4 shrubbery in the way that is also part of this
5 property. Some of the shrubbery is trees on
6 the Verizon building. For safety, I would ask
7 two things: First, that you approve this as
8 fast as possible to alleviate the problems on
9 Sunset. Secondly, if you would allow me on his
10 property to remove that shrubbery, I'd be more
11 than happy to do that myself. Now, we have a
12 safety issue. We have a line of sight issue.
13 Remove the no parking signs on Gaffers if it's
14 going to help alleviate his problem. It's
15 going to make the neighborhood better. It will
16 help the dumping and there will be no homeless
17 people sleeping back there. This is a no
18 brainer. Approve it, please.

19 CHAIRMAN STUTO: Thank you.

20 MS. STYCZYNSKI: My name is Nancy
21 Styczynski and I live at 10 Sunset Drive. I'm
22 a resident and I'm also a Zumba client. I'd
23 like to speak first as a resident.

24 CHAIRMAN STUTO: You have a conflict of
25 interest here.

1 MS. STYCZYNSKI: I do. I think that it's
2 great. First of all, I'd like to say that
3 Zumba is twice a week; but it's for an hour.
4 It's 6:00 to 7:00. It's only an hour.

5 We moved there in 1984 and Dr. Bolan had
6 his medical practice there. All the years that
7 we've been there - until the dance studio came
8 and once the medical practice moved out, we
9 had cars nonstop. My husband had an
10 engineering business there. It was on both
11 sides of Sunset all day long. So, I was so
12 amazed that there is controversy over this. I
13 agree that there is a parking problem now, but
14 to say that there is suddenly a
15 problem - there has always been parking on
16 both sides of the street. This is only for two
17 hours during the week at night from 6:00 to
18 7:00 and they're gone. We lived for years with
19 parking on both sides of the street. There
20 were three doctors in that medical building at
21 one time. They were in and out constantly and
22 parking all over. Sometimes they'd block us
23 in. We're neighbors and we worked it out. The
24 doctors, if we had a problem, would come and
25 talk to us. There never really was a problem.

1 I'm really confused by the controversy over
2 two hours a week. I agree that we need more
3 parking. I applaud Mr. DiBenedetto for
4 applying for more parking space. I'm really
5 just mystified about the whole thing. I'm
6 certainly for it. Come and join Zumba. It's
7 only an hour and I don't think that point
8 wasn't made. It sounded like it was all week
9 long and it isn't. Like I said, we've lived
10 with it since 1984. Actually, it's been a very
11 quiet street even though there are businesses
12 on it. We don't hear it at night.

13 I disagree with that there are parties.
14 We do hear the pubs on Route 9 sometimes in
15 the summer, but there isn't any noise or
16 anything like that. I'm very much for it.

17 CHAIRMAN STUTO: Thank you.

18 Anybody else?

19 MR. STYCZYNSKI: I'm Bob Styczynski.
20 We've lived there since 1984. I foster small
21 business. I had an engineering business there
22 for 30 years. It's a fine looking building. I
23 think that adding parking space will be a
24 benefit because right now it's got an open
25 field and it's not been unsightly. So, I'm in

1 favor of it. Again, when the dances are on,
2 there are no problems at all. I see cars
3 coming in and out. They're very quiet and
4 they're more elderly people, probably. I have
5 no problem with it.

6 CHAIRMAN STUTO: Thank you.

7 Anybody else?

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

9 CHAIRMAN STUTO: Do you have anything
10 else to add?

11 MR. LACIVITA: I just have one question
12 for the people on Sunset. Is the cut through
13 still there when they did the Crispy Kreme and
14 the Starbucks? They dumped a lot of cars onto
15 that street when they planned that
16 construction process.

17 MS. BUNKER: Yes.

18 MR. LACIVITA: So, you're still getting a
19 lot of cars there.

20 MR. STYCZYNSKI: They don't come up our
21 street.

22 MR. LACIVITA: No, but they come up and
23 use that to go out.

24 CHAIRMAN STUTO: Anything else to add?

25 Paul?

1 MR. ROSANO: Mr. DiBenedetto, would you
2 consider yourself a good neighbor?

3 MR. DIBENEDETTO: We try to be.

4 MR. ROSANO: You're aware of what's going
5 on over there as we speak. I have to defer to
6 the fact that my children did go to Dr. Bolan,
7 but that was during the daytime and people
8 were at work. It really had little affect on
9 them as far as parking on the street. These
10 folks coming home from work at night trying to
11 get in their driveways - have you made any
12 effort in your building through brochures or
13 making an announcement before the classes
14 start?

15 MR. DIBENEDETTO: We have done that ever
16 since it became a problem. The Zumba teacher
17 reinforces it at every class. She advises the
18 people not to park on other people's property
19 and not to block their driveways. Short of
20 having the cars towed, there is very little
21 else that we can do. If there is a problem and
22 the driveway is being blocked, then yes, by
23 all means, call a tow truck and have it towed
24 away. But we do reinforce that every time we
25 have that Zumba class. It's not so much of an

1 issue for our dance parties because they are
2 later in the evening and we don't make a lot
3 of noise, and we don't use a large amount of
4 parking spaces. Occasionally, we have a big
5 party and I tell people go off the road and
6 pull on my lawn. I know that it's frowned on,
7 but rather than congesting the roadway so that
8 emergency vehicles or trucks -- on that road,
9 we have big tractor trailers that come down
10 and turn around on that cul-de-sac every day.
11 That's one thing that I wanted to mention. I
12 try to tell the people please try not to block
13 where vehicles have to come through.

