

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

4 SHAKER COMMONS CEDARVIEW
5 6-14 CEDARVIEW LANE
6 SITE PLAN REVIEW AS CONDITION OF
7 VARIANCE PERMITTING FIVE-UNIT
8 APARTMENT BUILDING

9 *****

10 THE STENOGRAPHIC MINUTES of the above
11 entitled matter by NANCY STRANG-VANDEBOGART, a
12 Shorthand Reporter, commencing on June 4, 2013 at
13 7:31 p.m. at The Public Operations Center, 347 Old
14 Niskayuna Road, Latham, New York

15

16 BOARD MEMBERS:

17 PETER STUTO, CHAIRMAN

18 LOU MION

19 BRIAN AUSTIN

20 TIMOTHY LANE

21 SUSAN MILSTEIN

22 KATHY DALTON

23

24 ALSO PRESENT:

25 Joe LaCivita, Director, Planning and Economic Development

Michael Tengeler, Planning and Economic Development

Paul Rosano, Town Board Member

Ed Esposito, Monarch Development

Ann Gunning

John Hodgekinson

Joe Ross

1 CHAIRMAN STUTO: We'll bring the meeting back to
2 order.

3 We will call up the next project; Shaker
4 Commons - Cedarview, 6-14 Cedarview Lane. This is
5 a site plan review as a condition of variance
6 permitting a five-unit apartment building.

7 Joe, you want to tell the history of how it
8 got here? I know that you and I discussed it on
9 the phone.

10 MR. LACIVITA: This project was actually approved
11 in October of 2009 and has had subsequent extensions
12 since then. It was approved in the same format that
13 you're currently seeing today. It was approved as a
14 condominium project; five units and nothing more and
15 nothing less. It received its extensions along the way
16 over the years because of the economy and because this
17 project could not be taken to a market as a condominium
18 project, the number of units were there to make it
19 financially feasible.

20 Mr. Hodgekinson has been involved with the
21 project since the onset, as well as Ed Esposito.
22 They are here tonight to reaffirm the approval
23 that they had, but do a site plan amendment to it
24 because they're looking to convert this project to
25 apartments as they have an interested developer in

1 mind to bring the project to fruition. Again, no
2 increase in density. It's the same exact site
3 plan layout. Again, it's that use of the
4 apartment versus the condominium.

5 CHAIRMAN STUTO: Okay, correct me if I'm wrong on
6 this because this is the part that I focused in on when
7 we had our conversation. This is single family zoning,
8 correct?

9 MR. LACIVITA: Yes, it is.

10 CHAIRMAN STUTO: They did receive a variance from
11 the Zoning Board of Appeals. That's in our package.

12 MR. LACIVITA: Correct.

13 CHAIRMAN STUTO: The original one allowed five
14 units, but they had to be condos.

15 MR. LACIVITA: Correct.

16 CHAIRMAN STUTO: One of the conditions is that it
17 would be subject to site plan review.

18 MR. LACIVITA: Correct.

19 CHAIRMAN STUTO: Which it normally would because
20 of the size. It wouldn't meet the threshold for major
21 site plan review. It's the condition of the variance.
22 Then they went back to the Zoning Board of Appeals
23 because they wanted to go to apartments. Similar to
24 the first time that they got their variance, they set
25 forth three conditions. One of which is site plan, and

1 that's why we're looking at it now.

2 MR. LACIVITA: Correct. That's why we're looking
3 at it tonight to affirm the variance that was received
4 and again, it's no change from that initial variance
5 that was received in '05 and it was reaffirmed by the
6 Zoning Board in 2013, just a few months ago.

7 CHAIRMAN STUTO: Okay, I'll turn it over to the
8 applicant and please start with this as though we know
9 nothing at all. I don't think that it's been before us
10 in quite awhile, and I don't recall seeing this.

11 When is it that they were before us last?

12 MR. LACIVITA: Four years total - throughout the
13 departmental review. The last extension was October of
14 2011 bringing it to 2013.

