

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

3 \*\*\*\*\*  
4 25 NEWTON STREET BUILDING DEMOLITION HEARING  
5 PURSUANT TO TOWN CODE SECTION 62-31 REGARDING  
6 DEMOLITION OF BIULDING

7 \*\*\*\*\*  
8 THE STENOGRAPHIC MINUTES of the above entitled  
9 proceeding BY NANCY STRANG-VANDEBOGART,  
10 a Shorthand Reporter, commencing on  
11 March 13, 2012 at 7:04 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 TIM LANE
- 17 MICHAEL SULLIVAN
- 18 KATHY DALTON
- 19 LOUIS MION
- 20 BRIAN AUSTIN
- 21 BRIAN HAAK

22 Also present:

- 23 Joseph LaCivita, Director, Planning and Economic  
24 Development
- 25 Michael C. Magguilli, Esq., Town Attorney's Office
- Keith Daniels, Esq.
- Christopher Meyer, Land Surveyor
- Deborah Kruzinski

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Exhibit Index  
Town's Exhibits

#	Description	Marked	Recvd
1	13 Photos of Site	P. 17	P. 17

1                   CHAIRMAN STUTO: The first item on our  
2 agenda is 25 Newton Street Building  
3 demolition, hearing pursuant to Town Code  
4 Section 62-31 regarding demolition of  
5 building. This is being presented by the Town  
6 Attorney, Michael Magguilli.

7                   Mr. Magguilli, good evening.

8                   MR. MAGGUILLI: Good evening, Chairman  
9 Stuto, ladies and gentlemen of the Board.

10                  As Peter noted we're here to pursuant to  
11 Section 62.31 of the Town Code. This is  
12 regarding 25 Newton Street.

13                  The Town has provided the Board a packet  
14 that should have included pictures showing the  
15 condition of the property. Under the Town  
16 Code, the Town Board, by resolution, found  
17 that this building constituted an immediate  
18 danger and a threat to the public health,  
19 safety and welfare and ordered this demolition  
20 pursuant to the Town Code. The owner of the  
21 property is entitled to due process and an  
22 opportunity to be heard why the building  
23 should not be demolished. So, if there is  
24 anyone here that would like to speak in their  
25 regard or has any other interest to buy the

1 property before the Board makes its  
2 determination, they can be heard tonight.

3 CHAIRMAN STUTO: Would you like me to  
4 open that up now?

5 MR. MAGGUILLI: That's fine, if you'd  
6 like to.

7 CHAIRMAN STUTO: Is there anybody in the  
8 audience with an interest in this property at  
9 25 Newton Street regarding the building  
10 demolition and the hearing that's going on  
11 right now?

12 Yes, sir? Can you state your name?

13 MR. MYERS: My name is Chris Myers and  
14 I'm a land surveyor. I've been working with  
15 the current owner to try to remedy or work on  
16 a remedy for the situation. It's been a long  
17 time coming.

18 There have been many difficulties on this  
19 proposed site. I believe that we have reached  
20 an agreement. We have a private party that is  
21 interested. I would agree that to begin the  
22 grading process for the removal of the  
23 building that's on-site -- there is a report  
24 pending the asbestos issues with this site. In  
25 order to remove it -- I met the company that

1 did the report on-site. There needs to be  
2 paperwork and an application made out to the  
3 entity that permits this. It's a 30 to 60-day  
4 process.

5 CHAIRMAN STUTO: To permit the asbestos  
6 removal - is that what you are referring to?

7 MR. MYERS: Yes. The building has  
8 collapsed. It was noted that there were three  
9 or four contaminated areas, originally. The  
10 building collapsed and there are no specific  
11 areas. The whole area needs to be treated as a  
12 contaminated site. Hence, the report and the  
13 permitting process of 30 to 60 days in order  
14 to get the approval to begin the removal.