14 Taking that all into consideration,
15 that's why we need the parking. If we had 28
16 spaces now and another 15 or 18 next year - I
17 do have the two lots on Gaffers Court that
18 actually border the actual dance studio lot.
19 If we can park like this other gentleman said,
20 on Gaffers Court, that would alleviate the
21 problem. Since it's all my land and adjacent
22 to the building, we're not talking about a
23 person coming out of the building and having
24 to walk 2,000 feet. That would relieve all the
25 congestion on Sunset.

1 MR. ROSANO: According to this drawing
2 when you're having Zumba, you're going to have
3 to come down Sunset to get to the parking lot.
4 Do you think that you would want to have them
5 go down Gaffers to get there?

6 MR. DIBENEDETTO: That was not my
7 suggestion. That was your suggestion.

8 MR. ROSANO: Well, I'm going to make the
9 suggestion to you right now. I'm not buying
10 this. Putting more cars on that street when
11 they could easily go down Gaffers and park - I
12 don't see that this is a solution. You're
13 forcing more cars down the road. You're making
14 those cars come down the road and park in that
15 parking lot.

16 MR. LACIVITA: Just to clarify a little
17 bit - in working with the architect and
18 Mr. DiBenedetto, what we're doing is we're
19 allowing traffic to come down Gaffers. What
20 we're doing is saying that it's only a one way
21 coming from Sunset for those cars to elect to
22 go down, and they can't come back out onto
23 Sunset. Gaffers has a free access.

24 MR. ROSANO: What I'm saying, Joe, is
25 that I'm not buying the driveway. I don't see

1 the need for the driveway. If they can park on
2 Gaffers - there is back door to the back of
3 the building. They're going to have to walk to
4 the back of the building anyway. I'm not
5 buying the driveway and putting those extra
6 cars there.

7 MR. DIBENEDTTO: My concern is that
8 people are conditioned to come down Sunset
9 right now. If you have them come down Sunset
10 and go through the drive through, then they
11 have to turn around and go back out Sunset and
12 come down Gaffers. That would not really
13 alleviate the problem or the traffic. If it's
14 only one way coming in and one way going out -

15 MR. ROSANO: You already said that these
16 people are conditioned. They're conditioned to
17 park on the street because you say that you
18 talk to them. The very first day of class you
19 say go down Gaffers and that's the end of the
20 story. Park in that parking lot first. The
21 point to this whole deal is: Let's get cars
22 off of Sunset. You're basically saying that
23 I'm going to add parking, but I'm going to
24 make them come down Sunset to get to that
25 parking lot. You're doing the opposite to what

1 you're saying.

2 MR. DIBENEDETTO: You're right; they do
3 not have to come down Sunset. Until they're
4 conditioned to do that, they will come down
5 Sunset.

6 MR. ROSANO: The point that I'm trying to
7 make is that we're trying to get less cars on
8 Sunset and you're saying that you let your
9 architect put a drawing in to put more cars
10 there. You know that you have a parking
11 problem and you say you're a good neighbor.
12 But then you put this in front of me and you
13 say, now we're going to tell them that if they
14 want to park in this parking lot, come on down
15 Sunset. That's instead of saying, send them a
16 letter or e-mails and say, we have an overflow
17 parking lot, use Gaffers Court. Don't
18 encourage them to come onto Sunset. We're
19 trying to get away from that.

20 MR. DIBENEDETTO: We still have some
21 parking in the front of the building and
22 that's only accessible through Sunset.

23 MR. ROSANO: I understand. I've been over
24 there. You're also parking on greenery.

25 MR. DIBENEDETTO: That's what we're

1 trying to avoid. After speaking to the
2 Planning Board and speaking to the architect,
3 this was what they felt was the best way to do
4 it. People are going to come down Sunset,
5 regardless.

6 MR. ROSANO: But when that parking lot on
7 Gaffers is full, where are those cars going to
8 go?

9 MR. DIBENEDETTO: They're going to park
10 on Gaffers Court.

11 MR. ROSANO: So, how is that person
12 coming down the road going to know whether
13 that parking lot is full? How are they going
14 to know that the parking lot is even there?
15 What's going to encourage them to even go down
16 here and just park at the end of Sunset? Why
17 would they?

18 MR. DIBENEDETTO: I can see your point.
19 We will absolutely send out e-mails and tell
20 all of our clients to try to use Gaffers. It's
21 not going to be 100 percent guaranteed that
22 everybody will listen. We'll have to keep
23 reinforcing that. But if we don't have the
24 drive through, they may have to turn around
25 and go back out Sunset. If you want them to

1 have all the access with Gaffers Court, I
2 don't have a problem with that. We can put a
3 permanent gate there and leave it locked 12
4 months a year, but they will have to go back
5 out Sunset then.

6 MR. ROSANO: Or park on Sunset.

7 MR. DIBENEDETTO: The only thing that we
8 can do is tell them that we don't want them to
9 park on Sunset, if possible. Try to use the
10 parking lot and then try to park on Gaffers
11 Court. If they do that, the no parking signs
12 will have to come down. If there is an issue
13 where there is not enough parking spaces, let
14 them park in front of my property on the other
15 side of Gaffers Court, adjacent to the lot.
16 They can park all in there. There is nothing
17 on Gaffers Court right now until you get to
18 the Verizon building. What would be the harm
19 in allowing cars to park there?

20 MR. ROSANO: I go back to my original
21 question: Do you think that you're a good
22 neighbor? You forced people on that street and
23 the businesses on that street to go through an
24 added expense of putting signs and things in.
25 You come to us after the fact when you knew

1 that this was happening. It seems likely you
2 could have come to us sooner and you put these
3 people in harm's way. Now, you're coming to
4 us.

5 MR. DIBENEDETTO: This hasn't been a
6 problem for all that long. Shortly after it
7 became a problem was when I communicated with
8 Michael Tengler from the Planning Department.
9 This has been in the works for not just a
10 month or two. This has been in the works for
11 at least six months - that we've been trying
12 to get something pushed through. I had nothing
13 to do with the fact that it took this long to
14 remedy.