15 CHAIRMAN STUTO: When was the last time that we
16 saw it as a site plan review?

17 MR. LACIVITA: In early 2009 when we did it as a
18 full site plan review at that time.

19 Ed, if you could also talk about the
20 stormwater. It hasn't changed in that along the
21 way.

22 MR. ESPOSITO: Yes, and we did submit the
23 stormwater. That was a key feature to the site plan.
24 It was a project that was looked at. It was just
25 barely under the threshold for a SWPPP, which was more

1 than an acre and our disturbed area is less than an
2 acre, but we had agreed very early on with John Dzialo
3 and Colonie engineering to do a SWPPP which is post
4 construction and monitor the ground water so that each
5 building in a sense has a SWPPP pond with the Wild
6 Iris. There is a whole detail of water loving plants
7 and filtering plants that will discharge the roof via
8 the gutters and down spouts and the sump pump footing
9 draining in and out of the building to these ponds,
10 because it's part of a larger network down stream
11 through the existing Cedarview Lane to the Shaker
12 Commons project. We meter and monitor our roof and
13 site run-off from all the pavements. They are piped
14 directly to an overflow and an easement was granted by
15 the adjacent property owner of Shaker Commons.

16 There was a lot of work of merging three
17 properties of the Hodgkinsons' and doing a
18 controlled overflow of the stormwater easement.

19 Latham Water wanted one tap per building.
20 That has not changed. Pure Waters wanted a sewer
21 tap per unit, so there are five separate sewer
22 connections from each unit. So, it was fine and
23 organized as a standalone building. The only real
24 difference from having a homeowners association
25 monitor the development - this is the look of the

1 unit. Barbera Homes - it's no secret that they
2 are interested, and they did Parkside. That's the
3 same scale and the same look.

4 CHAIRMAN STUTO: Do we have those elevations?

5 MR. ESPOSITO: I have an extra. I thought that
6 you received them. You can see that it's a maintained
7 road by a property management versus the HOA. This was
8 gone over in the variance review. But it's a
9 two-building site with a three-unit building on the
10 other side of the drive. There are two cars in the
11 driveway and two cars inside the building and an extra
12 space for every unit on the site plan that was
13 engineered. The look that we're showing is going to be
14 a little different than what Barbera's standard is.
15 It's a Pennsylvania Dutch stone base. It's white on
16 white. White fiber cement siding with black and gray
17 shutters. That's a very clean look that Parkside has.
18 He's going to do the same units.

19 The marketing plan, I'm told, is united with
20 St. Josephs. So, people who want to buy at
21 Parkside but really can't buy a condo - they're
22 going to sell their home and rent here - he has
23 five interested parties and somehow he has linked
24 up programs with St. Josephs for people that
25 aren't in Shaker Point. So, that's the marketing

1 plan that I've been told. It's the same but a
2 higher end apartment. It's got all the granites
3 and the nice oak floors and lighting fixtures.
4 He's got his own builders spec.

5 I do have floor plans. We submitted them and
6 then it got returned to me from the Building
7 Department. We have to do this - it's essentially
8 the same project. It wasn't a higher end
9 condominium. We did have a history of working
10 through to the approval, we thought, that we were
11 going to be merged into the HOA. John tried to
12 market this on his own. There is a lot of
13 interest, but for five units, as Joe had
14 mentioned, the builders just didn't see the merit
15 to get a homeowners' association through the AG
16 process for just five units. It's the same amount
17 of work for 50 units. This is what I'm told. So,
18 we had good intensions, but now it's an apartment
19 and we did get our variances.

20 It's the same project and I tell Joe that
21 it's just a different type of project. It's a
22 controlled property management apartment project
23 versus the condo. We do need Planning Board
24 approval.

25 MR. LACIVITA: I think that one of the other

1 things - I don't know if the Members had a chance to go
2 by the property, but this is an abandoned property or
3 vacant property, I should say. The property owner is
4 here. It was a former chemical plant that was there.
5 You saw the variance that was in your paperwork, and I
6 can pass these around as well.

7 This is the building that's actually
8 currently exists (Indicating). This is the entry
9 point from Watervliet Shaker that will be shut off
10 during the course of the development which was
11 actually between this house that you'll see. This
12 is the existing view of what comes in to Cedarview
13 Apartments. As a former owner of Cedarview
14 Apartments, I do know that at the time that this
15 was coming through and talked a little bit about
16 the merging of the condo association, the
17 properties were owned by Diamond Realty and it
18 became CYC Realty. I think that's why the
19 faltering of trying to merge into yours fell
20 through. I can show you these just so you can see
21 what's existing.

22 CHAIRMAN STUTO: Are there members of the public
23 that want to be heard on this?

24 (There was no response.)

