

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 SHAKER PLAZA
5 447 ALBANY SHAKER ROAD
6 APPLICATION FOR DESIGN STANDARD WAIVERS

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8 THE STENOGRAPHIC MINUTES of the above
9 entitled matter by NANCY STRANG-VANDEBOGART, a
10 Shorthand Reporter, commencing on May 7, 2013 at
11 8:50 p.m. at The Public Operations Center, 347 Old
12 Niskayuna Road, Latham, New York

13 BOARD MEMBERS:
14 PETER STUTO, CHAIRMAN
15 BRIAN AUSTIN
16 KAREN GOMEZ
17 TIMOTHY LANE
18 SUSAN MILSTEIN
19 KATHY DALTON

20 ALSO PRESENT:
21 Elena Vaida, Esq., Counsel to the Planning Board
22 Joe LaCivita, Director, Planning and Economic Development
23 Victor Caponera, Esq.
24 Ed Esposito, Monarch Design Group
25 Pasquale Ferracane, Landowner
Betty Ann Coughlin
Bill Genter
Susan Herrenbruck Strong

1 Jim Kitts
2 Tami Meek
3 Mary Menzies
4 Jennifer Novak
5 John Mullins

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1 CHAIRMAN STUTO: Next on the agenda is Shaker
2 Plaza. This was adjourned from April 23rd. This is
3 447 Albany Shaker Road. This is an application for
4 design standard waivers. The project consists of two
5 7,770 square foot retail/office buildings.

6 Is the department going to give us an
7 introduction on this? Have we seen this and
8 approved this before?

9 MR. TENGELER: It's been on for sketch plan twice.
10 Those are two different projects.

11 Just to make an adjustment to those initial
12 figures, the two buildings at 7,770 square feet
13 were a previous incarnation of the project. This
14 current project is one building at 7,770 square
15 feet and the front building is 4,550 square foot
16 building. There is approximately 3,000 less
17 square feet less than what is described in the
18 referenced description.

19 The project has been progressing
20 administratively. It's almost ready for site plan
21 approval, as far as all engineering goes.

22 CHAIRMAN STUTO: Okay, let me stop you there.
23 It's not a major site plan review because it's less
24 than 10,000 square feet?

25 MR. TENGELER: Correct; yes.

1 CHAIRMAN STUTO: What's the total square footage?

2 MR. TENGELER: That would be 12,000 and change.

3 CHAIRMAN STUTO: How is that less than 10,000?

4 MR. TENGELER: There are two separate buildings.

5 MR. LACIVITA: Peter, this also comes under a
6 redevelopment based on the fact that this was a prior
7 developed site. They had demolition over the past
8 couple of years.

9 CHAIRMAN STUTO: So, it's under the redevelopment.

10 MR. LACIVITA: Right, so it's really the waivers
11 that are being reviewed at this point. Although, we
12 are showing the entire project.

13 CHAIRMAN STUTO: Okay, please continue.

14 MR. TENGELER: The project is progressing
15 administratively. It's almost ready for site plan
16 approval, as far as any engineering goes.

17 They're here tonight basically to request
18 three waivers from the Planning Board, all in
19 reference to the NCOR design standards that this
20 project lies in. Specifically the waivers are for
21 pavement within a front yard setback to
22 accommodate a front bank use, the building
23 setback, and orientation. From there, Victor will
24 describe the project in detail and go through any
25 questions that the Board may have.

1 CHAIRMAN STUTO: What do you mean by building
2 orientation? The front of the building facing the main
3 road?

4 MR. TENGELER: Yes.

5 CHAIRMAN STUTO: You want to turn it over to the
6 applicant now?

7 MR. TENGELER: Please.

8 MR. CAPONERA: Thank you Mr. Chairman and Members
9 of the Board. Some of you may recall and some of you
10 may not recall Mike was correct -- back on May 24, 2011
11 this application came in front of the Board. At that
12 time there was a proposal for two 10,000 square foot
13 buildings. The Board suggested that the applicant go
14 back and reduce the size of the buildings. That was a
15 sketch plan review. We then came back and in October
16 of 2011 and reduced the size of the buildings from
17 10,000 to the 7,700 plus or minus square foot
18 buildings. The Board thanked the applicant who is the
19 owner of the property, Mr. Farrakane, whose family has
20 owned this property for the last 31 years.

21 Mike was correct, this project is a
22 redevelopment. For those of you that travel on
23 Albany Shaker Road, what used to be there was a
24 dental office and I believe a hair salon. That
25 building was taken down approximately in 2007 or

1 2009. Since that time new members of the Board
2 have come on and we have this proposal for the
3 three -- what I consider to be diminimous waivers.
4 We have substantially reduced the size of the
5 project from what it was originally 20,000 square
6 feet; two 10,000 square feet to two 12,250 square
7 feet. The smaller building is the building in the
8 front as is shown on this revised site plan for a
9 proposed bank. We all know that in this
10 particular zone which is the NCOR requirement and
11 that the Code says that you can't have a building
12 on a major street that's more than 25 feet set
13 back from the road.

14 When I was working on property next door,
15 which is the cleaners, originally before the Land
16 Use Law was changed in 2007, that building was set
17 back. The Land Use Law changed, as we all know on
18 January 4, 2011, to say you have to push
19 everything forward and put the parking either on
20 the side or on the back, so that building slid
21 forward. We're asking the Board to consider
22 allowing the frontage to be 44 foot set back
23 rather than the maximum of 20. The reason for
24 that is this would be for a bank, much the same as
25 Crisafulli is building up just a little east of

1 the area that you recently granted.

2 CHAIRMAN STUTO: Can you trace where the front of
3 the other building is?

4 MR. CAPONERA: It's right here (Indicting).

5 CHAIRMAN STUTO: I drive by it a lot.

6 MR. CAPONERA: I drive by it at least twice if not
7 four times a day, and with all due respect to the Land
8 Use Law, I just don't think that it fits. When you
9 look at the surrounding properties and the buildings
10 that have recently been built, I submit that this
11 proposal is far more attractive; especially if you look
12 at the front elevation.

13 That's another thing that the Board asked us
14 to do is go back and look at it and redesign it.
15 The other waiver is the front of the building is
16 supposed to face the main road. The way that Mr.
17 Esposito has designed this, it's such that it
18 looks like the front of the building is facing
19 Albany Shaker Road. That's the whole purpose of
20 why my client hired Mr. Esposito. We've done it
21 that way. That's another waiver that I consider
22 to be diminimous under these standards. So, we
23 have the setback.

24 The other requirement is under the Code,
25 you're not supposed to have parking in the front.

1 Parking is supposed to be on the side, or the back
2 and that's exactly what the proposal is here. All
3 parking is on the side and the back, but it does
4 have pavement in the front so that is considered
5 to be a requirement for a waiver. There is no
6 parking, but the drive-thru is similar to what
7 they are building right now with Crisafulli.

8 This is a unique piece of property and that's
9 why you see so many people here. They're not here
10 to listen to me. This abuts a residential zone.
11 Right along this area here, we have Shaker Drive
12 (Indicating). It just so happens that the zoning
13 line is right here to the rear of these folks and
14 to the side (Indicating). So, we have single
15 family on Shaker Drive and we have this NCOR over
16 here.

17 A funny thing happened many years ago when I
18 was representing Mr. Farrakane, this property used
19 to be in a split zone and we ended up in Supreme
20 Court. It was an interesting case. That's not
21 the case anymore because it's all NCOR.

22 One of the other requirements is you can't
23 have parking within 50 feet of a residential zone.
24 This plan shows all the buffering on the side
25 closest to the neighbors. There is no parking.

1 We meet the 50 feet and you can't have a building
2 closer than 100 feet. We're 125 feet from the
3 zoning district line. So, we exceed that by 25
4 percent. Clearly, if you look at this, you say,
5 where is the development? The development, is
6 pushed as far away as we possibly can to do this.

7 One of the other requirements by one of the
8 Zoning Board members was that we should confer
9 with the neighbors. What do we do? We would have
10 Mr. Farrakane meet with some of the neighbors that
11 live adjacent to the property and we met out there
12 last week. I think that it was May 1st. We met
13 with several of the neighbors who are here tonight
14 to go over some of their concerns. We wanted to
15 meet with them and see what their thoughts were
16 and we did that.

17 I was presented with a letter that somebody
18 wrote relative to this. We can go over that at
19 any time.

20 The bottom line is that tonight we're only
21 here tonight seeking these waivers - the three
22 waivers that we just talked about. Based upon
23 what I've indicated, if you look at the design,
24 which has been modified, remodified, and
25 remodified, I think that you can see that the

1 proposal is very compatible with the requirements
2 in the zone, and it's very very aesthetically
3 pleasing.

4 There is a tremendous amount of greenspace
5 and landscaping that we are proposing to be on the
6 east side, which is the side closest to the rear
7 neighbors.

8 There was another comment about a fence that
9 was required and some of the neighbors wanted a
10 very tall fence with a two foot decorative - I
11 don't think that we need an eight-foot fence with
12 a two foot decorative. I submit that we think
13 that a six foot fence - which is the normal fence
14 that the Board looked for -- the color was
15 discussed and we talked about a tan fence that
16 meets the color likeness of this building. I
17 think that more earthtone is what would fit.

18 There was another discussion about moving the
19 fence into my client's property by two feet. My
20 client doesn't have a fundamental problem with
21 that. What I would ask if we do that is if the
22 Board is so inclined, is that we enter into what
23 is called a licensing agreement. Your counsel can
24 discuss and tell you what the legalese is of that.
25 A licensing agreement is basically that we are

1 putting this in and the folks can use that
2 property, but they don't own it, nor will they
3 ever claim ownership through an adverse possession
4 claim. That's not an issue either.

5 CHAIRMAN STUTO: You're talking about two feet of
6 land?

7 MR. CAPONERA: Yes, rather than the fence being
8 on the property line, it would be moved into my
9 client's property two feet which would give the folks
10 on this side the use of that property. So, that's what
11 I referred to as a licensing agreement.

12 MS. VAIDA: That would be the purpose of it?

13 MR. CAPONERA: Yes, and privacy and safety. One
14 of the things that the neighbors were concerned about
15 is that there is some comment made by some of the
16 neighbors when we talked the other day about the
17 existing Dunkin Donuts and about the squirrels and how
18 they're getting big and fat and how they carry pieces
19 of or maybe full donuts in their mouth and they somehow
20 end up on this property. I am submitting to the Board
21 that by this proposal, which is a one-story proposal -
22 which is also in keeping with the neighborhood - that
23 it's going to create a sound barrier. Plus all of the
24 plantings that we're going to put in -- and I'd ask Ed
25 to talk about this, but I know that you've been here a

1 long time. He can talk to you if you have questions
2 about the plantings that we're going to put here.

3 We're also talking about keeping as many of
4 the mature trees there as possible, too, to the
5 extent that it doesn't interfere with what we're
6 doing here. It's quite thick over here
7 (Indicating). When we were standing around here,
8 there was a lot of brush and overgrowth. To the
9 extent possible, we're going to maintain that
10 also. That's pretty much it. That's what we are
11 looking for. We think that we've made the changes
12 and modification that the Board asked for. We
13 think that we've accommodated the requirements of
14 the neighbors and we're prepared to answer any
15 questions.

16 CHAIRMAN STUTO: Mike Tengeler, do you have
17 anything to add?

18 MR. TENGELER: I was present at the meeting with
19 Victor, Ed, Mr. Ferracane and the neighbors and I agree
20 with everything that Victor said.

21 MR. LACIVITA: I had one question on that
22 licensing agreement. Is it going to be inclusive of
23 maintenance for the property owners? Who is going to
24 maintain the other two feet?

25 MR. CAPONERA: It simply gives someone the

1 authority to use someone else's property and at the
2 same time acknowledging that we don't own the property,
3 but we can use it. That's all that it is.

4 MS. VAIDA: What would the purpose be of the two
5 feet of the property.

6 MR. CAPONERA: Well, Elena, I'll tell you what it
7 is. In my 36 years of doing this and running into
8 situations like this, what happens is when somebody is
9 good natured to do something like this and 10 years
10 runs by?

11 MS. VAIDA: I understand what you're saying and
12 what your concern is. I don't understand what could
13 possibly be gained by having two more feet of property
14 for the neighbors.

15 CHAIRMAN STUTO: It just pushes the fence out
16 farther.

17 MR. CAPONERA: Listen, if you feel that the fence
18 should be on the property line, so be it. You'll hear
19 from the neighbors. We're happy to put it along the
20 property line.

21 CHAIRMAN STUTO: Was that a request of the
22 neighbors?

23 MR. CAPONERA: I believe so, unless I was missing
24 something.

25 MS. DALTON: Elena did ask about the maintenance

1 of those two feet. If it's on the other side of your
2 property line, obviously it going to be a little longer
3 over there. So, have each and every one of the
4 neighbors agreed to maintain that space, or what is the
5 deal?

6 MR. CAPONERA: They can do whatever they want with
7 it, as far as I'm concerned. They can maintain it or
8 they can not maintain it. They can let it overgrow.
9 Listen, if you're concerned about it, it's off the
10 table. We'll put it on the property line. It's not an
11 issue for us. Again, I don't want to spend any time on
12 it. If you have one scintilla of a question about that
13 fence, it's on the property line.