15 CHAIRMAN STUTO: You're saying that the  
16 asbestos report was done before the collapse  
17 of the building?

18 MR. MYERS: Yes, that's my belief.

19 CHAIRMAN STUTO: Okay. Do you have a  
20 report with you? Who authored the report?

21 MR. MYERS: I believe that was done by  
22 the Town of Colonie. It would have had to be  
23 because they identified specific areas inside  
24 the building that -

25 CHAIRMAN STUTO: Have you read the

1 report?

2 MR. MYERS: I've read it.

3 CHAIRMAN STUTO: You don't recall who  
4 authored it?

5 MR. MYERS: Spectrum is the company.

6 CHAIRMAN STUTO: And you're not sure if  
7 it was before or after the demolition?

8 MR. MYERS: I don't have the dates.

9 CHAIRMAN STUTO: From what you said, I  
10 interpreted it that it was before because you  
11 said that it was designated in certain spots  
12 and with the demolition with the Town -- you  
13 don't know if it was before or -

14 MR. MYERS: I don't have the dates of the  
15 collapse of the building in relation to the  
16 report.

17 CHAIRMAN STUTO: You're saying that  
18 Spectrum Engineering authored the asbestos  
19 report. You're not sure if they authorized  
20 that?

21 MR. MYERS: My understanding was that it  
22 was at the request of the Town.

23 CHAIRMAN STUTO: What are you presenting  
24 us with tonight?

25 MR. MYERS: It's my understanding that

1 the Town is going to commence, at their  
2 expense, the beginning of the process and the  
3 culminating and removal of the building. I  
4 have someone that is interested in doing that  
5 in place of having the Town do it at their own  
6 expense.

7 CHAIRMAN STUTO: Who are the owners? It's  
8 my understanding that there are three owners  
9 of the titled property. Who among the owners  
10 have you communicating with?

11 MR. MYERS: The daughter who has power of  
12 attorney for one of the elderly owners.

13 CHAIRMAN STUTO: Do you have names? We  
14 need to have names for the record.

15 MR. MYERS: This is counsel for the  
16 owner. He can probably give you some better  
17 information that I could.

18 MR. DANIELS: My name is Keith Daniels  
19 and I'm right here in the Town and I'm  
20 representing Charles Racicot, one of the  
21 tenants and common owners of the property of  
22 25 Newton Street.

23 MR. LANE: What is the owner's name?

24 MR. DANIELS: Charles Racicot; R-A-C-I-C-  
25 O-T. He's an elderly gentleman.

1                   CHAIRMAN STUTO: You represent his child  
2 or you're representing him?

3                   MR. DANIELS: I represent him. I also  
4 represent his daughter.

5                   CHAIRMAN STUTO: Is that the same child  
6 or daughter that has power of attorney that  
7 Mr. Myers was telling us about?

8                   MR. DANIELS: Yes.

9                   CHAIRMAN STUTO: So, she does have power  
10 of attorney?

11                  MR. DANIELS: Yes.

12                  CHAIRMAN STUTO: For all matters?

13                  MR. DANIELS: Yes.

14                  CHAIRMAN STUTO: Tell us what you are  
15 proposing, so we all understand.

16                  MR. DANIELS: I'm here for observation.  
17 We're not opposed to the clearing out of the  
18 site. If it can be done on private dollars as  
19 opposed to Town dollars, we're all in favor of  
20 that, too. We have been in all the  
21 negotiations with many different parties for  
22 this property. There are many problems beyond  
23 the building of this property. The three  
24 owners are one of the problems; two are  
25 deceased and one is Ms. Racicot's mother. The

1 other third is a former business partner, John  
2 Lane. Clearing up that portion of the property  
3 is much more cumbersome. So, as to the  
4 significant problem for the suitors of the  
5 property, Mr. Myers has contacted the people  
6 who are willing to assume this risk with the  
7 ownership issue.

8 CHAIRMAN STUTO: That's somewhat  
9 confusing.

10 Mr. Myers, can you tell us what you're  
11 proposing and how solid this offer is? Is  
12 there a contract?

13 MR. MYERS: There is no contract in  
14 place.

15 CHAIRMAN STUTO: Who are the parties that  
16 we're talking about?

17 MR. MYERS: They are a builder in the  
18 area. Ultimately, to split this parcel into  
19 several parcels would require a variance so we  
20 will need to go to the Zoning Board.