15 As soon as I talked to Mr. Tengler, we
16 agreed. He said, would you be willing to put
17 in additional parking? I said, absolutely.
18 When can I do it? Then I had to hire the
19 architect and the architect dealt with the
20 Town, the Planning Department. We went through
21 all of the stages that we had to go through.
22 For five or six months we've been trying to
23 get this project done.

24 So, do I think that I'm a good neighbor?
25 Yes. When I realized what the problem was,

1 I've tried to remedy the problem. That's what
2 I'm doing. I'm trying to remedy it.

3 MR. ROSANO: Okay, I have one last
4 question for you. You have to maintain that
5 parking lot 12 months a year?

6 MR. DIBENEDETTO: Absolutely.

7 MR. ROSANO: Where are you going to put
8 the snow? How are you going to snowplow
9 gravel?

10 MR. ROSANO: I plow my own parking lot.
11 Where is the snow going to go?

12 MR. DIBENEDETTO: There is still enough
13 greenery to push the snow and open it up.

14 MR. ROSANO: Where is the snow going to
15 go?

16 MR. DIBENEDETTO: My own property. There
17 is enough room to push the snow onto my own
18 property. I'm not going to be pushing any into
19 the streets. I don't do that now. There are 15
20 parking spaces and the double access to my
21 driveway. I keep that clean. I don't even feel
22 that's going to be a problem because I do have
23 enough land to pile the snow.

24 MR. ROSANO: When that Town truck goes
25 down Gaffers Court and has a parking lot that

1 wasn't there before, we'll let that man decide
2 whether there is a problem or not.

3 MR. DIBENEDETTO: Yes, but there is only
4 going to be a cut away to come out through
5 there. If he blocks that in like he does my
6 main driveway now, I clean it out.

7 MR. ROSANO: Thank you.

8 CHAIRMAN STUTO: Tim?

9 MR. LANE: It seems to me that you
10 realize that there is a need for further
11 parking, but you said the only reason that
12 you're not going to utilize those 18 spaces
13 yet is due to cost. What were your estimates
14 for the two lots; the 28 spaces and the 18
15 spaces?

16 MR. DIBENEDETTO: Right now if I go the
17 28 spaces, it's \$13,500. That's to have
18 crusher run and gravel brought in. The guys
19 scrape it down, put fabric to prevent weeds
20 and grass from growing up through, then the
21 excavator. They were talking about six inches
22 of gravel and at least two inches of crusher
23 run on top of that.

24 If I go on the other lot, it's going to
25 be even more for less spaces because I have to

1 clear away a lot of trees that are currently
2 existing there. You can add on maybe another
3 \$4,000 or \$5,000 for the trees and put another
4 \$10,000 in; so, you're talking about \$14,000
5 or \$15,000 more.

6 MR. LANE: Is that something that you're
7 going to immediately going to do next year?

8 MR. DIBENEDETTO: I would like to do it
9 next year. It's taken me awhile.

10 MR. LANE: Do you expect to do it? You
11 seem unsure.

12 MR. DIBENEDETTO: If I have the
13 financing, I will. It's all a matter of the
14 financial situation now. If my class sizes are
15 limited and my parties are limited, then, no,
16 I won't be able to do that.

17 MR. LANE: Do you limit the class sizes?

18 MR. DIBENEDETTO: In my classes, yes. The
19 Zumba class - no.

20 MR. LANE: How many do they get?

21 MR. DIBENEDETTO: They get between 60 and
22 80 people. They don't work for me. They use my
23 space. They pay me a rental on that so that I
24 can help keep the building up and pay my
25 expenses. If it wasn't for that fact, I

1 wouldn't even be in front of the Board right
2 now. I realize the necessity of trying to keep
3 the property in good shape and the road clean
4 or clear of the traffic.

5 MR. LANE: So, pretty much at this point,
6 no matter what you do, you're not going to
7 have enough spaces.

8 MR. DIBENEDETTO: You mean if I put the
9 other 28 spaces?

10 MR. LANE: Yes.

11 MR. DIBENEDETTO: I think that we'll be
12 right on the border. If we allow parking on
13 Gaffers Court, I'll have more than enough
14 room.

15 MR. LANE: Who do you talk to about that?
16 Have you talked to anybody about that?

17 MR. DIBENEDETTO: Not yet.

18 MR. LANE: That would be Highway Safety?

19 MR. LACIVITA: Yes, Highway Safety.

20 MR. LANE: No further questions.

21 CHAIRMAN STUTO: Mike?

22 MR. SULLIVAN: I have two questions,
23 Mr. DiBenedetto. Specifically, I went by your
24 business this evening and I counted 68 cars in
25 your current parking lot on the grass and in

1 the cul-de-sac area; not going down toward
2 Sunset Drive. That was just in the front of
3 your studio and across the street and around
4 the cul-de-sac. So, my concern is that you'll
5 still be under parked if you add just the 28
6 spaces. You'll have a total amount of
7 approximately 46 spaces. If you were to add
8 the other 18 spaces, you'll be at 61 or 62
9 spaces total. I think that would be a minimum
10 required based on your current usage.

11 My other concern is if the Zumba class
12 size is not limited, could it then possibly
13 have 100 students in it such that -

14 MR. DIBENEDETTO: The room won't hold
15 that many.

16 MR. SULLIVAN: But do you currently have
17 tables and chairs around the perimeter that
18 can move?

19 MR. DIBENEDETTO: Yes, at the present
20 time, to get that many people in there, you
21 would push your tables and chairs to the wall.
22 Basically, they're maxed out right now.

23 MR. SULLIVAN: My concern is that in
24 hearing that the certificate of occupancy is
25 400 or maybe 280 as Mr. LaCivita

1 suggested - is that all in the main room, or
2 do you have other rooms?