14 CHAIRMAN STUTO: Everybody who wants to speak is
15 going to have an opportunity to speak. I'll just say
16 for the record that our review in one sense is limited
17 to the three waivers. It's just being reviewed by the
18 Planning Department as a reuse of the property, or a
19 redevelopment of the property. There is a context to
20 it, so we're going to listen to everything that the
21 neighbors have to say.

22 We have an e-mail similar to a letter that
23 got delivered which has four points and I'm sure
24 that we're going to hear about. We also have an
25 eight-foot barrier fence with additional two foot

1 top, a request to retain the trees and a
2 verification of survey and environmental
3 considerations.

4 We're going to stick to our procedure and go
5 through the list of people that want to speak in
6 the order of which they signed in. We ask that
7 you get to your points and try to be concise. If
8 you get repetitive, we're going to go to the next
9 person and keep going down the line, and then
10 we'll get back to you if you want to continue. We
11 want to use everyone's time including the Board
12 and the publics as efficiently as we can.

13 Jennifer Novak?

14 You signed one of the letters, so this could
15 be a lot of the main points.

16 MS. NOVAK: My name is Jennifer Novak and I'm a
17 property representative for the residents and owners of
18 5 Shaker Drive, which is adjacent to the property.

19 CHAIRMAN STUTO: Can you outline it?

20 MS. NOVAK: Sure. I'm this one (Indicating).

21 CHAIRMAN STUTO: Is that the third house in?

22 MS. NOVAK: The third house in, yes.

23 I represent six property owners for that
24 property.

25 I'd also like to submit respectfully on

1 behalf of 85 concerned residents. The
2 stakeholders live on Shaker Drive, Charming Lane,
3 Robinson Lane and the surrounding area. This is a
4 petition to be heard on this redevelopment and on
5 the waivers.

6 Can I do that?

7 CHAIRMAN STUTO: Sure.

8 MS. NOVAK: I know that there are a lot of people
9 who would like to talk, so I'll speak quickly.

10 The adjacent property owners and the people
11 who own property and live in the neighborhood and
12 have some kind of stakehold in the neighborhood
13 which is considered the Osborne/NCOR zone, really
14 would beseech the Planning Board to reject the
15 proposed waivers and we ask that the property
16 owners and developers adhere to the NCOR standards
17 set forth by the Town. As Director Joseph
18 LaCivita explained to the residents three weeks
19 ago, the Town has spent a large sum of time and
20 money to develop the NCOR standards and in an
21 effort to protect the residential neighborhoods
22 from the intrusive nature of commercial
23 development.

24 We had a meeting with Joseph and we had a
25 meeting with Michael and a subsequent meeting with

1 Michael and one of the developers. What has come
2 from it is that we understand that this is a
3 waiver proposal. We understand that the waivers
4 are somewhat logical for the site plan and we are
5 not opposed to the redevelopment of this site.

6 The neighbors have a lot of concerns which
7 aren't being heard and aren't being met. Some of
8 those concerns are the proposal, we feel, is too
9 large and not sustainable given the fact that 20
10 percent of the office and retail spaces in a
11 one-block radius have been vacant for more than a
12 year. The residents are concerned about the light
13 and the commercial development.

14 Also, the proposal does not fill the Town's
15 requirement to promote positive between light
16 commercial and residential areas. We are going
17 from a very small hair salon to a very large
18 proposal. We have some concerns about that. We
19 also have some concerns about parking, noise and
20 the type of business that's going in this
21 development, tax incentives given to the
22 developers and invasion of privacy concerning
23 security cameras and traffic concerns --

24 CHAIRMAN STUTO: Are there tax incentives involved
25 in this?

1 MR. LACIVITA: No, there is not.

2 MS. NOVAK: These are all of the concerns from
3 your concerned neighbors here.

4 CHAIRMAN STUTO: Right, but I want to get on the
5 record with what the facts are.

6 MS. NOVAK: Privacy concerns are regarding
7 security camera and traffic concerns because there is
8 already a bottleneck between 3:30 and 5:30. The
9 adjacent property holders also have concerns about the
10 proposed berm, plantings and fence. We understand that
11 the developers have a right to develop their property.

12 CHAIRMAN STUTO: The berm and the fence; what is
13 that in reference to?

14 MS. NOVAK: The reason why the fence is being
15 placed two feet back is because this right here is very
16 unlevel (Indicating). Mary's property, which is 7, is
17 very high. Our property, which is 5, kind of goes like
18 this (Indicating).

19 CHAIRMAN STUTO: Away from Albany Shaker Road?

20 MS. NOVAK: Yes, when you put a fence on the line,
21 the fence is going to be off the berm and some of it is
22 going to be on the berm. It will all need to be
23 stepped in order to maintain a nice solid fenceline.
24 The logical place for the fence is to be put back on
25 the property and we understand that our side will have

1 to be maintained if they grant that easement or
2 license. It's just the logical placement of the fence.
3 When you look at the land and the way that the land
4 goes.

5 CHAIRMAN STUTO: So, you're okay with the two
6 feet?

7 MS. NOVAK: I don't necessarily like it or don't
8 like it, but that was the logical reason for putting
9 the fence inward, because the land is just so uneven.

10 CHAIRMAN STUTO: You're saying the natural berm
11 that's already there?

12 MS. NOVAK: Yes. If you change that berm and where
13 it is, you're going to get into a lot of run-off
14 issues. We have a lot of erosion there.

15 Also, adjacent property owners have some
16 concerns about the trees they want to plant. We
17 would like them to stick to the NCOR requirements
18 of having native species. We'd also request that
19 there are three active fox dens there --

20 CHAIRMAN STUTO: Let's stop on the trees. We may
21 as well get that out of the way. You're suggesting
22 that their planting proposal does not comply with the
23 Land Use Law and that it doesn't use native species?

24 MS. NOVAK: Crab apples aren't native species.
25 We've talked about it and they're open to using more

1 native species.

2 CHAIRMAN STUTO: Does the applicant want to
3 respond to that?

4 MR. ESPOSITO: My name is Ed and we did meet last
5 week. We've expanded our list to include native
6 Dogwood. We've thought of some flowering ornamental
7 tree and that's we selected crabapple. We have over 62
8 trees going in there; 30 Hemlock and spruce and we
9 wanted to vary it.

10 CHAIRMAN STUTO: Does it show where the plantings
11 are? I think that I know.

12 MR. ESPOSITO: The dark green spots around the
13 perimeter.

14 CHAIRMAN STUTO: Is the property on the top
15 residential? What's adjacent to it?

16 MR. TENGELER: It's NCOR, Peter.

17 CHAIRMAN STUTO: Who owns it? Is it landlocked?

18 FROM THE FLOOR: It's Rite Aid.

19 CHAIRMAN STUTO: So, it's Rite Aid's property.

20 So, Rite Aid has a finger that goes into there?

21 FROM THE FLOOR: Yes.

22 CHAIRMAN STUTO: And it's part of that parcel?

23 FROM THE FLOOR: Yes.

24 CHAIRMAN STUTO: Is that greenspace for the Rite
25 Aid parcel? You probably don't know that.

1 MR. TENGELER: Honestly, I'm not sure if it's part
2 of the Rite Aid parcel that abuts it.

3 CHAIRMAN STUTO: So, with the trees, are you
4 satisfied with what he's proposed?

5 MS. NOVAK: We talked about it. We even
6 recommended that they stick to the NCOR requirements in
7 putting more native species that are amendable to that
8 as far as the trees.

9 CHAIRMAN STUTO: I don't mean this in any critical
10 way except to say that we've sat through a lot of these
11 meetings. You seem to have a laundry list of things
12 that you want us to consider. The way that these
13 things normally go is that the proposed use that they
14 have here is a permitted use. They are entitled to
15 that use. The waivers are some discretion on our part,
16 but the use is permitted. Our role, in normal site
17 plan review, which this is only for the waivers, is to
18 mitigate the impacts on the neighborhoods. So, we talk
19 through these issues to make sure that your concerns
20 are addressed. If the majority seem to want native,
21 and there is a logical reason for that and we agree, we
22 work through it; particularly with buffer issues -- the
23 applicant would agree. If there are 50 things that you
24 object to, it doesn't necessarily make your argument
25 shorter. We try to work through each and every issue.

1 They are entitled to this use. We do modify plans also
2 if we think that it's too big, or it doesn't fit or so
3 forth. I just wanted to let you know what our role is.
4 In some ways it's even more limited. We're listening,
5 but I just want to make this meeting as productive as
6 possible so that you understand what the expectations
7 are.

8 MR. LACIVITA: May I just expand about the NCOR
9 standards? I'm looking through and I don't see where
10 it has the use of native species. It does talk about
11 landscape requirements shall include the following
12 standards where it says "can be deciduous trees be 2.5
13 inch caliper and small flowering trees be 2 inches in
14 caliper." We actually had the Conservation Advisory
15 Committee, which is a liaison to the Planning
16 Department, look at all the mixed-use zoning districts
17 and they came up with a list of preferred trees to be
18 planted in the Town; deciduous, evergreen, native, and
19 invasive. Those are the standards that we should
20 really be apply and abiding by.

21 Ed, I would suggest that you look at those
22 trees.

23 CHAIRMAN STUTO: But you just used the word
24 native, though.

25 MR. LACIVITA: Right, but there is nothing in the

1 NCOR standards that I was just purusing here that shows
2 the word native. It was mentioned a few times that
3 native was used in the NCOR standards. I don't see
4 that. I think that it might have come from a
5 recommendation from the CAC, which is the Conservation
6 Advisory Council. Again, they're advisory to the
7 Planning Board. They developed a list and I would
8 suggest that you look at that. I know that flowering
9 trees are recommended.

10 MR. ESPOSITO: We'll stay true to that. I think
11 that the Planting list that we have respects that, but
12 we didn't quite spot on neighbor by neighbor - if their
13 backyard is a little wet, we have some trees specific
14 for that. We're not contributing to any drainage.
15 It's totally controlled and we're under a SWPPP, as you
16 know. We're under a post construction maintenance,
17 Appendix V with these thick documents that engineering
18 has reviewed.

19 The county has pretty much looked at it all
20 last year. We have all these items. We'd be
21 happy to work with the neighbors. That's our
22 policy.

23 MR. TENGELER: As far as the drainage concerns,
24 Ed's absolutely right. This project is being reviewed
25 by the Office of Stormwater Management here in the Town

1 of Colonie offices upstairs in this building, as well
2 as the Albany County DPW. I know that Ed's been in
3 contact with them because I've been cc'ed on a lot of
4 e-mail to them as far as the bits and pieces go for
5 this project. As far as drainage. the curb cut and
6 being ADA compliant along that county road, they've
7 been in contact. So, this actually has two set of eyes
8 looking at it. As Ed said, it has a full SWPPP, as
9 well.

10 CHAIRMAN STUTO: Ed, you want to talk about
11 drainage while we're on it? How does the water
12 normally flow and what is going to change?

13 MR. ESPOSITO: There is 10 feet of grade change
14 from the back of the site forward. That triggered the
15 County review. Jim Merkel did look at several plans.
16 He wanted the structures moved around, but we're also
17 in a green infrastructure mode for this. So, we had
18 total porous pavement which isn't recommended feature
19 working with the Town. They had a filtering device.
20 Everything is filtered before it leaves. I heard
21 earlier about the post development and we have a report
22 about this thick (Indicating) and we'd be happy to
23 share that with everyone. The drainage was a key
24 feature. Even if the roof is flat, the downspouts have
25 to connect to this, so it is filtered and there is a

1 backyard drain which pipes over to one design point.

2 With regard to the fence being stepped, it's
3 going with the grade. We have recommended fencing
4 styles that we could distribute and even so far as
5 last October, I do have sketches that show this
6 elevation with a six foot berm as our sound
7 barrier. The best thing that could happen for
8 these residents given the sound that comes, is
9 having this six foot planted berm with these six
10 foot trees. It's better than any sound fence. I
11 think that the sound is deflected, so we have
12 addressed the buffering, keeping the live trees
13 and enforcing that with species that would
14 survive. With the SWPP drainage, it holds this
15 developer and myself to this post maintenance that
16 everything lives and everything is healthy.

17 CHAIRMAN STUTO: The plantings are on your side;
18 correct?

19 MR. CAPONERA: Yes.

20 CHAIRMAN STUTO: If I were them, I'd want pine
21 trees there - as thick as possible. They're not going
22 to see the shorter trees. They would want the sound
23 buffer all year round.

24 MR. LANE: Can you address her comment relating to
25 the slope and how that makes a difference with the

1 placement of the fence?

2 MR. ESPOSITO: Yes, we have looked at this grading
3 plan and from that property line, we have listened.
4 The two feet came about from them. If they take
5 control of two feet. If their berm actually becomes
6 our berm, we're looking specifically at that and at
7 this grading plan and around the larger trees with
8 reinforcing with some 32 evergreens and 20 other
9 additional trees that are going to take up that slope.

10 MR. LANE: Does the slope lend itself to giving
11 them the two feet?

12 MR. ESPOSITO: At the one section, it actually
13 respects their grade and then comes up to a crest of
14 this berm and then back down to this property
15 (Indicating).

16 MR. LANE: So, this isn't going to be a perfectly
17 straight line fence if it's going to have to weave a
18 little bit.

