

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

4 JONES SPECIAL USE

5 621 BOGHT ROAD

6 AMENDMENT TO FINAL SITE PLAN

7 *****

8 THE STENOGRAPHIC MINUTES of the above

9 entitled matter by NANCY STRANG-VANDEBOGART, a

10 Shorthand Reporter, commencing on January 8, 2013

11 at 7:12 p.m. at The Public Operations Center, 347

12 Old Niskayuna Road, Latham, New York

13 BOARD MEMBERS:

14 PETER STUTO, CHAIRMAN

15 TIMOTHY LANE

16 LOU MION

17 BRIAN AUSTIN

18 KAREN GOMEZ

19 SUSAN MILSTEIN

20 KATHY DALTON

21 ALSO PRESENT:

22 Elena Vaida, Esq., Counsel to the Planning Board

23 Joe LaCivita, Director, Planning and Economic Development

24 Victor Caponera, Esq.,

25 William Jones

Michael Tengeler, Planning and Economic Development

1 CHAIRMAN STUTO: Next on the agenda is the Jones
2 Special Use, 621 Boght Road. This is an amendment to
3 final site plan. This is for two 2,108 square foot
4 duplexes.

5 Joe, do you have any introduction before we
6 continue?

7 MR. TENGELER: I can introduce this quickly,
8 Peter.

9 Just to put some dates in perspective here,
10 they were last before the Planning Board on
11 November 27, 2012 where a motion was made at that
12 time by Member Dalton to table so that we could
13 verify some details and ensure that all the Town
14 comments were addressed. Additionally, when I
15 sent this around on its latest course of review, I
16 had all applicable Town Departments review it and
17 personally followed up with those departments to
18 ensure that the intent and the comments were
19 addressed correctly.

20 CHAIRMAN STUTO: Mr. Caponera?

21 MR. CAPONERA: Thank you, Mr. Chairman. I'm glad
22 to see that so many Members of the Zoning Board are now
23 on this enlightened Board.

24 Mr. Chairman and Members of the Board, as
25 everyone knows, this is the fourth time that we've

1 been here. Back in August of 2012, the Board
2 granted approval of this special use permit, which
3 would be to allow two of these buildings on Boght
4 Road.

5 The property is currently owned by Mr. Jones
6 and he sits in the front seat along with his wife.

7 The original plan that came before the Board
8 was the plan to the left here (Indicating), which
9 is the one that showed the buildings facing Boght
10 Road with the two egress and ingresses on it. It
11 had separate entrance ways and exit ways from
12 each. At that time, back in June, before we came
13 back in August, the Board asked for various
14 changes, the least of which was to increase the
15 size of the lot, which we did. The original lot
16 sizes were 18,000. When we came back in August,
17 they had been bumped up to 20,000. The Board
18 asked for additional greenspace and we added that
19 on all sides. Then we came in August and we had
20 the approval. Mr. Kim, Eugene's father, who is
21 not feeling that well tonight presented that.
22 There was a comment made about why the two
23 buildings couldn't face the proposed possible
24 future road in the middle and he indicated that
25 DPW when in fact it was the Building Department

1 that indicated that they couldn't issue an
2 approved zoning verification on this. As Mr.
3 Chairman knows under Section 280-a of the Town
4 Law, you have to have access on a public street.

5 Anyway, when we were here back in November,
6 there was further discussion and the main thing is
7 that the Board didn't have in its possession the
8 latest revisions, which is this one here to the
9 right. Nor did the Board have all the comments
10 from the various departments. The Board also
11 wanted us to consider revising the location of the
12 entrance to go towards a possible future roadway.
13 Mr. Kim met with the various departments. The
14 Board now has everything from an approval from the
15 various departments, Bill Neely, Public Works,
16 DPW/Division of Highway and they confirm and
17 support the new reduction of the curb cuts from
18 four to two as well as the layout of the remaining
19 two curb cuts.

20 Also, the Stormwater Department has looked at
21 this and they approve of this design. When the
22 idea of moving the fronts to face this way came,
23 Mr. Jones, the owner of the property, invited Joe
24 LaCivita and Mr. Tengeler to visit his property
25 and to walk the property and they did. When they

1 looked at it, I believe - and I won't speak for
2 them - that they felt that this location facing
3 Boght Road is more appropriate because of the land
4 and because of the development and because of the
5 existing conditions.

