

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

4 MURRAY MANOR APARTMENTS
5 616A BOGHT ROAD
6 APPLICATION FOR CONCEPT ACCEPTANCE

6 *****

7 THE STENOGRAPHIC MINUTES of the above
8 entitled matter by NANCY STRANG-VANDEBOGART, a
9 Shorthand Reporter, commencing on March 12, 2013
at 7:02 p.m. at The Public Operations Center, 347
Old Niskayuna Road, Latham, New York.

10

11 BOARD MEMBERS:
12 PETER STUTO, CHAIRMAN
13 BRIAN AUSTIN
14 SUSAN MILSTEIN
15 KATHY DALTON

16 ALSO PRESENT:

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

18 Joe LaCivita, Director, Planning and Economic
19 Development

20 Michael Tengeler, Planning and Economic Development

21 Victor Caponera, Esq.

22 Stephen Iachetta

23 Chuck Voss, PE, Barton and Loguidice

24 Donald Zee, Esq.

25 Russ Harding

Eric Tanski

Clarence Nemer

1 CHAIRMAN STUTO: Okay, we'll call the first
2 project; Murray Manor Apartments, 616A Boght Road,
3 application for concept acceptance. This is a
4 two-story, 12-unit apartment building.

5 If you could give an introduction -- Mike
6 Tengeler? Then, we'll turn it over to the
7 applicant.

8 MR. TENGELER: We're talking about 616A Boght
9 Road. This is the project of Murray Manor Apartments.
10 They have submitted an application for zoning at the
11 end of January 2013. That application shortly followed
12 into our office of Planning and Economic Development.
13 They have attended a DCC meeting and a sketch plan
14 Planning Board appearance about a month ago. Victor
15 Caponera is here to represent the applicant.

16 CHAIRMAN STUTO: Mr. Caponera, are you ready?

17 MR. CAPONERA: Indeed. Mr. Chairman and Members
18 of the Board, it's always an honor to be here. As you
19 all know, we were here several months ago on what I
20 call a sketch plan to kind of discuss with the Board
21 this potential project. After that we went to the
22 Zoning Board and got a variance for the building of
23 this proposed structure.

24 As everyone knows, this is a lot that's very
25 irregularly shaped, as it's shown on the site

1 plan.

2 Believe it or not, we have Mrs. Murray here
3 tonight and her husband used to own this property.
4 She is over to the right looking as young as ever
5 (Indicating).

6 CHAIRMAN STUTO: Hi, Mrs. Murray. How are you?

7 MR. CAPONERA: The property was purchased by Russ
8 Harding and his partner Mr. Tanski, who are also here
9 tonight and they did that in 2005. I can attest to -
10 and I'm sure that Mrs. Murray can - that many years ago
11 when it was Murray Lumber and it had many structures on
12 it. What exists there today is, if anyone has been by
13 there, is a 4,000 square foot warehouse that sits along
14 toward the front of the property where I'm pointing
15 here (Indicating), closest to Boght Road. That
16 structure still exists and there may be a couple of
17 other outbuildings, but over the years since Mr.
18 Harding and purchased the property, they pretty much
19 removed most of the structures that they use for the
20 lumbar yard.

21 Prior to January 4, of 2007 when the Town
22 enacted its Land Use Law, the property was zoned
23 Business E on both sides of Route 9. It went back
24 500 feet. When the Town rezoned the property,
25 this property got rezoned to

1 neighborhood/commercial/office/residential or
2 NCOR which specifically allows multifamily use in
3 this new NCOR zone. Since Mr. Harding and Mr.
4 Tanski purchased the property, they spent a
5 considerable amount of money removing the
6 out-buildings. They put sewer and water in at a
7 substantial cost, and as I mentioned a moment ago
8 we did appear in front of this Board for sketch
9 plan review.

10 I've looked at and gone over with Mr. Voss,
11 his letter of February 21st. We talked about the
12 design standards with this project and indicated
13 that the Board may waive these design standards to
14 the extent that you feel is necessary in order to
15 secure reasonable development of the property.

16 CHAIRMAN STUTO: Can you recite the design
17 standards that you're seeking waivers on?

18 MR. CAPONERA: I will go through them.

19 Presenting the main facade of the entrance
20 towards the street to the fullest extent possible
21 - we feel that we have done this. However, due
22 to the irregular shape of the lot, with only 80
23 feet of frontage on Boght Road, there is no
24 possible way that any structure could be
25 constructed on a property to conform to this

1 standard. The frontage is allowed to exist of a
2 combination of the building, small landscaped
3 fencing made of wrought iron and some other
4 natural material which we are going to propose.
5 We are also proposing a decorative wrought iron
6 and masonry fence that would be along 80 percent
7 of the site frontage which is 80 feet along Boght
8 Road as we're looking at the site. Because Boght
9 Road is considered a minor road, there is a
10 maximum setback of 20 feet. Because of the shape
11 of this property, it's not possible to put a
12 building that's a maximum of 20 feet back. For
13 that matter, you couldn't put any usable building
14 with that maximum on this site. As you can see
15 from the site plan, again, we only have 80 foot of
16 frontage. If you went back 20 feet with the
17 setback requirements in the NCOR zone, you could
18 probably fit a shed in there to meet the design
19 standards. We submit that because of the breadth
20 of the property as you go back into it and its
21 size that the proposal that we have would warrant
22 the board's consideration waiving the maximum 20
23 foot setback on any building in this zone. We are
24 not proposing on-street parking. That is
25 discussed in the design standards. We are not

1 proposing any parking areas or pavement within the
2 front setback. We are not proposing any parking
3 within the front setback. We are providing
4 landscaped islands within the proposed parking
5 lot. Due to the configuration of the property,
6 it's not practical to have connections with any
7 adjoining properties. It doesn't make any
8 practical sense. The minimum greenspace in an
9 NCOR zone, as we all know, is 35 percent. This
10 proposal has a 57.5 percent greenspace which is
11 nearly double the greenspace required. We're also
12 proposing to provide landscaped areas around the
13 entire site. We've shown it on our site plan with
14 a substantial number of plantings and landscaped
15 areas around the site.

