

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3 *****

4 CAPITAL BANK
581 LOUDON ROAD
6 SKETCH PLAN REVIEW UPDATE

7 *****

8 THE STENOGRAPHIC MINUTES of the above entitled
9 proceeding BY NANCY STRANG-VANDEBOGART,
10 a Shorthand Reporter, commencing on
11 April 24, 2012 at 7:15 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 KATHY DALTON
- 17 BRIAN AUSTIN
- 18 BRIAN HAAK
- 19 Elena Vaida, Esq., Counsel to the Planning Board

20 Also present:

- 21 Michael Tengeler, Planning and Economic Development
- 22 Robert Osterhout, Bohler Engineering
- 23 Eric Larner, Schuyler Companies
- 24 Jim Hartle, VP Regional Sales Manager, Capital Bank
- 25 Anders Tomson, President, Capital Bank
- Mary Alice Morgan
- Bob Ensign
- Mark VanSluyters
- Dave Harris

1 CHAIRMAN STUTO: Next is Capital Bank,
2 581 Loudon Road, sketch plan review update.

3 Mike, would you like to give us an
4 introduction on that?

5 MR. TENGELER: Sure. Just to put some
6 dates in perspective here, the DCC meeting was
7 on March 28, 2012. This is a vacant lot in an
8 NCOR zoning district. Basically, this is on
9 the corner of Loudon Road and Homestead.
10 They're here tonight for a sketch plan review
11 update. Bohler Engineering is here. I'll turn
12 it over to them.

13 CHAIRMAN STUTO: Okay, we saw this before
14 as an office building concept application. It
15 looks like it's been completely revised,
16 right? It's a different project, correct?

17 MR. OSTERHOUT: That's correct.

18 Good evening. My name is Rob Osterhout
19 and I'm with Bohler Engineering. I'm here
20 tonight with Anders Tomson, President of
21 Capital Bank; Jim Hartle, Capital Bank and
22 Eric Larner with Schuyler Companies. We're
23 here tonight to present an overview of the
24 project for sketch plan review and we're also
25 here to discuss waivers for the site plan

1 review as the project progresses.

2 We felt that it was important to get out
3 here in front of the Board this evening and
4 show you the project, talk about the layout of
5 the project as it compares to some of the
6 older plans that you've seen on the site, and
7 discuss moving forward with the project. We're
8 very excited and we've spent a lot of time
9 working on the project, working with the
10 neighbors and working with the Town and some
11 of the other regulatory agencies already.

12 So, as Mike mentioned the project is at
13 the southeast corner of Homestead and Route 9.
14 It's within the NCOR zoning district. It's
15 actually on the southern limits of the NCOR
16 zoning district. For clarity here, this is
17 Route 9 and Homestead and the site location
18 here and Newton Plaza over to the left
19 (Indicating).

20 Looking at the site layout - again, the
21 orientation is this way - Homestead and Route
22 9 are here (Indicating). The zoning district
23 boundaries lie along the southern portion of
24 our site and the easterly portion of our site.
25 So, we have the NCOR district here and we have

1 SFR, single family residential to the south
2 and the east (Indicating). Also to the
3 northeast is the SFR zone and the NCOR
4 continues to the north.

5 CHAIRMAN STUTO: And you have the
6 doctor's office on the north of the site.

7 MR. OSTERHOUT: Correct; the medical
8 office is on the opposite side of Homestead
9 here (Indicating).

10 So, both regulation for the district - we
11 meet most of those requirements. There is one
12 setback that we're not meeting for parking and
13 I'll talk about that a little bit more
14 shortly. Because we're adjacent to the
15 residential districts, we have a 50-foot
16 setback of parking and 100 foot setback to the
17 building for this site. We meet each of those.
18 With parking, with have 68 feet of setback to
19 the residential zone. With the building, we
20 have 100 feet. So, we're in good shape there.

21 Looking at the other requirements, as I
22 mentioned, we have a 15-foot setback to
23 parking on the Homestead frontage as well as
24 the Route 9 frontage. We do not meet that on
25 the north side along Homestead for the very

1 reason that we're trying to provide as much of
2 a buffer and setbacks to the adjoining single
3 family residential zoning districts as we can.
4 You can see that we have a tremendous amount
5 of greenspace on the site. There is a 35
6 percent requirement and we're over 55 percent
7 with our greenspace. Much of that greenspace
8 is associated and directed toward the single
9 family residential zoning districts that abut
10 us. So, our goal here moving forward with the
11 project has been to reduce our footprint and
12 try to move things away from those residential
13 areas and focus everything towards the two
14 roads; Homestead and Route 9.

15 The site is 1.3 acre site. As Mike
16 mentioned, it's a vacant site. The previous
17 plans on this site had much more intense
18 development. We feel that we have a reasonable
19 request here with this application. We're
20 looking at a 2,500 square foot bank with a
21 drive thru with two drive thru lanes in the
22 facility.

23 We're looking at access right now with
24 DOT. We've also talked to CHA about some of
25 the access on the site. Right now we're

1 proposing a full-access into the site off or
2 Route 9 that rights out onto Route 9 as well
3 as a full access onto Homestead. Part of the
4 approach here with the project with the full
5 access onto Homestead - we want to secure full
6 access out of Homestead, as well. Currently,
7 Homestead is restricted to rights only. We
8 want to improve the situation that's out here
9 today which includes agreements with the
10 property owners on either side of us and sight
11 distance improvements as well, so there is a
12 safe passage for vehicles that would like to
13 turn left out of Homestead onto Route 9.

14 So, that's part of our project as well.
15 It's not identified on this plan. It's
16 something that we've been working on and
17 working through with the neighbors and trying
18 to address so that when we come forward with
19 more detailed plans, we'll be able to present
20 very factual information that's been
21 progressed and it's not just an idea.