19 MR. ESPOSITO: There's nothing along that property
20 either at that property line or two feet in that
21 prohibits going up and taking that slope --

22 MR. LANE: I'm talking about the line.

23 MR. ESPOSITO: The line will be an engineered
24 survey line. A surveyor has to lay a straight fence.
25 It's going to be straight as an arrow.

1 MS. GOMEZ: I'm trying to understand, so I'm going
2 to ask a question. There are three waivers. A waiver
3 to allow pavement in the front yard setback, a waiver
4 to allow building setbacks greater than 25 feet from a
5 major road, and a waiver to allow a non-frontward
6 building orientation. I'm confused. What we're
7 talking about right now - is that in one of these
8 waivers that we're voting on tonight? I thought that's
9 what we're voting on tonight. I'm new to the Board, so
10 help me understand.

11 CHAIRMAN STUTO: I'll ask staff to help, as well.
12 You're right. That's what we're being asked to
13 approve. To the extent that these other factors weigh
14 in on that, is why we're listening. We always listen
15 to the neighbors.

16 MS. GOMEZ: Which one weighs in on the fence?
17 What one does this impact? That's what I'm trying to
18 understand.

19 MR. LANE: I'm in agreement in not seeing where
20 these things --

21 MS. DALTON: I think that the only place that it
22 would have impact is with regard to the orientation of
23 the building, because the orientation of the building
24 will dictate whether or not they can create this kind
25 of screening as it's being proposed. That's my

1 understanding.

2 CHAIRMAN STUTO: It says that the front has to
3 face the road. That's what we're talking about.

4 MS. DALTON: But if you took what we're looking at
5 and you turned that so that it was facing the road, it
6 would naturally eat into that area that they are
7 proposing.

8 MR. CAPONERA: It's more on the residential side,
9 which is why we did what we did.

10 MS. DALTON: So, essentially what I think that
11 you're speaking about is it would seem to me that the
12 neighbors would be in favor of this particular waiver
13 because it gives you more space away from the
14 buildings, right? That makes sense to me. If you're
15 opposing this waiver, then I truly don't understand.

16 MS. NOVAK: You don't understand why I'm opposing
17 the waiver?

18 MS. DALTON: Why would you oppose a waiver that
19 puts the buildings farther away from your home?

20 MS. NOVAK: The reason for me -- this is just my
21 personal opinion, the reason why the buildings are
22 orientated that way is to get two buildings into a
23 space that really only should have one building. It's
24 a small lot. I'm happy that they moved the buildings
25 and I'm happy that they considered that.

1 MS. DALTON: We're not here to consider whether or
2 not they can have two buildings. They can have two
3 buildings, period, end of story. We're only here to
4 say whether or not those buildings are going to be
5 closer to your property or further away.

6 MR. CAPONERA: Just as a point of law, the base
7 commercial density in an NCOR zone is 18,000 square
8 feet. This property is 1.7 acres. Therefore, he could
9 potentially put a 30,000 square foot structure there.
10 Our proposal after listening to this Board and the
11 neighbors two years ago went from 20,000 down to
12 12,000. That is one-third of what the maximum density
13 allows in the zone. I'm just pointing that out.

14 MS. DALTON: And as a matter of fact the other
15 thing that I did want to make a point of is, ma'am, is
16 you're concerned that we don't listen to the neighbors.
17 In fact, we have been listening to the neighbors with
18 regard to this particular property over the last two
19 years. I've been on the Board and I recall being one
20 of the people that said, "Victor, I know that you can
21 have that much, but it's too much." We've said that
22 about other properties in the Town. So, what they are
23 proposing is significantly smaller than what we first
24 saw. Part of that is due to the testimony that we
25 heard two years ago.

1 MS. NOVAK: I can't speak to two years ago because
2 this is all new to me as of three and a half weeks ago.
3 I think that most of the residents here will agree that
4 they have not been informed in the last two years about
5 this planning process. By law, only the three of us
6 were required to be notified.

7 MS. DALTON: I do have a problem with our notice.
8 We've been on record with that before, but I will say
9 that there were people here last time.

10 FROM THE FLOOR: If you look in the transcript of
11 the last meeting on October 25, 2011 there were no
12 people listed.

13 MR. TENGELER: She's absolutely right. That was a
14 sketch plan review at that time, and there is no
15 notice.

16 MS. DALTON: What was the first time that they
17 appeared?

18 MR. LACIVITA: When it was the major project as
19 20,000 square feet.

20 MS. DALTON: And we had public comment at one.

21 MR. LACIVITA: I don't know if Mr. Kitts did. I
22 know that it was around the first time. I'm not 100
23 percent sure.

24 MS. DALTON: You guys were here before. I don't
25 know what the date was, but I heard people speak about

1 this project.

2 FROM THE FLOOR: I don't think that anybody here
3 is criticizing it. We all want to cooperate and make
4 sure that it gets on the record, so that it can become
5 part of the record; especially the right elevation
6 changes. There is the propensity that it will effect
7 their yards. It's those types of things that they just
8 want to be sure that they're heard. We can have a
9 kumbaya moment and then everybody is happy.

10 CHAIRMAN STUTO: That's fine.

11 MR. LANE: As Mike said, they are working with the
12 Stormwater Department.

13 CHAIRMAN STUTO: He just described where the water
14 flows. By law, they can't make it any worse and I
15 think that it's an improvement. Permeable pavement
16 means that it will soak through and that makes a major
17 difference, and we've had a lot of demonstrations with
18 that. The roof top water is going to be drained into
19 the system and the natural grade goes toward Albany
20 Shaker Road.

21 FROM THE FLOOR: Which is toward my house.

22 CHAIRMAN STUTO: You'll get your turn, but where
23 do you live? I don't want to lose order here.

24 FROM THE FLOOR: I live across the street.

25 CHAIRMAN STUTO: Maybe that will get captured

1 before it gets to this gentleman's house. We have
2 reviewed probably hundreds of projects and we listen to
3 the neighbors and we'll continue to work through the
4 process, but our role is more narrow here.

5 A few years ago they had a bigger structure
6 and we listened to the neighbors. We've very
7 sensitive to that. You're bordering right on the
8 neighborhood from an NCOR or a COR and the scale
9 should be stronger maybe than it is, or than what
10 is allowed by law. We'll continue to go through
11 the issues and we'll work through them as we go.

12 Trees are one issue. I don't know if it's
13 resolved. It sounds like they're willing to work
14 with you on that. The fence is going to go along
15 the change of grade, but it's going to be a
16 straight line. I think that it's probably a
17 decent sound buffer. I would want more pine
18 trees, myself.

19 MR. AUSTIN: Do you want the whole top of the
20 fence to be level the whole way? That's not going to
21 work.

22 MS. NOVAK: That's not going to work. I don't
23 think that we're so much concerned with the level.
24 It's going to have to be stepped because it's a weird
25 grade. I think that our big concern with the fence is

1 that it's vinyl core. If you look at the Department of
2 Transportation study on noise barriers, the berm is
3 good, the plantings are rated poor and the vinyl core
4 is the worst of all of the fences. So, we would ask
5 them to consider a different kind of fence to go along
6 with the NCOR standards for a more natural fence made
7 of natural materials. If they want a vinyl fence, put
8 some kind of a foam or something in it to kind of
9 buffer that sound. Michael and Joe LaCivita are
10 already aware of the noise problem that we have from
11 Dunkin Donuts and from McDonalds. We can hear the
12 drive-thru clear as day in the yard. This is just
13 going to add to that.

14 MR. AUSTIN: I believe that with a natural
15 material fence, it's much more maintenance. Then
16 according to the zoning laws, the person with the
17 natural fence only has to maintain their side of the
18 fence. The other person needs to maintain their side
19 of the fence. So, if the neighbors decide not to
20 maintain their side - it's not the responsibility of
21 Mr. Ferracane's operation to maintain a wood fence on
22 your side of the property. You'd have to maintain that
23 or whatever you need to do. With a vinyl fence, there
24 is no maintenance. In my opinion, that's almost a no
25 brainer.

1 MS. DALTON: I think that the other thing that you
2 need to keep in mind is that this is an office building
3 which means typically at five or six, it's going to be
4 pretty much empty; correct? So, some of those other
5 uses that you're pointing out where it might be noisy
6 or smelly, they are. But you could just as easily get
7 something here that was far less amenable to your
8 concerns, if they were to ditch this project.

9 MR. AUSTIN: The building is somewhat of a buffer
10 as well in front of the Dunkin Donuts noise. We're
11 listening to your concerns, but we're trying to kind of
12 put it in perspective.

13 MS. NOVAK: I know what you're saying. We're all
14 for a vinyl fence, if there is some kind of foam or
15 something. Vinyl fences do have that kind of foam so
16 that you don't have that noise resonance.

17 CHAIRMAN STUTO: Is the applicant willing to
18 consider more of a --

19 MR. CAPONERA: Just for the record, I think that
20 what you're hearing is Dunkin Donuts and McDonalds. I
21 don't think that my client is responsible to attenuate
22 the noise to the west. My client is responsible to
23 attenuate the noise that he's creating on his project.
24 If the Board wants noise attenuating scientific proof,
25 we will provide it to this Board that this project will

1 not create any noise that's any more than the ambient
2 noise on Albany Shaker Road. If you want it, you're
3 going to get it.

4 CHAIRMAN STUTO: What is the expense of the fence
5 that she is requesting?

6 MR. ESPOSITO: It's not warranted because we have
7 the six foot earth berm and evergreen plantings which
8 deflect any possible sound coming from that direction.
9 The majority of their sound comes from Albany Shaker
10 and not from the adjacent property. The best thing to
11 attenuate the sound for those homes is this berm in
12 this project. It will help the Dunkin Donuts noise
13 tremendously.

14 MR. LACIVITA: It's going to deflect it up.
15 Actually, I was talking about the noise from Dunkin
16 Donuts. We can send the Building Department out there
17 to see what they can do as far as allowing it. What
18 you are probably hearing is the volume when the lady
19 from her speaker inside speaks outside and it deflects
20 that way. You're going to have a couple of layers of
21 buffering here (Indicating). You're going to have the
22 building and you're going to have the berm. There is
23 going to be that deflection coming up, but we'll send
24 the Building Department out just to see what the
25 volumes are on the Dunkin Donuts.

1 MR. AUSTIN: Just as a point of reference, what is
2 the state of land behind the cleaners? Is that an
3 empty lot?

4 FROM THE FLOOR: There are woods there.

5 MR. AUSTIN: So, there is a buffer there already.
6 There are woods there. So, that speaker at Dunkin
7 Donuts must be quite loud.

8 CHAIRMAN STUTO: You have your notes there. Did
9 you go through all of your points yet?

10 MS. NOVAK: Yes, I was just here to introduce the
11 fact that the vast majority of stakeholders surrounding
12 this NCOR/Osborne zone really have a lot of concerns
13 about this development and they really felt that they
14 are not being heard and their issues aren't being met
15 and addressed. I think that we understand that this is
16 a waiver; yes or no. We got the impression at both
17 meetings that this is a done deal and that it really
18 doesn't matter, but we want to be heard and we want to
19 be on the record that the vast majority of the people
20 surrounding their property have serious objections to
21 the size and to the volume of property and to a lot of
22 the other concerns.

23 Just as a personal note, I know that there
24 are three active fox dens on this property and I
25 hope that they abide by the DEC regulations to

1 safely not remove, but relocate these fox dens to
2 the adjacent properties that are wooded. There
3 are three giant fox dens that are in there. They
4 are gray fox and we don't want them harmed.

5 MR. FERRACANE: I've owned this property for 31
6 years. I am quite familiar with this property. I've
7 never seen a fox there.

8 For the record, would the speaker state where
9 she lives?

10 CHAIRMAN STUTO: Do you have any objection to
11 that?

12 MS. NOVAK: No, I can tell you. My permanent
13 address is 24 First Street in Albany, New York.
14 However, I'm a full-time caregiver to my grandfather
15 who is at 5 Shaker Drive and I'm there 20 hours a day,
16 seven days a week. Sometimes I'm staying over and
17 sometimes I'm not; depending on the day. I have been
18 living there on and off for eight years.

19 MR. FERRACANE: And in 31 years I have never seen
20 a silver fox. I've seen the squirrels.

21 CHAIRMAN STUTO: Okay, we have to maintain order
22 here.

23 Tami Meek?

24 MS. MEEK: My name is Tammi Meek and I live at 3
25 Shaker Drive. This is my home (Indicating).

1 CHAIRMAN STUTO: The second one in?

2 MS. MEEK: Right here (Indicating). I'm also here
3 to ask that all the waivers be denied. I'm concerned
4 with the impact on the neighborhood. The first is
5 safety.

6 I spoke to one resident in our neighborhood,
7 Fireman Robert Stiffen. He couldn't be here
8 tonight because he's at the firehouse holding a
9 meeting. He did want me to present this
10 information. We need to insist on access to the
11 second building. There is a problem. There is no
12 access all the way around this building. The
13 fireman identify this as building side A. He's
14 concerned with side B and C because there is no
15 room for a firetruck - the company 102 foot ladder
16 to get in here and get back here in case of a fire
17 in an emergency.