3 MR. DIBENEDETTO: There is a side room
4 that we have, which is used three or four
5 hours a week or five hours sometimes for
6 private lessons. Tonight the big room is being
7 used. I had a client one-on-one in a small
8 room.

9 MR. SULLIVAN: How many people can fit in
10 the small room then?

11 MR. DIBENEDETTO: I believe that it's
12 registered for 40 to 48, but you won't get 48
13 in that room.

14 MR. SULLIVAN: But did you have an
15 additional Zumba class in that other room?

16 MR. DIBENEDETTO: No, it's not big
17 enough.

18 MR. SULLIVAN: And is the current Zumba
19 class maxed out at 80 people in the large
20 room?

21 MR. DIBENEDETTO: Yes.

22 MR. SULLIVAN: So you won't see an
23 increase in the number of cars.

24 MR. DIBENEDETTO: No.

25 MR. SULLIVAN: You can see my concern

1 that you can add the parking, but if you
2 increase the class size you gain nothing and
3 you'll still have parking along Sunset.

4 MR. DIBENEDETTO: Exactly, but if we're
5 maxed out, we can't take any more people in
6 the class, we won't need more parking,
7 hopefully.

8 MR. SULLIVAN: So, essentially, you're
9 saying that the maxed class size would be 80.

10 MR. DIBENEDETTO: Yes.

11 MR. SULLIVAN: And if there were to be a
12 problem, would you be opposed to having
13 parking restricted on Sunset?

14 MR. DIBENEDETTO: No. I was never opposed
15 to that. Putting parking on one side wouldn't
16 matter to me. We're trying to alleviate that
17 problem right now.

18 MR. SULLIVAN: But you want to add
19 parking restrictions lifted on Gaffers Court.

20 MR. DIBENEDETTO: Yes, because there is
21 no residents on Gaffers Court.

22 MR. SULLIVAN: If you have a parking lot
23 made out of crusher run I know it will be
24 packed as best it can, but it will get torn up
25 with plowing or in the spring or whatever. If

1 you start having material tracked down Gaffers
2 Court, how will that be handled?

3 MR. DIBENEDETTO: Coming out of the
4 parking lot - it's not going to be gravel.
5 It's going to be paved.

6 MR. SULLIVAN: You'll have an apron
7 there?

8 MR. DIBENEDETTO: Yes, it's on the plans
9 to help prevent that.

10 MR. SULLIVAN: Should it become a
11 problem, how would it be handled?

12 MR. DIBENEDETTO: Then, we'll probably
13 have to put some paving over the top of it.
14 That was never off the table. In the future,
15 we might have to pave it; that's a given. It
16 is a lot easier to maintain - a paved lot as
17 opposed to gravel or crusher run.

18 MR. SULLIVAN: My final question is: Is
19 the Zumba class the largest class that you
20 have?

21 MR. DIBENEDETTO: Yes. We don't come
22 anywhere near that. My ballroom classes - the
23 biggest that I have now is about 20 people.
24 Most of them are one-on-one.

25 MR. SULLIVAN: Do people that take the

1 Zumba class also stick around for other
2 classes after that or do they leave?

3 MR. DIBENEDETTO: That's it. They leave.
4 They all leave at once.

5 MR. SULLIVAN: My concern is that if
6 they're all leaving and going down Gaffers,
7 that does not have a signal at the end, does
8 it?

9 MR. DIBENEDETTO: No.

10 MR. SULLIVAN: Because you have a signal
11 at Sunset and not at Gaffers. My main concern
12 was class size - if it would then be expanded.
13 But I believe that you're telling me that you
14 can't really expand beyond the 80. That's the
15 maximum number.

16 I do believe that you will be unparked
17 even with just the 29 spaces. I would suggest
18 going for the full amount. I know that it's a
19 burden on you financially, but to me you're
20 under parked even if you have 46 spaces.

21 MR. DIBENEDETTO: I agree. I would like
22 to do the whole thing. In fact, I'd even like
23 to do the next lot over in the future, if it
24 came to that. Right now, I would have enough
25 money to do the main lot and then in the

1 springtime I could start clearing the land on
2 the next lot over.

3 Unfortunately, I'm allowing one of my
4 neighbors to use that parcel of land. I do
5 have to notify them that they will no longer
6 be able to use that land. One of the ladies
7 that I spoke to tonight - her and her father
8 have had access to that property and they've
9 been using that. I'll have to notify them that
10 they'll no longer be able to use it.

11 Then, we'll start clearing the land in
12 the springtime and hopefully we'll be able to
13 do the same thing; fabric, crusher, stone or
14 whatever to expand the parking lot.

15 MR. SULLIVAN: And you are planning with
16 checking with the Highway Safety Committee to
17 see if it's possible to remove the
18 restrictions on Gaffers Court for parking?

19 MR. DIBENEDETTO: I will have to look
20 into that.

21 MR. SULLIVAN: Thank you.

22 CHAIRMAN STUTO: Lou?

23 MR. MION: The questions that Mike had
24 asked were great, as far as class size go. I
25 think that what we need to do is we have to

1 know what the actual square footage is and
2 then based on that find out what the actual
3 requirement is for the parking. We have to
4 start at what it should be.

5 MS. VAIDA: We have that.

6 MR. MION: What is it?

7 MR. TENGLER: I have a memo here dated
8 September 26, 2011. I'll read it verbatim.

9 "This memo shall serve as reference and
10 confirmation that on September 21, 2011 I met
11 with Peter Lattanzio, Chief, Department of
12 Fire Services to go over the maximum occupancy
13 calculations for the dance studio at 13 Sunset
14 Drive. Given the square footage in the
15 internal floor plans, we determined that for
16 the major dance studio, 68 feet by 62 feet
17 equates approximately to 4,216 square feet.
18 Given the exercise/public assembly use, the
19 formula requires that the square footage be
20 divided by 50 in order to come up with a
21 maximum occupancy.