21 CHAIRMAN STUTO: What are you asking of  
22 this Board?

23 MR. MYERS: At this time, to present the  
24 two ideas that we will be going to the Zoning  
25 Board with and hopefully a recommendation from

1           this Board to take with us to the Zoning  
2           Board.

3                   CHAIRMAN STUTO:   Okay, if you could have  
4           a seat, I'd like to hear from the Town  
5           Attorney.

6                   MR. MAGGUILLI:   The Town has delayed the  
7           action on this property in order to give the  
8           property owners an opportunity to resolve  
9           their title problems and try to sell the  
10          property privately and to do the clean up at  
11          their own expense. Unfortunately, nothing has  
12          ever happened with that. We have been  
13          discussing this on and off with Mr. Daniels  
14          for quite some time and it appears to me,  
15          anyway, that there has been no progress at all  
16          in their efforts to either clear title or  
17          secure a purchaser for the property. So, the  
18          Town Board has decided to move.

19                   The Town has gotten quite a few  
20          complaints from the neighbors. It's a danger.  
21          It's in an area where there is particular  
22          concern now that the weather is getting  
23          warmer. This is close to one of the Town's  
24          park and we're concerned for the children in  
25          the neighborhood. We would request that the

1 Board confirm the order to demolish the  
2 property under the Code. We have to move  
3 within 30 days from the date of the order. If  
4 they can do so to the Town's satisfaction  
5 within that 30 day period, we'd be happy to  
6 continue to listen, but we would request that  
7 this Board move forward under Chapter 62 and  
8 confirm the Town Board's order to demolish.

9 CHAIRMAN STUTO: So, if we were to take  
10 action, we could confirm the Town Board's  
11 order?

12 MR. MAGGUILLI: Correct. Again, the  
13 purpose of this hearing primarily is to afford  
14 the owner, or one of the owners of the  
15 property, to come forward and show cause why  
16 the property should not be demolished and why  
17 the Town Board order should not be confirmed.  
18 It's open enough where concerned neighbors can  
19 speak if they'd like or anyone with an  
20 interest in the property. Again, we would ask  
21 that this Planning Board move forward and  
22 issue the order.

23 MS. DALTON: If I understand correctly,  
24 the Town charges back to the owners the cost  
25 of demolition?

1 MR. MAGGUILLI: Correct. Any and all  
2 expenses associated with demolishing the  
3 building, filing fees with the Town Clerk,  
4 including attorney's fees and the like would  
5 be calculated and it would become a lien on  
6 the property. We have two choices under the  
7 Town Code. We can seek to enforce the lien by  
8 a judgment in an order of jurisdiction, or we  
9 can treat it as a tax lien and have the county  
10 reimburse the Town. They would subsequently  
11 foreclose on the property.

12 MS. DALTON: If the Town does the  
13 demolition, would that somehow be more  
14 expensive than the builder if they were able  
15 to manage to do it with the owner?

16 MR. MAGGUILLI: That, I can't answer. The  
17 only thing that I can tell you is that the  
18 Town has already gone through the RFP process.  
19 We have a contractor ready willing and able to  
20 go, and the cost is approximately \$21,000 to  
21 do the demolition. That includes any  
22 environmental abatement that needs to be done.

23 CHAIRMAN STUTO: Are you familiar with  
24 the asbestos report done by Spectrum that's  
25 being referred to?

1 MR. MAGGUILLI: Not off the top of my  
2 head, Peter. What I was led to believe was  
3 that there was some asbestos in the roofing  
4 shingles and that it wasn't rated as an  
5 environmental concern as we were initially led  
6 to believe.

7 MR. LANE: Mr. John Lane, was he also  
8 served in this?

9 MR. MAGGUILLI: At one time there were  
10 three owners. They acquired title to the  
11 property back in 1956 and two of the Racicots  
12 are related somehow. I think that the third  
13 owner is a Lane. I don't believe that's any  
14 relation.