22 CHAIRMAN STUTO: Okay, so you're going to
23 have full access on Route 9, directly onto
24 your lot, full access on Homestead and you
25 want to change Homestead to Route 9 so that

1 you can also take left turns.

2 MR. OSTERHOUT: The access onto Route 9
3 from our site would be full access in and then
4 limited to rights out.

5 CHAIRMAN STUTO: Okay, thank you.

6 MR. OSTERHOUT: As I mentioned, we have
7 55 percent greenspace on the property. We're
8 trying to protect as much of the buffer that
9 we can to the adjoining neighbors. You can see
10 on our concept sketch here that the darker
11 greens are the existing vegetation
12 (Indicating) and the layering would be
13 proposed. So, we're trying to maintain an
14 adequate buffer to the residents there.

15 CHAIRMAN STUTO: I'm sure that's going to
16 be of interest to the neighbors. What types of
17 plantings are you going to have there? Is it
18 going to be a high buffer rather than just
19 grass?

20 MR. OSTERHOUT: The existing vegetation
21 is primarily deciduous. We are proposing a
22 vegetative screen that's going to consist of
23 probably loose spruces and some pines. We're
24 going to provide an adequate buffer here
25 (Indicating). That's one of the things that

1 we're working through with the neighbors at
2 this point.

3 CHAIRMAN STUTO: Are you communicating
4 with the neighbors?

5 MR. OSTERHOUT: Yes, very much so. We
6 want to be proactive and get out front and
7 talk with them ahead of the curve. Those
8 discussions are going very well, actually.

9 CHAIRMAN STUTO: Are the two adjacent
10 neighbors here today?

11 ***(There was one response from the audience.)***

12 MR. LARNER: I'm Eric Lerner from
13 Schuyler Companies in Newton Plaza.

14 Capital Bank and ourselves, Newton Plaza
15 and Schuyler, have been speaking with the
16 neighbors directly next door. We're going to
17 be doing a berm - a higher berm with higher
18 tree plantings and mature trees. They actually
19 really liked the idea compared to the 8,000
20 foot building that could have been put there.
21 We have been working with all of them and also
22 the doctor's office to help eliminate some of
23 that parking that they do on the street where
24 they're not supposed to.

25 Also, being that my office is right

1 across the street, I see that everybody uses
2 that street illegally anyways on Homestead.
3 It's really dangerous. We're actually opening
4 the sight lines in both directions and have
5 been in discussions with both the effected
6 neighbors for probably six or seven months.
7 The agreements are with the attorneys. They
8 know about this meeting this evening. I'm
9 comfortable to say that we have a handshake
10 agreement. As we said earlier, we'll have more
11 formal plans the next time that we come.

12 MS. DALTON: We have seen these neighbors
13 here anyway. I'm fairly certain that if they
14 weren't happy, they'd be here.

15 I'm concerned because I remember the last
16 time that they were here, they were very upset
17 about the parking. So, could you talk to me a
18 little bit about -- you mentioned that you
19 were trying to alleviate some of the parking
20 issues on that corner.

21 MR. OSTERHOUT: We have seven additional
22 spaces beyond the maximum allowed by Code.
23 That's the reason that we're providing those
24 excess spaces.

25 MS. DALTON: So, you guys were okay if

1 people who are not necessarily bank clients
2 park there?

3 MR. LARNER: I'm actually there every day
4 and have been for the last 10 years. I pretty
5 much see that parking there and then walking
6 into the doctor's office.

7 MS. DALTON: And up and down the street,
8 I know.

9 MR. LARNER: I guess, but most of the
10 time that I see it, it's on a daily basis and
11 it's the doctor's office. Part of Capital
12 Banks' agreement and ours to work with them
13 was that we would actually dedicate publically
14 at least six of those spaces, if not seven, to
15 the doctor's office. It's hard to police who
16 is in and out of your parking spaces.

17 MS. DALTON: But you're not going to be
18 towing people if you find out they're not for
19 your bank.

20 MR. LARNER: I don't think that anybody
21 would be towing anybody.

22 MR. HAAK: That was actually one of my
23 concerns in driving by there frequently from
24 work and seeing people parked along Homestead.

25 MR. LARNER: I think that we all have

1 tried to stop that from happening in all
2 different ways, but now we actually have an
3 opportunity. Before Capital Bank was
4 interested in coming to the project, we needed
5 to develop a piece of real estate and we built
6 what was allowed by Code, but it didn't really
7 make anybody happy. Certainly, it didn't
8 alleviate the parking situation.

9 Anders and I have been working on this
10 for over a year because we really needed the
11 neighbors support. Like you said, they would
12 be here if they weren't happy.

13 MS. DALTON: We know those neighbors.

14 MR. LARNER: I'm hoping that I speak for
15 everybody that this has been a long time - the
16 reason that you haven't seen us is because of
17 these plans.

18 MS. DALTON: I really appreciate that you
19 took those considerations seriously when you
20 planned this project.

21 MR. LARNER: One of the biggest things
22 and most important is that people are using
23 Homestead illegally right now. The way that
24 the sight lines are, you can't see and it's
25 dangerous. So, we're basically correcting and

1 mitigating that problem completely. Now, with
2 DOT's blessing, so to speak, we're going to
3 make that right. We've had Creighton Manning
4 do the traffic engineering, so we're very
5 excited about it. Thank you, very much.

6 MR. OSTERHOUT: With that, I'd like to
7 discuss the specific waivers that we'd like to
8 pursue with the Board. While we're on the
9 topic, we'd like to address parking.

10 Maximum parking, as I mentioned - we're
11 exceeding the allowance by Code. So, we're
12 looking for seven additional spaces as we
13 calculated on our plan. We talked to CHA about
14 the calculation that we've done. We might have
15 some minor tweaking on the numbers as we
16 present our plan in the future. Overall, we're
17 within the guidelines and the parameters of
18 the Board to grant a waiver. So, that's one
19 waiver that we'll be seeking.

