

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 *****

COLONIE SENIOR SERVICES CENTER, INC. PDD

11 ELKS LANE

APPLICATION FOR FINAL REVIEW

5 *****

6 THE STENOGRAPHIC MINUTES of the above entitled
7 Public Hearing by NANCY L. STRANG, a Shorthand
8 Reporter, commencing on April 5, 2016 at 10:26 p.m. at
The Public Operations Center, 347 Old Niskayuna Road,
Latham, New York.

9

10 BOARD MEMBERS:
11 PETER STUTO, CHAIRMAN
12 LOU MION, Recused
13 BRIAN AUSTIN
14 SUSAN MILSTEIN
15 CRAIG SHAMLIAN

16 ALSO PRESENT:

17 Kathleen Marinelli, Esq. Counsel to the Planning Board

18 Joseph LaCivita, Director, Planning and Economic
19 Development

20 Daniel Hershberg, PE, Hershberg & Hershberg

21 Joseph Grasso, PE, CHA

22 Ann Sage
23 James Robino, Elks Club
24 Ed Neary, Colonie Senior Service Center, Inc.
25

1 CHAIRMAN STUTO: Okay, Lou Mion is recused from
2 this one and we'll call it up.

3 Colonie Senior Service, Inc. Planned District
4 Development, 11 Elks Lane. This is an application for
5 final review. This is 48,400 square feet, three-story
6 100-unit senior apartments and garages. We have seen
7 this a number of times.

8 Joe LaCivita, can you give us a brief history?

9 MR. LACIVITA: Being that it has been here a
10 number of times, it's here for final this evening so
11 I'm going to turn it right over to Dan so that we can
12 get right into the project here.

13 MR. HERSHBERG: My name is Dan Hershberg from
14 the firm of Hershberg and Hershberg. I'm here
15 representing Colonie Senior Citizens Center. Ed Neary
16 the Executive Director is with me. Teresa Bakkner and
17 Rick Rowlands are the two attorneys involved with it.
18 I have Jeff Campbell from BBL, the contractors and two
19 representatives from the architects. I have two
20 architects here, so if I misstate anything, they will
21 both correct me.

22 The project has been before you a number of
23 times and this is exactly the same plan with a few
24 minor revisions made for stormwater issues that you
25 saw when you identified this as being consistent with

1 the conceptual approval when you sent it up to the
2 Town Board. The Town Board accepted your
3 representation that it was consistent with the concept
4 approval and they sent it back for final review.

5 I don't know what else I can say. We've
6 presented so many times. If you want me to talk about
7 it a little bit, we have worked on the berm in here.
8 We have added landscaping. This is the major
9 stormwater management facility. We actually used four
10 modes of stormwater management facility with all
11 infiltration methods. There is porous pavement and
12 bioretention basin and an infiltration basin and down
13 here we have dry swales on both sides of the driveway
14 going out to 155. It was a complicated project for
15 stormwater management. We got a letter from Joe
16 Grasso with only four items on it, two of them were
17 stormwater management and a couple were with what I
18 would call drafting discrepancies between the plans.
19 We don't think that there are any major issues that
20 have not been fully discussed with this project.

21 I'm prepared to answer any questions the Board
22 may have.

23 CHAIRMAN STUTO: I'll turn it over to Joe
24 Grasso, our Town Designated Engineer with CHA.

25 Joe, can you give us your comments on this

1 project?

2 MR. GRASSO: In your packets we had issued a
3 letter dated February 16th and Dan had made a
4 follow-up resubmission and responded to that. That
5 was actually our eighth review of the project and then
6 we completed another review last week of the project.
7 Dan talked about those comments and those are minor
8 and should be easy for him to address in a
9 post-hearing submittal.

10 Just in terms of where the project is in the
11 process, it's in review by the Planning Board and this
12 is the fifth or sixth time and we've reviewed the
13 plans. They have been very responsive to the concerns
14 raised by the neighborhood as well as those raised by
15 the Planning Board throughout the process.