25 CHAIRMAN STUTO: Board Members?

1 MS. DALTON: It sounds like you're marketing to 55
2 and older. Is that right?

3 MR. ESPOSITO: There is strong interest for 55 and
4 older. In fact, we had a revised the floor plans - the
5 original condo - the first floor is mostly garage. But
6 there is a lot of room for a nice master bedroom suite,
7 an accessible bathroom and a nice open dining open area
8 with a galley kitchen and living room plan. So, that's
9 really the unit. The bonus and attraction for over 55
10 is that they can have their grandkids come up and they
11 have two bedrooms upstairs, which is really unique. I
12 think that we're really onto something here. The first
13 floor plan was three bedrooms up and a huge living room
14 patio -- at the time it was more of a roadhouse style -
15 something very popular that you would see in Saratoga.

16 The original builder that had enticed John -
17 everything was tailor made for them and his market
18 fell out so that changed John's business plan.

19 We have a nice master suite on the first
20 floor that I think that they can do a lot with.

21 MS. DALTON: My only other question is, your
22 original approval, I'm assuming, went through.
23 Somewhere in the process we usually have the neighbors
24 come and talk. We've seen a lot of reluctance on the
25 part of residents to have a change from ownership to

1 apartment style living. So, I'm wondering if you have
2 dealt with any of the neighbors? Has there been any
3 discussion?

4 MR. ESPOSITO: We have some here. We've kept
5 apprised, but we had to do this when we got our
6 variance. To me, there has been no objection. Quite
7 honestly, Barbera runs a class act. It's a beautiful
8 unit. When he says that he's got the market interest,
9 he's selling the same unit for \$380,000 and they want
10 to rent it at \$2,500 a month. He's got five levels of
11 interest here and a good opportunity.

12 MS. DALTON: Essentially, it's been presented in
13 the public at the variance. Folks have already had the
14 opportunity to come in if they wanted to.

15 MS. GUNNING: I live in Cedarview Lane in Shaker
16 Commons; my husband and I do.

17 MR. ROSANO: Can we have your name please?

18 MS. GUNNING: Ann Gunning. I came to this meeting
19 and my husband as well, apprehensive about the switch
20 from condos to apartments. We were very apprehensive.
21 I've been a renter in the past, so I'm not disparaging
22 renters in general. We all know that when there is
23 home ownership that tends to create a more stable
24 neighborhood and so again, very apprehensive about the
25 switch to apartments. If this is indeed going to be

1 marketed toward seniors, as Mr. Esposito was saying,
2 that does sway me toward feeling better about this
3 conversation. I suppose that there is no guarantee
4 that there will be seniors. I know that's what you're
5 marketing to. If it wasn't, I would be back to being
6 very apprehensive about this project.

7 MR. HODGEKINSON: There are two things. At the
8 price point that we're going to be at, we're really
9 going to be putting in a different elevation for people
10 that can afford it.

11 The second thing is I don't know if you know
12 Mr. Barbera of Barbera Homes, but they will have
13 the ownership in this property. They're a class
14 act. Maybe investigate Barbera Homes. Look at
15 some of his other properties. You're going to be
16 very impressed with what you see.

17 MR. ROSS: I'm Joe Ross and I own a home on
18 Edgewater Court and I also own a property in Cedarview.
19 I don't really know whether the apartment people really
20 have gotten enough notice. This just went up a week
21 ago.

22 It seems like this Board has already set a
23 precedent with the Benson people on not allowing
24 them to switch their project.

25 CHAIRMAN STUTO: I'll just say for the record that

1 this has already been switched by the variance. The
2 apartments have already been approved by the Zoning
3 Board of Appeals. We have no say whether it's going to
4 be apartments or not.