6 One thing that we determined and one thing
7 that we'll note is that all along Boght Road there
8 are no other residences along any part of Boght
9 Road - all the way from Watervliet all the way to
10 Dunnsbach Ferry which have any backyards bordering
11 Boght Road. This would be the only situation in
12 the entire width of Boght Road. Duplexes would
13 have a Boght Road mailing address and the
14 frontward orientation on Boght Road would
15 certainly be better for 911 and emergency
16 identification purposes. When you look at the
17 elevation which has been revised a few times, what
18 it does is incorporates the requirements of our
19 NCOR design standards. Specifically, cultured
20 stone is being proposed. The facade is in
21 conjunction with the various NCOR designs and it's
22 an aesthetic enhancement to the corridor, and we
23 feel that a gateway to future development may or
24 may not occur on the rear of this property. At
25 this point, Mr. Jones has no plans to do anything

1 with the rest of his property. So, we felt that
2 since the original concept came in front of this
3 Board back in June, we've increased the size of
4 the lots, we've increased the landscaping, we've
5 reduced the curb cuts on each lot. We've gotten
6 the approval of the Stormwater Mangement. We've
7 added rain gardens which have been looked at very
8 favorably by the SWPPP Department. We certainly
9 have adequate snow storage and all of the
10 departments of the Town have approved -- you have
11 written approval from the various departments
12 relative to this. The Planning Department
13 supports this layout and design and we feel that
14 this is the best possible proposal that we could
15 put in front of this Board, and we would certainly
16 enjoy your favorable consideration on this
17 amendment to this plan.

18 CHAIRMAN STUTO: Anybody from the public at this
19 point that wants to be heard on this?

20 You're Mr. Jones; correct?

21 MR. JONES: Yes, I'm Mr. Jones. I would like this
22 on the record, please.

23 We started this back on July 11, 2011. You,
24 yourselves, have been totally against this project
25 from day one. I don't know if you understand what

1 goes on out there in the real world. I have over
2 \$14,000 invested in two building lots that are
3 still not approved. I really don't understand
4 what you don't like about it. It's a very nice
5 piece of property. You're holding a lot of things
6 up and I don't think that it's fair to me. You
7 want to continue on building in the back of the
8 property in the future. That was your biggest
9 plan. The biggest thing is that you told me in
10 the beginning that they wanted to build bigger
11 lots and we gave you the bigger lots. That wasn't
12 required. We gave that to you. They wanted
13 greenery and we gave them greenery. They wanted
14 the houses sideways. Well, you couldn't put the
15 houses sideways because it doesn't meet the
16 requirements of the road. So, now we're back to
17 square one. Every time I come to a meeting it
18 costs me \$3,000.

19 CHAIRMAN STUTO: Anyone else from the public?

20 (There was no response.)

21 CHAIRMAN STUTO: Kathy, do you have any comments
22 or questions?

23 MS. DALTON: No.

24 CHAIRMAN STUTO: Lou?

25 MR. MION: No.

1 CHAIRMAN STUTO: Brian?

2 MR. AUSTIN: I'm presently surprised with the
3 redoing of the facade of the building. I like the
4 design aspect better. Whatever you've done with it,
5 from the front elevation -- I'm trying to think back to
6 originally what you had and we didn't like that.

7 MR. JONES: That's the original.

8 MR. AUSTIN: That's the design that you had
9 originally?

10 MR. CAPONERA: We've added the brick or the stone
11 facade, and it's been modified.

12 MR. AUSTIN: It's much more nice aesthetically
13 feeling than what was originally presented to us.

14 MR. JONES: That's going to be the best looking
15 house on Boght Road. Some of them don't even have
16 siding on them.

17 MR. AUSTIN: I know that further down toward the
18 Meadows, they do have some nicer houses there. I like
19 what you have done. I'm a little taken back by your
20 presentation to the Chairman.