20 As I mentioned, we have the parking
21 within the setback of Homestead. That, in
22 itself, would be a waiver because we have
23 parking proposed in the front yard of
24 Homestead. Related to that would be a waiver
25 for pavement within the 15 foot setback. So,

1 there are two waivers related to that parking.

2 Fourth, we have a waiver request for the
3 maximum front yard setback along Route 9. In
4 this area we're subject to a 20-foot maximum
5 front yard setback. Right now we're showing
6 about a 22 foot setback to the bump out in the
7 building here (Indicating). We actually would
8 like to slide that building back a little bit
9 further away from Route 9. That's not
10 necessarily in conformance with the design
11 guidelines for the NCOR district. However,
12 like I mentioned, we're on the south end of
13 the zoning district here (Indicating). The
14 adjoining medical office here has about a
15 40-foot setback to their building. So, we'd
16 like to get a little bit further back; maybe a
17 30-foot setback or something. We'll refine
18 that and submit that with our concept plans as
19 well as a justification for that.

20 Lastly, relative to the waivers would be
21 the 80 percent build out along our site
22 frontage. Again, we have a unique situation
23 here with the residential zoning districts
24 adjacent to us. What we would propose to do is
25 provide some type of ornamental fence along

1 the frontage - possibly some masonry piers to
2 go along with that. We are looking to do that
3 within the south end of our proposed building
4 down to the site driveway here, along Route 9
5 (Indicating).

6 On the north side, along Homestead, we'd
7 like to maybe do something along this area and
8 provide some buffer to that parking in that
9 area and maybe tie that into the building here
10 (Indicating). We're hesitant about getting too
11 far into the intersection here with any of
12 that decorative fencing because of sight
13 distance concerns. The more that we approach
14 on that corner, the less sight distance
15 vehicles are going to have.

16 Those are the specific waivers we wanted
17 to talk about. We'd like to walk away from
18 tonight's meeting with some type of feedback
19 from the Board on those waiver requests so
20 that we know moving forward whether or not
21 this plan is adequate and is sufficient, or if
22 we need to make some changes and go back to
23 the drawing board.

24 CHAIRMAN STUTO: Thank you.

25 We'll now ask for comment from our Town

1 Designated Engineer, Joe Grasso. This is only
2 sketch plan, so we wouldn't expect any written
3 comments.

4 MR. GRASSO: I did write down some
5 written notes and Rob has done a good job of
6 touching on many of the comments that we have.
7 I'll go through them.

8 Regarding SEQRA because the building size
9 is less than 4,000 square feet:

10 "The Town Attorney's office has
11 classified it as a Type II SEQRA action which
12 we agree with and as such, no SEQRA review is
13 going to be required throughout the process.

14 A significant component of the
15 application is the proposed conversation of
16 Homestead Drive and Loudon Road intersection
17 to allow lefts out from Homestead onto Loudon
18 Road. This should be clearly noted in the
19 application materials. Left turns are
20 currently restricted due to very limited sight
21 distance looking right or north on Loudon Road
22 and typically short gaps provided on Loudon
23 Road due to traffic congestion. Approving the
24 sight distance to allow safe lefts will
25 require substantial clearing and grading work

1 on the property across Homestead Drive, the
2 impacts of which should be thoroughly analyzed
3 during concept site plan review."

4 CHAIRMAN STUTO: Are you saying the
5 doctor's office?

6 MR. GRASSO: Yes.

7 "DOT has conceptually agreeable to
8 allowing lefts out of Homestead Drive. DOT has
9 requested elimination of the entire proposed
10 full access in/rights-out curb cut onto Loudon
11 Road."

12 That's the curb cut that they are
13 proposing to the south.

14 CHAIRMAN STUTO: What did DOT say about
15 that curb cut?

16 MR. GRASSO: They request the elimination
17 of the curb cut entirely and they want all
18 access onto Homestead Drive.

19 CHAIRMAN STUTO: How does the applicant
20 react to that?

21 MR. OSTERHOUT: I think that part of the
22 concern that DOT had with the access was the
23 sight distance. So, we're proposing to
24 mitigate sight distance in both directions.

25 CHAIRMAN STUTO: So, you're going to keep

1 talking to them.

2 MR. OSTERHOUT: Correct. We're early in
3 the process. We understand that it's sight
4 distance and we're working to resolve and
5 mitigate that issue. So, we're hoping that we
6 can still maintain the access onto Route 9.

7 MR. GRASSO: Although we agree with DOT's
8 recommendation, we would be willing to
9 consider allowing rights-in and rights-out
10 curb cut there, pending further investigation.
11 That would also reduce the amount of traffic
12 on Homestead Drive, which as we all know is a
13 residential street. We think that's important.

14 Regarding the parking, the plan proposes
15 more parking than allowed per code and based
16 on my numbers, 24 spaces are proposed versus
17 18 spaces permitted. But it's still under the
18 maximum threshold allowed through the use of a
19 parking waiver. The waiver would allow 27
20 spaces. The applicant has stated that the
21 additional parking is intended to provide
22 overflow parking for the doctor's office.
23 This, in turn, will likely reduce the need for
24 the doctor's office patrons to park across the
25 frontage of the site, which occurs on a

1 routine basis and causes safety concerns on
2 Homestead Drive.

3 We agree with this arrangement, but
4 recommend a shared parking arrangement be
5 memorialized in some fashion. Part of the
6 application could also include a request for
7 the Town Board to restrict on street parking
8 along this stretch of Homestead Drive. I'm not
9 sure if there is that restriction now, but
10 it's something that we wanted to bring out as
11 part of the discussion.