16 Also, the light fixtures will be no higher
17 than the finished grade than 10 to 12 feet for
18 pedestrian scale light. Because there are no
19 sidewalks that presently exist on Boght Road, and
20 with approximately 80 foot of frontage, we are not
21 proposing to install sidewalks in the front of the
22 property, but we would include a concrete sidewalk
23 along the front of the proposed new apartment
24 building. The Board may consider requesting a
25 sidewalk to run from the building all the way to

1 Boght Road, which is certainly in this Board's
2 discretion. We agree with the Town Designated
3 Engineer that a multifamily residential element
4 design is per 190-42d of the NCOR designs
5 standards and meets the intent of the Code as
6 proposed. We feel that this is a handsome
7 project. We have made some modifications to the
8 initial plan that was submitted.

9 There is stone that is proposed along the
10 first floor, as you can see, and I think that
11 you've been handed the color renderings.

12 Also, there has been some discussion about a
13 letter that was written by Mr. Zee who represents
14 Mr. Guptill. I discussed the contents of that
15 letter with Russ Harding and his partner Mr.
16 Tanski and discussed it with Mr. Voss. Mr. Voss
17 has walked the site with my client. I've
18 discussed it with Mr. Tengeler. I've also
19 discussed it with Mr. Lyons. There seems to be a
20 conflicting sense of what is going on with respect
21 to this drainage pipe. Mr. Iachetta who owns
22 property on the front of this, which is here
23 [Indicating].

24 Your family has owned this property for how
25 many years?

1 MR. IACHETTA: Since 1964.

2 MR. CAPONERA: His position, I believe and he'll
3 talk to the Board, is that there has been a pipe there
4 for about that long.

5 CHAIRMAN STUTO: I don't want to spend too much
6 time. It says that's going to be mooted out, if I
7 understand, with the stormwater.

8 MR. CAPONERA: The bottom line is, Mr. Chairman
9 and Members of the Board, because of the location of
10 the detention ponds and drainage, that pipe is not even
11 going to be there anymore. It's going to be deterred.

12 CHAIRMAN STUTO: You can get it on record. I just
13 want to say that I have no objection to that. It's
14 going to be taken out; correct?

15 MR. CAPONERA: Yes, that's correct.

16 CHAIRMAN STUTO: Do you want to say how long it's
17 been there, Mr. Iachetta?

18 MR. IACHETTA: Regarding stormwater drainage, I'd
19 like to note for the record that this section of Boght
20 Road has no Town drainage system. There has always
21 been gravity drainage. We're about 15 vertical feet
22 above Route 9 and there is natural flow through the
23 swale that's been there at least since the 1940's or
24 50's. There has always been a pipe across the lumber
25 yard. I recall my dad and Mr. Murray maintaining it.

1 So, there is natural drainage that is important to this
2 site and that has been addressed through detention and
3 thorough the design. It's adequately addressed and all
4 part of the natural condition and part of the state
5 Route 9 right of way --

6 CHAIRMAN STUTO: I don't want to get into a giant
7 back and forth because it's going be mooted out with
8 the way that the stormwater design is anyway. Chuck is
9 going to address it and Mr. Zee is probably going to
10 address it. I don't want to spend an inordinate amount
11 of time on it.

12 MR. CAPONERA: That's basically my presentation.
13 I'd be happy to answer any questions the Board might
14 have.

15 CHAIRMAN STUTO: I just want to remind the members
16 of the public that if you want to speak, you're welcome
17 to and we ask that you sign in on the piece of paper
18 over at that side table. We'd be happy to hear from
19 you.

20 I think that we're going to hear from the
21 Town Designated Engineer who has reviewed the
22 project on behalf of the Town in a systematic way.
23 I think that it will be a better discussion if the
24 TDE goes first.

25 MR. VOSS: Thank you, Peter. As the Board should

1 know, we made our comments to the Board and to the
2 applicant in our February 21, 2013 letter which I
3 believe that you all have a copy of. Typically for the
4 concept acceptance review level, we go out and we look
5 at the general parameters of the site. We look to see
6 if the site layout is in general conformity with the
7 Code. We look for typically general practices at this
8 level in terms of stormwater and in terms of access
9 management and utilities infrastructure. As the
10 applicant potentially advances through the review
11 process, we'll be certainly taking a harder look at
12 things like stormwater and how they're going to design
13 the system and where those systems will be. We'll look
14 at site layout, building layout and those kinds of
15 things. But for this level, let me just quickly go
16 through our letter. I'd like to start with some of the
17 more technical issues just for the Board's information
18 and then we'll get into some of those design standards
19 that you would be more concerned with.

20 In terms of looking at access to water and
21 sewer, there is water and sewer currently on Boght
22 Road: The project is proposing to access those
23 utilities with a potential easement on property
24 that they also own at 618 Boght Road. There is an
25 existing house there. The house really sits just

1 to the east of the main entry. It's a small
2 little one-story house with vinyl siding. There
3 is an easement that runs between - well, there is
4 a space that runs between the house and the lands
5 of Iachetta, little further to the east that are
6 open and flat. The applicant is potentially
7 looking to put those two facilities through there
8 via an easement simply for ease of access. If
9 they ever need to get in there, it's flat and a
10 straight shot in. It makes sense rather than
11 running a proposed new driveway. So, they
12 certainly have access to that.

13 In terms of stormwater management, we did go
14 out and walk the site and we were particularly
15 curious to know and see the natural drainage
16 patterns of the site. If you've had a chance to
17 walk the site, particularly in the back, the bulk
18 of the site is relatively flat. There is a mound
19 of soil a little bit further back to the southwest
20 of the property. We did observe that drainage
21 pipe that runs basically from the north to south
22 direction -- from the back of the Iachetta
23 property down to what we would consider more of an
24 old drainage swale area further to the south of
25 the site. That swale area - we walked there and

1 we walked a little bit back towards the edge of
2 the property. That soil area connects to a more
3 not intermittent stream, but more regularly
4 flowing stream. When we were there about two
5 weeks ago there was water flowing through that
6 stream. That stream is not on the applicant's
7 property. It's on the lands of [SIC] Robitalle.
8 I believe that's the name. We can certainly go
9 through that. That drainage area flows fairly
10 regularly and then there is a connection down to
11 the aforementioned drainage facility that the
12 Town's Stormwater Management Officer noted, closer
13 to Route 9 and then at some point traverses under
14 Route 9 and down. We did not observe any flowing
15 water off the site in terms of stormwater
16 management. Again, it's a relatively flat
17 undeveloped site. I think that there is adequate
18 room at this point to site the building and the
19 stormwater management facilities.

20 CHAIRMAN STUTO: Can you address the letter from
21 Mr. Zee, specifically with respect to the stormwater
22 pipe that runs back behind the Iachetta property? As I
23 understand it - you can correct me if I'm wrong because
24 I talked to you about it today - that pipe is going to
25 be removed and that stormwater off of that property is

1 going to be taken care of and the proposed retention
2 pond.