21 MR. JONES: Do you understand what I've got
22 involved?

23 MR. AUSTIN: I understand, sir.

24 MR. JONES: In two years I can't get two lots
25 approved? Something is wrong. Something is wrong.

1 Don't tell me I'm wrong.

2 MR. AUSTIN: I didn't say that, sir. It's a
3 process.

4 MR. JONES: I know but I can't sleep at night.

5 MR. AUSTIN: Hopefully, tonight you will be able
6 to. Wait and see.

7 MR. JONES: I hope so.

8 MR. AUSTIN: I like it.

9 CHAIRMAN STUTO: Since you did address me
10 directly, I will respond to the overall project.

11 I'm not against the project. It's your
12 property. We do have some discretion how we
13 impact projects -

14 MR. JONES: Have you ever seen a project go this
15 long?

16 CHAIRMAN STUTO: I'm making my statement. I
17 didn't interrupt you when you were making your
18 statement.

19 Yes, I've seen projects go a lot longer than
20 this. You talk about the curb cut -- it's been
21 presented that there are a lot of other curb cuts
22 on there. That was the old way of doing things.
23 That was back when it was a country road.

24 I've been on this Planning Board now and
25 involved in it for about five years. First, I was

1 the attorney and now as a Board Member. You have
2 a big piece of property there and there is another
3 piece of property that I understand your daughters
4 own in the back. That's fine. You can develop
5 them in whatever legal fashion that you choose to
6 do so; as long as it's legal, but we still have to
7 do our job.

8 In terms of planning, more curb cuts are not
9 better. The new thinking and planning as I
10 understand it, having been on this Board is that
11 fewer curb cuts are better. We tried to ask a
12 question the beginning: Why can't we turn the
13 houses and have the driveways come out one way?
14 That was deflected by your consultant. That was
15 not our fault. If we had continued that at that
16 point, we probably would have been a lot fewer
17 meetings. I felt that we either got
18 misinformation or worse. So, that's why my
19 opinion is that it should all be steered into that
20 50 foot. I've communicated it privately, I think,
21 to Victor because I've bumped into him at a
22 meeting. That's always been my opinion. It's a
23 very high planning priority. I'm only one person
24 and I'm not going to support it with three curb
25 cuts when it can be funnelled into one. That's

1 how I feel about it. That's my statement. You'll
2 get another turn, but it's the Board Member's turn
3 to speak now.

4 Tim?

5 MR. LANE: I don't have any questions at this
6 point.

7 CHAIRMAN STUTO: Karen?

8 MS. GOMEZ: No questions.

9 CHAIRMAN STUTO: Susan?

10 MS. MILSTEIN: No Questions.

11 CHAIRMAN STUTO: Anybody else from the public?

12 (There was no response.)

13 CHAIRMAN STUTO: Do you want to speak again?

14 MR. JONES: Yes. You want us to turn the houses
15 sideways into the road.

16 CHAIRMAN STUTO: Into the 50-foot -

17 MR. JONES: You don't have the required setback.
18 When you put the house on the road to the back of the
19 property line.

20 CHAIRMAN STUTO: You don't have the required
21 setback? I don't know if we do or we don't.

22 MR. JONES: I do know.

23 CHAIRMAN STUTO: You never presented plans. We've
24 been communicating this for a number of meetings, or at
25 least I thought that we had.

1 MR. JONES: It's been almost 18 or 19 months to
2 approve two building lots and you have seen this before
3 in the Town of Colonie?

4 CHAIRMAN STUTO: That wasn't your original
5 question. You asked if I saw projects go this long.
6 I've seen projects go a lot longer. We've had nine and
7 10 year projects dumped in our lap that have been
8 sitting around in the files. I don't know where they
9 were before we saw them, but we have done our best to
10 act expeditiously on all the applications. I will say
11 that I think that you've done a great job on the
12 aspects of the project. I did say in the beginning
13 that it should be developed as a whole. I thought that
14 would be a better idea because those are the principals
15 that I've absorbed in the five years that I've been
16 here. But you didn't do that. I'm only going to speak
17 for myself. I thought that there should be fewer curb
18 cuts there. That's a busy corridor on 9. Boght Road
19 is a busy corridor and it's going to get busier. It's
20 not going to get less busy.