15 MR. LANE: I know, but is that a living  
16 person?

17 MR. MAGGUILLI: There was a Mr. Racicot  
18 that was served by certified mail, which is  
19 all the Town Code requires and the property  
20 had to be posted -

21 MR. LANE: And they haven't responded to  
22 the notice?

23 MR. MAGGUILLI: Mr. Daniels has shown up  
24 here tonight.

25 MR. LANE: He only represents Racicot.

1 MR. DANIELS: Mr. Lane has passed away.  
2 He has only one surviving heir.

3 MR. MAGGUILLI: But we do have adequate  
4 service, if that's what you're asking.

5 MR. LANE: That's basically it.

6 CHAIRMAN STUTO: I think that there is  
7 one person on the sign-in sheet.

8 Deb Kruzinski?

9 MS. KRUZINSKI: I have pictures and I'm  
10 on the back side of the building. You have the  
11 front. My garage has been destroyed.

12 CHAIRMAN STUTO: You said that your  
13 garage is destroyed?

14 MS. KRUZINSKI: We have a second  
15 property.

16 CHAIRMAN STUTO: How long has this been  
17 going on?

18 MS. KRUZINSKI: Years. I have an old  
19 wooden garage that sits in the back and all of  
20 this grows over the top of it and it's seeped  
21 through the roof. This is the garage and the  
22 whole roof and the doors -

23 CHAIRMAN STUTO: What would you like to  
24 tell us?

25 MS. KRUZINSKI: I think that it's

1           terrible that it's taken this long for  
2           something to be done. I've called the police  
3           on them. The children that go around that area  
4           now, they throw the cement blocks onto the  
5           glass and just think that it's a joke.  
6           Somebody is going to get killed. There is  
7           insulation that is blowing in everybody's  
8           yards. We have dogs and we have kids and there  
9           are all pieces of pink insulation all blowing  
10          through the yard. This has been going on since  
11          the roof caved in like four or five years ago.  
12          I just hope that something is done. I need to  
13          put up a fence now because there is nothing  
14          there.

15                 Is there anything that you can do to help  
16          me with that garage that's been destroyed? Can  
17          I get help moving what's left of that garage?

18                 CHAIRMAN STUTO: Our role is just to  
19          narrow it to where we confirm the Town Board's  
20          order, which is demolish the property and take  
21          it down. Maybe you can talk to the Town  
22          Attorney about your other questions, but  
23          that's what our role is here.

24                 MR. AUSTIN: Ma'am the fence in the  
25          picture -

1 MS. KRUZINSKI: I own 15 and 13 Natick  
2 Street. I'm on the other side of Newton. The  
3 pictures that you have - you're looking at  
4 that, but I'm on the back side of that. That's  
5 all the backside along 13 and 15 Natick  
6 Street.

7 MR. AUSTIN: Is that your fence?

8 MR. KRUZINSKI: We went halves on that  
9 fence because we had to replace the  
10 one -- when we bought the property in 1994,  
11 whoever was working in that little building  
12 doing motors and lawnmowers and cars and  
13 stuff - his name was George and that's the  
14 only thing that I can tell you. I do have  
15 somebody lined up for a fence but I don't know  
16 what to do first.

17 CHAIRMAN STUTO: Okay, thank you.

18 I'm starting to get a picture here. We  
19 don't want to cut anybody off.

20 Mr. Myers would you like to make a  
21 presentation or whatever?

22 MR. MAGGUILLI: The only thing that I  
23 would ask is that collectively that we would  
24 have those pictures marked as Town 1 and be  
25 part of the record.

