

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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5 JOE'S CRAB SHACK
6 579 TROY SCHENECTADY ROAD
7 APPLICATION FOR FINAL SITE PLAN APPROVAL
8 *****

9 THE STENOGRAPHIC MINUTES of the above entitled
10 proceeding BY NANCY STRANG-VANDEBOGART,
11 a Shorthand Reporter, commencing on
12 April 17, 2012 at 7:03 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 LOUIS MION
- 18 KATHY DALTON
- 19 MICHAEL SULLIVAN
- 20 BRIAN AUSTIN
- 21 ELENA VAIDA, ESQ., Counsel to the Planning Board

22 Also present:

- 23 Michael Tengeler, Planning and Economic
24 Development
- 25 Todd Huntington, GPD Group
- Joe Grasso, PE, Clough Harbour and Associates
- Fred Pettingill

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1 CHAIRMAN STUTO: Good evening everyone.
2 Welcome to the Town of Colonie Planning Board
3 meeting. We'll call the meeting to order.

4 Joe suggested that I do this and I've
5 done it a couple of times last week. It might
6 be helpful for people who haven't been here.

7 There are seven Planning Board Members
8 who normally sit in the front here and there
9 are four of us here, so that constitutes a
10 quorum. Two may not make it and I'm not sure
11 about the other one.

12 Elena Vaida is our counsel; Joe LaCivita,
13 next to her is our Director of our Planning
14 department; Joe Grasso is our Town Designated
15 Engineer. That's the engineer that works for
16 us reviewing projects. They are affectionately
17 called the TDEs. There are a couple more in
18 the back on different projects. We have Mike
19 Tengeler from the Planning Department, also.

20 The first agenda item is Joe's Crab
21 Shack, 579 Troy-Schenectady Road. This is an
22 application for final site plan approval.

23 Do you want to give us an introduction on
24 this, Joe?

25 MR. LACIVITA: Sure. This project at 579

1 Troy-Schenectady Road is in what we know as
2 Latham Farms shopping district. They're going
3 to be razing the existing Dakota restaurant
4 and replacing it with a new 8,100 square foot
5 restaurant

6 It's been before DCC in late 2011. It
7 came before this Board for both sketch and
8 concept. They have concept acceptance at this
9 time. Tonight they're here for final action on
10 the waivers, adopt the SEQRA and receive final
11 approval.

12 CHAIRMAN STUTO: Okay, this is being
13 reviewed by Clough Harbour and Associates.

14 I guess we'll hear from the applicant
15 now.

16 MR. HUNTINGTON: Hi, my name is Todd
17 Huntington. I'm with the GPD group. I'm here
18 representing Ignite Restaurant Group who is
19 present.

20 As Joe mentioned, we have been through
21 concept review and are here requesting two
22 waivers. Those waivers being the amount of
23 interior landscaping as well as the frontage
24 build out of 80 percent. We have been working
25 with staff and receiving staff comments.

1 As early as the other day we received
2 comments from Pure Waters. We have addressed
3 comments from Latham Water. We received
4 comments from Pure Waters and have had no
5 issues with those comments. We plan on
6 addressing those. I have worked out all the
7 comments with the Town Designated Engineer as
8 well, pending any further comment from him.

9 As I mentioned, the waivers that we're
10 asking for in the frontage build-out - we have
11 provided a fence along both frontages to a
12 total of 68 percent; which is 347 feet along
13 the frontage. There was some grade
14 differential on the site and the building sets
15 about six feet lower than the road. Some of
16 the concerns that we had putting the fence
17 right directly in front - we substituted some
18 low lying shrubbery and landscaping to
19 compensate for that additional frontage
20 build-out that we're now providing. Also, the
21 interior landscaping which is based on the
22 number of parking spaces that we have - we are
23 providing the exact square footage. We are at
24 64 percent of what's required of the interior
25 landscaping. That's just based on - there is a

1 significant amount of existing landscaping
2 that's not counted in that number. There is a
3 substantial amount of landscaping on this
4 site. It's a replacement of the existing
5 building. We're tearing down the Dakota and
6 then putting up the Joe Crab Shack building in
7 the same location, keeping the existing
8 parking lot configuration the same, keeping
9 the islands and keeping as much of the
10 existing landscaping as we can on the
11 exterior. All the shrubbery and trees on the
12 exterior of the site along both State Route 2
13 and Erin Street are to remain. The only
14 landscape removal is really only on the
15 interior, directly next to the building. Our
16 footprint is slightly different than the
17 Dakota. There is a basement in the Dakota, so
18 that removal overall will require some trees
19 on the interior.