5 MR. ROSS: Then what is this meeting for?

6 CHAIRMAN STUTO: This is s site plan review.

7 MR. ROSS: So, we've already switched it from
8 that.

9 CHAIRMAN STUTO: Correct.

10 MR. ROSS: Did it go through site plan review
11 before? Why is the site plan review changing now?

12 MR. LANE: They made changes under the zoning
13 change.

14 CHAIRMAN STUTO: A long time ago they had a
15 variance to do condominiums. They never did it and
16 they never marketed it and they said we need to do
17 apartments. They went to the ZBA, the Zoning Board of
18 Appeals and they got their variance, which we have a
19 copy of. Originally with the apartments, it had to go
20 through site plan review, which they did. Then they
21 decided that wasn't feasible for whatever reason. Then
22 they went to the Zoning Board of Appeals and we'd like
23 to do a similar project but we'd like to do it on the
24 basis of being apartments. That has been duly noticed
25 with the public. I didn't go to the hearings and I

1 don't know what happened, except that it got approved.
2 Our job is to review and approve five units apartments,
3 which has been approved. We're doing site plan review
4 of that and this has been approved. That was our job.

5 MR. ROSS: When was the notice from the switch of
6 the variance? I never saw that.

7 CHAIRMAN STUTO: I don't know if you have that in
8 our record.

9 MR. LACIVITA: We don't have that in our records
10 here, Peter.

11 CHAIRMAN STUTO: What was the date of the
12 approval?

13 MR. LACIVITA: The date of the approval was April
14 25, 2013 that it was approved by zoning verification
15 which actually went with -

16 MR. ROSS: There wasn't a public hearing.

17 MR. LACIVITA: No, they do notice that. The
18 public hearings are noticed.

19 CHAIRMAN STUTO: Not on the zoning notification.

20 MR. LACIVITA: No, on the ZBA hearing.

21 MR. ROSS: If it was noticed, I didn't see any
22 notice.

23 MS. MILSTEIN: January 3, 2013.

24 MR. ROSS: I never saw the post.

25 CHAIRMAN STUTO: It's hard for us to address that.

1 MR. ROSS: I'm pretty much up on these things as a
2 general rule. I follow this stuff all the time. I see
3 your posting now, but this is the first time that I've
4 known that it was switched from condos to apartments.

5 MS. DALTON: The reason that I brought this up is
6 because things did flip. People obviously do have some
7 concerns and what I wanted to do was - you've already
8 been approved, but I wanted to encourage you to reach
9 out to neighbors and make sure that if there are
10 specific things that they are concerned about, that you
11 just give them an opportunity to talk with you.

12 MR. ROSS: You are willing to put it in their
13 approval that it's 55 or older, or it's already in
14 their variance.

15 MS. DALTON: Well, we don't -

16 MR. ROSS: You're saying that this is site plan
17 review.

18 CHAIRMAN STUTO: We're not here to have a debate.
19 If you'd like to make your statement and then we'll
20 respond in whatever fashion we see fit.

21 MR. ROSS: Well I started, but you kept
22 interrupting me.

23 CHAIRMAN STUTO: Have a seat. We're going to talk
24 about this. I'll call you back if you have anymore
25 comments to make.

1 MR. ROSS: I'm not new at this. I understand
2 what's going on here. I'm just wondering where the
3 precedent stands.

4 CHAIRMAN STUTO: Joe, do you have anything that
5 you want to say?

6 MR. LACIVITA: Well, I think that again, since
7 this has been through the process, it received its
8 approvals. There is no greater density. The project
9 has not changed in any way, shape, or form. We've had
10 the departments review it. The project has been
11 approved by the Zoning Board of Appeals as a use. We
12 are by the condition three, where it says specifically
13 site plan review - any conditions may be testified by
14 the Town Planning Board subject to the Building
15 Department permit. We're here to just approve the
16 final condition of it.

17 CHAIRMAN STUTO: That being the stance, do you
18 have any comments that you want to make on the project?

19 MR. ROSS: Like I said, I never saw the variance.
20 I'm just saying why is this any different than the
21 other project? Why is it any different? Nothing was
22 changed in the Schuyler Road project either.

23 MR. LACIVITA: I think that the key difference
24 with that project was that it has a host - and I don't
25 want to bring that project into this project, but the

1 fact that the project went dormant for a number of
2 years was a major concern. The fact that the project
3 lost its building permit because it did not show a
4 substantial movement on the project --

5 MS. DALTON: Excuse me, but I wanted to add one
6 other thing to that. One of the major concerns that I
7 saw in that neighborhood was a sense that the character
8 of the building that was going to be put there was
9 extremely inconsistent with the character of the rest
10 of the homes in the area.

11 In this area, you already have Carondolet and
12 a bunch of multi-unit living type spaces. So, I
13 don't see it as being inconsistent with what is
14 currently being put in that area, which I think is
15 one of the reasons why you don't have as much as a
16 neighborhood outburst as you had in that
17 neighborhood.