21 MR. JONES: You also have another 50 units across
22 the street.

23 CHAIRMAN STUTO: Did you want to speak?

24 MR. CAPONERA: I have nothing to say. I
25 appreciate everything that you said. I think that it's

1 accurate and I feel that based upon the direction from
2 that last meeting that we listened to, that we studied
3 that. We've made all the other recommendations of the
4 various departments and you have that in writing with
5 the exception of the location of the direction of the
6 fronts. For the reasons that I articulated a few
7 minutes ago, I think that it's concurred that at the
8 end of the day that this is probably better for this
9 particular development.

10 CHAIRMAN STUTO: Anyone else from the Board want
11 to speak?

12 MS. MILSTEIN: I'd just like to ask a question
13 because I'm new to this whole project.

14 What is the answer to the question? If it is
15 turned, are there adequate setbacks or not?

16 CHAIRMAN STUTO: I don't know. No one has put
17 that in front of me. We haven't analyzed that. Can we
18 grant variances? Is that a better thing? We haven't
19 asked that question either.

20 MR. LACIVITA: When we went out to the site and we
21 walked the site and looked at how everything was going
22 to be turned around, because it was surveyed and it was
23 staked out, you'd have to see kind of where the
24 building was going to sit. One of the things that
25 we're looking at is a duplex here, or a double

1 residency here. If we shifted the house, one of the
2 things that you agreed with -- if we shifted the house,
3 that side yard became closer to Boght Road. From
4 another standpoint, if I was the one trying to rent it,
5 if I was the owner, I find that to be a bit cumbersome
6 because if you tried to rent it, you might have a
7 situation where you're putting it into high traffic.

8 From a planning perspective, I agree 100
9 percent with this Board. It makes great sense to
10 move it into the roadway. If it was a single
11 family home it may have been better, but it didn't
12 have the setback needed to have a back yard. It
13 became cumbersome and it might have been a problem
14 to try to rent this. So, we did have an issue
15 with setbacks in the back.

16 CHAIRMAN STUTO: Nobody got creative to show us
17 things. You never discussed that.

18 MR. LACIVITA: Unfortunately, Mr. Jones, I know
19 that developers bring a level of passion to the project
20 when they come in front of this Board. This Board also
21 does a fantastic job when they start looking for future
22 planning. I can understand your pain and I understand
23 your frustration but these guys are doing their job as
24 well. I know that we're all trying to come to an
25 agreement this evening.

1 CHAIRMAN STUTO: I'll add this comment. There
2 have been a number of meetings that we've had here and
3 we've sat here late at night and the neighborhoods have
4 come out for various different reasons and we're always
5 happy to hear from them. Then they say, how can
6 somebody let this happen? You weren't thinking of the
7 future. You weren't planning. The word planning is in
8 our title. I've made my point. We do get criticized
9 for not planning well for the future.

10 Yes, Mr. Jones?

11 MR. JONES: Can I say one more thing? There has
12 been no neighbors and nobody here complaining about
13 this project whatsoever.

14 CHAIRMAN STUTO: I'm not saying that they are.
15 That's not what I meant. People criticize us for not
16 planning for the future.

17 Is there any SEQRA that needs to be done on
18 this?

19 MR. TENGELER: No, this is an amendment to the
20 final site plan approval. The original SEQRA was a
21 Type II and required no further enviromental review.

22 CHAIRMAN STUTO: Shall we take this to a vote?

23 MS. DALTON: I make a motion that we approve the
24 amendment to the plan.

25 CHAIRMAN STUTO: Second?

1 MR. AUSTIN: Second.

2 CHAIRMAN STUTO: All those in favor?

3 (Ayes were recited.)

4 CHAIRMAN STUTO: All those opposed?

5 I would like to be recorded in the negative.

6 MR. CAPONERA: Thank you, very much. I appreciate
7 your patience in this.

8

9 (Whereas the proceeding was concluded at

10 7:30 p.m.)

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CERTIFICATION

I, NANCY STRANG-VANDEBOGART, Shorthand
Reporter and Notary Public in and for the State of
New York, hereby CERTIFY that the record taken by
me at the time and place noted in the heading
hereof is a true and accurate transcript of same,
to the best of my ability and belief.

NANCY STRANG-VANDEBOGART

Dated January 9, 2013