20 CHAIRMAN STUTO: Are we losing landscape
21 or staying the same, from the current?

22 MR. HUNTINGTON: From the current, I
23 think that it's a .12 percent reduction from
24 the overall. This is actually not a separated
25 lot. The parcel is part of the overall Latham

1 Farms which is 80-plus acre subdivision.

2 CHAIRMAN STUTO: So, it's
3 twelve-one-hundredths of a percent?

4 MR. HUNTINGTON: Yes.

5 CHAIRMAN STUTO: It's a small fraction of
6 the whole parcel.

7 What about the frontage? Is that an
8 increase, decrease or staying the same?

9 MR. HUNTINGTON: Well, there currently
10 wasn't any frontage build-out.

11 CHAIRMAN STUTO: So, it's an increase.

12 MR. HUNTINGTON: Yes.

13 CHAIRMAN STUTO: Is that the end of your
14 presentation?

15 MR. HUNTINGTON: Yes.

16 CHAIRMAN STUTO: Okay, we'll ask the Town
17 Designated Engineer, Joe Grasso, to give his
18 comments.

19 MR. GRASSO: In your packets are the last
20 review letter on the project, dated March 15th,
21 which identified a number of items and all of
22 those have been responded to and appear to
23 have been addressed.

24 Also in your packet was a letter from
25 Todd's office. The letter was addressed to me

1 dated March 29, 2012.

2 Just to summarize our comments regarding
3 SEQRA, based on our review of the full EAF and
4 the project documented, it doesn't appear that
5 the project is going to result in any
6 significant environmental impacts. Based on
7 the information contained in the project
8 record, we have, for the Planning Board's
9 consideration, drafted a negative declaration
10 and completed Part II of the previously
11 submitted full environmental assessment form.
12 That is in your packet.

13 CHAIRMAN STUTO: I'd like to go over Part
14 II a little bit, when you think that it's
15 appropriate.

16 MR. GRASSO: Regarding the waivers that
17 have been requested, they've been supported,
18 based on the comments from the Planning Board
19 and our review. As such, we have drafted a
20 Resolution for the Planning Board's
21 consideration for the findings to support
22 those two waivers - the frontage build-out and
23 the lack of the required interior landscaped
24 island. All the other items included in our
25 letter were relatively minor technical items

1 which the application has addressed with the
2 information that's been resubmitted. Finally,
3 we've been tracking the technical comments
4 from the various Town departments which have
5 been relatively minor. Those have been
6 provided to the applicant's consultant and all
7 of those will be able to be addressed in a
8 post hearing submission. So, it's ready for
9 the Board's consideration and any other
10 comments on the final plans.

11 CHAIRMAN STUTO: So, we have three things
12 to consider; SEQRA, the waiver resolution and
13 the final site plan.

14 MR. GRASSO: Correct.

15 CHAIRMAN STUTO: Are you done for this
16 part of the presentation?

17 MR. GRASSO: Yes.

18 CHAIRMAN STUTO: Okay, we'll open it up
19 to the Board Members. There are only four of
20 us here.

21 MR. SULLIVAN: My only comment was on the
22 divider island and that's going to be removed.
23 So, Fire Services had a concern about access.
24 That's been addressed.

25 MR. HUNTINGTON: Yes, that's just going

1 to be striped.

2 MR. SULLIVAN: Thank you.

3 CHAIRMAN STUTO: Do you want to go over
4 the SEQRA information?

5 MR. GRASSO: Sure. In your packet is the
6 draft or the negative declaration as a cover
7 sheet.

8 Starting with the second page is the full
9 environmental assessment form. Part I of the
10 form is completed by the applicant, which we
11 had reviewed and early on in the project had
12 made some suggested revisions to that.
13 Basically, it adequately describes the
14 proposed project as well as the environmental
15 setting of the site.

16 Part II, and if necessary, Part III is
17 the responsibility of the lead agency, which
18 for this application is the Planning Board.
19 So, based on the information in the record, we
20 go through Part II and for each of those
21 questions, such as the first one:

22 Will the proposed action result in a
23 physical change to the project site? We
24 answered those questions and then we evaluate
25 whether or not the project is expected to

1 result to a small to moderate impact or
2 potential large impact. If it's a potential
3 large impact, can the impact be mitigated by a
4 project change? We go through and complete
5 that and as you can see, based on the scale of
6 the project, there were no impacts expected to
7 be potentially large and therefore no
8 mitigation of those impacts was required.
9 There wasn't justification to complete Part
10 III, which was a write up describing in detail
11 potential impacts and mitigation measures.

