

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 February 7, 2012 at 8:56 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 BRIAN HAAK
- 21 REBEKAH KENNEDY, Esq., Town Attorney's Office

22 Also present:

- 23 Victor Caponera, Esq.
- 24 Joseph LaCivita, Director, Planning and Economic
25 Development
- Michael Tengler, Planning and Economic Development
- Daniel DiBenedetto
- Lori Washburn

1 CHAIRMAN STUTO: Okay next on the agenda
2 is DeBenedetto Dance Studio, 13 Sunset Drive,
3 amendment to previous site plan approval.

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

5 CHAIRMAN STUTO: Any introduction here,
6 Mike?

7 MR. TENGELER: Yes, sure. The DeBenedetto
8 Dance Studio has been before the Planning
9 Board on two different occasions; September
10 2011 and December 20, 2011. They're located on
11 a cul-de-sac exclusively in an HCOR Zoning
12 District.

13 Currently, the site is equipped with over
14 80 percent greenspace. This proposal
15 references 15 existing parking spaces in the
16 front lot with 10 new spaces to be added to
17 the front lot, 38 new gravel parking spaces in
18 the rear with egress and ingress through
19 Gaffers Court.

20 As per the Planning Board's
21 recommendation on December 20, 2011, a
22 specific concept was encouraged and referenced
23 and the rear spaces could be allowed to be
24 gravel as long as they were repositioned to
25 allow better driveway access.

1 From there, the applicant, Dan
2 DeBenedetto, took those ideas to Cotler
3 Architecture to get it on paper. The project
4 has gone through Town review and the Town
5 Attorney's office has made a SEQRA
6 recommendation.

7 CHAIRMAN STUTO: Okay, so it's my
8 understanding that it's a hybrid where the
9 driveway portion is paved, and when they go
10 off to park that's going to be gravel.

11 MR. TENGELER: Right.

12 CHAIRMAN STUTO: Mr. Caponera?

13 MR. CAPONERA: Thank you. What
14 Mr. Tengeler has indicated is absolutely
15 correct.

16 As you know, on December 20th we had a
17 rather spirited discussion up here relative to
18 this process. After, one of your eminent Board
19 Members, Mr. Sullivan, came up, he drew his
20 proposal on how this really should look.
21 Essentially, we have recreated it exactly.
22 This is exactly what the Board had wanted
23 relative to how the parking lot looks, and you
24 can clearly see that it's a lot cleaner coming
25 into Gaffers Court. Essentially what

1 Mr. Tengeler said is actually correct,
2 effectively speaking.

3 We're going to end up with the 63 spaces
4 on-site. There is a written acknowledgement to
5 to bring it to a total of 79 spaces. So,
6 effectively speaking, we're asking the Board's
7 consideration in this application.

8 In so doing, we're going to need a few
9 minor waivers. One of which is regarding the
10 parking in the front area, where the island
11 is. That's a 15-foot setback requirement.
12 We're asking for a waiver for that. There are
13 six spots there. Relative to the waiver in the
14 back - if you look at the site plan, you can
15 see that there is a cul-de-sac where Gaffers
16 Court is. If you drive back there, you know
17 that there is no cul-de-sac. It's just
18 straight in. Effectively speaking, you're
19 supposed to maintain a 10-foot setback from
20 the property line which would be the
21 cul-de-sac, and we're slightly within that.
22 We're asking the Board's consideration for
23 that.

24 There is also a requirement or a
25 discussion of planting additional trees in the

1 front to continue to keep traffic off of that
2 area. I talked to my client about it.
3 Mr. DeBenedetto is here with us tonight. He
4 has suggested that the Board is comfortable
5 with something other than trees, like
6 additional landscaping which you could put
7 there to make it a little more beautiful, that
8 would keep the vehicles off rather than just
9 additional trees. He'd be willing to do that,
10 too.