3 MR. VOSS: Yes, that is the applicant's intent, as
4 far as we can tell.

5 MS. DALTON: Do we have that letter?

6 CHAIRMAN STUTO: Joe, do you have that letter?

7 MS. DALTON: Is it in the packet?

8 MR. LACIVITA: I think that we sent that to the
9 attorney.

10 CHAIRMAN STUTO: Did you make copies for this
11 meeting?

12 MR. LACIVITA: I did not.

13 MS. DALTON: Can you be a little bit more
14 descriptive?

15 CHAIRMAN STUTO: Yes, I think that's a good idea.

16 MR. VOSS: I know that Mr. Zee is here so
17 potentially he could come up and address the issue
18 directly.

19 Without reading through their letter, they
20 raised some additional concerns about when the
21 pipe was placed and how the pipe was placed and
22 whether or not the pipe needed to be permitted.
23 We can't address those issues. I believe that
24 those issues were already addressed by the Town's
25 stormwater - Mr. Higgins - the Town's Stormwater

1 Officer.

2 CHAIRMAN STUTO: Chuck, this may be helpful for
3 the Board if nobody else. Can you go up to the drawing
4 and show where the pipe currently exists and how it's
5 going to be addressed by the applicant or proposed to
6 be?

7 MR. VOSS: Essentially, the site as it sits now,
8 the pipe runs from this corner back to this swale area
9 back here (Indicating). It's underground.

10 CHAIRMAN STUTO: And that helps with the rear of
11 the two properties.

12 MR. VOSS: Correct. From what we were told,
13 historically, there is some flooding that occurs on the
14 Iachetta property back in here (Indicating). There is
15 annual spring flooding and things like that.

16 Steve, I don't know if you can attest to that
17 or not.

18 I think that what we were informed of by the
19 applicant was that for years and years through
20 mutual agreement, a pipe was placed there to help
21 ease that springtime flooding back there, and just
22 directed back through the other side. As the
23 plans develop, as the site it laid out, the
24 applicant will be proposing to remove that section
25 of pipe in its entirety I believe; correct?

1 MR. CAPONERA: I believe so.

2 MR. VOSS: We haven't seen the formal design yet
3 for the stormwater. Then, they will be putting in
4 their stormwater management facilities which include
5 maybe some underground storage areas. In essence, we
6 haven't seen your final plans but my sense is that the
7 pipe will be removed entirely and that issue that Mr.
8 Zee raised in his letter will potentially go away.

9 We now get to the design criteria. The NCOR
10 design standards as enumerated in the Code, they
11 are very specific about how sites should be laid
12 out for this area. You're looking at a transition
13 from a neighborhood/commercial area to the
14 commercial zone. This is really what this is set
15 up to do. So, the facilities are to be designed in
16 a certain way so that they complement how that
17 transition between the commercial area - which we
18 now see on Route 9 a little bit further at the end
19 of Boght Road - is in more with the residential
20 area that we see on Boght Road.

21 As the site is laid out, it's more of a flag
22 shaped lot. As the applicant's attorney did
23 mention, we raised the issue of some of the design
24 criteria specifically road frontage because the
25 building will be within the front setback. There

1 are physical limitations to the site which would
2 prevent that building from being up close. The
3 site is certainly situated where they can
4 accommodate the requirement for the 80 percent
5 frontage build-out. We've seen this in other NCOR
6 areas. It can be accommodated through
7 landscaping, walls and some sort of decorative
8 element to help break up that frontage.

9 CHAIRMAN STUTO: Are they proposing that?

10 MR. VOSS: Yes, they are.

11 They are complying with pavement in the
12 front. The other issue that we were really more
13 interested in was access from the site via some
14 sort of sidewalk up their driveway to Boght Road.
15 Currently, there are no sidewalks on Boght Road.
16 However, as Route 9 continues to develop, there
17 may eventually be the need. The Town has some
18 kind of sidewalk facilities there and in
19 conformance with the design criteria, it certainly
20 is advisable that some sidewalk be --

21 CHAIRMAN STUTO: Can you show us on a map?

22 MR. VOSS: Sure. Essentially what it would do,
23 Peter, is link the proposed sidewalk that's in front of
24 the building now out their driveway at some point to
25 Boght Road and just end on Boght Road.

1 CHAIRMAN STUTO: Right now they have in front of
2 the building --

3 MR. VOSS: Right, it's in this location right here
4 (Indicating). We're recommending what design standards
5 recommend.

6 MS. DALTON: Well, if they have any kids there,
7 they're going to have to get the bus.

8 MR. CAPONERA: There won't be any kids. It's a 55
9 and older --

10 MS. DALTON: Oh, is that in my packet?

11 MR. CAPONERA: It should be.

12 CHAIRMAN STUTO: Kids can still work their way
13 into that.

14 MR. CAPONERA: I suppose. We're also proposing to
15 call it Murray Manor.

16 MR. VOSS: I think that the only remaining element
17 that I think that the Board might want to take another
18 look at as we mentioned in our letter is the
19 architectural design of the building itself. The
20 building is sited as such that it is so far back on the
21 site, it really won't be that visible from Boght Road
22 once mature landscaping is in place.

23 They are proposing a fairly significant
24 amount of landscaping along the driveway and
25 certainly along the adjacent property lines. The

1 site is still heavily wooded all the way back and
2 not all of that is going to be removed, from what
3 I understand. Again, the architecture of the
4 building - if you look through the architectural
5 design criteria of the Code on the NCOR standards,
6 it talks about several different things. How to
7 lay the building out from an architectural
8 standpoint, looking for relief in the rooflines,
9 looking for relief in the building facade. It
10 looks like they make an attempt to certainly kind
11 of provide some of that relief. They've got some
12 bump outs. They've got some awning areas and some
13 design elements and it's certainly pushed in that
14 direction. Again, it's more of an aesthetic issue
15 and the Board may certainly want to take a look at
16 it and consider it. You're certainly well within
17 the Code to ask the applicant to take another look
18 at that.

19 CHAIRMAN STUTO: I'm going to ask a couple of
20 questions about that because it was important to me.

21 I think that it's an improvement over what we
22 had last time. I'm going to ask this of the
23 applicant just as a question for your feedback.
24 The apartments that I see that are more desirable
25 have separate entrances for each unit. Can you

1 tell me the pros and cons of that and why you
2 didn't do that? I've been paying attention to
3 that stuff while I've been on this Board.