12 Having completed that, we had drafted for
13 the Board's consideration a negative
14 declaration coversheet that goes on the full
15 EAF. It basically indicates that the Planning
16 Board has accepted lead agency status and it
17 classifies the SEQRA action as an unlisted
18 action. Therefore, it did not require
19 coordinated review with any other involved
20 agencies. It was not a conditioned negative
21 declaration. It describes the action and its
22 location. On the back page, it provides
23 reasons supporting the negative declaration.
24 In that we say that the proposed project will
25 redevelop a former restaurant site with a new

1 restaurant, so the use of the site will be the
2 same. There will be very minimal site changes.
3 The site does not contain any significant
4 environmental features. The project will
5 include additional fencing, landscaping and
6 pedestrian improvements. No significant
7 environmental impacts are expected to occur.

8 CHAIRMAN STUTO: Is this the new form?

9 MR. GRASSO: No, this is still the old
10 form. The new forms will go into effect this
11 fall.

12 CHAIRMAN STUTO: Okay, I'm going through
13 this and I note that there is a number where
14 there is no impact, including agriculture and
15 land resources, endangered species, land and
16 animals, drainage, surface or ground water,
17 any non-protected existing bodies of water,
18 water bodies designated as protected - all
19 those are no. Any effect on any unusual
20 landforms; no. The other ones are small to
21 moderate.

22 Anybody on the Board have any questions
23 on this?

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

25 CHAIRMAN STUTO: Does our attorney have

1 any questions or comments on the
2 environmental?

3 MS. VAIDA: No.

4 CHAIRMAN STUTO: Elena, have you looked
5 over the neg dec?

6 MS. VAIDA: Yes.

7 CHAIRMAN STUTO: Can you read the
8 appropriate parts for our consideration?

9 MS. VAIDA: Did the Planning Board
10 declare itself as lead agency yet?

11 MR. GRASSO: Yes.

12 MS. VAIDA: We know that it's unlisted.
13 So, the Planning Board wants to make a motion
14 based upon the record and the full
15 environmental assessment form that this
16 project will have no significant impact on the
17 environment and therefore would issue a
18 negative declaration.

19 CHAIRMAN STUTO: Okay, I guess that's the
20 motion for consideration.

21 MR. MION: I'll make that motion.

22 MR. SULLIVAN: I'll second that.

23 CHAIRMAN STUTO: Any discussion on that?

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

25 CHAIRMAN STUTO: All those in favor?

1 **(Ayes were recited.)**

2 CHAIRMAN STUTO: All those opposed?

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

4 CHAIRMAN STUTO: The ayes have it.

5 Shall we talk about the waivers next?

6 MS. VAIDA: I would just ask Joe on the
7 waivers - though I see that it's in your
8 letter, the reasons aren't spelled out in the
9 Resolution. I don't think that's a problem,
10 but you might just want to, for the record,
11 make it clear the grounds for granting
12 waivers.

13 MR. GRASSO: No, they're written in the
14 Resolution.

15 CHAIRMAN STUTO: Do we want to read this
16 into the record?

17 MS. VAIDA: Yes.

18 MR. GRASSO: A Resolution for Joe's Crab
19 Shack, 579 Troy-Schenectady Road, Land Use Law
20 waiver of findings.

21 Whereas Joe's Crab Shack, the applicant,
22 has proposed the redevelopment of a 2.505 acre
23 parcel at 579 Troy-Schenectady Road, Town of
24 Colonie, Albany County, New York.

25 The project will involve the demolition

1 of the existing restaurant structure and
2 construction of a 8,180 square foot Joe's Crab
3 Shack restaurant.

4 Whereas the applicant is requesting a
5 waiver from the Town of Colonie Land Use Law,
6 Article 9, Chapter 190-41 design standards for
7 the highway commercial office residential zone
8 related to the minimum frontage build-out of
9 80 percent and a minimum of 20 square feet of
10 landscaped island interior for each stall.

11 Whereas the Town of Colonie Planning
12 Board may waive these standards to the extent
13 that it deems necessary in order to secure
14 reasonable development of the site. In such
15 case, the applicant must establish that there
16 are no practical alternatives to the proposed
17 waiver that would conform to the standard and
18 the Board shall issue a written findings
19 statement to the extent and justification of
20 the waiver.

21 And whereas the applicant is proposing a
22 three-foot high aluminum fence along
23 approximately 68 percent of the project
24 frontage.

25 And whereas this is a redevelopment

1 project which proposes the new building and
2 substantially at the same location as the
3 existing building.

4 And whereas the site currently has no
5 features that establish a frontage build-out
6 and a fence will provide a similar effect.