22 For the large dance studio the occupancy
23 was calculated at 84.32 people. The occupancy
24 for the smaller dance studio was calculated at
25 16 people at 25 feet by 32 feet, which gives

1 you 800 square feet divided by 50 to 60.
2 Again, these figures would have to be double
3 checked again per the dimensions listed in
4 there, but that was a generalization of the
5 square footage of the two studios.

6 CHAIRMAN STUTO: So, that's 100 people.

7 MR. TENGLER: Roughly 100 people.

8 MR. MION: So, what we're talking about
9 would be 50 spaces. We're looking at 44.

10 MR. TENGLER: Correct.

11 CHAIRMAN STUTO: How many does the CO
12 have, Joe?

13 MR. LACIVITA: Assembly was 280, that's
14 what they did back in 2009.

15 CHAIRMAN STUTO: How can that be? How do
16 you explain that?

17 MR. LACIVITA: I think that Peter took a
18 look at the calculation for the use that's
19 currently being used in the building. I think
20 that when you look at public assembly you have
21 people that can stand closer -- they consider
22 church halls and things like that public
23 assembly.

24 CHAIRMAN STUTO: But there is a
25 disconnect between the CO where you might be

1 able to pack more people than the number of
2 parking spaces that they were originally
3 approved for.

4 So, you have no explanation for that?

5 MR. LACIVITA: No, we don't. If you look
6 at the CO here, 280 people, and if you go by
7 the calculations -

8 CHAIRMAN STUTO: I think that we need to
9 investigate that. I'm very, very curious about
10 that.

11 MS. DALTON: Right, I mean, I'm going
12 back to the notes that we have from July 31,
13 2001 and I guess it was from the initial
14 request. In this document it says:

15 "Hours of operations 9:00 am to 10:00 pm;
16 six days a week, a maximum class size of 12,
17 occasional use of social dance for 15 to 30
18 people no later than 10:00 pm."

19 So, as far as I can tell, I don't see
20 anything that says it can be used as a
21 catering hall. I don't see anything that says
22 we granted - clearly the building is big
23 enough to hold these people, but I don't see
24 anywhere where we were ever petitioned to
25 approve the creation of a business in that

1 space that would be the size of the business
2 that we're talking about now. Did anybody ever
3 approve that and if so, under what condition?

4 MR. LACIVITA: I don't have that here.

5 MS. DALTON: In July 31, 2001 - that was
6 in our packet. The earliest that I could
7 find -- and it looks like what we were told
8 was that the most people that were going to be
9 here were going to be 30 people and they were
10 leaving at 10:00.

11 MR. TENGLER: Kathy, I can address
12 Dominick's Catering portion - the catering
13 operation. That came through as a change in
14 tenant in the Planning and Economic
15 Development office. It's a conversion of a 400
16 square foot kitchen area that is utilized
17 solely for the purpose of providing finger
18 foods and ready to eat snacks and drinks to
19 the dance patrons. That came through our
20 office for our approval. There were no
21 thresholds in that approval that would require
22 any Planning Board notification or approval.
23 That's how the catering operation came into
24 the plan.

25 MS. DALTON: Right, so as far as I can

1 tell, he was never approved for a catering
2 hall. He was approved to build a kitchen to
3 serve, at most, 30 people at a social dance.

4 MR. LANE: If you look at the 2003 notes
5 they also did a 1,200 foot expansion.

6 MS. DALTON: But they never asked for
7 serving more people or a change in use. They
8 said that they wanted a bigger building. I
9 imagine somewhere there is an area that tells
10 us why they asked us for a bigger building.
11 When you go back and say, what did we approve
12 the uses in that building for and how many
13 people can fit at any one time and what are
14 the hours of operation -- I admit that there
15 is a lot of back and forth on this stuff and I
16 could have missed it. There is no transcript
17 of the notes, so I can't tell you where they
18 are from or what the content is. If this is
19 all we have then I think that you have a
20 successful business in the Town of Colonie,
21 but I can't find anything that says we
22 approved this the way that you're using it.

23 MS. VAIDA: I'm not sure that's right.

24 MS. DALTON: It's probably wrong. I just
25 don't have it.

1 I want to go back to what Lou said. That
2 was essentially, I'm not sure that tonight we
3 have all the information that we need with
4 regard to the course of events. That took us
5 from when Mr. DiBenedetto first took ownership
6 of the property, created his business, what we
7 approved the use for, how many people were
8 going to be there, how many parking spaces we
9 asked for at that time based on what we
10 thought it was going to be used for, how that
11 change over happened and why we have the
12 problem that we have now.

13 MS. VAIDA: Originally it was approved
14 for a dance studio.

15 MS. DALTON: A dance studio with 12
16 people regularly and 30 people max. That's
17 what this says.

18 MS. VAIDA: Right, but I'm not sure the
19 number -- I think that's why he's here before
20 us to increase the size of this parking lot.
21 The number of people that are there has
22 increased.

23 MS. DALTON: Maybe this is beyond the
24 purview of the Planning Board, but since the
25 time that I've been on the Planning Board, we

1 look at what the use of the building is, how
2 many people are going to be there and how many
3 parking spaces do they need? Unless all of
4 that has changed since the ownership of this
5 building and planned use, it seems to be that
6 there has been a change in use that I can't
7 find a record for being approved.

8 MS. VAIDA: I don't think that there has
9 been a change of use.

10 MS. DALTON: There is a catering hall -

11 MS. VAIDA: Which was approved with the
12 change in tenant.

13 MS. DALTON: No, there was a kitchen, not
14 a catering.

15 MR. TENGLER: It's technically called
16 Dominick's Catering. That is a 400 square foot
17 kitchen to be used solely for serving dance
18 patrons at the dance studio. There are no
19 employees on it. There is no parking increase
20 to that use which is why we approved it
21 through the Planning Department, rather than
22 sending it to the Planning Board.