16 In terms of the SEQR review, the project,
17 because of its size is a Type I action so the
18 applicant was required to do a in-depth environmental
19 assessment of the project and its impacts, including
20 traffic and drainage. Obviously, this is a zone
21 change because it's a PDD allowing senior housing from
22 what was previously single family residential zoning.
23 The Planning Board, back in July of 2015 issued a
24 negative declaration pursuant to SEQR making a
25 determination of the project that it was not going to

1 result in any significant environmental impacts. That
2 preceded the Town Board's action on the zone change.
3 The PDD was approved last summer and then the project
4 has advanced through what we call the final site plan
5 review process. So, that brings us to tonight. The
6 plans look in decent shape for final decision by the
7 Planning Board. To our knowledge all the departmental
8 comments from the Town departments, anything that
9 we've heard from the Planning Board in past meetings
10 and anything that the Planning Board wanted addressed,
11 from the public comment on the project, have been
12 addressed in the plans before you tonight. With that,
13 it's ready for final review by the Planning Board.

14 CHAIRMAN STUTO: Okay, are there any members of
15 the public looking to speak on this? We've asked you
16 to sign in on the sign-in sheet over there. Has anyone
17 signed in?

18 MS. SAGE: I'm Ann Sage and I live at 4 Abedar
19 Lane. I'm for the project.

20 I'm just wondering as far as the landscaping
21 and the trees going into the project, it's basically
22 the concerns that were brought to your attention from
23 the other applicants heard tonight about the trees.
24 There is a large population of deer that come through
25 the area. When the landscaping is planned, if deer

1 resistant trees could go in so that we don't have the
2 evergreens being eaten up like six feet high and have
3 that cone shape at the top. For such a nice facility,
4 it really is a deterrent and it looks like the
5 facility is not maintaining itself. It's not my
6 problem, but over time it's the Town's problem because
7 it just has a bad aesthetic to it.

8 At 4 Abedar Lane where I live, that pavilion is
9 going to go in I think close to my backyard and I
10 don't know how it works between the applicant and the
11 Elks Club to control the pavilion from becoming a
12 nuisance to the neighbors in that area. I think that
13 I might be the only abutter here tonight. Nobody that
14 I've talked to -- I'm real new at this -- has been
15 able to tell me about the pavilion and how it's going
16 to impact our homes. It's right along that property
17 line. There will be day-long parties that will go on
18 from people who rent it, I guess. It's a party rental
19 place - is what it's going to be used for. I'm making
20 that up because I don't know. That's why I'm here.
21 At the meetings that I've attended, I haven't heard
22 what restrictions are going to be placed on the Elks
23 Club or whatever the arrangement is between the
24 community, the new building and the Elks Club, now
25 that there is the zoning change that's been approved.

1 How is it going to be controlled - nuisance, loudness.
2 I don't want to become a pain to the Town because I'm
3 calling the police for loud music. I like to party
4 too, but not to have it constant. I don't think
5 that's been heard or maybe I missed it. It is one of
6 my concerns.

7 As far as the berms, is there a fence going
8 around the property to keep the partiers out of my
9 yard? What is the control at that end by 155 where
10 Mr. Marsh lives at 2. He's got a pool in his backyard.
11 I'm right next to him and I'm just wondering how are
12 the people that come into that area going to keep
13 control, if that's the right word.

14 I read the transcripts of previous meetings to
15 try to be intelligent about this process because this
16 is really the first time that I've been to a Board
17 meeting on something. It just seemed that a lot of the
18 issues were put forth, but the residents didn't get to
19 hear what the final results were. As I did my
20 informal survey on the street, all I got was I don't
21 know. It's like the neighborhood has given up knowing
22 about their own properties. That is sad. I'm the
23 only one here, I think. Maybe not. That's how the
24 public is feeling about this process. I think that as
25 you go forward with PDDs, it's something to take into

1 consideration. Maybe it's just us, but maybe it's
2 not. The main concern for me is the trees and the
3 nuisance value.