12 CHAIRMAN STUTO: Does the applicant know?
13 Are there no parking signs on the street?

14 MR. OSTERHOUT: I didn't see any.

15 MR. GRASSO: I did not see any and that
16 requires a Town Board action to restrict it.

17 Regarding the waivers that are requested,
18 we're generally supportive of all the waivers.
19 One of the waivers is for a parking setback
20 along Homestead Drive. This waiver appears
21 justified if the intent is to provide parking
22 that will be shared with the doctor's office
23 across Homestead Drive.

24 Access to the drive-thru canopy appears
25 extremely restricted due to the building's

1 proximity to Route 9, which is limited due to
2 the maximum front yard setback.

3 Rob spoke to this and that he's looking
4 to slide the building back. This issue is
5 compounded by the drive-thru window being on
6 the west edge of the canopy. Redesign is
7 warranted to allow vehicles to become parallel
8 to that building wall. We would support
9 shifting the building back away from Loudon
10 Road in order to facilitate that movement.

11 The sketch plan indicates a future
12 sidewalk along New Loudon Road. We recommend
13 that this project construct a sidewalk along
14 Loudon Road within the limits of the project
15 site and a sidewalk also appears warranted
16 either along Homestead Drive or a portion
17 thereof, or within the site extending from the
18 bike rack out to Loudon Road.

19 Could you just point to where that would
20 be from the end of that sidewalk?

21 MR. OSTERHOUT: Right along her
22 (Indicating).

23 MR. GRASSO: Right now there is no
24 connection between Loudon Road sidewalk and
25 the parking lot.

1 CHAIRMAN STUTO: Would you want to go to
2 Homestead and bring it up Homestead? People on
3 Homestead could pick it up.

4 MR. GRASSO: I think that's where we have
5 to decide is the intent of that sidewalk to
6 also serve residents along Homestead Drive. Or
7 should it be more of an internal sidewalk
8 connection from the parking lot out to Loudon
9 Road?

10 The architecture of the building appears
11 in general conformance with the design
12 guidelines. Consideration should be given to
13 the use of things such as windows grills and
14 any other measures that can reinforce the
15 residential scale of the building.

16 CHAIRMAN STUTO: Do you want to talk
17 about the architecture of the building? That's
18 important.

19 MR. OSTERHOUT: I had the Board down
20 here. I apologize for not yet putting that up.
21 I wanted to get to those waivers and talk
22 through those.

23 I do have the elevations that were
24 prepared by ACD Architects. You can see, this
25 is the west elevation, so you're looking into

1 the site. This is the main frontage on Route
2 9. We have an access into the end of the
3 building with the sidewalk entrance off of the
4 sidewalk along Route 9. The drive-thru canopy
5 is here (Indicating).

6 Looking at the colors, we have earth tone
7 colors here. We have a stone base to the
8 building. We have a shingled roof. We're
9 trying to make it blend in and transition
10 between the residential and the commercial
11 area here. The comments and feedback that we
12 got through the DCC review indicated that this
13 fit in well with the neighborhood with the
14 transition that we're trying to fit with.
15 There may be some changes to this moving
16 forward and I would say that the changes might
17 be to enhance this effect even more. We're
18 certainly not going to take any steps
19 backwards.

20 CHAIRMAN STUTO: Thank you.

21 MR. GRASSO: The interior island
22 greenspace calculation should be shown on the
23 concept site plan. Regarding the refuse, they
24 don't identify an area for a dumpster but
25 consideration should be given to using a

1 storage shed and residentially sized refuse
2 and recycling container, rather than a
3 commercially sized dumpster - just given the
4 residential setting.

5 That's all we have at this time.

6 CHAIRMAN STUTO: Mark VanSluyters.

7 MR. VANSLUYTERS: I live at 2 Arthur
8 Road. I was not consulted during the process.
9 I have grave concerns given the project that
10 was developed across the street from us
11 similar to this, except it's a palates studio.
12 I would be very concerned about the parking
13 because if you take a look at the doctor's
14 office, what you see on Homestead is only a
15 small piece of the project. He also parked
16 people up on the top of the hill and in the
17 wintertime, it's mucked up. If you give him
18 six spaces, he'll take 8 or 10. If you block
19 off the rest of that road, those people will
20 then park on my street. Mike can attest to my
21 photographs. We have a parking issue on Arthur
22 Road.

23 We also have, and it was admitted by the
24 developers, a terrible abuse of a turn signal
25 law, illegal turns and those result in an

1 accident rate. By eliminating the access on
2 Route 9, you're going to lessen one problem by
3 having all of that traffic come in and out on
4 Homestead. I'll sit out there on Friday night
5 and count the number of accidents.

6 The other concerns that I have are the
7 snowplowing. This winter was an aberration.
8 Last winter the property across the street
9 from us lost at least six spaces with mounds
10 of snow. Those people then parked on our
11 street. The same thing will happen on that
12 property. Where will the snow go? Schuyler
13 does a really nice job, but rarely do they
14 bring in a big bucket and take it away. They
15 keep piling it up.

16 The other problem that I have is trash
17 collection. I heard it mentioned. It may be
18 residential. Maybe a little bucket in a shed
19 would be fine because the pick-up guys love
20 smashing those refuse containers to dislodge
21 whatever. When they smash them with the backup
22 warning alarm it's like a 4:00 or 5:00 alarm.
23 Thank you, very much.

24 The other problem that I have is with
25 waivers. The project across the street was

1 granted a number of waivers. Being in the NCOR
2 district, waivers granted to the business paid
3 from the residents and can lead to abuses. To
4 correct those abuses, like we have seen from
5 the property across the street, it takes legal
6 action. It takes finger pointing and it's a no
7 win situation for the resident. In the NCOR
8 plan, residents are in it. We live there. When
9 you consider the waivers requested, put
10 businesses at the bottom of the pile. What are
11 the people that live there and drive on that
12 road legally going to do, think and happen?
13 I'll have more when the project gets a little
14 further along.

15 CHAIRMAN STUTO: Let me just clarify
16 something. Are you saying that you think that
17 people will park on your street and go over to
18 the bank?