23 MS. VAIDA: It's not catering.

24 MR. TENGLER: Right, it's not a catering
25 business. It's more or less an accessory to

1 the dance studio.

2 MR. LACIVITA: That went through the
3 Building Department, too. They got the zoning
4 approval for it to go forward with that, as
5 well.

6 MS. DALTON: What is our purview with
7 regard to the building that grows,
8 essentially, beyond the capacity of its
9 initial purpose?

10 MR. LACIVITA: I don't think that it's
11 beyond the capacity. Fire Safety and Mike
12 Rosch did a certificate of occupancy of up to
13 280 people for the main dance studio. I don't
14 think that he's actually ever been at this
15 capacity on this location.

16 MS. DALTON: All along when we review new
17 projects, there is a natural relationship
18 between the size of the business, the size of
19 the building and the size of the parking lot.
20 Somewhere along the way, that connection
21 between the size of the building, size of the
22 parking lot - that has been broken on this
23 particular case. My question is: Was
24 Mr. DiBenedetto just so much more wildly
25 successful than we expected him to be? And if

1 that's the case, what are our options now for
2 readjusting where we are?

3 MR. LACIVITA: I think that's exactly why
4 we're here. We're trying to re-adjust the
5 parking to allow for that capacity that he has
6 been doing with his successful dance business.

7 CHAIRMAN STUTO: Kathy is uncomfortable
8 and so am I with the fact that there is a
9 disconnect between the CO, perhaps the size of
10 the building and the current parking. Do you
11 agree with that, or not?

12 MS. DALTON: Even if we grant this
13 parking request, that doesn't solve the
14 problem.

15 MS. VAIDA: The Fire Code says that there
16 is a maximum capacity of people. That's what
17 is in the certificate of occupancy. That's
18 like 280, or whatever it was. But the purpose
19 of the building is a dance studio. Then the
20 number of parking spaces depends on the use.
21 When you look at the Land Use Law to determine
22 how many spaces is required -

23 CHAIRMAN STUTO: I don't think that the
24 CO is just for Fire. Doesn't it relate to what
25 was approved by the Planning Board?

1 MS. DALTON: I think so. I think that
2 Paul makes a really good point. If the
3 proximity of the parking and and the ability
4 to access that parking - where do you expect
5 to access it from? That it is going to his
6 building to go to class and if there is no
7 parking there, unless somebody directs you
8 otherwise, going around to the back of the
9 building and going down Gaffers Court, that's
10 not kind of a default position, if you will.
11 So, I guess my problem is that first, I'm
12 thrilled that you have a successful business.
13 I don't think that what is before us today is
14 going to meet what we would have asked him for
15 if it was a whole new project, certainly. It
16 won't solve the problem. While I do appreciate
17 what the lady said - that it's only two hours
18 a week, it's two hours of prime time when
19 you're coming home in the evening two out of
20 five nights a week. That's not including the
21 additional nights when the catering hall is in
22 use and how late that goes.

23 MS. VAIDA: It's not a catering hall.

24 MS. DALTON: I'm sorry, but it's called
25 catering. Whatever it is, there are dance

1 parties going on there. It's an additional
2 use, other than the use that I'm seeing here
3 and I don't know -

4 MR. LACIVITA: Let me take you through
5 the process. When we first heard from
6 Ms. Bunker and a few of the other residents in
7 that neighborhood, we initially got the e-mail
8 from them that there was misuse with it, that
9 predates us. That predates the approval
10 process. I can't figure out why the
11 calculation was zoned 12 at the time. That
12 being said, we had an obligation from a
13 planning perspective as to how we could
14 rectify the concerns that we had in the
15 neighborhood. We looked at the site and Dan
16 has been a fantastic applicant because he's
17 worked with us all the way through the
18 process. We looked at traffic flow, we've
19 worked with all the different departments, we
20 worked with Fire Safety. It looks like the
21 calculation that Peter Lattanzio did may
22 change that occupancy issue. But that has to
23 be a discussion that we have to have with Dan
24 and with Peter onsite. We can certainly do
25 that.

1 To Paul's point, as far as getting
2 traffic through, people already are accustomed
3 to going down Sunset and going through. But
4 again, like any other time that we travel
5 throughout the Town, you're going to
6 self-mitigate and find a different way to go.
7 They're going to know how to go down Gaffers
8 because that's the spot. We're trying to
9 design something along with the applicant and
10 the engineer to have the additional parking to
11 allow that cut through, which would be gated
12 so there won't be any cut through, and add any
13 more traffic. It's a one-way access from
14 Sunset to Gaffers. You're not going to have
15 the through two way. From a planning
16 perspective, we are trying to address parking
17 on the street and the concerns that they
18 brought forth to us. We're trying to do it in
19 an expeditious way. It's been six months that
20 we have been working with Dan trying to get
21 this thing done. We've gotten e-mails that
22 it's taken way too long from the original
23 complaints. So, we're trying to work through
24 the process to get those cars off the street
25 and work with the CO.

1 MS. VAIDA: We have to remember that this
2 is before us for the parking lot and the
3 increased parking spaces and that's really
4 what the issue is.

5 MR. MION: Based on that it would be 50
6 spaces.

7 MR. LACIVITA: So, we're short by six.

8 MR. MION: Right.

9 MS. VAIDA: So, what was proposed by the
10 people that live on Sunset was opening up the
11 other street - Gaffers - and that would take
12 care of a lot of the overflow; if that could
13 be done.