4 Is there an access road going behind -- is that
5 going to happen? The access road for emergencies?

6 CHAIRMAN STUTO: I think that it's for
7 emergencies but we'll answer that question too.

8 MR. HERSHBERG: Thank you for your comments.

9 Mr. Chairman, I'll just point out that in
10 addition to our appearances before the Planning Board,
11 we held multiple public meetings for the neighbors
12 where amongst most of those questions had been
13 addressed and we asked members of the Elks to address
14 them.

15 This is the area that the lady is concerned
16 about. This is 4 Abedar. We had originally proposed
17 to take this emergency access road and put it along
18 the property line. We determined that would be too
19 intrusive even though the emergency access road is
20 very rarely used, as we well know. So, we left all
21 these trees along this area along. We actually
22 plotted these individual trees which might have been
23 disturbed by our access road. We moved the access
24 road to an area here where there are very little
25 additional trees to be moved. There are some smaller

1 trees to be removed to make this access road. This is
2 the minimal clearance that we need to do the grading.
3 There is a dry swale on one side and grading on the
4 other side. This emergency access road would be gated
5 so that it's only accessible for emergency vehicles.

6 The pavilion is going to be cut into the
7 existing gravel parking area along side of the Elks
8 Club. We are taking out some of the pavement area to
9 make greenspace around it. The standpoint of
10 operating is that the Elks Club is a responsible group
11 and they do rent it to people to use the pavilion.
12 Their hours are going to be restricted. I might ask
13 the member from the Elks Club here who is responsible
14 for that to comment on that for the Board.

15 MR. LACIVITA: What is the size of the pavilion
16 being built, compared to what exists? Do you know off
17 hand?

18 MR. HERSHBERG: It's about the same size.

19 MR. ROBINO: My name is James Robino and
20 currently I'm the Board Chairman for Colonie Lodge
21 2192. To answer the lady's concerns, which are valid
22 concerns, to my knowledge I've been a member of that
23 lodge for almost 20 years. We pride ourselves in
24 cooperating with our neighbors on Abedar Road. As far
25 as the noise level, most of our parties, ma'am, are

1 usually during the day and it's an 8:00 cut off. We
2 usually cut them off at 8:00. If there are ever any
3 problems, all you would have to do is come over and
4 give us a call and we can definitely straighten it
5 out. We are neighbors and we want to remain your
6 neighbors. Hopefully, you'll become a member.

7 To answer the question about the size of the
8 pavilion, we have cut the pavilion probably
9 three-quarters. It's three-quarters of the size of the
10 one that we have right now. We're looking forward to
11 this.

12 MR. AUSTIN: Do they still have the kitchen
13 facilities in the existing building?

14 MR. ROBINO: Right. What we are going to do,
15 sir, is since the pavilion is going to be so close to
16 our main lodge, we're going to be able to cook out of
17 our main lodge and bring the food over and have
18 warming tables. It will make it a lot easier for us.
19 It will cut down on having to go for another freezer
20 set-up like we have down there. The bar is going to
21 be with the kegalators. They can be wheeled in and
22 protected. We're going to try downsizing a little
23 bit. We downsized it a little bit because we found
24 that we don't need that big of a unit. That's where
25 we are with it.

1 MR. AUSTIN: Are you still going to have events
2 there where they have things like bounce houses and
3 the horseshoe pit and the softball fields -

4 MR. ROBINO: The softball fields are going to
5 go away. We have a bocce pit and as far as the
6 horseshoes, we're trying to put all this stuff
7 together again. I'm sure that we're going to have it.
8 It's probably going to be down more towards the road
9 away from the neighbors. That's basically where we
10 are with it. We're downsizing it. We are particular
11 as to who we rent it to. We try to stay away from the
12 loud band music and all that. We've done a couple of
13 weddings and some graduation parties and things like
14 that. Like I said, if there is ever an issue, we are
15 neighbors right across the street. Just call or come
16 on over. We'll straighten it out.