19 MR. VANSLUYTERS: I know that they will.
20 Not to belittle your intelligence, but the
21 prior Board believed the lawyer and the
22 developer when they said, no, they won't turn
23 left; no, they won't turn right. No, they
24 won't park on your street. That's like a
25 mirror to this project.

1 MS. DALTON: But you're referring to when
2 the palates studio was built.

3 MR. VANSLUYTERS: It's the same process.

4 CHAIRMAN STUTO: Are you saying that bank
5 customers are going to park on Arthur?

6 MR. VANSLUYTERS: No. The doctor's
7 employees, when they can't park anywhere near
8 the bank do that. Then I heard that maybe
9 you'll sign that and that will guarantee that
10 they won't park on the street or the Newton
11 Plaza lot. That won't go over well.

12 CHAIRMAN STUTO: If I drove down Arthur
13 today during whatever time, would I see cars
14 on that street?

15 MR. VANSLUYTERS: Five or six.

16 CHAIRMAN STUTO: They're attributable to
17 the doctor's office?

18 MR. VANSLUYTERS: No, to the palates
19 studio. What happened on our street is going
20 to happen on Homestead.

21 CHAIRMAN STUTO: Anybody else from the
22 audience.

23 MR. HARRIS: My name is Dave Harris and I
24 live at 576 Loudon Road, which is on the
25 corner of Arthur and Route 9 which is probably

1 100 yards south of the corner of the property
2 across the street.

3 CHAIRMAN STUTO: Are you on the north
4 side of Arthur or the south side?

5 MR. HARRIS: I'm on the south side.

6 CHAIRMAN STUTO: Okay.

7 MR. HARRIS: I live right next door to
8 Mark. Quite frankly, looking at your site
9 plan, you have a 1.3 acre site with a 2,500
10 square foot building with a drive-thru and 26
11 parking places. Something doesn't add up. I
12 can read a tape measure. It doesn't add up.

13 CHAIRMAN STUTO: I'm not sure what you
14 mean. What doesn't add up?

15 MR. HARRIS: It won't fit.

16 I walk up to the bank all the time. I
17 walk up to Newton Plaza, Trustco Bank and
18 whatnot. Every day there is between eight and
19 12 cars in front of the doctor's office; not
20 six or seven. I've been counting them for
21 about the last month and half, just for my own
22 edification. Again, what's going to happen?
23 They're not going to allow them to park in
24 their lot. As nice as these Capital Bank
25 people might be - and I have nothing against

1 Capital Bank - sooner or later somebody is
2 going to say hey, look it, why are we letting
3 these people park here? How many people is
4 this bank going to employ? If they have six
5 employees, chances are they're all going to
6 drive to work with their own car. There are
7 six. You've got 12 across the street and now
8 we're up to 18. Now, you have bank customers
9 in and out all day. It's a bottleneck now.

10 As far as making that right or left turn,
11 I heard everything but the word traffic
12 signal. Did DOT say anything about putting a
13 traffic signal up? It's going to be a free-
14 fall. They're going to put a stop sign there
15 and say, go for it, I guess. Everybody said
16 everything but that word.

17 When Newton Plaza was built years ago,
18 they didn't need a traffic signal either.
19 There is one there now. These things change.
20 If there is a parking place over there,
21 they're just going to move and move and
22 eventually they'll end up right in front of my
23 driveway. The parking is so bad that it's very
24 difficult for me to back out of my driveway.
25 I'm on Arthur Road and that's a one-way street

1 which is supposed to be right turn to go south
2 on Route 9 only. If I had a dollar for every
3 car that turned left here, I would move. I
4 wouldn't even have to worry about it.

5 CHAIRMAN STUTO: If you need to go north
6 on Route 9, how would you do that?

7 MR. HARRIS: I go around the block. I
8 probably am one of the few people that do, but
9 I live on that corner and I was one of the
10 people that was implemental in having that
11 made one-way.

12 CHAIRMAN STUTO: What block do you go
13 around?

14 MR. HARRIS: I go down Arthur Road and go
15 out to Maxwell Road.

16 CHAIRMAN STUTO: You can go that way?

17 MR. HARRIS: Yes.

18 CHAIRMAN STUTO: It's just that there is
19 no entrance from Route 9 to Arthur?

20 MR. HARRIS: There isn't supposed to be.
21 They come down there anyway.

22 Like I said, I have no qualms with
23 Capital Bank. Again, all the waivers that
24 you're asking for -- you have more waivers
25 than you have a site plan, when you come right

1 down to it.

2 MS. DALTON: Sir, I'm still confused. One
3 of their waivers is to put more parking in
4 their parking lot.

5 MR. HARRIS: Where are they going to get
6 it? Where are they going to find the property
7 to put this parking?

8 CHAIRMAN STUTO: It's right on that
9 diagram.

10 MR. AUSTIN: Sir, it's on the site plan.

11 MS. DALTON: Let's assume for a month
12 that they have enough space. One of the
13 waivers is for more parking and not less.
14 They're asking to be able to create more
15 parking than they're supposed to.

16 MR. HARRIS: What are the rest of them?

17 CHAIRMAN STUTO: They want to move the
18 building back from Route 9.

19 MR. HARRIS: Where are they supposed to
20 put the entrance on the south end of the
21 property out on Route 9?

22 CHAIRMAN STUTO: It's the gray area.
23 Can you point to that?

24 MR. OSTERHOUT: Right here (Indicating).

25 MR. HARRIS: It goes way down on the

1 corner of the property line.

2 MR. OSTERHOUT: Basically.

3 MS. DALTON: I understand your
4 frustration with that space. We've heard it
5 before with people that live up around there.
6 It's seems to me that this particular
7 applicant is trying to mitigate some of the
8 problems that you have, as opposed to
9 exacerbating them, like we have seen in some
10 of the others.