11 Essentially what we talked about the last
12 time is Mr. DeBenedetto is a small business
13 man. You know that I got him his approval
14 several years ago. He's not a large corporate
15 operation. He doesn't have deep pockets. His
16 finances are pretty much stretched to the max.
17 No one wants to put him out of business. He's
18 doing the best that he can. He's trying to
19 present a plan that is acceptable to this
20 Board. He's worked diligently with the
21 Planning Department, Mr. LaCivita and
22 Mr. Tengeler. They've been to the site many,
23 many times. All of the departments of the Town
24 that looked at this and commented on
25 it -- he's met all of the requirements of the

1 various Town departments.

2 So, we know now Mr. Chairman, and Members
3 of the Board, that when we initially came in
4 we presented some numbers in terms of doing
5 this work. One was from Leto in the \$35,000 to
6 \$36,000 range. Mr. Sullivan I believe
7 requested this and now we're proposing it now.
8 It's going to be upwards of a \$40,000 project.

9 I will also note that I talked to the
10 adjacent neighbor who is here tonight and one
11 of the co-owners along with Mr. Hanna, and we
12 also have proposed the six-foot stockade fence
13 behind his property for privacy.

14 CHAIRMAN STUTO: Is that 11 Sunset?

15 MR. CAPONERA: Correct. Obviously people
16 are going to want to jump over here and go
17 down into this part (Indicating). Someone
18 talked earlier about that tonight. So, we have
19 a proposed fence for privacy to maintain and
20 make sure that people don't do that. We've
21 also discussed some water issues here that are
22 on the 11 Sunset Drive property and ways to
23 alleviate that. Mr. DeBenedetto and the owner
24 discussed earlier before this meeting how to
25 resolve it and my client is perfectly willing

1 to work with them and the Town to do that.

2 I don't want to get into a Type I or
3 Type II action. The Town has already made a
4 determination by the attorney's office. It's
5 an unlisted action.

6 That's pretty much it, Mr. Chairman.

7 CHAIRMAN STUTO: We do have at least one
8 resident that wants to speak on this. We will
9 open it up to the floor.

10 Does the Board have any questions at this
11 point?

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

13 CHAIRMAN STUTO: I just have one
14 question. I'm not sure if you addressed it or
15 not.

16 The connection to Gaffers - was there an
17 issue with that? Did you say that the Highway
18 Department had an issue with that?

19 MR. TENGELER: He just has to obtain a
20 Town of Colonie work permit. That could
21 already happen.

22 CHAIRMAN STUTO: Do we see any problem
23 with that?

24 MR. TENGELER: No.

25 CHAIRMAN STUTO: If this was approved as

1 is, that would all be -

2 MR. TENGELER: That's correct?

3 CHAIRMAN STUTO: We have Lori Washburn.
4 Is she here? Do you want to speak? You're at
5 9, right?

6 MS. WASHBURN: Right.

7 CHAIRMAN STUTO: I was actually thinking
8 of you when I was reviewing this plan. The
9 fence goes back so far to only a portion of
10 your property. I'm wondering what you see.

11 MS. WASHBURN: That's what my concern is.

12 MR. CAPONERA: Just so that the Board
13 knows, the fence is proposed to go all the way
14 across 11 and then about one-third of the way
15 into 9 Sunset Drive.

16 CHAIRMAN STUTO: Is six feet enough? I'm
17 wondering if some plantings would be
18 appropriate there for her.

19 MR. CAPONERA: There are already a lot of
20 trees there.

21 MS. WASHBURN: I see that there are
22 lights there, too.

23 CHAIRMAN STUTO: And I think that we
24 talked about that last time. I think we said
25 it was going to be down-lighting.

1 MS. WASHBURN: That's excellent because
2 it's a very dark end of the street.

3 CHAIRMAN STUTO: You'll feel more safe.

4 MS. WASHBURN: I'll feel more safe that
5 people are less apt -- you're opening up
6 another street and giving them parking to do
7 whatever the heck that they want to. By
8 putting some lighting there, you're deterring
9 some of the activity, which is great. I just
10 don't want to see the lights shining into my
11 back yard because even if they turn around
12 right now in Gaffers Court, they shine into my
13 bedroom window. Any activity back there shines
14 right into my house.