17 MR. HERSHBERG: There was also a question
18 raised about landscaped products. I'm not a fan of
19 arborvitae where the deer can get to them. The deer,
20 with bad winters, eat arborvitae. We've worked with
21 Joe Grasso to design the landscaping on top of that
22 berm. There were two species of evergreen that are
23 not deer candy. Arborvitae is known as deer candy in
24 the trade. We're using a white fir.

25 We did try to maintain a row of trees here and

1 larger trees at that location. We changed the grading
2 plan to accommodate that. Unfortunately, we did have
3 to clear some trees here and some trees at the top of
4 the slope. We plotted all the major trees here and we
5 are preserving a great majority of those and we are
6 landscaping the berms. So, the work is around
7 landscaping.

8 We do not intend to fence the site. We think
9 that we're not intrusive enough on our neighbors or
10 our neighbors are not intrusive enough on us to fence
11 the property.

12 MS. SAGE: Are residents allowed to have dogs?

13 MR. HERSHBERG: Yes.

14 MS. SAGE: Is there going to be an area where
15 they curb their dogs away from the Abedar properties?

16 MR. NEARY: Our properties do allow animals, 35
17 pounds or less. We have experience with those at both
18 of the properties that we have now and how to curb the
19 animals and make sure that is not a problem to other
20 residents that do not have them.

21 CHAIRMAN STUTO: Any other comments or
22 questions from the neighbors?

23 (There was no response.)

24 Board Members?

25 MS. MILSTEIN: What are the rents for the units

1 proposed?

2 MR. NEARY: Four years ago when we started this
3 project -- not four years here but four years in total
4 since we started conversations with the
5 administration, we committed to a rent of \$850.00 per
6 month for one bedroom, one bath and the two bedrooms
7 at \$1,100.00. Those are where those apartment units
8 start. We were fortunate in our design of the building
9 to pick up some additional space so in addition to the
10 two bedroom, one bath, we now have some bath and a
11 half and two baths and some balconies which have a
12 slightly higher rate. We are consistent with our
13 promise to the administration to stay at \$850.00 and
14 \$1100.00 a month. That's a challenge to keep that
15 rate at that level for four years with prices going
16 up, but we are still there.

17 MS. MILSTEIN: And then there will be increases
18 in the rent after that - after a certain period of
19 time?

20 MR. NEARY: We look at our increases on an
21 annual basis based on the operating costs of the
22 facility. The experience with the buildings that we
23 have now is that we've had five or six years at the
24 Beltrone Living Center with increases of less than 1%
25 a year. We have an agreement with the Town

1 administration not to increase our rents by more than
2 2% without going back to the IDA for approval.

3 MS. SAGE: When we first started talking about
4 the PDD, the Board had mentioned about possibly trails
5 and parks as a benefit. What is the benefit to the
6 neighborhood? Is there anything for this? The other
7 meetings tonight talked about benefits for the
8 neighborhood like sidewalks -

9 CHAIRMAN STUTO: Sure, we'll talk about the
10 benefits.

11 Can you go over the benefits?

12 MR. NEARY: Some of the benefits are technical,
13 so I'll leave those for Dan because they deal with
14 water looping and sewer and so forth.

15 The public benefits that we have agreed to with
16 the Town, first of all is to build most importantly
17 affordable senior housing. There is none in the Town
18 of Colonie. There is subsidized housing, there is
19 marketrate but there is nothing like what we are
20 building at the present time.

21 In addition to that, we've agreed to hold the
22 rents down to certain levels, reduce the amount of
23 income for people to be qualified for that. We also
24 have agreed to two public benefits which are to extend
25 sidewalks, first at the Town Hall and the other is to

1 connect the Beltrone Living Center to the sidewalks
2 out on Metro Park.