18 CHAIRMAN STUTO: Which firehouse is this? Who is
19 this?

20 MS. MEEK: His name is Robert Stiffen.

21 MR. AUSTIN: What department is he from?

22 MS. MEEK: I believe that he's from right down the
23 street.

24 I asked him to write a letter with that
25 information. He was on his way out to hold his

1 meeting and couldn't do that for me. We haven't
2 had a lot of time to prepare for these meetings.
3 We've been working with the neighborhood over the
4 last three weeks.

5 CHAIRMAN STUTO: I'll make a note and we'll have
6 the applicant address that issue.

7 MS. MEEK: He wanted that to be known and that he
8 would be able to come if he wasn't holding meetings.
9 He may show up later tonight. I wanted that to be put
10 on the record.

11 This current plan has no sidewalks. That's a
12 problem for the neighborhood business community.
13 We have adults and children in our neighborhood.
14 If we're going to frequent these businesses, we
15 need to have safe access.

16 I know that in past plans there has been a
17 sidewalk. There is nothing here. When we talked
18 about that issue they said that there is a
19 sidewalk across the street. Take a young child by
20 the hand and cross Albany Shaker Road safely. We
21 have no crosswalks. That's also part of the
22 problem. I would really like that to be
23 addressed.

24 I'm feeling that we really need to have more
25 time so that we can work these things out with the

1 business and the neighborhood so that we can
2 create a safe area.

3 There is also bank retail property that is
4 being proposed. When I was first approached with
5 the plans, it was only office space. There was no
6 retail property. When I look at the plans now,
7 both buildings are retail office space. That
8 means I don't know when the buildings are going to
9 be open and when they are closed and that is going
10 to create a lot of issues in the neighborhood.

11 The parking areas are going to provide an
12 opportunity for people to gather. It could be a
13 possibility for drug exchange and partying. With
14 a bank and ATM, robberies are a possibility.
15 That's a real concern for the neighbors.

16 Parking is an issue. I live on Shaker Drive
17 and overflow parking is already happening on my
18 street. I don't know if there is enough parking
19 available for what is being presented and I'm
20 wondering where the overflow parking is going to
21 be. I'd like that to be addressed.

22 We have a lot of traffic and it's hard to get
23 out of our street. I don't know if it's this
24 Planning Board or the state that we need to talk
25 to about it, but I would propose that somehow

1 before you get to the entrance of Shaker Drive
2 that there is a sign that says "State Law, Do Not
3 Block the Entrance of This road."

4 We have a concern about safety. We have a
5 concern about the sound and we know that the berm
6 is planned, but we know that the size of the trees
7 that are starting out when they're being planted -
8 we're not assured that is going to be a sound
9 barrier at this point. Maybe 10 years down the
10 road when they are mature trees, then that will
11 take care of the sound that is being presented
12 before you. That's why we're proposing a fence -
13 a sound barrier proof fence. We're going to get a
14 lot of traffic here. Yes, this is a great idea
15 and we're for the berm, but we're also going to
16 have a lot of cars coming and going. The light
17 traffic that we're going to have is going to be
18 facing our houses. This is residential. All of
19 the cars coming and going - it could be all
20 through the evening and the nighttime. All that
21 light traffic is going to be in our backyards.
22 That's a problem.

23 There is also boxed lighting being proposed.
24 This neighborhood is dark in the evening. The
25 retail space and the office space that you are

1 proposing is going to light up the neighborhood in
2 the evening hours and in the nighttime. That's a
3 problem not only for the current residents, but
4 the residents raise this concern that I'm going to
5 be able to see that and it's going to shine in my
6 bedroom lights. Those residents aren't here
7 tonight, but I'm going to voice their concerns.

8 The idea of security cameras came up. We
9 don't know what type of retail space is going in,
10 or office space, but I don't want to be on
11 someone's security camera having a function in my
12 backyard or laying around in my hammock enjoying
13 the peace and serenity of my home. We have that
14 to be thinking about and to talk about.

15 My third point is serenity. I moved to
16 Loudonville because it's a peaceful place. We
17 have a wonderful neighborhood and it's harmonious.
18 I'm okay with developing a relationship with
19 business, but I'd like them to work with me on
20 this. I don't feel that I had enough time to get
21 on board with these plans because I was notified
22 right before the meeting in Albany in April that
23 was pulled from the Board and reassigned for
24 tonight. I enjoy hanging out in the backyard in
25 my hammock. That's my peace and serenity. I know

1 that is going to be impacted by the development.

2 If you approve the waiver to adjust the
3 buildings from the front of the street to the
4 back, that's my backyard. All that traffic in and
5 out of those buildings is in my backyard. That's
6 a big difference of what you are proposing. I
7 understand the comments that you have made and the
8 Planning Board has made. That is a huge change.
9 You're going to be setting precedent not only for
10 my neighborhood, but for neighborhoods that are
11 coming in. There is a lot of development that is
12 going on and we have a lot of retail space that is
13 underutilized and we have a lot of light in our
14 community. That is a big concern for a lot of
15 people that I have spoken to in our neighborhood.
16 I'm hoping that you address that as a Planning
17 Board.

18 I have a concern about the impact of noise.
19 I have a concern about the impact of lighting and
20 the impact the fumes will have on the
21 neighborhood.

22 Up the street I have a neighbor who has
23 respiratory illness. She is impacted on all of
24 those environmental views. That needs to be taken
25 into consideration.

1 The issue of wildlife has already been
2 addressed, so I will pass on that. I thank you
3 for the opportunity to be heard, and I hope that
4 you will give us some time so that we can work
5 though some of these issues.

6 CHAIRMAN STUTO: Thank you. I'm going to ask
7 about a couple of issues that you addressed.

8 We have a memo and we don't have any experts
9 here, but we have a memo from our Fire Chief who
10 has no objection to the way that this is designed
11 from a fire standpoint. I don't know if you have
12 anything left to add or if you want to let the
13 applicant address that as well.

14 MR. TENGELER: That's correct. Peter Lattanzio
15 and I reviewed the project and Joe Bisognano, who is
16 the new Chief of our Fire Services Department in our
17 administration building, both have reviewed it a few
18 different times and both have no safety concerns.

19 CHAIRMAN STUTO: I'm not a fire expert. I don't
20 know if that's critical - the lack of space.

21 MR. ESPOSITO: It's fully fire sprinklered I think
22 that the Fire Chief looked at that access. You could
23 have one side access with a fully fire sprinklered
24 building, and you do have sufficient areas. You don't
25 need full circulation.

1 CHAIRMAN STUTO: You can get a hose around the
2 back, right?

3 MR. ESPOSITO: Sure.

4 CHAIRMAN STUTO: And you have sprinklers within
5 the building.

6 Joe, do you understand the sidewalk scenario
7 down there?

8 MR. LACIVITA: Actually, we worked with this on
9 another issue because CDTA actually changed their bus
10 routes and we had received a number of complaints from
11 lower Albany Shaker because they changed the stops on a
12 lot of them. Albany Shaker Road is controlled by
13 Albany County. We worked with them and DOT, when it
14 comes to the sidewalks. When you talk about curb cuts
15 and you talk about placing something in their right of
16 way, that's their decision. When this went to the DCC
17 and we had them sitting at the table, they didn't want
18 sidewalks. The sidewalks were already provided for on
19 the other side. It's a double-edged sword. We would
20 like to see some type of sidewalks in here but, again,
21 we don't control the access to those roads. We don't
22 control the curbs and we don't control the rights of
23 way. That's something that has to be taken up with
24 Albany County.

25 CHAIRMAN STUTO: How far can you walk down Albany

1 Shaker Road on the sidewalks?

2 MR. LACIVITA: I remember doing a footwalk from
3 the Loudonville Home for Adults all the way up.

4 CHAIRMAN STUTO: It's almost Albany, right?

5 MR. LACIVITA: It's almost Albany. It's switches
6 across and there are great issues on both sides.
7 That's why sidewalks don't come in. Also, when you
8 talk about the right of way, you remember that this is
9 an aged area. There are some homes that are much
10 closer to the street and if you try to put sidewalks
11 in, you're starting to infringe on those people's front
12 yards.

13 CHAIRMAN STUTO: How far can you get from the
14 Loudonville Home for Adults? Can you get all the way
15 to Osborne Road?

16 MR. LACIVITA: No, because there is not sidewalks
17 all the way through. They're staggered. They're one
18 side and then they go to the other.

19 CHAIRMAN STUTO: The Green Meadows people are
20 here.

21 Can you walk to Osborne Road?

22 MR. KITTS: No.

23 CHAIRMAN STUTO: Can you start out on the other
24 side?

25 MR. KITTS: It's on the other side.

1 CHAIRMAN STUTO: As you leave your neighborhood,
2 you have to cross over Albany Shaker Road?

3 MR. KITTS: Yes.

4 CHAIRMAN STUTO: And then it goes all the way up
5 to Osborne on that side?

6 MR. KITTS: Yes.

7 CHAIRMAN STUTO: There is a cost and a maintenance
8 issue. It's difficult to have it on both sides of the
9 road. Osborne can't even handle sidewalks. My son
10 tries to go from his buddy's house near Route 9 to the
11 corner where Shaker is and I try to forbid him to do
12 that because there is just no room there. There are
13 considerations, like for example, what you're talking
14 about. I would say having them on one side all the way
15 down is pretty darn good.

16 MR. LACIVITA: It's very tough to put that order
17 onto a development parcel when it's not supported by
18 the people who own and maintain the roadway. It's hard
19 to do.

20 I also wanted to say that we put into your
21 packets -- we also spoke when we met a couple of
22 weeks back. We wanted to show what the historic
23 nature of this area is.

24 CHAIRMAN STUTO: Who developed that?

25 MR. LACIVITA: This came from Ed and it kind of

1 shows the historic makeup of the area and how you see
2 where single family residences come in. You see a lot
3 of open barren space right there.

4 I thought that the meeting that we had with
5 the three residents was a good meeting because it
6 was productive and we talked about things that
7 weren't talked about before. I thought that this
8 project had downsized quite a bit, but you can see
9 the reasons this process makes the project a
10 better process and that's what we're trying to do
11 today. We talked about the buffering and we talked
12 about uses of shrubbery. We talked about the
13 color of fencing. We did a lot in that meeting,
14 and it became very constructive.

15 CHAIRMAN STUTO: Okay, I'd like to get through
16 this lady's issues.

17 Okay, sidewalks - we talked about. I'm not
18 sure that the solution is. I don't think that we
19 can expect to see that on both sides of Albany
20 Shaker Road any time in the near future.

21 MR. ESPOSITO: We did provide drop curves and we
22 had that reviewed by the county. They didn't really
23 want it. They said that if we wanted sidewalks, we can
24 put them in, but we do have on the plan two eight by
25 eight adds for future sidewalks.

1 CHAIRMAN STUTO: Ma'am, do you want to respond to
2 that?

3 MS. MEEK: When I reviewed the minutes from the
4 last meeting that you had, that was the Planning Board
5 suggestion - it was for sidewalks to be put in. That's
6 why I brought that up for today. There are young
7 children there. How are they going to get across
8 Albany Shaker Road and how are they going to get up and
9 down if we're going to have commercial space and have
10 harmony between our neighborhoods and our businesses?

11 CHAIRMAN STUTO: How do they cross over Albany
12 Shaker Road now?

13 MS. MEEK: Very carefully.

14 FROM THE FLOOR: There is a very rudimentary
15 sidewalk area there now. We don't want to make it any
16 worse.

17 CHAIRMAN STUTO: The next point is that it's
18 retail instead of office. That's a permitted use here.

19 MR. TENGELER: Correct. Both uses are permitted.

20 CHAIRMAN STUTO: You brought up the safety issue
21 of robbery and I'm not sure how to measure that.

22 You want to address whether we have adequate
23 parking?

24 MR. TENGELER: I'd be more than happy to. I
25 reviewed it on behalf of the Town. They exceed the

1 parking requirement by Land Use Law 190-47 concerning
2 parking that our counsel can attest to.

3 "Facilities containing a mixture of specific
4 uses enumerated herein shall provide parking in
5 proportion to the percentage of the facility
6 devoted to each use."

7 What that means is that it lends itself to
8 what we call proportional parking formula in that
9 you have different uses all utilizing the same
10 site. By law, we can take a proportion of each
11 different type of use proposed on the site and
12 apply that to the weighted proportion to the
13 actual requirement when it comes to parking. For
14 instance if a specific type of use takes up 25
15 percent of said building, you take the parking
16 requirement that's needed for that type of use and
17 you essentially take 25 percent of that use. When
18 you're done, you total everything together and you
19 come up with a number.

20 CHAIRMAN STUTO: So, you've gone through that
21 calculation.

22 MR. TENGELER: Correct.

23 CHAIRMAN STUTO: How many spots did you end up
24 with?

25 MR. TENGELER: They needed 42 and they come up

1 with 70.

2 CHAIRMAN STUTO: You might be told that you have
3 too much pavement there.

4 MR. CAPONERA: Plus, we've also added a connector
5 that's required in the design standards. I believe
6 that if you approved this, there is a path set for that
7 connection.

8 CHAIRMAN STUTO: The woman mentioned traffic and a
9 "do not block" entrance to Albany Shaker Road. I don't
10 know who wants to comment on traffic. Obviously, it's
11 going to contribute. Do we have any kind of traffic
12 calculations or anything?