7 And whereas the applicant sought to limit
8 the amount of fencing to avoid blocking views
9 of the new building.

10 And whereas approximately 70 percent of
11 the required landscaped interior island is
12 being provided.

13 And whereas this is a redevelopment
14 project and the design intent is to minimize
15 changes to the project site.

16 And whereas the plan proposed additional
17 landscaping in additional areas that will
18 provide similar benefit as interior landscaped
19 island.

20 And whereas the site contains significant
21 landscaping around it periphery that provides
22 appreciable shading and aesthetic improvement
23 of the project site.

24 And now therefore be it resolved that the
25 Board hereby finds that the extent of the

1 requested waivers is not considered
2 substantial.

3 And be it further resolved that the Board
4 finds that the applicant has established that
5 there are no practical alternatives to the
6 proposed waiver that would conform to the
7 standard, and that the waiver is necessary in
8 order to secure reasonable development of the
9 project site.

10 Be it further resolved that the Board
11 hereby issues a waiver from the minimum
12 frontage build-out of 80 percent.

13 And be it further resolved that the Board
14 hereby issues a waiver from the requirement of
15 20 square feet of landscaped island, interior
16 to the parking area for each stall.

17 And be it further resolved that these
18 waiver findings be a condition of site plan
19 approval of the application and be kept in the
20 project file in the office of the Planning and
21 Economic Development Department.

22 MS. VAIDA: They should also be reflected
23 on the site plan.

24 MR. GRASSO: That was a comment that we
25 had. It's been noted on the coversheet, I

1 believe.

2 CHAIRMAN STUTO: If somebody wants to
3 make a motion and a second and we can discuss
4 it.

5 We also haven't heard from the public on
6 this project, so we need to do that.

7 MR. MION: I'll make the motion.

8 MR. SULLIVAN: I'll second it.

9 CHAIRMAN STUTO: Okay, is there anybody
10 from the public that wants to comment on this
11 project?

12 MR. PETTINGILL: I'm Fred Pettingill.

13 The new building is going to be parallel
14 on the north side of the property?

15 CHAIRMAN STUTO: I'm not sure I
16 understand your question.

17 MR. LACIVITA: You mean, which way is it
18 facing?

19 MR. PETTINGILL: Yes, is it going to be
20 perpendicular to the present layout, correct?

21 MR. HUNTINGTON: It's in the same exact
22 position as the Dakota layout. The front of
23 the building faces State Route 2.

24 MR. GRASSO: Did that answer your
25 question?

1 MR. PETTINGILL: Yes.

2 CHAIRMAN STUTO: In other words, the
3 shorter side faces Route 2; is that correct?

4 MR. HUNTINGTON: Correct.

5 MR. AUSTIN: The frontage of the Dakota
6 presently faces Erin Street. The new frontage
7 will face Route 2.

8 MR. HUNTINGTON: Yes, but the entrance
9 faces Erin Street. Our main entrance faces
10 State Route 2.

11 CHAIRMAN STUTO: Any other comments from
12 the public?

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

14 CHAIRMAN STUTO: Any other discussion
15 from the Board on the Resolution to allow the
16 waivers?

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

18 CHAIRMAN STUTO: Okay, we'll take it for
19 a vote. All those in favor?

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

21 CHAIRMAN STUTO: All those opposed?

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

23 CHAIRMAN STUTO: The ayes have it on the
24 waivers.

25 And now on the main consideration of the

1 final site plan application that's before the
2 Board.

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

4 CHAIRMAN STUTO: So, that's a motion on
5 final site plan application contingent upon
6 meeting all the conditions in the TDE letter
7 and the Town departments.

8 MR. AUSTIN: I'll make that motion.

9 MR. SULLIVAN: I'll second it.

10 CHAIRMAN STUTO: Any discussion?

11 I'll just say for the record that I favor
12 the cross connectivity in the back of the
13 parking lot to the adjacent commercial parcel.
14 The Board didn't feel the same way - at least
15 the majority of the Board didn't. Although
16 that majority is not here today so I won't run
17 afoul. I think that cross connectivity on
18 redevelopment sites is a good thing and I
19 think that in particular on this one, it would
20 have been a good thing. That's the one thing
21 that I'm a little bit disappointed in. I do
22 think that it's a great redevelopment project.
23 I hear good things about the restaurant and
24 the food and stuff. That's my comment on the
25 project.

1 Any other comments?

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

3 CHAIRMAN STUTO: Okay, we'll take a vote
4 on that.

5 All those in favor?

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

7 CHAIRMAN STUTO: All those opposed?

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

9 CHAIRMAN STUTO: The ayes have it.
10 Congratulations.

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14 ***(Whereas the proceeding concerning the***

15 ***above entitled matter was concluded at***

16 ***7:25 p.m.)***

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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 May 9, 2012**

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Legal Transcription

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