3 There were a couple of other benefits that we
4 have.

5 MR. HERSHBERG: I don't want to miss the one
6 that Joe pointed out last time. We are preserving a
7 significant portion of our site. We're preserving
8 over 8 acres of the site, which are sideslopes and
9 wetlands and wooded areas, which will be entirely
10 covered by deed restrictions set by the owner. It's a
11 conservation easement. The applicant is also
12 extending a watermain. The existing watermain comes
13 from Abedar, comes through the site and dead-ends
14 here. The Latham Water District preferred that we
15 have a loop line so we are taking that line and we're
16 looping it down Elks Lane all the way to Watervliet
17 Shaker Road. That is considered a public benefit.

18 There was a list of seven of them.

19 MR. GRASSO: There are sight distance
20 improvements.

21 MR. HERSHBERG: The existing Elks Lane has
22 limited sight distance primarily due to the foliage.
23 We are clearing the foliage so that when you come out
24 of that driveway you can see further up and down the
25 roadway. Those are a list of public benefits that we

1 agreed to before and are a part of this project. It's
2 a significant expense - the off-site one -- the
3 sidewalk at Beltrone at Winner's Circle and at the
4 handicapped improvements in front of Town Hall.

5 CHAIRMAN STUTO: Do you know when those are
6 going to be completed?

7 Didn't you get an email on that, Joe?

8 MR. LACIVITA: I did, yes. The Department of
9 Public Works reached out to BBL and to Mr. Luizi and
10 they haven't been committed to go forward yet. We are
11 looking to see when the commitment is to go with the
12 improvement. We're hoping to have that installed by
13 the end of June for the public benefit for the
14 project.

15 MR. NEARY: We know that the conversations were
16 going on between BBL and the Building Department or
17 DPW in terms of the start dates and completion dates
18 on those things. They were originally scheduled for
19 last fall and then moved to the Spring of this year.
20 We'll be happy to check with BBL and find out what the
21 latest is on that.

22 MR. LACIVITA: Can you call me, please, so that
23 we can solidify a date and I can let the Board know
24 when the improvement will be built? We're going on
25 record to say that we'd like to see that before the

1 end of June.

2 MR. NEARY: By the time that we break ground on
3 this project -

4 MR. HERSHBERG: We're going to break ground
5 sooner.

6 MS. SAGE: I understand what you just said but
7 being a resident on Abedar Lane, those benefits that
8 you're mentioning benefit other places in Town by
9 Beltrone, Colonie Senior Services, the applicant is
10 benefitted by the Abedar benefits. What are the
11 benefits for the immediate vicinity of Fiddler's Lane
12 and Abedar and our end of Town? The benefits that
13 you're talking about go to Albany Beltrone -

14 CHAIRMAN STUTO: Ma'am, in fairness to them,
15 they just said it. There is a sight line improvement.
16 I agree with you that maybe it could have been better
17 and we actually did look at sidewalks on Watervliet
18 Shaker Road and it was impractical because of the
19 easements and so forth that had to get. They have
20 improved the sight line thing which is a safety thing
21 for everybody in front of the property. They reserve
22 greenspace in the back. They've looped the water.

23 Was there any other on-site things?

24 MR. GRASSO: That's it.

25 CHAIRMAN STUTO: It was the best that we could

1 do.

2 MR. HERSHBERG: We did take a hard look at the
3 question of sidewalks. A lot of times we went over it
4 with Clough Harbor to see whether or not there was any
5 way to include it. We weren't objecting to it. We're
6 spending probably just as much money with the two
7 off-site improvements that we're doing but there was
8 no way to do it. We had to acquire additional right
9 of way. We had drainage issue and a whole bunch of
10 issues along Watervliet Shaker Road.

11 CHAIRMAN STUTO: The off-site improvements that
12 we have, we tried to pick ones that would benefit the
13 entire Town because we couldn't keep them all in that
14 vicinity. It improves Town Hall and it improves the
15 Crossings. So, that's where we needed up after a lot
16 of hearings and discussion.