4 MR. HARDING: It's very large and we noticed that
5 with three entrance ways. When you go in you have two
6 apartments downstairs and a good size staircase going
7 upstairs. So, the entranceway is very nice for moving
8 stuff in and accessible. We have less sidewalk and
9 less doors.

10 MS. DALTON: Is there an elevator?

11 MR. HARDING: No elevator.

12 CHAIRMAN STUTO: I understand that it's a cost
13 element. I mean, that's what you're saying.

14 MR. TANSKI: The entrance is beautiful. It has
15 arched glass with a chandelier.

16 MR. HARDING: The entranceway is very attractive.

17 CHAIRMAN STUTO: So, cost is not a factor. I
18 mean, you're not answering my question.

19 MR. HARDING: Cost is always a factor.

20 CHAIRMAN STUTO: Is it more expensive to have
21 separate entrances? Let me ask it that way.

22 MR. HARDING: It would change the whole design of
23 the building.

24 CHAIRMAN STUTO: I understand that. I don't know
25 if I mentioned it the last time, but if I didn't I

1 meant to --

2 MR. TANSKI: We'd like to keep the cost down for
3 this --

4 CHAIRMAN STUTO: So, it is more expensive.

5 MR. TANSKI: It's going to be 55 and older --

6 MS. DALTON: But honestly, there is no way that I
7 would feel comfortable approving a building with half
8 of your apartments upstairs with no elevator for people
9 55 and older because as soon as they become disabled,
10 they can't get up there.

11 MR. TANSKI: I'm 65 and I can run up and down the
12 stairs.

13 MS. DALTON: And that's great for you, but I will
14 tell you that I'm not yet 60 and I have a mobility
15 problem. I can get up the stairs until I break my hip.
16 You are marketing to older people and you need to make
17 those apartments handicapped accessible. If there is
18 no elevator to get upstairs, it's not handicapped
19 assessable. So, you have a very serious design flaw
20 right there. There is no way around that.

21 FROM THE FLOOR: Doesn't the ADA requirements just
22 give you a percentage that actually has to be --

23 MS. DALTON: If all you're doing is meeting ADA
24 requirements, yes. But if you're telling me that
25 you're marketing to people 55 and older, I'm thinking

1 people are moving there because they're moving out of
2 their big house because they don't want to be shoveling
3 snow anymore. That's all perfectly reasonable. I can
4 be 65 years old and mobile today and not mobile
5 tomorrow. I think that you have to accommodate
6 planning for that. If you're saying that you're
7 planning for people of that age group - it's one
8 person's opinion. We have had other people coming here
9 who were saying that they were going to market to a
10 general population, it was fairly obvious that there
11 were going to be children in that place but there was
12 no place for kids to play. You have a plan for a
13 building and if you're marketing to old people and
14 you're not going to give them an elevator --

15 CHAIRMAN STUTO: My issue was not the same issue
16 and that's fine.

17 I just bring this up for discussion so that I
18 can educate myself. I'll finish the question.

19 The apartments that I see that are modern and
20 that I think are more desirable have separate
21 entrances for everybody. Maybe I'm wrong about
22 that and somebody can tell me that I am. Yes,
23 maybe it will cost more costwise, but you do have
24 to have a separate set of stairs for every unit
25 that's upstairs, if you do it that way. Don't you

1 get a better return on the rent for that type of
2 unit? I'm not being overly critical but this is
3 just one big rectangle with three doors in the
4 front. So, if you can address that, I'm open
5 minded. I want to learn from this as well.

6 MR. HARDING: Like I said, we designed this
7 building to have large staircases. You have a large
8 area down downstairs, also. So, you have a lot of
9 room. I know what you're saying. If you can't climb
10 stairs, you wouldn't be looking at an apartment
11 upstairs. Later on if you got injured like she was
12 saying, you wouldn't stay in an apartment like that.
13 You would go somewhere else to live.

14 CHAIRMAN STUTO: What is your rent point here?
15 What is your price point?

16 MR. TANSKI: About \$1,200.

17 MR. LACIVITA: Peter, to your point because I'm
18 looking through your design and I'm looking through
19 your floor plan and your elevations, there only seems
20 to be one point of access. I'm looking through the DCC
21 comments and I'm not quite sure if this has changed or
22 if this wasn't even designed at the time, but you show
23 no secondary means of access. This is going to be 55
24 and older. What are we doing about the secondary means
25 of access, and how did this change from what we had

1 from the DCC comments because none of that was even
2 discussed? That's my main concern, too.

3 MR. HARDING: The downstairs flats, they can go
4 outside to a deck.

5 MR. LACIVITA: What about the second floor?

6 MR. HARDING: The second floor is also to a deck.

7 MR. LACIVITA: No stairs or anything?

8 MR. HARDING: No, the building is sprinklered.

9 CHAIRMAN STUTO: Does that meet the Fire Code,
10 Chuck?

11 MR. VOSS: Yes, it would.

12 MR. LACIVITA: The only question that I would have
13 would be the height of that deck - that eight foot,
14 eleven and one-quarter which I think that exceeds the
15 height of being able to jump down. I think that it has
16 to be less than seven to meet the Code. You might just
17 want to check into that from a safety standpoint.

18 CHAIRMAN STUTO: Going back into the minutes - I'm
19 not trying to beat a dead horse, but the comment that I
20 guess I did state and whether I was clear or not, I
21 don't know. This is a quote:

22 "Some of the apartments that I see - I'm not
23 an expert on this and that's why I need Chuck's
24 help - but that appears to be a very simple
25 construction in the sense that it's a long

1 rectangle. Some of the newer ones - the ones that
2 I see off Wolf Road as I travel south on
3 Albany-Shaker Road - I think that's in the Village
4 of Colonie - it appears that multiple entrances on
5 all sides and also the paddocks that you see as
6 you go up the Northway going north to the Saratoga
7 area. They have garages and so forth."

8 I think that I finished saying please pay
9 particular attention to the architecture and I
10 think that you did spruce it up a little bit in
11 terms of the stone and facade and so forth, which
12 I appreciate. I'm not trying to persecute you on
13 this. You're not even giving me an answer that I
14 raised last time. You're not even giving me an
15 adequate answer. You seem to be stumped by the
16 question.