13 MR. ESPOSITO: We did. It's in our narrative and
14 we have reviewed the trip generation with Jim [SIC]
15 Erkle from Albany County.

16 CHAIRMAN STUTO: Can you just recite some of that?

17 MR. ESPOSITO: I don't have it in front of me.

18 CHAIRMAN STUTO: Can you find it?

19 MR. ESPOSITO: It mentions shopping district use.
20 It's stated in ITE standards and it has so many trips
21 that there was sufficient gaps in traffic to allow for
22 discharge under normal use.

23 MR. TENGELER: Also, the Board Members will note
24 that in their packets there is an unlisted SEQRA action
25 that was reviewed by Rebekah Nellis Kennedy where they

1 reviewed traffic specifically.

2 CHAIRMAN STUTO: I'm just wondering if there's a
3 number of cars generated during the peak hours.

4 MR. LACIVITA: Yes, the average is 18 a.m. peak to
5 70 p.m. peak.

6 CHAIRMAN STUTO: That's per hour, right?

7 MR. LACIVITA: That's in the area. That's per
8 day; maximum per building.

9 CHAIRMAN STUTO: Okay, that's not much.

10 MR. LACIVITA: General business; 14 in the a.m.
11 and 22 in the p.m. That was listed in the local area
12 transportation guide per 10,000 square feet of building
13 category.

14 CHAIRMAN STUTO: It's not zero, but it's not a
15 lot. If they built it to almost triple the size, what
16 they would be entitled to is a lot more. They are
17 entitled to develop the property.

18 MR. LACIVITA: Some of that is contributory to
19 other locations as well.

20 CHAIRMAN STUTO: We talked about noise. My
21 personal opinion is that I think that this is going to
22 help the noise situation there.

23 With respect to the other properties on the
24 other side: maybe the traffic that will be closer
25 will add a little bit of noise, but they are

1 entitled to develop their property.

2 Lighting and cameras - can the developer talk
3 about that?

4 MR. ESPOSITO: We have pedestrian paths and
5 downward shields. There are four of them at that 50
6 foot limit pointed inward.

7 MR. LANE: So, the photometrics - do you think -

8 MR. ESPOSITO: No, they can't.

9 CHAIRMAN STUTO: The bank will be closed in the
10 evening; correct? And the office building will close
11 at some point in the evening. What lights will be
12 remaining after that at that point?

13 MR. ESPOSITO: There are under eave lights - just
14 a very low illumination. The other lights in between
15 the two buildings are residential scale like most plans
16 that you would see. It's for safety, too.

17 MR. CAPONERA: You don't want to darken the area.

18 MR. TENGELER: I have just one thing to add.
19 There is an ATM associated with this type of branch
20 bank use.

21 CHAIRMAN STUTO: Does that have a drive-thru?

22 MR. TENGELER: Correct. That really necessitates
23 the rationale of having that parking in the front to
24 actually have that loop around. Correct me if I'm
25 wrong, Victor, but I believe that the ATM is located

1 on the side closest to the commercial use; is that
2 correct?

3 MR. CAPONERA: Yes.

4 MR. AUSTIN: Does Mr. Ferracane have any ideas of
5 who might be a tenant in the second building?

6 MR. FERRACANE: I don't at this time. We're in
7 discussions.

8 MR. AUSTIN: Does it look like it might be
9 primarily retail or more office?

10 MR. FERRACANE: It probably will be a mix of both.

11 MR. AUSTIN: But the retail hours will be standard
12 business hours - like nine to five or eight.

13 MR. FERRACANE: Yes.

14 MS. MILSTEIN: For the first person that spoke,
15 would you feel better if the building was shifted the
16 other way rather than the way that it is right now? Do
17 you understand my question?

18 MS. NOVAK: Yes.

19 MS. MILSTEIN: Why would you prefer it that way?

20 MS. NOVAK: Because those are the NCOR rules. I'm
21 concerned about that. When you're shifting it the
22 opposite way, I'm going to hear the traffic going in
23 and out of the businesses all day long, all weekday
24 long. I'm going to hear the people going in and out.
25 If they're forward, I'm not going to see that.

1 MS. MILSTEIN: Can you address that, please?

2 MR. CAPONERA: I don't really understand what she
3 is saying. If you swung it around this way
4 (Indicating), you're bringing it closer to the
5 residence and we tried to make this further away from
6 he residents as well as the whole operation of this
7 proposal is on the other side. It's on the side
8 closest to the commercial. If you flip it this way,
9 the traffic would still be going this way (Indicating).
10 The whole purpose of this facing the building toward
11 the front is to make the front look like the front
12 entrance. I submit to you - I suppose that we could
13 just put a door here and say that's our front entrance.
14 If that doesn't look like a front, I'd like someone to
15 tell me what it looks like.

16 MS. MILSTEIN: So, right now the front door is
17 facing -

18 MR. CAPONERA: The front door is over here
19 (Indicating), but if we put a door there, we could call
20 it the front door.

21 MR. AUSTIN: Would the residents rather have that?
22 We could always do a waiver to have it in the back of
23 the building, right? Would you rather have that so
24 that you would have the garbage cans out back and
25 people out for a smoke break and people out there

1 congregating and you'd have the wood pallets back there
2 and a lot of noise potentially at the back of the
3 building; not that there would be in an office building
4 or a retail building.

5 MS. NOVAK: By design, it would be the side of the
6 building and not the rear of the building.

7 CHAIRMAN STUTO: What he is suggesting is a mirror
8 image.

9 MS. NOVAK: We'd rather have the side of the
10 building with no traffic.

11 MR. AUSTIN: So, flip the buildings - both 90
12 degrees and then having traffic going around the
13 building on a constant daily basis, as well. I'm
14 looking for solutions for you guys; that's what I'm
15 looing for.

16 MS. NOVAK: I think that when we get down the list
17 that it will be covered.

18 MR. AUSTIN: Exactly.

19 CHAIRMAN STUTO: Mary Menzies.

20 MS. MENZIES: I called in 2009 when they started
21 clearing. I enjoy my backyard. I like the fence for
22 privacy, and I wanted to clear up the two-foot mystery.
23 Actually, I think that was done for me. I might
24 suggest that because as they all mentioned, the hill or
25 berm goes up highest on my property and actually my

1 property will have the fence only half way across it.
2 It will be half across my property. There is a large
3 tree on the property line. I said to Mike, and I
4 thought that was brought over to Mr. Farracane, that if
5 you take down the tree, probably the whole area is
6 going to fall down. I've been planting flowers there
7 to keep the hill up. It's very sandy. That's the
8 mystery of where the two-feet came from.

9 CHAIRMAN STUTO: Will that preserve the tree -
10 moving it two feet?

11 MS. MENZIES: It will just come behind the tree
12 and that tree is what is keeping this berm up. It's
13 very sandy.

14 CHAIRMAN STUTO: So, they accommodated that for
15 you.

16 MS. MENZIES: I think that I solved the mystery.
17 I think that it was because that conversation.

18 MR. CAPONERA: Which address are you?

19 MS. MENZIES: I'm at 7. That was the two-foot
20 mystery with the tree falling into my yard. Thank you.

21 CHAIRMAN STUTO: Thank you.

22 Bill Genter.

23 MR. GENTHER: I live at 32 Shaker Drive. My
24 concern is about the sidewalks. I love to walk in my
25 neighborhood. As they are now, they are just barely

1 adequate and dangerous. They're barely safe. I see in
2 the sketch here, they have a sidewalk. On the site
3 plan, it has been deleted. We need the sidewalk there.

4 CHAIRMAN STUTO: The elevation has a sidewalk on
5 the right side of the fence leading toward the
6 entranceway.

7 MR. FERRACANE: My property is 200 feet wide. If
8 we put in sidewalks and you get to the end of the
9 sidewalk, there is no sidewalk continued.

10 MR. GENTHER: I have walked that area many times.

11 MR. FERRACANE: Answer my question. What are you
12 going to do when you reach the end of my sidewalk? Are
13 you going to ask Dunkin Donuts to put a sidewalk in, or
14 are you going to cross the street? Why don't you cross
15 the street initially on Shaker Drive?

16 MR. LACIVITA: Patrick, I think that the problem
17 is that sidewalks are not being supported by Albany
18 County.

19 MR. FERRACANE: I'm just addressing this.

20 MR. LACIVITA: I understand that, but to try to
21 cut off an argument here between the two of you,
22 sidewalks are not supported. That's why you saw them
23 here in this plan because they were originally
24 proposed. When it went to Albany County, they didn't
25 support it in their right of way. They weren't going

1 to maintain it. They didn't have the money to maintain
2 it, that's why you'll find them in poor condition.
3 It's unfortunate that we, the Town, can't do anything
4 with it because they are owned by another entity.

5 MR. GENTHER: It's making a bad situation worse.
6 You're building businesses with no way to walk there.
7 It's not beneficial to the community.

8 MR. AUSTIN: Sir, what he's trying to say to you
9 is that he would be the only property on that side of
10 the street with a sidewalk. It would only go 220 feet
11 and the sidewalks to the other properties wouldn't be
12 there.

13 MR. GENTHER: Right now it's not easily walkable.

14 MS. DALTON: And what do you think is going to
15 change? I don't understand what you think is going to
16 change. If you're not walking on the sidewalk now -

17 MR. GENTHER: Is this property going to be a
18 barrier.

19 MR. FERRACANE: Not at all.

20 MR. ESPOSITO: At the driveway, we have provided
21 the sidewalk and it will terminate at the curb eight
22 feet and then drop down. You can walk across the
23 driveway to the crosswalk.

24 CHAIRMAN STUTO: Can you trace where you can go on
25 the map?

1 MR. ESPOSITO: Sure. This hashed plan across the
2 driveway, that's the remnant of the former sidewalk.
3 We take it out, but keep the driveway connection. You
4 can still walk across there. It will be fully
5 landscaped along that easement and that's the limit of
6 that easement, but it will still be grass. If you're
7 walking there, you will still be able to continue
8 walking there. We're giving a crosswalk definition
9 there only.

10 MR. GENTHER: The emphasis is being
11 environmentally green and part of that is having a
12 walkable neighborhood. I don't want to see anything
13 happen to the other one. Thank you.

14 CHAIRMAN STUTO: John Mullins?

15 MR. MULLINS: My concerns have pretty much been
16 addressed.

17 CHAIRMAN STUTO: Susan Herrenbruck Strong?

18 MR. FERRACANE: Mr. Chairman, can we have the
19 speakers address where they are from and where they
20 currently live?

21 MS. HERRENBRUCK STRONG: Yes, and I was going to
22 do that. I'm Susan Herrenbruck Strong and I do not
23 live in this community, so I have no vested interest in
24 this. My cousin is Tami Meek and for over 20 years
25 I've been a consultant and been involved in the

1 development of both standards and building and
2 construction and code issues. So, when she told me
3 three weeks ago about this at her father's funeral,
4 she asked if I would come in and summarize some of the
5 things that are going on and attend the meeting that we
6 had.

7 I wanted to say first of all that your NCOR
8 standards are wonderful. Being a standards
9 developer myself and taking something that wasn't
10 even standardized from greenfield right through
11 the consensus process is Yeomans' work. It's
12 great work, but I think that there are concerns
13 that the residents have that are things that they
14 just wanted to get into the record and see if they
15 could continue the dialogue with the owners to
16 come to the best win/win solution for all parties
17 involved. Having said that, all the concerns that
18 I was going to go through and just anchor them to
19 variances themselves.

20 I think that in lieu of time, what I'd like
21 to do is just give you one copy of my comments and
22 just have them go into the record, that way I can
23 limit myself to the one area that has yet to be
24 addressed.

25 CHAIRMAN STUTO: That would be fine. What do you

1 think the most important is? If you have 50 issues,
2 it's hard to prioritize. What is realistic about what
3 could be improved?

4 MS. HERRENBRUCK STRONG: All of the variances
5 really flow from the orientation of the building not
6 facing front this way. What happens is that the NCOR
7 standards which are really wonderfully designed were to
8 give an eye to bring the community a look and
9 aesthetically pleasing thing for passersby, for
10 pedestrians to create this community. I wasn't part of
11 it, but I would think that went into the NCOR standard
12 and guideline. By the way, that's a "shall" and not a
13 recommendation that it face to the front so that you
14 could have a harmonious looking community that was
15 inevitable to the pedestrians and to the passersby.