15 MR. CAPONERA: Which is why we have the
16 parking where it is so that it doesn't go any
17 further.

18 There is a great deal of overgrowth here,
19 too. This was all done with an eye towards
20 keeping Ms. Washburn as private as possible.

21 CHAIRMAN STUTO: You're satisfied, ma'am?

22 MS. WASHBURN: At this point, yes. As
23 long as I'm not being disturbed; that's the
24 problem that I had.

25 CHAIRMAN STUTO: I'm sure that the

1 parking situation will be better.

2 Any questions from the Board?

3 MR. MION: I think that one of the things
4 that we asked for was trees in the front. I
5 think that the reason why we said trees, if
6 I'm not mistaken, is to discourage parking.

7 MR. CAPONERA: Absolutely, which is why
8 we said, if not trees, bushes and plantings or
9 shrubbery which would also discourage parking.

10 MR. MION: I personally would like the
11 trees.

12 MR. CAPONERA: You're okay with that too,
13 Mr. DeBenedetto?

14 MR. DEBENEDETTO: Yes.

15 MR. CAPONERA: We could work with the
16 department on what would be put in there. He
17 wants to make this nice and attractive and
18 pretty.

19 MR. LACIVITA: Dan, what is the process
20 that you're going to be doing with the
21 excavation? Are you going to be grading berms
22 or anything on this site?

23 MR. DEBENEDETTO: No berms.

24 MR. LACIVITA: So, you're taking all this
25 and moving it off site?

1 MR. DEBENEDETTO: Yes. That is the plan
2 now. You only have to excavate about three to
3 four inches. In fact, I have another place to
4 put that.

5 MR. LACIVITA: I was just thinking about
6 the deterrent that Lou was talking about with
7 the trees and having shrubbery. If we created
8 some of that to berm that front area and did a
9 higher landscaping, I think that would
10 probably deter any parking going on in that
11 area.

12 MR. DEBENEDETTO: Absolutely. No one is
13 going to drive up over that.

14 CHAIRMAN STUTO: What are you suggesting
15 Joe?

16 MR. LACIVITA: We talked about maybe
17 adding trees instead of doing landscaping and
18 raising it up and creating a buffer by putting
19 a berm in there.

20 CHAIRMAN STUTO: Bushes on top of that?

21 MR. CAPONERA: We have no problem with
22 that.

23 CHAIRMAN STUTO: Any further comments or
24 questions?

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

1 CHAIRMAN STUTO: I'll just make a brief
2 comment.

3 I felt that the whole thing should have
4 been paved, but the Board has clearly spoken
5 on that. It will be a good test case to see
6 how it works out.

7 Do you want to talk about SEQRA, Mike?

8 MR. TENGELER: Yes, just briefly.

9 The attorney's office gave an unlisted
10 SEQRA recommendation. Normally when it comes
11 to minor projects, we just kind of go through
12 the list of the Part II.

13 CHAIRMAN STUTO: Why don't you go ahead
14 and put it on the record.

15 MR. TENGELER: Sure.

16 Part II of environmental assessment: Does
17 action exceed any Type I threshold? The answer
18 is no.

19 Will action receive coordinated review as
20 provided for unlisted actions? No.

21 Part C - existing air quality, surface or
22 ground water quality or quantity, noise
23 levels, existing traffic patterns, solid waste
24 production or disposal potential for erosion,
25 drainage or flooding problems? No such impacts

1 will occur. The project involves paving 14,681
2 square feet for a spillover lot.

3 Part C2 - aesthetic, agricultural,
4 archeological, historic, or other natural, or
5 cultural resources or community or
6 neighborhood character? No.

7 Part C3 - vegetation or fauna, fish,
8 shellfish or wildlife species, significant
9 habitats, or threatened or endangered species?
10 No such impasse will occur.