18 CHAIRMAN STUTO: Joe, that project was also
19 procedurally different. That was a planned district
20 development or PDD and our job on that particular
21 evening was to make a recommendation to the Town Board
22 as to whether it should be switched or not. We don't
23 have that prerogative tonight. We have a variance in
24 front of us which tells us to perform a site plan
25 review, so that's what we're doing. The single family

1 has already been approved by the Zoning Board. That's
2 the procedural difference and what our mandate is here.

3 Any other comments from the public?

4 (There was no response.)

5 CHAIRMAN STUTO: Any comments on the project in
6 the way that it's laid out and the architecture, egress
7 and ingress? That's what we talk about during site
8 plan review.

9 (There was no response.)

10 CHAIRMAN STUTO: Is there any environmental review
11 that has to be done?

12 MR. LACIVITA: It's all been done. Actually,
13 there is something on file with DEC on the project.

14 MR. ESPOSITO: We have a SWPPP that was redated
15 and resubmitted. We have the Town comments, and I
16 didn't see anything any different. We have a fully
17 approved landscaping layout plan. Everyone has already
18 looked at this twice over. This was to me, an
19 amendment to a preexisting approval. We just dusted it
20 off and we reformatted that for site plan approval for
21 the apartments.

22 MR. LACIVITA: The key component to this project
23 is that there will be a curb cut that is existing on
24 Watervliet Shaker Road that will no longer exist. It
25 will become greenspace and all entryways will be just

1 like the Shaker Commons condos that are existing
2 currently behind it. So, you'll have five entry points
3 coming right off of that to Cedarview Lane.

4 MR. LANE: Say we do this tonight and it sits for
5 a long time. How soon do they get started and what is
6 the time frame from this time on?

7 MR. ESPOSITO: John is meeting them. We were
8 going to meet after the meeting this evening. We've
9 got actually building permits. He has to look them
10 over and modify them specifically with that one bedroom
11 with the accessible features for him. We'll be taking
12 that up with the Building Department as soon as we can.

13 MR. LACIVITA: The first step is demolition of the
14 building?

15 MR. ESPOSITO: Yes, Joe had mentioned the first
16 page actually. It shows the existing building and the
17 trees to be removed and the trees to remain on the
18 perimeter, the closure of the driveway. So, it's very
19 consistent with the stormwater. We put up our silk
20 fence and stabilized driveway. We schedule the
21 demolition and we'll have that permit.

22 CHAIRMAN STUTO: Any other comments or questions
23 by the Board?

24 (There was no response.)

25 CHAIRMAN STUTO: I'm going to make a comment. I'm

1 not here to get into any kind of discussion or argument
2 with any of the neighbors. I do have to run a meeting
3 here and I have to keep order. That's what my job is.

4 We have Zoning variance in front of us that
5 is duly stamped and appears in all fashion to be
6 valid. We can't question the underlying validity
7 or whether the notice was given there. I guess we
8 could question it, but I'm not inclined to
9 question it. I have to assume that it was there.
10 I'd be more inclined to say Joe, did we duly
11 notify this meeting? He has told us that we have.
12 That's how I feel about that.

13 This doesn't in my opinion bear a lot of
14 comparison to other projects that may have been
15 converted to condos to apartments. I think that
16 it's a high-end development. It seems to be in
17 the right spot, but that's not even our question
18 to answer. The apartments are already approved.
19 As far as the site plan approval, I think that it
20 looks pretty good. I think that I would be
21 inclined to vote in favor of it. That's how I
22 feel.

23 Do we have a motion to approve the site plan,
24 as proposed?

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

1 CHAIRMAN STUTO: Conditioned upon all departmental
2 comments.

3 MR. AUSTIN: Second.

4 CHAIRMAN STUTO: Any discussion or comments?
5 (There was no response.)

6 CHAIRMAN STUTO: All those in favor say aye.
7 (Ayes were recited.)

8 CHAIRMAN STUTO: All those opposed, say nay.
9 (There were none opposed.)

10 CHAIRMAN STUTO: The ayes have it.
11 Further business before this Board, Joe?

12 MR. LACIVITA: Not at this time.

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16 (Whereas the above proceeding was concluded
17 at 7:58 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 June 5, 2013