16 What you have done is you have taken the
17 building orientation that normally would be this
18 way and we can agree or not agree that it looks
19 like the front of the building or not. That's not
20 the issue, but what you have done in the rotation
21 is put the front of the building so that it's
22 facing the Shaker Drive property owners. I think
23 that it's the safety and a traffic suggestion
24 concern because for the bank tellers, they're
25 going to be coming up through the parking lot to

1 the back and the side of the building here
2 (Indicating) and then it's over here both the ATM
3 and the bank teller, and then right here is a
4 passing lane and you see this is fairly narrow.
5 You're going to have a fairly constricted space
6 here and these three or four parking areas right
7 here - if you're backing out, one is coming here
8 and one is coming here (Indicating) and it's a
9 very busy road. It took me seven minutes to just
10 get out of Shaker Drive out onto Albany Shaker
11 Road during the week, and that was at 1:30 in the
12 afternoon. It's not exactly rush hour. Seven
13 minutes I sat at that intersection just waiting to
14 merge. Now, you're going to have another one and
15 then you have this circulation traffic this way
16 and my concern is right here (Indicating). I
17 think that at a minimum, I think what you should
18 do is if you're going to go forward with and issue
19 a decision with these waivers, that these parking
20 spots right here be eliminated so you're not
21 having people potentially backing out there,
22 people coming forward here and all of this is
23 going to funnel right down in here (Indicating).
24 I know that the onerous is on the owner to show if
25 there are alternatives plans that would be

1 workable and I don't understand why they couldn't
2 break through the curb here and then have two
3 exits so that people coming through the bank can
4 come right here and not have to come back here and
5 congest this up. If you had every one of the 70
6 spaces filled, you could have potentially -- I
7 know that it's not going to work this way, but you
8 could definitively have 10 or 15 cars here. I'm
9 telling you that this is an accident waiting to
10 happen. When you put these two in conjunction. I
11 think that the minute that you grant the waiver
12 and this becomes the front side - do all the rules
13 about the front side of the building then apply
14 because it faces residents and not passersby? You
15 would allow a PVC fence to go up here even though
16 if it was facing the front it would not be allowed
17 as a facade material of a building. So, what
18 we're trying to do is figure out a way that the
19 owners could -

20 CHAIRMAN STUTO: You're saying that you want a
21 natural materials fence? Is that what you're saying?

22 MS. HERRENBRUCK STRONG: Yes, because if you look
23 at this fence, for example, it's masonry. Masonry, by
24 the way, if you go by sound dampening this was my
25 expertise in acoustical and installation - I was a CEO

1 of a trade association for 20 years. You could do two
2 things. You could put mineral wall or some kind of
3 acoustical tile inside the hollow PVC fence. You could
4 get some real beneficial sound dampening from doing
5 that or you can take this fence, which is aesthetically
6 pleasing and then turn the corner and go off the
7 property line with this, and that would bring a real
8 nice look and would approve the aesthetic value of this
9 community and make it more attractive. I think that
10 would help us at the same time. It's much better sound
11 deadening. I agree that the berm will provide a lot of
12 sound deadening. There's no doubt about that, but it's
13 going to take time for that vegetation to get into the
14 soil and for it to grow up to really provide the
15 maximum coverage. This would serve both purposes.

16 MR. AUSTIN: Are the neighbors in favor of a much
17 taller masonry brick?

18 MS. HERRENBRUCK STRONG: I really think that they
19 were trying to get at the erosion. Any time that
20 you're going to get a 10-foot elevation change -- I
21 haven't seen the plans, but they asked me to ask that
22 they be included in that so that they are not creating
23 more water runoff and the extra rain and stuff down on
24 their property than already is. If this fence runs
25 along that berm line, it would help in that regard --

1 MR. LANE: You can't push more water onto the
2 neighbors' property. That's not allowed.

3 MS. HERRENBRUCK STRONG: I'm just trying to figure
4 out some of the issues here and try to figure out
5 what's important and what's not important. It all
6 begins with the orientation of the building.

7 MR. LACIVITA: I'd like to read from the NCOR
8 standards 9042, which talks about NCOR and to your
9 point.

10 "Standards include the word shall or must.
11 It is integral to the goals of the district and is
12 mandatory. However, the Planning Board may waive
13 these standards to the extent that it deems
14 necessarily in order to secure reasonable
15 development of the site. In such a case, the
16 applicant must establish that there is no
17 practical alternatives to the proposed waiver that
18 should conform to the standard and the Planning
19 Board shall issue a written findings statement to
20 the extent that the justification of that waiver."

21 As to building placement:

22 "Buildings must present their main facade and
23 entrance toward the street. Buildings should be
24 orientated parallel, perpendicular to a public
25 sidewalk and allow for parking to the rear or side

1 of the proposed structure."

2 Now I ask if you look at how many times that
3 this project has come through, does it not address
4 the building placement parking on the side - I
5 agree 100 percent with the two parking spots. We
6 should eliminate them towards the edge because I
7 think that the place is over-parked. I think that
8 if you look at everything that was talked about
9 this evening - reorientating those buildings -
10 it's putting the residents further in harms way
11 than this proposal has done. I think that if you
12 look through the processes that Mike and the Town
13 departments have taken this development over time
14 since 2011, I think that we have a substantial
15 development that adhere to strict NCOR standards.
16 I think that we've been through the process long
17 enough to iron out the waivers and see that there
18 really truly are no alternatives to this project.

19 MS. HERRENBRUCK STRONG: Okay, so you have been
20 through this for almost two years now. I understand
21 that. But these people, even though it was a long time
22 ago when they were contacts, this is the first that
23 they're hearing about this and they're just trying to
24 get a handle. Understandably, they have a right to
25 fair use of their property and development and I didn't

1 know that this was redevelopment, so that adds a
2 wrinkle to my understanding about what is going on
3 here. I think that the only way that this access way
4 is allowed here is because it's not the front end of
5 the building. If the front end of the building was
6 facing the street, this access road would not be
7 allowed in the front of the building.

8 MS. GOMEZ: So, ma'am, is it your proposal that we
9 switch the building around?

10 MS. HERRENBRUCK STRONG: If you switch the
11 building around, then you wouldn't have an access lane.

12 MS. GOMEZ: Then how would the neighbors like the
13 building?

14 MS. HERRENBRUCK STRONG: I think that if you come
15 out here and then --

16 MS. GOMEZ: How do the neighbors want the building
17 switched? You said that you spoke to some neighbors.
18 What is the consensus about where they want the
19 building to go?

20 MS. HERRENBRUCK STRONG: I am only representing
21 the Shaker Drive residents. That's who I was asked to
22 be a spokesperson for. The rest of them have to weigh
23 in on this.

24 CHAIRMAN STUTO: How about those folks?

25 MS. HERRENBRUCK STRONG: Yes, those folks want it

1 changed.

2 CHAIRMAN STUTO: Are you saying that there are two
3 curb cuts on Albany Shaker Road the way you are
4 proposing?

5 MS. HERRENBRUCK STRONG: Yes.

6 MR. LACIVITA: No, that's not allowed by Albany
7 County.

8 MS. GOMEZ: You're saying that Albany County won't
9 support two curb cuts?

10 MR. TENGELER: No, Albany County won't support two
11 curb cuts.

12 MS. HERRENBRUCK STRONG: There are no variances
13 that could be granted by Albany County?

14 MR. TENGELER: It's up to them. It's their
15 roadway.

16 MS. DALTON: Every time you put a curb cut, you
17 add another area of difficulty in crossing in that
18 traffic. I just wanted to point out that with regard
19 to granting a waiver, I've been on the Board several
20 years. When banks appear in front of us, we typically
21 grant the waiver for the perimeter to be driven around
22 because of exactly that issue. If you've got people
23 coming in, you want them to get back out without having
24 to back out and go back around.

25 MS. HERRENBRUCK STRONG: It's important to

1 understand that this is very densely populated between
2 parking spaces, the egress of the parking lots --

3 MS. DALTON: I agree with you with regard to the
4 parking spaces at the end. As Joe said, I think that
5 those should be eliminated because you make a very good
6 point that when people are pulling in and out, they're
7 in harms way. Even with regard to getting in and out,
8 I know how busy it is there. I think that giving a
9 little extra space there is a very good idea.

10 MR. AUSTIN: Ma'am, I think that you also have to
11 understand and the residents have to understand that
12 we're talking about trip generation, which is the
13 projected number of cars going in and out that would be
14 impacting this particular development. It sounds like,
15 from what we're hearing, there is a steady flow of
16 traffic of all day and all night. It's not. You're
17 talking about people going to the bank here and there,
18 going to the offices for a working day at the office.
19 I don't think that there are going to be as many
20 people, especially in the nighttime hours when we're
21 talking about lights leaking over. Maybe in the
22 wintertime when it gets darker earlier, potentially
23 with the fence and the berm and the trees, you're not
24 going to see much. That's my layman's opinion. I'm
25 looking at this as someone who is not vested in this

1 property. I don't live next to it and I don't know
2 much about it. I know that it has been undeveloped
3 over the years and that's a nice thing to have
4 undeveloped property in back of you. I have many acres
5 in the back of me that are undeveloped too, and I don't
6 want them developed. I can understand that. But this
7 gentleman has the right to develop his property. He's
8 doing it in an appropriate way and he's listened to the
9 residents. He's reduced the size. It could be a
10 30,000 square foot building and now it's down to a
11 smaller building. We're looking at all these waivers
12 and a lot of the stuff that is coming up really doesn't
13 apply to what we are talking about tonight. Once
14 again, we like your opinions and we really listen to
15 the concerns, too.

16 MS. HERRENBRUCK STRONG: I do think that the
17 building orientation is directly on point and it leads
18 to all of this stuff. If that wasn't happening, this
19 wouldn't all be required.

20 MR. AUSTIN: You're still going to have two
21 buildings; one building in the front and one building
22 in the back. I don't know if that's going to look any
23 better or potentially worse.

24 MS. HERRENBRUCK STRONG: I'm not arguing that and
25 I don't think that anyone here is arguing the two

1 buildings. Maybe some are, but the people that I
2 represent are not arguing that. What we're trying to
3 do is just point out the benefits and concerns. I
4 think that you would agree with me that with the
5 data -- which hasn't been shared with the residents,
6 and assuming that what you're saying is true and I have
7 no reason to doubt that. Would you also agree that
8 this is going to cause more congestion and pressure on
9 that opening?

10 MS. DALTON: Any development will cause pressure.
11 Again, he has the right to develop his property and you
12 can get a convenient store there; 24/7. You could get
13 a Burger King. There are a whole lot of things that
14 they could put there that could be much more traffic
15 producing and much more noise producing and much more
16 smell producing and much more difficult for the
17 neighbors to deal with. Mr. Farracane would have a
18 right to do that, if he desired. As I said, we've seen
19 this a number of times. I'm not sure why the neighbors
20 that you are representing only just came to know about
21 this project because we have talked to people about it
22 before. This project has changed considerably. Moving
23 things away from the neighbors and orientating the
24 buildings in this way are things that in the past have
25 been considered very positive for the neighbors. So, I

1 think that part of what you're hearing here is a little
2 frustration on our part because we've done all this
3 work to accommodate people and then all the sudden
4 people are saying well, they want it essentially back
5 the way that it was when it first came to our
6 attention.

7 MR. TENGELER: Kathy, I'd just like to comment as
8 to the building orientation. Originally this was a
9 7,770 square foot building and it's been downsized to a
10 4,550 square foot building.

11 CHAIRMAN STUTO: The front building?

12 MR. TENGELER: Yes, the front building. If you
13 were to take the front building and orientate it
14 frontwards, I believe that you are in violation of the
15 zoning setback which says that you have to have a
16 building 100 feet from the property line, which is now
17 125. That's where the rationale came from as well to
18 orientate the building.

19 MS. HERRENBRUCK STRONG: This is a very difficult
20 lot to design. There is no question about that.

21 CHAIRMAN STUTO: Whose problem is that, Mike? If
22 he can't meet the setback and we don't grant the
23 waiver, then it's the developers problem.

24 MR. LACIVITA: But on the same side peter, as you
25 know perfectly well, Albany Shaker, Route 9, Route 2,

1 Route 5 are controlled by agencies that have access
2 management plans throughout their development process.
3 If we move, as you first talked about an access point
4 to the other end and we moved the building closer to
5 that way, you don't have the site distance clearance
6 between what is currently existing at the tailor,
7 versus this. So, Albany County says that we want to
8 see the access point to this moved east of that to the
9 furthest side of the site. It has done that. You
10 moved the building differently and now you're opening
11 up the cars to go around the bank. You have the teller
12 noise and I think that the way that this is designed is
13 truly going to protect the integrity of the single
14 family residencies based on the buffering that is going
15 to be provided on this. The site has constraints, but
16 we're also constrained by what is dictated by Albany
17 County as to access management. You can't move
18 anything closer. They're not going to be the
19 permitting agency that is going to allow it.

20 MR. TENGELER: There are a number of curb cuts
21 along Albany Shaker, so really in the review for this
22 project they're picky about where the curb cut is.

23 MR. CAPONERA: It's the use of an existing curb
24 cut. Remember we lost sight of the fact that this is a
25 development of a previously commercially used property

1 and the curb cut is in the exact same location as it
2 was. I'll also mention for the record that we talked
3 to the property owner that's most effected by this; Mr.
4 Ferrigan, who is in support of the way that the
5 building is laid out. His property is directly
6 adjacent to this piece. If the Board wants a letter
7 from Mr. Ferrigan, we can supply that.

8 CHAIRMAN STUTO: Is he related to the developer?

9 MR. CAPONERA: It's Ferrigan and not Ferracane.
10 This is no relationship.

11 MS. HERRENBRUCK STRONG: There was not a
12 drive-thru lane in the previous -

13 MR. CAPONERA: I spoke to the curb cut. That's
14 what I was talking about.

15 MS. HERRENBRUCK STRONG: The reason that this is a
16 concern to me is because of the intersection of the
17 drive-thru and the parking.

18 MR. LANE: In relation to parking spaces closest
19 to the exit, what would the developer think of
20 eliminating those two?