1                   That's all I have for the Planning Board.

2                                   **(Town's Exhibit 1 was marked and**  
3                                   **received into the record.)**

4                   CHAIRMAN STUTO: We'll mark these and  
5 we'll put them into the record.

6                   Mr. Myers, you can finish your  
7 presentation.

8                   MR. MYERS: I'll be brief. The person  
9 that has interest in the property - they said  
10 that they're going to start the process with  
11 the state to file the appropriate paperwork to  
12 obtain the permit to get the demolition permit  
13 in hand and then continue with the work. As I  
14 mentioned before, the person that I met  
15 on-site from Spectrum said that permit would  
16 be 30 to 60 days in order to begin the  
17 removal. What they are asking is that they are  
18 looking to divide this property either into  
19 two or three separate parcels. From there, it  
20 will move to construction. It's much more  
21 involved than just the removal of this  
22 building. There are title issues. There are  
23 potential contamination issues. There are back  
24 tax issues. There are a slew of items that all  
25 needed to be taken care of by a person

1 stepping up to do this. I understand that  
2 we're at the final stage and this is a chance  
3 that you could potentially get someone from  
4 the private sector to bear the cost of all  
5 this and the Town wouldn't have to undertake  
6 it.

7 MR. AUSTIN: It's my understanding, sir,  
8 that the Town takes the cost but it will be  
9 placed back on the owner.

10 MR. DANIELS: That's the current plan.  
11 This person that I'm representing will do that  
12 in place of the Town doing it - in the same  
13 time frame that the Town would do it.

14 MR. AUSTIN: Can I ask how long the roof  
15 has been collapsed?

16 MS. KRUZINSKI: On the garage - since the  
17 overgrowth has been going on - probably about  
18 seven years, at least. It's totally rotted.

19 MR. AUSTIN: I guess my question is: Why  
20 have they taken so long to get to this point?  
21 I'm not sure you can answer that. It's an  
22 ongoing eyesore, obviously. It's an obvious  
23 issue with the neighbors. Now the Town has  
24 stepped in and finally we're going to see some  
25 movement on this?

1 MR. DANIELS: Part of it is the situation  
2 with the title. An elderly man owns it. His  
3 daughter is taking care of it somewhat, and I  
4 think that what has brought this to the floor  
5 was a notice by the Town that was given in the  
6 last six months that a remedy needed to be  
7 taken.

8 CHAIRMAN STUTO: Any questions from any  
9 Members of the Board?

10 MR. MION: I just want to clarify  
11 something. If we pass this and it goes to the  
12 Board, then you make your argument to the  
13 Board that you're making tonight; is that the  
14 process?

15 MR. MAGGUILLI: What will happen next is  
16 the Planning Board refers the Town Board's  
17 order to demolish. Then, that's the end of  
18 legislative action on the Town's part. I  
19 suppose the owner could bring an Article 78  
20 proceeding, but having failed to appear  
21 tonight, I don't know how he could. The next  
22 step would be the demolition.

23 MS. DALTON: If we confirm the demolition  
24 tonight and whatever time it takes, is there  
25 an authorization for you to call off the

1 process and reconsider?

2 MR. MAGGUILLI: We'd have to go back to  
3 the Town Board.

4 MS. DALTON: But you could, in fact, do  
5 that?

6 MR. MAGGUILLI: Correct. We would love to  
7 hear from Mr. Daniels or Mr. Myers in the  
8 meantime, but we'd like to be able to move  
9 forward.

10 MS. DALTON: If we make a motion, Mr.  
11 Myers still has the time period between  
12 tonight and when the demolition is actually  
13 scheduled to prevent affirmative proof to you  
14 that something would in fact happen in the  
15 time frame they would have.

16 MR. MAGGUILLI: Correct. We could go as  
17 early as tomorrow, but we're supposed to act  
18 within 30 days from confirmation of the order.

19 MS. DALTON: I would make the motion that  
20 we confirm the Town Board's order.

21 CHAIRMAN STUTO: Okay, motion to confirm  
22 the Town Board's order to demolish.

23 Do we have a second?

24 MR. MION: Second.

25 CHAIRMAN STUTO: Second by Lou.

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All those in favor?

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

CHAIRMAN STUTO: All those opposed?

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

CHAIRMAN STUTO: The ayes have it.

Thank you.

***(Whereas the proceeding concerning the above  
entitled matter was concluded at  
7:25 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  
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14 -----  
15 **NANCY STRANG-VANDEBOGART**  
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18 **Dated March 20, 2012**  
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