14 MR. ROSANO: Joe, wouldn't we need a
15 waiver now because he's not going to meet the
16 50 minimum? He's only going to have the 44
17 maximum.

18 MR. LACIVITA: No, I think if we look at
19 what he's banked, adding an additional six
20 spots to bring him to compliance to make it
21 50 - I don't think that there would be an
22 issue to come in and carry that on an
23 additional three to six parking spaces.

24 He said that based on the clearing that
25 has to be done, he could actually fit in the

1 six spots right along the tree line. So, we
2 would make it parking right up to 50.

3 CHAIRMAN STUTO: As I said and I think
4 that Kathy is saying and I'm not sure if Lou
5 was saying it, but there seems to be a
6 disconnect in the use that's here with the
7 number of people that are there and the number
8 of spaces that are there at the current time.

9 MS. VAIDA: It's not a disconnect between
10 the use.

11 CHAIRMAN STUTO: We have more people than
12 you probably should have or that was
13 originally approved.

14 MS. VAIDA: I don't see the final
15 approval. I don't think that it was approved
16 based on how many people were there. A
17 certificate of occupancy - this is dated 2009
18 and says:

19 "The applicant's main assembly space is
20 dance studio of 280 people."

21 CHAIRMAN STUTO: Yes, and the parking lot
22 is not adequate.

23 MS. VAIDA: Right, and he's making that
24 application.

25 CHAIRMAN STUTO: So, I would like to

1 regroup and do an investigation of what the
2 original Planning Board approval was for and
3 plan this thing the right way.

4 The gravel bothers me as well. Shouldn't
5 this be a paved lot?

6 MS. DALTON: Doesn't it need lighting?

7 MR. LACIVITA: It actually does have
8 lighting.

9 CHAIRMAN STUTO: What does the Land Use
10 Law provide? No parking lot in the Town has to
11 be paved?

12 MR. LACIVITA: We worked with stormwater
13 on that, as well.

14 MR. LANE: In some cases, it would be
15 better.

16 MS. VAIDA: In some cases, it requires it
17 to avoid gravel tracking out on the road or
18 the street.

19 CHAIRMAN STUTO: I'm curious if there is
20 an enforcement issue versus planning issue
21 here. Whether the use that is there -- the way
22 that it's being used is a violation of what it
23 was approved for.

24 MS. VAIDA: Isn't that a different issue
25 than this?

1 CHAIRMAN STUTO: I'd like to know the
2 answer to that before I vote on this.

3 MS. VAIDA: I don't see the issue.

4 CHAIRMAN STUTO: Elena, in all due
5 respect, you're the counsel here and not a
6 Board Member.

7 MS. VAIDA: I understand that.

8 MR. LANE: I want to take it to a vote. I
9 want to make a motion that we approve the lot.

10 MS. BUNKER: Excuse me, but before you
11 approve anything, is there going to be a
12 barrier between that parking lot and the
13 properties next door? I know that they're
14 going to cut through into 11's parking lot,
15 which they are doing already.

16 CHAIRMAN STUTO: Is there a barrier
17 there?

18 MS. VAIDA: I think that there was a
19 buffer.

20 MR. TENGLER: I don't see one indicated
21 here on the plans. In speaking to Steven
22 Cotler and to Dan, briefly, we would like a
23 fence here to buffer the old doctor's business
24 as well as the residential property next to -

25 MR. LACIVITA: Just to clarify, there is

1 no cut through at 11.

2 MS. BUNKER: Even when there was just a
3 field there -

4 MR. LACIVITA: That's why we're
5 recommending that the fence be put there to
6 alleviate that.

7 MR. TENGLER: For number 11 - a fence
8 across.

9 CHAIRMAN STUTO: Tim, some of us have
10 unanswered questions which we would like to
11 have answered before we vote on it. I respect
12 your motion, but I would like to talk it
13 through with the best possible solution. I
14 wouldn't mind having an engineer look at it
15 with respect to questions of traffic flow that
16 Paul had and whether it's really the best
17 solution or not.

18 MS. DALTON: I feel like there are
19 questions with regard to size of utilization -

20 MR. LANE: Are you saying that if we
21 disapprove this that he's going to shut down
22 his business?

23 MS. DALTON: Where I'm going with this is
24 where we have gone with a bunch of applicants.

25 MR. LANE: But that's when the business

1 started, not when he's underway for several
2 years.

3 MS. DALTON: I understand that. There are
4 a host of things. We're talking about creating
5 a parking lot. I don't know if the parking lot
6 is as big as it needs to be, or if he needs a
7 waiver. I don't know if the parking lot has
8 the appropriate berms or what the neighbors
9 will say about the parking lot itself, instead
10 of only hearing about the fact that there is
11 not enough parking. I don't know if they need
12 lighting. I haven't seen the site because
13 there are a whole host of things that came up
14 with regard to this that I wasn't expecting to
15 hear about. So, I don't feel like I have
16 enough information. I want you to have a
17 successful business. That's not what I'm
18 saying. I don't want to approve something
19 that's not going to solve the problem. I think
20 that we should table this and get a little bit
21 more information and see if maybe there is
22 another solution that will better serve the
23 public, better serve the clients that Mr.
24 DiBenedetto has and perhaps better serve him
25 in the long run.

1 MR. DIBENEDETTO: We know that there is a
2 definite problem with the parking. So, if we
3 delay this, what am I going to do with the
4 problem? How am I going to alleviate the
5 problem that exists?

6 MS. DALTON: I'm not suggesting that we
7 delay this a long time, Mr. DiBenedetto. But I
8 would rather not see you not spend \$13,000 and
9 have a partial solution when you might be able
10 to spend \$16,000 and have everybody happy.

11 MR. DIBENEDETTO: Then, would you make it
12 clear to my neighbors that I don't need any
13 ill will and I don't want any problems with
14 them?