21 MR. ESPOSITO: That's no problem. If they want to
22 lawn, but that is a controlled intersection with a stop
23 sign at the bank exit.

24 MR. LANE: I think that it more has to do with
25 people backing up.

1 MR. ESPOSITO: We did look at that, but I did take
2 a look at that but I don't have any problem putting
3 greenspace there.

4 MR. CAPONERA: But the Board is concerned.

5 MR. LANE: It's a thought and it's something to
6 consider.

7 MR. CAPONERA: It's not a problem.

8 CHAIRMAN STUTO: Okay, let's get through the
9 neighbor's comments.

10 Betty Ann Coughlin.

11 MS. COUGHLIN: I didn't sign up to speak, but I
12 didn't hear of any meetings regarding this whole thing.
13 People keep saying up on the Board there that this was
14 two or three years ago talked about. I've lived here
15 all my life and I never heard about it. I'm just
16 hearing about it within the last three weeks. I didn't
17 know that - this is all residential, and now it's
18 commercial. Now, we have to listen about barriers and
19 trees. What are the residents suppose to do? They
20 have to adjust to commercial all the time?

21 MR. LACIVITA: Historically, the zone has been
22 commercial. It's always had commercial activity, no
23 matter where you look at it.

24 MS. COUGHLIN: There are residential homes there.

25 MR. LACIVITA: If you look at the way that the law

1 is written and NCOR which is
2 neighborhood/commercial/residential -- four particular
3 uses that you could have in this zone. That could
4 actually be a mixed-use property. You could have
5 retail on the first floor and you could have
6 residential up above. Again, you're looking at what
7 the density is that is going to be used on this
8 property as it currently exists. As Mr. Caponera
9 talked about, the true density on this property is
10 about 30,000 square feet. It's been downsized. We
11 first talked about this project in may of 2011 under a
12 sketch plan.

13 MS. COUGHLIN: None of us ever heard about it.

14 MR. LACIVITA: Our sketch plan process is not a
15 public hearing. When it comes to public hearings, when
16 you have a concept application based on the Land Use
17 Law application process, and it never got that far
18 because the applicant heard the concerns of this Board
19 and downsized the project.

20 CHAIRMAN STUTO: Didn't you say that there was a
21 prior meeting, though?

22 MR. LACIVITA: There was a prior meeting when he
23 just went through the concept phase on the first time.

24 MS. COUGHLIN: There was nothing posted on any of
25 the trees.

1 MR. LACIVITA: It would have been just on this
2 property and the notification process is 200 feet
3 within the boundary of that zone.

4 CHAIRMAN STUTO: Within 200 feet, you get a
5 mailing. The property is placarded and they publish a
6 notice. That's the general notification. That was
7 done when?

8 MR. LACIVITA: May of 2011, or sometime in that
9 time frame.

10 MS. MEEK: I've been a resident since 2006 and
11 I've received no notices. This is the first time that
12 I've received a notice and I was one of four residents
13 that are impacted that received this notice.

14 CHAIRMAN STUTO: We'll have to check the record on
15 that.

16 MS. MEEK: Please do.

17 MR. FERRACANE: I'm sorry, Mr. Chairman, I can't
18 let this go. I personally delivered them. I got out
19 of my truck and I personally delivered to 3, 5, 7 and
20 9. In every instance that we had to come in front of
21 this Board - every instance.

22 CHAIRMAN STUTO: We'll check our records. We
23 should have an affidavit on file.

24 MS. COUGHLIN: I never ever received one.

25 MR. FERRACANE: Where do you live?

1 MS. COUGHLIN: I live on the corner of Albany
2 Shaker Road and Shaker Drive.

3 CHAIRMAN STUTO: Are you on the other side of
4 Shaker Drive, ma'am?

5 MS. COUGHLIN: I'm on the other side -

6 CHAIRMAN STUTO: Sir, you have to address the
7 Board. You're not helping your case. You can't talk
8 to her. You talk to us when it's your turn.

9 Yes, ma'am.

10 MS. COUGHLIN: Also, I'm just saying that we never
11 heard about it. Two weeks ago, I heard about it and
12 now all of the sudden residents have to adjust what was
13 commercial before -

14 CHAIRMAN STUTO: There were commercial businesses
15 on there. We're here now. That's why we're here.
16 We're talking about it and we're listening. How much
17 notice do you want?

18 MS. COUGHLIN: It was residential and then it was
19 made into commercial, right?

20 CHAIRMAN STUTO: I don't know when it was
21 residential.

22 MR. LACIVITA: It was never residential. It was
23 always commercial.

24 MR. CAPONERA: It's never been residential. It
25 was Business E and then it went to NCOR.

1 MS. COUGHLIN: But there are residential homes
2 there.

3 CHAIRMAN STUTO: The buildings that were knocked
4 down were not residential. Well, it's Albany Shaker
5 Road and it's zoned for this, ma'am, at least up to the
6 airport and beyond. It's been commercial as far as our
7 recent history.

8 MS. COUGHLIN: At a certain distance, it was, yes.
9 What about all the residents? We all have to
10 adjust to all this now.

11 CHAIRMAN STUTO: The Planning Board and the
12 Planning Department is trying to mitigate the impact on
13 the adjacent properties. That's why we're here talking
14 about it. This gentleman has said that he's owned it
15 for 31 years and he's been paying taxes. Whether he's
16 derived revenue on the other buildings, we're not sure.
17 It's his property and he's entitled to developer it
18 within the rules. Part of that process, in this case,
19 is to have a hearing, because there are waivers being
20 considered. That's why we're here today. Do you have
21 to adjust? Whatever ultimately goes there -- if it
22 requires adjustment, I guess that you have to adjust.
23 I'm not minimizing your comment.

24 What specifically don't you like and what
25 could be made to improve it? They are entitled to

1 put something there.

2 MS. COUGHLIN: I understand that now but what
3 impact is it going to have on the residents?

4 CHAIRMAN STUTO: That's for you to judge based on
5 what you heard tonight.

6 MS. COUGHLIN: I just wanted to raise that
7 question.

8 CHAIRMAN STUTO: Thank you.

9 Would anyone else like to be heard?

10 MS. HERRENBRUCK STRONG: I can't take off my life
11 long career.

12 CHAIRMAN STUTO: What organization was that?

13 MS. HERRENBRUCK STRONG: The Extruded Polystyrene
14 Foam Association and the Society of Plastics Industry.

15 CHAIRMAN STUTO: Is that a state association or a
16 national?

17 MS. HERRENBRUCK STRONG: National.

18 CHAIRMAN STUTO: Where are you located?

19 MS. HERRENBRUCK STRONG: Washington DC.

20 CHAIRMAN STUTO: What is your background? Is it
21 technical or engineering?

22 MS. HERRENBRUCK STRONG: Actually, it's not.
23 It's advocacy and labor law.

24 CHAIRMAN STUTO: You picked up a lot of the
25 technical stuff along the way.

1 MS. HERRENBRUCK STRONG: Exactly. You don't spend
2 20 years without picking that stuff up.

3 Any time that you're granting one more
4 variance, then the variance become the standard
5 and the standard loses its meaning. I know that
6 you're all well aware of it. Whatever standards
7 are promulgated, they have to be enforced
8 consistently. They're on the back end. I was
9 just trying to raise the comments in terms of the
10 variances and everybody sort of got sidetracked
11 with those issues, but I would just encourage this
12 not in just this issue but in all the issues that
13 this Board is empowered and does a really great
14 service for this community and I applaud you all
15 for doing that. Always be mindful that the more
16 variances that you grant, the more precedences
17 that you're setting and the weakening of the
18 standard is the result. I'd just like to say
19 that.

20 CHAIRMAN STUTO: Yes, sir.

21 FROM THE FLOOR: They were offering if somebody
22 wanted to buy a house near Osborne and also one of the
23 houses above it. The concern was the land above
24 Ferracane - and the access to it -

25 CHAIRMAN STUTO: I'm not exactly sure I understand

1 what you're saying. You're saying a public roadway or
2 driveway?

3 FROM THE FLOOR: They were talking about offering
4 money to build a road over Osborne and the land above
5 them - those woods were developed then they would have
6 access to the Ferracane property.

7 CHAIRMAN STUTO: We don't know about that. They
8 were also saying that Rite Aid owns that. I don't know
9 how to address that.

10 MR. CAPONERA: We don't see anything in the cards
11 to link Pat Ferracane's property to anything above
12 that. There really isn't enough room. I see that the
13 dumpster in that area and it's a masonry enclosed
14 dumpster along with the building and the parking. I'm
15 not really sure if it's practical. We already have a
16 side connection to the existing cleaners. Really, the
17 county's concerns of having a proper access management
18 is already being met. I don't think that it's
19 something that the Planning Department is recommending
20 or sees in the cards when we're looking at this.

21 CHAIRMAN STUTO: Okay, any other comments from the
22 public?

23 (There was no response.)

24 CHAIRMAN STUTO: Okay, somebody is going to have
25 to help direct what actions to take. Does the Board

1 want to make any other comments or questions?

2 MR. AUSTIN: I'd like to make a comment to the
3 public. We've been assigned a responsibility to
4 examine and review this project for the applicant and
5 also the public. That's why we're here. We have seen
6 many project before us. Mr. Caponera here has been
7 advised by us many times to turn the building this way
8 or that way. He has done that. In looking at this
9 particular plan, my opinion is that they have really
10 done their due diligence and gone with what is
11 accessible and what they should do with this particular
12 plot. I think that you're hearing that echoed for
13 other Members of the Board. The other members can
14 certainly say how they feel about it. We appreciate
15 your comments. We're not dismissing them by any
16 stretch of the imagination, so please don't think that
17 we are. We're also looking out for what the applicant.
18 That's our job and that's why we're here. Please
19 understand that. We have heard your concerns. A lot
20 of them didn't relate to what we have to do tonight,
21 but we appreciate your concerns. Thank you for coming
22 out.

23 CHAIRMAN STUTO: Anybody else?

24 (There was no comment.)

25 CHAIRMAN STUTO: I'll make my comments.

1 I think that it was good that the neighbors
2 got all their issues out. Some of them, I think,
3 are addressed. I'm not 100 percent convinced all
4 of them are.

5 We're being requested for three waivers.
6 Pushing the building back - speaking for myself I
7 have no issue with that. I think that it more
8 reflects that general corridor and how it should
9 be. I don't think that the tailor shop - it looks
10 out of proportion in how close it is to the road.
11 So, pushing the building back is not a problem
12 with me.

13 I don't know if I really like the pavement in
14 the front. I may be in the minority of one when I
15 say that. Although he is entitled to the use of
16 the bank, he's not entitled, necessarily, to have
17 pavement in the front for circulation. I'm not
18 necessarily in favor of that waiver. We don't
19 have the benefit of a professional engineer to
20 give us alternatives on this.

21 The orientation of the building - I don't
22 think that the front looks great. That's facing
23 Albany Shaker Road. I'm not convinced that's a
24 great waiver either. If we had the benefit of
25 alterative designs and a different twist to it,

1 we're only presented with one alternative and I'm
2 not thrilled with the way that looks. It doesn't
3 look like a front ordinated inviting building.
4 I'm comfortable with the one waiver, but I'm not
5 necessarily comfortable with the other two. I
6 don't know if we have written findings in front of
7 us that we're supposed to have.

8 MS. DALTON: Peter, there is another time at which
9 we are going to comment on the elevations and all that
10 other stuff, right?

11 MR. LACIVITA: This is strictly for the waivers
12 that are here tonight because during the process, Mike
13 was working with the developer as to the design
14 standards and the uses of materials and things like
15 that.

16 CHAIRMAN STUTO: It's a redevelopment so it's
17 handled by staff.

18 MS. DALTON: I see. So, we're stuck with that
19 front facade?

20 MR. LACIVITA: I don't know if stuck is the right
21 word.

22 MR. CAPONERA: We've modified it multiple times in
23 listening to this Board and asking us to modify it.

24 CHAIRMAN STUTO: Have we ever seen a bank before?

25 MS. DALTON: No.

1 MR. CAPONERA: Remember that the last time that we
2 were here -

3 CHAIRMAN STUTO: I recollect two office buildings.

4 MR. CAPONERA: In October of 2011 there were two
5 7,700 square foot buildings. So, this is the first
6 reduction of the size. Again, this Board just recently
7 granted the exact same waiver for the Crisafulli
8 project just less than a quarter of a mile away.

9 MS. DALTON: My reservation is not with the
10 waiver. It's with the front facade which is not what
11 we are voting on today. Now, I have come to understand
12 that we really don't have a say in it.

13 CHAIRMAN STUTO: It does impact the orientation
14 waiver. You're twisting it.

15 MR. CAPONERA: If the Board has concerns, we'd be
16 happy to work with you. I thought that it was a pretty
17 good design change in where it was.

18 MR. TENGELER: If I recall the sketch plan, I
19 think that the top right elevation was distributed back
20 in 2011 or 2012 at the sketch plan representing to kind
21 of float the balloon to the Planning Board to gage the
22 comfortability of the Planning Board.

23 CHAIRMAN STUTO: That was a year and a half ago
24 and I don't remember too much. The one to the right?

25 MR. TENGELER: It's the same facade. This newer

1 one is a little closer and a frontward orientation
2 where this was kind of shot to the side.