11 Part C4 - a community's existing plans
12 for goals as officially adopted for a change
13 in use or intensity of land or other natural
14 resources? It will require a waiver from the
15 Town of Colonie Planning Board.

16 Part C5 - growth and subsequent
17 development or related activities likely to be
18 induced by the proposal of action? No such
19 impacts will occur.

20 Part C6 - long-term/short-term cumulative
21 or other impacts not identified in C1 through
22 C5? No such impacts will occur.

23 Part C7 - other impacts including changes
24 in use of either quantity or type of energy?
25 None. No such impacts will occur.

1 Part D - will the project have an impact
2 on the environmental characteristics that
3 cause the establishment of the CEEA? No.

4 Part E - is there, or is there likely to
5 be controversy related to potential adverse
6 environmental effects? No.

7 CHAIRMAN STUTO: Okay, any discussion or
8 disagreement from the Board?

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

10 CHAIRMAN STUTO: Please continue.

11 MR. TENGELER: Then there is a notice of
12 determination of no significant affect on the
13 environment and a neg dec. The lead agency is
14 the Town of Colonie Planning Board. The person
15 to contact for further information is Rebekah
16 Nellis Kennedy, Town Attorney, Town of Colonie
17 Attorney's office.

18 "Project identification: DeBenedetto
19 Dance Studio, 13 Sunset Drive; action
20 description: paving a 14,681 square feet of
21 greenspace for a lot. Action location is 13
22 Sunset Drive, Town of Colonie, County of
23 Albany.

24 Reasons for determination of
25 nonsignificant: The lead agency has reviewed

1 the application, site plans, project
2 description and all supporting documentation
3 and conducted such further investigation of
4 the project and its environmental affects as
5 the lead agency has deemed appropriate.

6 As far as the impact on land: Although
7 the project will result in a physical change
8 to the site, given the size of the project, no
9 significant impact on land resources is
10 expected. Most of the site remains greenspace.

11 Based on the above, it appears that the
12 project will not have a significant impact on
13 the environment related to land resources."

14 CHAIRMAN STUTO: We'll entertain a motion
15 to adopt the negative declaration as recited.

16 MR. AUSTIN: I'll make a motion.

17 MR. MION: I'll second.

18 CHAIRMAN STUTO: All those in favor?

19 ***(Ayes were recited.)***

20 CHAIRMAN STUTO: All those opposed?

21 ***(There were none opposed.)***

22 CHAIRMAN STUTO: The ayes have it.

23 With respect to adopting the site plan
24 amendment that's in front of us with the
25 changes that we discussed which would be the

1 berm in front and the bushes and the plantings
2 there, do we have a motion to accept?

3 MR. AUSTIN: I'd like to make a motion
4 with the waivers.

5 CHAIRMAN STUTO: Can you repeat the
6 waivers?

7 MR. CAPONERA: There is a wavier of the
8 15 foot setback requirement from the front
9 where the front proposed six parking spaces
10 are. There is a waiver of the rear 10-foot
11 setback from the cul-de-sac right of way on
12 Gaffers Court. Then there is a waiver to allow
13 the additional parking in the front.

14 CHAIRMAN STUTO: We'll entertain that as
15 one motion to accept with the condition and
16 also the three waivers; unless there is any
17 objection?

18 MR. LANE: Motion.

19 MR. AUSTIN: Second.

20 CHAIRMAN STUTO: All those in favor?

21 **(Ayes were recited.)**

22 CHAIRMAN STUTO: All those opposed?

23 **(There were none opposed.)**

24 CHAIRMAN STUTO: The ayes have it.

25 MR. CAPONERA: Thank you

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*(Whereas the proceeding concerning the above
entitled matter was adjourned at
9:14 p.m.)*

CERTIFICATION

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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.***
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14 -----
15 **NANCY STRANG-VANDEBOGART**
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18 ***Dated February 29, 2012***
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