11 MR. HARRIS: In theory, I think that they
12 may be trying to do that. In reality, I don't
13 think that it's possible.

14 MR. VANSLUYTERS: There is a bus stop
15 there. When the bus stops northbound in front
16 of the bank, the traffic backs up for quite a
17 long distance and then they go into the
18 suicide lane in the middle to go around the
19 bus. That meets the people coming out of
20 Newton Plaza, and the Verizon store. Take an
21 afternoon and sit there. I know that they're
22 asking for more parking. We got burned across
23 the street. When you take X number of spaces
24 given to the doctor, X number of employees, a
25 Friday afternoon bank rush or a Wednesday

1 afternoon - whenever the state workers get
2 paid, you're going to run out of spaces. So,
3 they'll park on Homestead to just run into the
4 bank.

5 MR. HAAK: Can you just go through the
6 methodology of coming up with the number of
7 parking spaces? I know that there are
8 requirements in the Code, but was there also a
9 look at how many employees are anticipated in
10 working at this site?

11 MR. OSTERHOUT: The previously proposed
12 project, obviously, had a lot more parking
13 with a larger and more intense use. What we
14 have done on this site is we have looked at
15 the Code. The parking requirements for a bank
16 are one space per 225 square feet. That
17 dictates a number of spaces as a baseline. We
18 were then able to add up to 125 percent
19 additional parking onto that. Again, that was
20 in accordance with the Code. Beyond that, a
21 waiver could be requested, which is what we're
22 doing today.

23 That waiver is for seven additional
24 spaces on this site. We have a lot of
25 greenspace here. Could we have more parking on

1 this site? Absolutely. We're 20 percent over
2 the requirement for greenspace on this site.

3 We're trying to lend a hand here, if you
4 will, to provide some additional parking to
5 help relieve an existing problem out here. I'm
6 not up here saying that we're going to solve
7 the problem. We're willing to help out with
8 that problem and what we have done is provide
9 seven spaces toward that goal. If there was a
10 request for additional parking to help relieve
11 some of the concern there -- as I talked to
12 our client about that -- I don't know if we
13 can commit to that tonight, or not.

14 MR. HAAK: Do you know offhand, if you
15 went down that 20 percent -- if you went to
16 just the required greenspace, do you know
17 offhand how many additional parking spaces?

18 MR. OSTERHOUT: Well, 20 percent on a 1.3
19 acre site - we're looking at probably a
20 quarter of an acre of additional parking and a
21 few hundred square feet for parking space.
22 We're looking at a pretty sizable additional
23 parking.

24 MR. GRASSO: I think maybe 10 additional
25 spaces or so. Just to clarify, the Code right

1 now requires a minimum of 14 spaces, by our
2 calculation, and a maximum of 18. They're
3 proposing 24.

4 CHAIRMAN STUTO: Any other members of the
5 public that haven't spoken?

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

7 MR. LARNER: The doctor's office has been
8 there for as long as I can remember, so I
9 think that it unfortunately just grew into a
10 big problem. We tried our best at Newton Plaza
11 to accommodate aesthetics and everything else.
12 One of the agreements with Dr. Clark in
13 writing is giving him permission to do it.

14 CHAIRMAN STUTO: So, that's going to
15 help.

16 MR. LARNER: And then the other thing is
17 that just from a business standpoint, whoever
18 owns that site - whether it's me or somebody
19 else has to have the right to build on it.
20 What we had proposed had 55 or 60 car parking
21 and almost an 8,000 foot building. It fit
22 within the guidelines of what was allowed by
23 the Town Code. I spent, personally, a lot of
24 time finding the right tenant and the right
25 use and as far as the bank goes, they only

1 have three employees on at one time. So,
2 that's three cars. They can speak more about
3 their traffic.

4 MR. TOMSON: We just developed a 2,500
5 square foot branch on Wolf Road. We currently
6 have three employees there right now.

7 MR. HARTLE: We have a customer count
8 daily of 20 to 25 customers per day throughout
9 the day. The part to maybe consider is that
10 Capital Bank is really a niche commercial bank
11 and it's kind of an exclusive bank because we
12 have a lot of business customers. It's not a
13 high volume, high transaction oriented
14 organization. We're not structured that way
15 which is why we operate with typically three
16 employees per branch, and that's at all five
17 of our branches throughout the capital region.
18 This isn't an anomaly or something that we're
19 trying to do different. It's been three
20 employees and we're planning on continuing
21 that way.

22 MR. TOMSON: I understand about the
23 palates, but honestly we don't have a
24 concentrated number of people at one time.
25 It's not the way that the bank functions.

1 MR. AUSTIN: How many people would you
2 say go into the bank versus the drive-thru?

3 MR. TOMSON: We're coming from space from
4 Newton Plaza and we're moving across the
5 street. Everybody who comes to the bank now
6 parks and comes in.

7 What's your opinion of how many people
8 would come in versus will use the drive-thru?

9 I would think that 20 to 30 percent for a
10 convenience factor.

11 MR. HARTLE: It's easier to go in and
12 out. With the existing branch, they have to
13 get out of their car to even go to the ATM.
14 So, this should run it much quicker and much
15 more efficiently.

16 MR. LARNER: Again, they're comparing the
17 stats on Wolf Road which has a max of 30 trips
18 a day. This is a much less volume location.

19 MR. TOMSON: This branch is one-third the
20 size of Wolf Road. It's also not the same
21 square footage. It's about one-third of the
22 size.

23 MR. AUSTIN: Just back to the parking for
24 a second. Who is incurring the cost of the
25 extra six spots?

1 MR. OSTERHOUT: We have to work that out
2 with our neighbor. We have to figure out - you
3 know, are they going to be employees? Is there
4 going to be a lease agreement? We have to
5 figure some of that stuff out and we can come
6 back and tell the Board. We've met with them
7 and we said, we want to improve access on
8 Homestead and it requires pushing back your
9 berm. We understand that you have people
10 parking on the street. We have a lot of extra
11 land, so maybe we can build some extra. I
12 think that access on Homestead will get people
13 off of Maxwell. If we do make that
14 intersection safer -

15 CHAIRMAN STUTO: Are they cognizant of
16 the unhappiness of the residents with the
17 parking that they generate - the doctor's
18 office?