17 MR. HARDING: About the doors?

18 CHAIRMAN STUTO: I guess; yes.

19 MR. HARDING: It's the expense, as you were
20 saying. Yes, it's an expense. We're trying to keep
21 the rent down so you can get the elderly and 55 person
22 - you know what I'm saying - someone on a fixed income.

23 CHAIRMAN STUTO: It sounds like you haven't
24 thought it through that way.

25 MS. DALTON: Can I just say one thing about that

1 as well? I look at my packets pretty closely. I saw
2 nothing in the packet that said it was for people 55
3 and older. As I'm looking at this, again, looking for
4 what I might have missed, which is the narrative
5 description that was submitted to us on your schools it
6 says "North Colonie School District may experience
7 slight increase in their enrollment due to the proposed
8 development of the total included population increase
9 of 30 people which may include school aged children."

10 Did you change your mind?

11 MR. HARDING: That was the initial meeting with
12 the Town.

13 MR. CAPONERA: This has evolved over a period of
14 time from when we went to the Zoning Board. You got
15 talking about the age and I talked to my clients and
16 they said, look, we don't have a problem with 55 and
17 older. Initially, they were going to have 55 and older
18 only on the first floor, but the more that they thought
19 about it --

20 CHAIRMAN STUTO: Chuck and Joe, were you aware
21 that this was proposed to be 55 and older?

22 MR. VOSS: Not directly from any meetings, but I
23 remember that the applicants did mention it somewhere
24 along the way. It may have been at the DCC.

25 CHAIRMAN STUTO: Elena has done research on this.

1 The PDD over near the library - Mr. Finning - that's a
2 designation of 55 and over and that's governed by
3 federal regulation and federal criteria. So, if you're
4 standing here right now saying that, you're not
5 prepared on that issue either, to be honest with you.-

6 MS. VAIDA: They're very specific. I think that
7 even the name has to denote --

8 CHAIRMAN STUTO: Because it's a type of
9 discrimination. It's an age discrimination, but it's
10 permitted age discrimination if you follow the federal
11 criteria. So, are you proposing that type of project?

12 MR. CAPONERA: That's what my clients want to do.

13 CHAIRMAN STUTO: I just don't see it in the record
14 here.

15 MR. CAPONERA: They did not initially, but as the
16 plan developed and they talked to more people, Mrs.
17 Murray and others, they said look, they would be
18 willing to do that. So, initially it didn't start out
19 that way which is probably where Kathy is reading from.

20 MS. DALTON: And Victor, when you say "Be willing
21 to do that" did someone recommend it to you?

22 MR. CAPONERA: Nobody recommend it.

23 MS. DALTON: So, "be willing to do it" sounds like
24 somebody said it would be a good idea.

25 MR. CAPONERA: No. Mr. Chairman, you have some

1 concerns. One of my clients just spoke to me and said
2 that they would be happy to go back and redesign the
3 design of the building.

4 CHAIRMAN STUTO: I'm not saying that I'm right.

5 MR. CAPONERA: No, but I understand what you're
6 saying.

7 CHAIRMAN STUTO: I like the project. I'm glad
8 that they're developing it. So, I don't want to give
9 the wrong impression. I think that it's a good idea
10 for there. But you said at the end of the last
11 meeting, and I'll quote it:

12 "We're open to that. This was just a
13 preliminary drawing. I've already explained to my
14 client the intricacies of the design standards in
15 the zone, so we're mindful of that. This is just
16 a first look. I'm mindful of what you said, Mr.
17 Chairman and certainly we're going to undertake
18 that. We'll work with Chuck again. We still have
19 to get through the zoning."

20 I guess I'm disappointed that you weren't
21 even ready about that issue. You can talk me out
22 of it. I don't know.

23 The other thing is that you're surprising us
24 with the 55 and older which is a regulated thing.
25 Since we weren't put on notice of that, we really

1 haven't had a chance to think about that or to ask
2 Elena to dig out the regulations again so we can
3 think about that in a thoughtful way.

4 MS. DALTON: And just to be clear with referring
5 to the document that discussed the North Colonie School
6 District increase in population, it's stamped January
7 30, 2013.

8 MR. CAPONERA: Is that mine? No, that wasn't
9 mine.

10 MS. DALTON: I'm certain that yours is absolutely
11 accurate. I'm just kidding.

12 MR. CAPONERA: I discussed this with the client
13 and I explained everything that entailed the design
14 standards, and they went to Mr. Esposito who is an
15 architect and they made a modification to add stone. I
16 explained to them and said I'm not sure that's going to
17 carry the day. I can make recommendations.

18 CHAIRMAN STUTO: It's addressed to you and the
19 applicant. That's what the record says.

20 MR. CAPONERA: That was discussed. As Chuck
21 indicated, it does sit back quite a ways from the road.
22 It's not like you're going to see it when you drive by,
23 especially with all the wooded area that's back there
24 and the proposed landscaping. Be that as it may, I
25 understand what the design standards are.

1 MR. AUSTIN: I disagree with the visual impact. I
2 went down that road yesterday and I know it's the time
3 of the year with the season, but it's not as far back
4 from the road as one may think, especially when you
5 have a building of that size on that piece of property.
6 That's just my thinking. There does seem to be a lot
7 of undotted I's. There just seems like there is some
8 stuff that doesn't seem clear to us. We're asking
9 questions that are not getting answered. I'm a little
10 confused, but not in a bad way. I like the project.

11 CHAIRMAN STUTO: Do you have anything to add,
12 before we go to the public?

13 (There was no response.)

14 CHAIRMAN STUTO: Were there members of the public
15 that wanted to speak on this?

16 Mr. Zee, would you like to speak?

17 MR. ZEE: Good evening. My name is Donald Zee and
18 I'm the attorney for Charles Guptil. For the record,
19 Mr. Guptil owns property which abuts the property here
20 and over here.

21 CHAIRMAN STUTO: That's on Route 9?

22 MR. ZEE: Yes and as my letter indicated, we had
23 concerns with regard to stormwater management. I don't
24 want to get into when the pipe was put in and
25 everything. I just want to point out that we have a

1 concern. On an evening like tonight, there is flooding
2 on Boght Road. It's flooded, so we want to make sure
3 that the stormwater is properly addressed. We know
4 that the Town, Town Engineer and TDE does a very good
5 job in attending to those matters. I want to emphasize
6 that my client owns a lot of property in the area and I
7 just want to make sure that is seriously looked at with
8 regard to the stormwater management, and we want to
9 make sure that there is no overflow of the detention
10 basin. We also wonder if there is a possibility that
11 when the stormwater analysis is submitted on a
12 technical basis - if we could get a copy of it so that
13 my client could review it and have a comfort level. As
14 I said, he's been involved in a fair amount of
15 development in the area and has the ability to analyze
16 it as well as have access to engineers to look at it as
17 well. As I said, we understand that the Town will do a
18 thorough job, we'd just like to have an opportunity to
19 look at it at the time that it's submitted.