15 MS. DALTON: I understand that.

16 MR. BUNKER: I have more information that
17 I think you will need.

18 MS. DALTON: But I don't think that we're
19 going to it tonight. We do have all of your
20 pictures, ma'am.

21 CHAIRMAN STUTO: We'll take them into the
22 record.

23 MS. BUNKER: It speaks to the issues that
24 we've been dealing with. They're safety
25 issues. Things like the fire hydrants getting

1 blocked.

2 MR. LACIVITA: I need to ask one question
3 of Dan. With the Zumba classes - maximum
4 capacity and maximum use of any class is no
5 more than 80?

6 MR. DIBENEDETTO: Right, now she's been
7 averaging anywhere from 60 to 80. There have
8 been 80 on a very good day. It's been more
9 like 70, at the present time.

10 MR. LACIVITA: That's your maximum use of
11 that building at any point in time - the
12 Zumba.

13 MR. DIBENEDETTO: Yes.

14 MR. LACIVITA: Okay, if you limit the
15 instructor to 80 maximum, that comes up to a
16 40 spot parking lot, at that point in time. If
17 we put that restriction on the use of Zumba to
18 have no more than 80 people, we have parked it
19 property with the addition of 28. We're trying
20 to answer the issues of the neighborhood in
21 that area. I think we've gotten that
22 calculation in working with Mr. Cotler.

23 MR. DIBENEDETTO: I would think that the
24 neighbors would be in favor of us putting in
25 there parking in to alleviate their concerns

1 about people being in front of their houses
2 and in front of their business. So, for them
3 to say no - that is saying that they don't
4 want anything done.

5 MS. DALTON: We're just saying that we
6 get it right, that's all.

7 By the way, I'm just one person. Somebody
8 can make the motion and it could be seconded
9 and be carried beyond what I think. I just
10 feel like I would like more information. I
11 think that we sometimes ask for more time so
12 that we can get it right.

13 CHAIRMAN STUTO: I feel that way too. I
14 would like to find out some other things.

15 MS. DALTON: When can we get them on next
16 if we tabled it tonight?

17 MR. LACIVITA: I hope that we could get
18 them on October 25th.

19 MR. LANE: Paving season is over.

20 MR. LACIVITA: They're not paving.

21 MR. DIBENEDETTO: We're not paving, but
22 the issues may get much more difficult to
23 solve in late October. We're still going to
24 have the problem with the congestion on the
25 roads. Please give me a solution. I want to

1 alleviate the problem as much as they want it
2 alleviated. In talking with Mr. Tengler, I
3 don't want you constantly being bombarded with
4 complaints. I would like to eliminate those
5 complaints. That's why I came here. Thank you.

6 MR. LACIVITA: Just for clarification,
7 what is the Planning Board looking for?

8 CHAIRMAN STUTO: I think that we want
9 more historical information and precisely what
10 was approved and a description of how that was
11 appropriately approved under the then existing
12 Land Use Law.

13 MR. TENGLER: And the maximum occupancy
14 level?

15 CHAIRMAN STUTO: Right.

16 MS. DALTON: How many parking spaces will
17 be created? Do we need a waiver if we're doing
18 less than that? Is it possible to remove the
19 parking signs of Gaffer's Court? Or is there
20 some reason why those signs are up there so
21 that we can't remove them? Is it possible to
22 create some kind of traffic and directional
23 flow so that folks can easily get to the
24 additional parking that Mr. DiBenedetto has
25 created?

1 CHAIRMAN STUTO: I might be so bold as to
2 suggest that we need to hire a TDE. We are
3 allowed to hire experts. If we have the
4 engineering expertise within the Town, that's
5 fine. We might have to hire an engineer to
6 look at it.

7 MR. LACIVITA: So, you want a TDE or you
8 want to go through Highway first?

9 CHAIRMAN STUTO: I'm saying that if you
10 have somebody on staff in the Town, that would
11 be fine. I have to be clear that it's on the
12 applicant. That's part of the Land Use Law. We
13 are entitled to hire an expert when we have an
14 application and you have to pay the bill.

15 MR. MION: If we have someone from the
16 Highway Department, that would be on us. That
17 should go first.

18 MS. DALTON: Yes. I wonder why those
19 parking signs were put up there.

20 MR. LANE: That's why I asked before
21 about Highway Safety.

22 MS. VAIDA: That has nothing to do with
23 the Planning Board.

24 MR. LANE: It has to go to Highway
25 Safety.

1 CHAIRMAN STUTO: We'll try to do this
2 in-house.

3 Procedurally, where are we here? Tim, you
4 made a motion, I don't know if you want to
5 continue with that?

6 MR. LANE: Well, I didn't get a second.

7 CHAIRMAN STUTO: So, motion to table; is
8 that what's before us now?

9 MS. DALTON: I'll make that motion.

10 MR. MION: Second.

11 CHAIRMAN STUTO: All those in favor?

12 ***(Ayes were recited.)***

13 CHAIRMAN STUTO: All opposed?

14 ***(None were opposed.)***

15 CHAIRMAN STUTO: The ayes have it.

16 Thank you. We want to come to the right
17 solution.

18

19

20

21 ***(Whereas the proceeding concerning the above***

22 ***entitled matter was adjourned at***

23 ***10:01 p.m.)***

24

25

CERTIFICATION

1
2
3
4 **I, NANCY STRANG-VANDEBOGART, Shorthand**
5 **Reporter, New York State Approved Transcriber**
6 **and Notary Public in and for the State of New**
7 **York, hereby CERTIFY that the record taken by**
8 **me at the time and place noted in the heading**
9 **hereof is a true and accurate transcript of**
10 **same, to the best of my ability and belief.**

11
12
13
14 -----
15 **NANCY STRANG-VANDEBOGART**

16
17
18 **Dated October 17, 2011**