3 MR. CAPONERA: We can change the boards up here.
4 Your department wanted this to look more -

5 MR. TENGELER: Break up the materials.

6 MR. CAPONERA: And more in keeping with the NCOR
7 design standards.

8 MR. TENGELER: The pitched roof and the parapet
9 and the canopies and the break up of materials, the
10 stone on the sides - they're all consistent with the
11 NCOR design standards. That was one thing as far as
12 building architecture, it's in complete conjunction
13 with the NCOR design standards with the exception of
14 the building orientation, in terms of architecture.

15 MS. DALTON: But Peter does make the point and
16 it's a good one, that when you change the orientation,
17 it makes the side elevation more important. I'm
18 thinking Rumors now where we just said, put an awning
19 and a door or something that looks like a door, even if
20 you don't use it.

21 MR. CAPONERA: Which can be done. We don't have a
22 problem with that.

23 MR. LACIVITA: I have a quick question for you.
24 When you use brick, you know that you have to use a
25 bigger foundation. I'm not trying to design your site

1 or staying, but if this went to more of situation where
2 you had regular construction practices and to make it
3 look like the Berkshire Bank or something like that,
4 you could actually have a false facade made very easily
5 and save money in construction practice. Do the
6 buildings have to look identical? Do they have to be
7 bookends? Can you have something else within there to
8 maybe have a neighborhood feel in the front and have a
9 different look in the back? I just throw that out
10 there.

11 MR. CAPONERA: That's a good point.

12 MR. ESPOSITO: It's a flat roof building, Joe. We
13 could do a facade. That end facade could be the more
14 centered gable. Pat had an input that originally it
15 had a double turret and then the bank got involved and
16 then we stopped with that end cap. Structurally, they
17 were a pair and that was a book end theme. We did go
18 over the colors, but if the facade stands and the
19 turret is gone and maybe shift it to the center, we
20 could have any one of those canopies become door
21 storefronts. We would just keep it locked because of
22 the driveway exit.

23 MR. LACIVITA: You're putting that false entry
24 into an exit lane.

25 MR. ESPOSITO: There are full height windows that

1 do appear to be doors.

2 MR. CAPONERA: It can be done. That's not an
3 issue.

4 MR. TENGELER: Is there anything in particular
5 that the Board would rather see.

6 MS. MILSTEIN: I just have a basic question. What
7 makes this project a redevelopment, as compared to
8 something that comes before the Planning Board?

9 MR. LACIVITA: In around 2011 when we were
10 starting to see a lot of project that were going
11 through the major process, the Supervisor wanted to
12 look at how she could be proactive to development of an
13 existing site. The key components to the redevelopment
14 was the demolition of an existing building and the
15 improvement of the infrastructure coming in such as a
16 new building and so on. Those were the key components
17 of the redevelopment process. We looked at the size of
18 the building and we just looked at the overall lot size
19 and where it sat. Those were kind of the key
20 components when we looked at the redevelopment of the
21 process. The Town Board looked at it and our Land Use
22 Law Review Committee looked at it and they came up with
23 the criteria that came into this redevelopment process.
24 Again, the only time that it ever came to a Planning
25 Board was specific to waivers because the Planning

1 Department has the capability to adhere the Land Use
2 Law, based on the standards that we have to uphold, as
3 well.

4 MR. CAPONERA: Very well put. The long story
5 short is that we don't have a fundamental issue with
6 modifying the front to put a store front there and
7 change it. I don't think that we're married to the
8 idea that they have to look like bookends. I think
9 that was a good point that Joe brought up about making
10 it a little more residential.

11 MR. GENTHER: If you could more approach the
12 appearance of the homes in the neighborhood, it would
13 be less jarring. I think that one of the things that
14 people are reacting to is timewise, this is a bit of a
15 surprise. The neighbors feel like we've been brought
16 into this too late in the game to have any real input.
17 The other thing is that it doesn't look like my home or
18 anybody else's. Quite honesty, that would look very
19 dated in 10 years from now. You'll be able to look at
20 that 10, 20, or 30 years from now and can tell the year
21 that it was built. I think that the developer would be
22 well advised to doing more traditional.

23 CHAIRMAN STUTO: You like across Albany Shaker
24 Road where the insurance building is? Do you like that
25 type of look better?

1 MR. GENTHER: Yes, it's more colonial.

2 CHAIRMAN STUTO: I agree with you.

3 MR. AUSTIN: I agree with you, too.

4 MR. GENTHER: It's my own personal opinion. It
5 will get to a point where people will look at it and
6 they'll know what year it was built.

7 MR. AUSTIN: We're seeing a lot of projects come
8 into the Town, for example the Stewarts redesign and
9 even the Cumberland Farms that you saw earlier in the
10 meeting where they have that colonial feel. They have
11 those dormers and gables. I'm all in favor of that
12 too. I think that aesthetics of the building - it
13 looks very commercial. It's a commercial property.
14 There are many places in the Town where we do have
15 commercial properties where they're starting to look
16 more traditional.

17 MR. GENTHER: To go to the other extreme on the
18 intersection of Osborne Road and Route 9 there is a
19 specialty grocery store. It's been there forever.
20 It's very old and traditional looking building. People
21 ride by it and say, that looks nice.

22 MR. AUSTIN: There is a big project going in where
23 Hoffman - where the driving range was. The
24 presentation that they gave us - that is spectacular.
25 It's kind of Williamsburg colonial feeling.

1 MR. GENTHER: I think that the developer would be
2 well served to be looking in that direction. I'm not a
3 developer by trade, so my advise means nothing.

4 MR. AUSTIN: No, it doesn't. That's not true at
5 all.

6 CHAIRMAN STUTO: I think a more residential look
7 or a transitional.

8 MR. GENTHER: I think that subconsciously that's
9 why a lot of the people here are concerned with. I
10 just don't think that it looks like it belongs there.
11 There are other buildings near that which don't look
12 like they belong there.

13 MR. CAPONERA: I'd like to show you a drawing
14 that Ed Esposito just drew up. With all due respect to
15 the other Members I must show it first to the Chairman.
16 I think this goes to what you were saying.

17 MS. DALTON: I do like that better.

18 MR. CAPONERA: It's the same footprint.

19 MR. AUSTIN: Is that something that the developer
20 is amendable to?

21 MR. FERRACANE: Yes.

22 CHAIRMAN STUTO: Do you have an elevation for the
23 building which is now the right side or the east side.

24 MR. ESPOSITO: I thought that we submitted the
25 plan.

1 MR. TENGELER: It's in the packets.

2 MR. CAPONERA: Is the building that Crisafulli is
3 doing - is that going to look more residential?

4 MR. LACIVITA: If it's the Berkshire Bank, they're
5 using the traditional look.

6 MS. DALTON: What location is that?

7 MR. CAPONERA: Crisafulli owns property at the
8 intersection of Albany Shaker and Everett Road. This
9 Board approved a bank that is being constructed as we
10 speak and it has these exact waivers. It's got the
11 driveway that runs through. I don't know what the
12 elevation of that is. I didn't know if it looked more
13 like what we were suggesting here or not. The bottom
14 line is that we don't have a problem with the redesign
15 of this to make it look more colonial, similar to what
16 was shown.

17 MR. GENTHER: If you go into the more wealthy
18 towns or areas, the buildings that they design are the
19 colonial tradition.

20 CHAIRMAN STUTO: Are we agreeing that we're going
21 to come back? I don't want to override what this Board
22 thinks either.

23 MS. DALTON: I'm prepared to vote for the waivers
24 with the provision that the design of the building be
25 more consistent with what we discussed. The front

1 building, that is. So, ladies and gentleman of the
2 Board, that's my position.

3 MS. GOMEZ: I feel comfortable with the position.

4 MS. DALTON: We've granted these waivers, as Mr.
5 Caponera says. With all due respect, Peter, we've been
6 in these positions where we have talked about not
7 allowing full ring around the building with banks and
8 we're never happy with those designs because it always
9 puts people in the he way of other people because the
10 traffic has to back up one way or the other.

11 CHAIRMAN STUTO: Well, they're not necessarily
12 entitled to it.

13 MS. DALTON: I understand that they're not
14 necessarily entitled to it. I remember very well the
15 first time that Is aw this project with the two giant
16 office buildings that were really ugly and way too big
17 for this space, as far as I'm concerned. I think that
18 I was pretty vocal in that I didn't like it for the
19 space for the neighborhood. With all due respect to
20 the neighbors, this is a huge improvement on what was
21 originally proposed and what you could be getting in
22 this space. For those of you who spend any time here,
23 you'll know that my neighborhood was just put in a very
24 similar position and my neighbors came out, and I
25 rallied them all and we complained about the notice and

1 we did exactly what you're saying. We were able to get
2 marginal changes that improved the safety and the noise
3 and the screening and the appearance. They were
4 essentially the same changes that I asked for on this
5 site, I asked for the site that effected my own
6 neighborhood. I think that given what they are working
7 with, they have done a very good job. It's not that I
8 haven't heard you, and it's not that I don't care. If
9 you read the transcript from the last time, you'll see
10 that I said, "Did you talk to the neighbors? What did
11 they think? This is too big. I still don't like it."
12 This is much better than it's been. I think that it's
13 a good plan. We've given these waivers to other
14 people, and you could do a whole lot worse than what
15 you're doing right now. That's how I feel about it.

16 MR. GENTHER: I think that if the neighborhood was
17 brought into this earlier, it would saved everybody a
18 lot of time, money and aggravation.

19 MS. DALTON: I have voiced on more than one
20 occasion that I think that the provision of Town Law
21 for notice should be expanded.

22 MR. LACIVITA: And it has been adopted.

23 MS. MILSTEIN: I think that is a real sensitive
24 issue right now.

25 MS. DALTON: Absolutely. I completely understand

1 and as I said, my neighborhood just went through it
2 exactly the same fire drill just several months ago.
3 I'm on the Planning Board, but at one point we had to
4 do an e-mail chain to everybody in the neighborhood to
5 make sure that everyone knew.

6 FROM THE FLOOR: I think that part of the
7 sensitivity came because the proponents said that they
8 had worked with the neighbors and it was clarified with
9 some of the things in the he transcripts, but there
10 were others that had no discussions with the neighbors.

11 MS. DALTON: And the person on the corner. But as
12 I said, we did walk through the screening and the berm
13 and all of that came out of those conversations.

14 I make a motion that we pass the waivers, as
15 described with a caveat, or provision, or
16 condition that the facade in the front of the
17 building be made to be more consistent with the
18 neighborhood.

19 MR. CAPONERA: That is evidenced by the document
20 that Mr. Esposito, who is an architect, is passing
21 around. I'd like you to take a look at that because he
22 did this in a moment that we were talking. The
23 likeness is similar to the design that is being passed,
24 which is a colonial design. You can put that in the
25 record and keep it.

1 MS. GOMEZ: Second.

2 CHAIRMAN STUTO: Any discussion?

3 (There was no response.)

4 CHAIRMAN STUTO: I'd like to add my comments. I'm
5 going to vote no on this, respectfully. I would have
6 preferred another meeting to think about it with the
7 circulation in the front and the pavement in the front,
8 as well as the orientation of the building.

9 That said, any other comments?

10 MR. AUSTIN: I have a concern with the fact that
11 now that we've gone from bookended buildings to
12 colonial building and a very commercial looking
13 building in the back, which as one of the residents
14 said that in 10 years, it will be dated.

15 MR. ESPOSITO: We'll have it in keeping with that
16 theme. I got misinformation. We could do colonial on
17 both, but we never consulted about the theme of the
18 building. The owner had selected this look. The front
19 goes with that theme and it is NCOR and we can respect
20 that.

21 MR. LACIVITA: And the building material choices
22 you use on the front building, you can carry to the
23 back. We'll work with the developer on that.

24 MS. DALTON: I feel confident that the staff, now
25 that they have heard our concerns, will continue to

1 work with you towards that end.

2 MR. AUSTIN: I wouldn't want two completely
3 different buildings.

4 MR. CAPONERA: You don't have to worry about that.
5 It will be consistent.

6 CHAIRMAN STUTO: Any other comments?

7 (There was no response.)

8 CHAIRMAN STUTO: All those in favor say aye.

9 MS. DALTON: Aye.

10 MR. AUSTIN: Aye.

11 MS. GOMEZ: Aye.

12 MR. LANE: Aye.

13 CHAIRMAN STUTO: All those opposed?

14 I'd like to be recorded as saying no.

15 MS. MILSTEIN: I, as well.

16 MR. LACIVITA: This is on all three waivers or
17 one?

18 MS. DALTON: My motion was for all three.

19 MS. VAIDA: What about the fenceline? This is
20 with the fence pushed back?

21 MR. LACIVITA: That's not part of this.

22 CHAIRMAN STUTO: Motion passes; four to two.

23 MS. MILSTEIN: I would kind of like to give my
24 reason. At this point, I would love to see that the
25 developer works with the neighbors and all their

1 concerns. One of the reasons that I voted no was that:
2 Is there no practical alternative? Possibly it's
3 because I'm really hearing this project for the first
4 time and whether the non frontwards building
5 orientation was satisfactorily addressed. I would
6 encourage that you work with the neighbors.

7 MR. CAPONERA: Thank you, very much.

8

9 (Whereas the proceeding was concluded at
10 10:55 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 May 20, 2013