20 As to the Chairman's question with regard to
21 a apartments and separate entrances, I would have
22 to say that I've been involved with getting
23 approvals for just under 3,000 apartment units.
24 Separate entrances are a little bit more
25 expensive, but I tend to find that you may have

1 surmised that when you have separate entrances,
2 you have the ability and it's more desirable -
3 part of the desirability is because instead of
4 three people having access to one entrance --
5 especially when you have seniors, they want to
6 have a certain safety level.

7 With all due respect to the Board Member who
8 talked about 55 and older, every single housing
9 development that I was involved with except for
10 one up in Clifton Park where there is 55 and older
11 - there are no elevators.

12 MS. DALTON: In second floor apartments?

13 MR. ZEE: Yes. And I have found that second floor
14 apartments are desirable by single women because they
15 feel more comfortable on the second floor than the
16 first floor. The steps are really not an impediment
17 because there is a limited number of times when they
18 are going in and out. We call 55 and older active
19 adults. I'm in the classification also.

20 As I said we just wanted to make sure that in
21 regard to stormwater management, that we have
22 insurance that the current condition - well, we
23 didn't get a lot of rain but there is some snow
24 and there is flooding on Boght Road right now.

25 CHAIRMAN STUTO: Thank you. I appreciate that.

1 Anybody else from the public?

2 MR. IACHETTA: Very briefly, I thank you for this
3 opportunity to support improvement in my hometown
4 neighborhood. Once a Boght boy, always a Boght boy.
5 The proposed improvements are clearly very desirable to
6 me as the adjoining neighbor; the only neighbor with
7 two sides both to the west and the north of the
8 proposed improvements.

9 I've seen the property go through many
10 changes over many years, so we greatly appreciate
11 your timely support. The summer is too short.
12 I'd like to stress that. Working at the airport
13 winter goes 210 to 220 days and the construction
14 season is very short. In order to see these
15 improvements this summer which we had hoped to see
16 after a year now of review - I'd just like to
17 appeal to your good common sense and logic, at
18 least from my view growing up here as a young boy
19 and for many years now seeing the site being
20 vacant for so many years and now seeing a very
21 real prospect of this type of improvement. The
22 stone facade is certainly an upgrade for a
23 multiunit structure. If you go from a industrial
24 use to go to an adjoining use to industrial to
25 residential is clearly desirable from my point of

1 view. I am also a professional planner. So, I
2 commend your good work and I just wanted to close
3 by appealing for the understanding for this
4 project.

5 There are advantages; pros and cons,
6 emergency conservation of course is key. It's
7 fully compliant with fire and it's fully
8 sprinklered. There is energy savings. We have
9 long winters and the construction season, once
10 again, is short. So, I think that these minor
11 points can be addressed. The proposed layout is
12 very desirable from my view as the adjoining
13 neighbor on two sides.

14 Just for the record, please consider waiving
15 the generic environmental impact mitigation fees
16 for this residential structure. It's much smaller
17 than the total building area of over 12 industrial
18 warehouse structures that were on the site. There
19 were lumber stores where wood was pressure
20 treated. There was cement and heavy equipment.
21 It was a good going enterprise for many, many
22 years. It was Murray Lumber and later Luke
23 Lumber. It's been vacant for the last several
24 years. So, the site has been wasting and that
25 does not help anyone's retention of property

1 values. It doesn't help the neighbors or the
2 neighborhood.

3 Also please consider waiving the
4 archeological cultural assessment fees. I
5 personally know that it was worked over many times
6 by heavy equipment by Mr. Murray and Luke Lumbar
7 yards --

8 CHAIRMAN STUTO: Before we go too far, do we have
9 any authority to waive any of these fees?

10 MR. LACIVITA: No.

11 MR. IACHETTA: So, for the record, I appreciate
12 the Town's consideration. This is my only opportunity
13 to go on the record. So, thank you for your excellent
14 work and I commend you.

15 CHAIRMAN STUTO: Anyone else from the public like
16 to be heard on this?

17 (There was no response.)

18 CHAIRMAN STUTO: Chuck, can you specifically say
19 what the design standards are that are being asked to
20 be waived? One is a 20-foot setback. I think that the
21 sidewalk may be a waiver. We do want sidewalks,
22 though. Actually the building placement - 190.42A1 in
23 the 80 percent frontage build-out, maximum setback
24 190.42AC5 where they request a maximum setback.
25 They're not paving in the front. They're providing

1 off-street parking. The NCOR design standards
2 encourage on-street parking, but it's not necessarily a
3 waiver. Their greenspace is fine. They will be doing
4 site screenings. Site lighting - as long as they don't
5 go too high or too bright, they should be okay with
6 that. The sidewalks - would be the only other one
7 which is 190-42b3d. But it looks like they have
8 basically complied with that. They're potentially
9 making a sidewalk connector to the front of the
10 building.

11 Okay, let me go back for a second. There is
12 the 80 percent build-out. The setback of maximum
13 20 feet is another one. The sidewalks - I think
14 that we are going to have that done. I just want
15 to give them feedback. I think that's it.

16 MR. VOSS: That's all I see.

17 CHAIRMAN STUTO: I personally have no problem with
18 those waivers that are being requested. I think that
19 the applicant will have to write it up and finish it.
20 That's required. We have to have the findings and you
21 can run that by Elena.

22 I'll speak first. I'm a little disappointed
23 that the important issues that I raised have not
24 seemed to have been addressed. I'm not saying
25 that you have to comply with them. I thought that

1 I would get a discussion and an thorough answer.
2 It's not something that you make up once you get
3 to the meeting. That had to do with the garages
4 and the separate entrances.

5 The 55 and over, I think, was surprise to the
6 Board Members. A couple of Board Members raised
7 issues about the elevator. I'm personally not
8 opposed to doing a concept approval tonight
9 because it's a nonbinding act on this Board and on
10 the Town. However, I would like you to come back
11 somewhere before your final presentation to
12 address those issues with us. That's my personal
13 opinion on it. I will go down the Board and see
14 how they feel about it. We only have four Board
15 members. If you get one no, you're not going to
16 be able to have concept today.