19 MR. OSTERHOUT: I'm not sure.

20 CHAIRMAN STUTO: You didn't get a sense
21 of that one way or the other?

22 MR. OSTERHOUT: I think that this is a
23 win/win.

24 MS. MORGAN: I'm a customer of Capital
25 Bank and I go to the Newton Plaza and the one

1 that was over by the St. Francis Chapel and
2 now I use the one on Wolf Road. I think that
3 you need to take into consideration a
4 different pattern of people who are doing
5 consolidation of their errands.

6 I can't find a parking space on Wolf up
7 there in that plaza. I have to go down to the
8 Macy's parking lot and then try to walk up. I
9 nearly got clobbered by a car coming around
10 when I was coming down. There is no way down.
11 What I'm saying is that I think that a lot of
12 people consolidate errands and you have people
13 who might be visiting the doctor who might
14 also be customers. I don't know what the
15 sidewalk thing is, but I would just say that
16 you should take a closer look at what the
17 parking needs are because obviously the spaces
18 that you have are not enough. They're always
19 full.

20 CHAIRMAN STUTO: You have to address the
21 Board, ma'am.

22 MS. MORGAN: I'm sorry. I just wanted to
23 say that there are safety issues, I'm sure,
24 for the people who live on Homestead and also
25 on Arthur. I think that a lot of the customers

1 of these businesses want to shop locally and
2 do things locally. You have to look out for
3 them, too. I would think that the people who
4 are neighbors should be listened to about this
5 and then maybe some more investigation is
6 warranted about what the actual parking is. I
7 am sure that when this bank moved to where
8 they moved, they thought that they were going
9 to get more people but they're always full
10 there. It may be more foot traffic than we
11 think. I just think that the people that live
12 around there - someone needs to talk to the
13 doctor's office and figure out -- it's not
14 just the bank's responsibility to provide for
15 those people at the doctor's office.

16 I am Mary Alice Morgan and I live on
17 Green Meadows Lane.

18 CHAIRMAN STUTO: Yes, sir.

19 MR. ENSIGN: My name is Bob Ensign and I
20 own property about a mile away.

21 CHAIRMAN STUTO: You own property up
22 towards the circle, yes?

23 MR. ENSIGN: Right. I'd just like to
24 point out that a lot of people that are online
25 with the Internet now. I would imagine that if

1 you checked your statistics of the deposits
2 online - there are many more direct deposits
3 than people going into the bank. I've seen
4 bank parking lots over the past 10 years with
5 less and less cars because they're bringing in
6 less people because they're making it easier
7 for us to do our banking from home.

8 CHAIRMAN STUTO: Anyone else from the
9 public want to talk?

10 *(There was no response.)*

11 CHAIRMAN STUTO: Okay, we'll take
12 comments from the Board?

13 MS. DALTON: I think that this is so much
14 better a plan than the last one. I think that
15 the opportunities to address some of the
16 parking issues -- I'm glad that you've
17 considered it. From my point of view, although
18 I understand that there are concerns, you do
19 have a right to develop this. All things
20 considered, this is probably one of the best
21 options in terms of low volume traffic. You
22 could have a McDonalds or a Wendy's there and
23 it would be a nightmare. While I understand
24 people's concerns, given all the parameters
25 that we discussed, I'm inclined to grant the

1 waivers that they are asking for.

2 MR. AUSTIN: I would just like to add a
3 few thoughts regarding if you were to have the
4 access on Homestead. It looks like it goes
5 straight across from the doctor's office
6 driveway. Is that correct?

7 MR. OSTERHOUT: Correct.

8 MR. AUSTIN: I know that if you were
9 having the clients of the doctor's office park
10 at the bank, it might be a nice idea to have a
11 crosswalk or some sort of striping in the
12 road. I'm not sure how you would do that;
13 maybe pedestrian crossing signs. To have that
14 sidewalk all the way down to that crosswalk,
15 would be ideal.

16 I like the gentlemen's idea in the
17 audience about the stoplight. I don't know why
18 that hasn't been addressed yet. I know that
19 it's not something that you need to address.
20 I'm not sure if you do with DOT, but to have
21 one at that particular exit of Newton
22 Plaza - that's a very congested intersection.
23 And to have it sync with the other Newton
24 Plaza light - because while that is a 40 mile
25 per hour zone through there, many people go

1 20. So, they're not really speeding through
2 there. With having a pedestrian crosswalk with
3 some pedestrian lights may be encouraging and
4 having the clientele at the doctor's office
5 park in Newton Plaza. That might be something
6 that's more appropriate. I don't know about
7 the palates. The palates is a totally
8 different thing. We ran into a similar issue
9 with Zumba. I hate to use the word fad, but it
10 might be considered somewhat like that. I
11 think that in five or 10 years you might see a
12 different client or tenant in that particular
13 place and all the cars might be gone.

14 MR. HARRIS: To back up a little bit,
15 they never should have been allowed to be in
16 there in the first place to operate as such.
17 There are four businesses operating out of
18 there right now.

19 MR. AUSTIN: Unfortunately, there is
20 nothing that we can do about that right now.

21 MR. HARRIS: I know, but they're there
22 and they're staying there. They're still
23 parking on the street. Enough is enough.

24 MR. AUSTIN: That's been a big issue with
25 other fad things. We've had many of those,

1 too.

2 I wish we could help you with that sir.
3 Maybe you could ask them if they were doctor's
4 office employees? That would be something that
5 you might want to do when they get out of
6 their cars.