17 Susan, do you have anything to say?

18 MS. MILSTEIN: I think that I agree with you that
19 concept is fine, but it needs work.

20 CHAIRMAN STUTO: Brian?

21 MR. AUSTIN: I agree too. I appreciate Mr. Zee's
22 comments on his experience with many of the apartments
23 and the active adults. As far as the elevator comments
24 and such like that, it might not be feasible. In
25 looking at the floor plans, I'm at a loss. I'm not an

1 architect, so I'm not sure how you would figure another
2 entranceway going out the back. That's as far as the
3 emergency egress. Whether or not you put stairs on the
4 upper deck onto the ground, I'm not sure if that's
5 going to work for the active adult as well. They're
6 active, so they could go downstairs as well.

7 The aesthetic on the front, as far as the
8 things that have to do with that - the stonework
9 is nice and the gables I think that you might have
10 popped those in there too with the arch windows.
11 I like the descriptions that you give with the
12 shapes and such. On the actual elevation plan
13 versus the color rendering - so the elevation and
14 the vinyl shakes on the side and some pillars and
15 such -- there are nicer details on the actual plan
16 versus the color renderings. So, I'm going to go
17 with the plan. I like that. That's my opinion.

18 Other than that, I think that it's a great
19 project. It's a nice use of that particular
20 property and ready for the active adult.

21 CHAIRMAN STUTO: Kathy?

22 MS. DALTON: How did we get to active adults?

23 MR. CAPONERA: I would be happy to discuss that.
24 I was looking at my presentation before the Zoning
25 Board and if you looked at that, it's in there. You

1 didn't obviously, but what I said was that I discussed
2 this with my clients they said, why don't we propose to
3 put the first floor in and have that 55 and older?
4 That's what I put in my written presentation to the
5 Zoning Board, which was only a couple pages.

6 When we got here and we got talking about it,
7 I discussed it with my clients and we got mulling
8 it over and they had indicated to me that before I
9 went up and made my presentation that we'd like to
10 do both floors. Why would you want somebody
11 younger upstairs? So, I made that representation
12 to the Zoning Board. They liked it and they
13 thought it was a good idea. They approved the
14 project. If you look at the decision, it doesn't
15 specifically say that. So, that may be what you
16 looked at and I looked at myself.

17 MS. DALTON: We don't have the minutes from the
18 Zoning Board.

19 MR. CAPONERA: That would be very tedious.
20 Anyway, I too have had my share of apartment projects.
21 In fact I just did a pretty good sized project in Troy
22 and they are two-story and two and a half story with no
23 elevators in them. It just doesn't make sense. It's
24 not required. They are all code compliant and I really
25 don't think that's really a matter that needs to go

1 into these apartments. When Don talked about the
2 people upstairs, they are typically single females that
3 like the security of being on the second floor and the
4 inability of people to look in windows and climb up and
5 do things like that. It's very important.

6 We'd be happy to revisit this, Mr. Chairman
7 and Members of the Board. I do know that there
8 are four units instead of seven, but if you could
9 consider bringing this to concept approval, we can
10 go back and work on the elements that you spoke
11 about in terms of the architecture and what have
12 you. We would come back before final action on
13 final approval to have you look at this thing
14 that's been reworked.

15 MS. MILSTEIN: I guess my question is that I'm not
16 sure what your concept is anymore. With all due
17 respect to the Zoning Board of Appeals, they had a land
18 use that they have to abide by and it's completely
19 different than what is before us. My bigger question
20 is what concept are you having us look at?

21 MR. CAPONERA: This 12-unit apartment complex
22 that's this size, two-story but the design would
23 probably change on the building - the exterior design;
24 not necessarily the interior.

25 MS. MILSTEIN: With the 55 and over, is that part

1 of the concept, or are you still trying -- is this
2 evolving?

3 MR. CAPONERA: No, this is what they want to do -
4 55 and older.

5 MR. AUSTIN: So, do we have to go through the same
6 level of legal issues that we needed to on the one over
7 on Maxwell?

8 MR. LACIVITA: No, the other one was a PDD.

9 MS. VAIDA: No, the other one had federal
10 regulations.

11 MR. CAPONERA: We can do that. That's not a major
12 issue.

13 MS. DALTON: There are a couple of things in
14 addition to the sidewalk question that I have. Is
15 upkeep and property management - since you're marketing
16 to older people for this component - I noted in the
17 description you weren't quite sure if you were going to
18 have a property manager on the site or not, but I would
19 think that would be something that was important.

20 Also, the garages, if they haven't gone to
21 Florida, going outside and figuring out how to get
22 the car cleaned - I think that's all really
23 problematic for older people. If you were telling
24 me that I would be voting on concept design for a
25 two story, 12-unit apartment building that would

1 have kids, I would be much happier with that
2 concept than this concept because unlike some of
3 the other places that we've looked at, you've got
4 places to play, it's in the North Colonie School
5 District, you don't have other industrial stuff
6 going on there. To me, changing your marketing
7 strategy for this design makes a lot of sense, or
8 changing this design to match your marketing
9 strategy, but I do feel that it is disconnected to
10 me. So, property management and sidewalks, the
11 garages - the concept I think itself is great.
12 The fact that you're going to be surrounded by
13 other residential areas I think is great. I don't
14 think that this is the most attractive building on
15 the fact of the earth, but for the price point
16 that you're talking about I think that it's fine.
17 There has got to be some consistency that I don't
18 currently see.

19 CHAIRMAN STUTO: I'm prepared to vote on concept
20 approval.

21 MS. DALTON: Which means, just a residential
22 building with 12 apartments, or something more than
23 that?

24 CHAIRMAN STUTO: Yes, but since concept is not
25 binding - I'll take advise from counsel about this.

1 We'll have to get an interim report before we get the
2 final presentation. Whether it's a narrative or if you
3 want to come without your professionals - I think that
4 we need to have an interim step whether or not you're
5 going 55 and over so that we can be prepared for that
6 question and we can review the federal law on that
7 again.

8 The other was architectural features - pros
9 and cons, why you want to do it and why you don't
10 want to do it? Garages and separate entrances,
11 the things that Kathy raised. You're going to get
12 the transcript so do your homework and go through
13 the transcript and figure it out.