7 MR. HARRIS: I can't do that because it's
8 considered harassment by the Colonie Police
9 Department.

10 MR. AUSTIN: I like that you're moving
11 the building back to create a better sight
12 line when turning onto 9. That's great. I
13 really have no problem with it. I appreciate
14 the fact that the applicant is looking to do
15 some good will for the doctor's office. That
16 will help the parking also.

17 MS. VAIDA: Peter, one thing that I'm
18 just a little concerned about - I know that
19 the bank has graciously volunteered to try to
20 solve somebody else's parking problem. I don't
21 think that we should be forcing them to or
22 even discussing with them solutions to the
23 doctor's office's parking issues and
24 overcrowding, as well as the palates. I just
25 think that we're really getting off base here.

1 This is an application for a bank. We should
2 be focusing on that and the traffic that will
3 encourage or develop, and not the problems
4 that are existing in that area.

5 MS. DALTON: I just want to state that
6 one of the reasons that would be something to
7 discuss is that they are asking for a
8 waiver - actually several - to create this
9 parking because of the other problems in the
10 area. During our last hearing with regard to
11 development on the same space, it was a major
12 issue. So, because of the fact that it's a
13 consideration for what is being built there, I
14 do agree that we're not asking him to do this.
15 We're considering granting the waivers, so
16 that you can do it to address a problem in the
17 community.

18 MR. LARNER: I understand. Our
19 development doesn't have anything to do with
20 the doctor's office or the existing
21 conditions. When I shake my head with regards
22 to Newton Plaza, that's only because you guys
23 do have parking requirements and we want to be
24 able to not take anything away from those
25 people at Newton Plaza. We're working on stuff

1 to make parking better there too. From a
2 traffic standpoint, DOT doesn't think that
3 it's necessary and also it's within 500 feet
4 of the next traffic light. It wouldn't even be
5 legally allowed. Minor things that we could do
6 to help -- those people are crossing that
7 street now with their children and they're
8 opening the door onto a street where they're
9 not supposed to be parking. All of those
10 things are existing conditions. I'm
11 sympathetic, but to the extent that we're
12 obligating ourselves financially just to be
13 nice neighbors, is really the only reason that
14 we're doing it. Because we do a lot of stuff
15 in the town, we want it to be good. We want to
16 really cross our T's and dot our I's and I'm
17 not sure that we'll ever get to that level.
18 Whatever we can do, we will do.

19 MR. HAAK: I certainly echo some of the
20 comments that were already made. I appreciate
21 the fact that you are trying to resolve or at
22 least trying to consider resolving some of the
23 sins that have gone on in the past with these
24 extra parking spaces. I would say that as part
25 of your community or neighbor relations, if

1 you did allow and reach an agreement with
2 neighbors to allow additional parking, that
3 might be in your best interest. I would be a
4 little concerned from a legal standpoint of
5 maybe having some type of access from those
6 back parking spaces out to Homestead, if the
7 idea is that you're going to invite people to
8 park and then move out so that there would be
9 a little sidewalk or something instead of
10 people walking into the driveway there.

11 Other than that, I never saw the
12 original. Just listening to the fact that
13 there were plans for this big office building
14 there -- I drive by there frequently and that
15 would definitely concern me.

16 Aesthetically, I came in a little
17 concerned about the elevations because they
18 didn't do much for me. But now I understand
19 the reasons for the elevations. So, they
20 actually make a little more sense to me. Other
21 than just continuing considering the parking
22 issues, your own parking issues and the angle
23 that you want -- otherwise I'm fine.

24 CHAIRMAN STUTO: Thank you.

25 I think that it's a better project, in

1 terms of impact on the neighborhood. It's a
2 less intense use than the one that was here
3 before. I think that the extra parking is a
4 net gain to the extent that it would reduce
5 the overflow from the doctor's office.

6 I'm concerned about what the neighbors
7 said. I think that they made a lot of good
8 comments. Could you briefly address a couple
9 of them that were raised by them like snow
10 removal and the impact on the bus stop?

11 MR. OSTERHOUT: Snow removal for this
12 site -- like I said, we have so much
13 greenspace on here. I really don't see any
14 issues with snow removal. Snow would be plowed
15 all along the right edge, as you come in. We
16 have the stormwater management area here. We
17 have greenspace between that and there are
18 plenty of areas there. There are additional
19 areas up along the parking, too.

20 I understand that there is not a major
21 bus stop here, but there is an active bus
22 stop.

23 CHAIRMAN STUTO: Can you show us where?

24 MR. OSTERHOUT: I believe that it's right
25 up in this area. There is a sign right here

1 and I believe that might be the bus stop. So,
2 with the sidewalk proposed in this area, I
3 think that's certainly going to help
4 pedestrian traffic here. That should be a plus
5 to the bus stop as well.

6 CHAIRMAN STUTO: Thank you.

7 I would recommend going forward as
8 proposed. Architecturally, I think that it's a
9 good start. If you can tweak it and enhance
10 it, that would be even better. I think that's
11 it for me.

12 MR. HAAK: Just one more question.

13 How much space is there from the back
14 parking spaces to the stormwater management
15 area? How big a buffer is that?

16 MR. OSTERHOUT: Actually, the stormwater
17 management area that we're showing right
18 now - if you look at this in relation to other
19 projects that you've seen, we have a very
20 large stormwater management area shown here
21 (Indicating). The reason for that is that we
22 wanted to basically identify where it could
23 go. It's not going to be this large. That
24 setback is going to change. Right now it's
25 probably about 12 feet or so to the edge that

1 we're showing.

2 CHAIRMAN STUTO: Okay, thank you. I think
3 that's it. We appreciate your time.

4 MR. OSTERHOUT: Thank you, very much.

5

6

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*(Whereas the proceeding concerning the above
entitled matter was concluded at*

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8:14 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**

16
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18 **Dated May 17, 2012**

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Ph 518-542-7699 Fax 518-831-1710
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