14 I'm prepared to vote on that motion. Maybe
15 everyone else isn't; I don't know.

16 MR. HARDING: Maybe our homework wasn't done. I
17 don't know why it wasn't, but it was always 55. I
18 don't know why you didn't get that in your packets. I
19 don't know what happened. When we went to the Zoning
20 Board, we got the variance and it was 55 --

21 CHAIRMAN STUTO: And we have the variance in our
22 packet and it doesn't say anything about that.

23 MS. DALTON: I read the minutes from the last time
24 that you were here. There isn't a single reference to
25 55 and older. In every piece of paperwork that I got -

1 I told you that the paperwork that we got from January
2 references school children. So, I don't know why it's
3 not here -- but not only is that not here, but there
4 are things referencing kids. So, it's not consistent.

5 MR. CAPONERA: Can I get a basic understanding
6 about how the Board feels about this? Is the Board
7 suggesting - Kathy, I'm just going by what you said -
8 that this not be a 55 and older?

9 MS. DALTON: Currently constructed, I would say
10 absolutely.

11 CHAIRMAN STUTO: I don't have any preconceived
12 opinion because this is the first time that we've
13 thought about 55 and older. I'm not opposed to it.
14 I'm not so keen on the architecture no matter what and
15 I've asked for a full explanation --

16 MR. CAPONERA: You made that clear when we came in
17 for sketch plan. I understand that.

18 MS. VAIDA: I think that to vote on this - the
19 concept, we would have to have a proviso that assuming
20 that you show us how you're complying -- I did find
21 some of the stuff on it. Especially for renting, I
22 don't think that it's a big deal but you have to
23 have --

24 MR. CAPONERA: Believe me, I've done this before.
25 This is a non-issue in my mind. That can be done and

1 will be done.

2 CHAIRMAN STUTO: Right, but we need to be
3 comfortable with it. We don't see them everyday.

4 Did you want to speak sir?

5 MR. NEMER: Clarence Nemer. I live at 607 Boght
6 Road. I've crawled around that area. My people have
7 lived there since 1870.

8 CHAIRMAN STUTO: I've always had problem with the
9 pronunciation.

10 MR. NEMER: A gentleman by the name of Seymour who
11 ran the Latham News says it's Boght and that's
12 horsefeathers. Mrs. Murray will tell you that. On the
13 truck Allan Murray Building supplies; Boght Road;
14 B-O-U-G-H-T. That's the way that it should be said.
15 It means sharp end of the river.

16 You got Mrs. Murray who has told these
17 gentleman that she would be their first tenant.
18 We need senior areas. It's great for seniors. I
19 know this lady says - you need a place for seniors
20 who can have peace and quiet. I'm not against
21 kids. Kids have to have a place to live, but as
22 far as elevators go, doctor will tell you that I
23 don't even use an elevator and I'm 72 years old.
24 I run up the stairs when I can. That can happen.
25 You do need senior places. That's all I got to

1 say.

2 MR. AUSTIN: The concern is - and a couple of
3 people have mentioned a lack of garage. When Mrs.
4 Murray wants to go out to the store in her car, last
5 Friday when we had the snow and the weather and things
6 like that, she has to go out with her scraper and such
7 to shovel off the car. There is nobody on the property
8 to do that.

9 MR. CAPONERA: Well there doesn't have to be
10 someone living on the property. We're developing 300
11 apartments in Troy and we don't have anyone living on
12 the property. It's a contractual thing. This isn't
13 their maiden voyage.

14 MR. AUSTIN: I'm in favor of this project. The
15 whole 55 thing really took me by surprise. I know it
16 was with the Zoning Board, but this is the first time
17 that we have seen this.

18 MR. CAPONERA: This should have been on the
19 decision of the Zoning Board that you have and it is
20 not. It developed later than sooner.

21 CHAIRMAN STUTO: You're saying that it should be a
22 condition of your variance?

23 MR. CAPONERA: No, it wasn't a condition of the
24 variance. It's not in the variance approval.

25 MR. AUSTIN: When was the zoning meeting? Was it

1 after January 30th?

2 MS. MILSTEIN: December 6, 2012. I was on the
3 Zoning Board at that time.

4 MR. AUSTIN: But we have a narrative that says we
5 have school-aged children.

6 CHAIRMAN STUTO: This is something that you guys
7 put together.

8 MR. CAPONERA: That was probably done by Mr. Kyms'
9 office, I believe.

10 MR. HARDING: I've built over 100 apartments and
11 I'm 65 years old and of the apartments that I've
12 built -- I've done 50 townhouses in Clifton Park and
13 apartments in Malta. My brother has built 2,000
14 apartments. I have to say that with all of apartments
15 that I had, that 40 percent was elderly and a lot of
16 the healthier elderly people - they would go out and
17 clean the snow off for people.

18 Getting back to the property itself, we don't
19 have room for garages.

20 CHAIRMAN STUTO: Okay, are we ready for a motion
21 on this? I'd like to take a vote. You can vote your
22 conscience.

23 MS. DALTON: I will make a motion that we approve
24 the concept, a 12-apartment unit residential dwelling
25 to be further defined at our next meeting.

1 MR. AUSTIN: I'll second that.

2 CHAIRMAN STUTO: So, there will be an interim
3 report, one way or the other. I don't want you to
4 spend too much on consulting. You can come by yourself
5 if you want. We just want to have an intelligent
6 conversation about this whole thing.

7 MS. DALTON: So, a residential building of 12
8 units exactly where you want to put it - I'm okay with
9 the waivers that you're seeking. I think that you're
10 fine. I'd like to see sidewalks, no matter who you put
11 in the building.

12 MR. CAPONERA: When you say sidewalks, you're
13 talking about from the building on Boght? So, it's
14 going to go from here down to here (Indicating)?

15 MS. DALTON: Correct.

16 MR. CAPONERA: The building that you are approving
17 is basically in this location (Indicating). There is
18 no motion that it has to be 55 or older. We'll come
19 back.

20 CHAIRMAN STUTO: We're not approving. It's called
21 concept acceptance, which is non-binding upon the
22 Board.

23 So, I'll leave it upon the applicant to go
24 back in the minutes and see all of our concerns
25 and address them all one way or the other; either

1 yes or no or with a good explanation.

2 CHAIRMAN STUTO: All those in favor say aye.

3 (Ayes were recited.)

4 CHAIRMAN STUTO: All those opposed say nay.

5 (There were none opposed.)

6 CHAIRMAN STUTO: They ayes have it.

7 Thank you.

8 MR. CAPONERA: Thank you for your consideration.

9

10 (Whereas the proceeding was concluded at

11 8:15 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 March 15, 2013