17 MR. NEARY: I would add that we did not select
18 those projects. Those were projects that we were told
19 would satisfy the requirement here. In addition, we
20 bring all the senior services that we have available
21 now to the northern part of Colonie.

22 MS. SAGE: All I am trying to point out is that
23 the other meetings that happened here tonight - the
24 benefits that they were trying to put in place go to
25 the immediate neighborhood area, whereas this project

1 goes five miles away.

2 CHAIRMAN STUTO: No, some go farther away and
3 some go to the project.

4 MS. MARINELLI: The Code doesn't require that
5 the public benefit be to the site. The Board in
6 deciding that these public benefits were appropriate
7 did the best that they could do and are in conformance
8 with the Code.

9 MR. AUSTIN: I remember that we had mentioned
10 it previously to the residents - asking them for their
11 suggestions that they might have or ideas of a public
12 benefit for them to please let us know that. There
13 really isn't a lot to that site that can be done.
14 There were the trails but there is such a steep slope
15 in the back.

16 MS. SAGE: The public perception of the benefit
17 part of the PDD - in the Abedar vicinity, not just
18 Abedar Lane. They were disappointed. They thought
19 that it would be different. It's going to other parts
20 of Town and that's the perception that is from the
21 street and from neighborhoods close by. I'm trying to
22 learn the process and -

23 MS. DALTON: They should come in here and tell
24 us that. All of the issues that they've raised, we've
25 done our best to address. This is the first time that

1 I've heard that, per se.

2 MS. SAGE: Mr. Marsh said that back in July
3 that there was nothing -- he's at 2 Abedar Lane --
4 that he was seeing no benefit to this project. The
5 greenspace you mentioned by the facility - that's not
6 walkable, is it?

7 CHAIRMAN STUTO: It's not walkable but it's
8 better than not having it green, I guess.

9 MS. SAGE: No, but it doesn't benefit the new
10 residents either because it's too steep.

11 MR. LACIVITA: One of the things that you have
12 to look at is how the project has changed since it
13 first came in. The design was initially closer to the
14 Abedar Lane. We heard the concerns about having
15 something in their backyard and they shifted it.
16 Consider it a benefit, yes or no, that's totally up to
17 you. I look at it as a benefit because they heard your
18 concerns and they moved it away.

19 Where this is located, it's restrictive on
20 Watervliet Shaker Road as to some of the things that
21 we can and cannot do because it's owned and operated
22 by the State of New York. We have to be cognizant of
23 what they want there. We talked to them about
24 sidewalks. We spent hours and hours trying to see if
25 we could design it. We couldn't do it. The next step

1 in a public benefit is, what are the amenities that
2 are needed within the Township. This is a senior
3 project. So, what are the senior offerings that this
4 has to do with in the Town? The Town, for so many
5 years, has been limited in getting seniors into the
6 municipal offices and now we can because we have
7 parking that's there. I understand that an abutting
8 neighborhood wants the public benefit there, but
9 sometimes it just doesn't work. So many PDDs have had
10 off-site amenities. It just so happens that the two
11 project before tonight had close proximity that you
12 saw. We didn't not hear you. We did certain things
13 with this project.

14 MS. SAGE: Learning this, it seems arbitrary.
15 It's like the zoning law is the zoning law, but here
16 you can do it and here you can't. I didn't know that.
17 Elks Lane you can't but for the others you can. I was
18 thinking -

19 MR. LACIVITA: I don't ever think I said that
20 you can't. We tried and we looked. Then you have to
21 look at in the public - what other benefits could be
22 done? Those are Townwide benefits.

23 MS. SAGE: Thank you, very much.

24 CHAIRMAN STUTO: Okay, any other comments from
25 the public?

1 (There was no response.)
2 Any other comments from the Board?
3 (There was no response.)
4 We've seen this a number of times.
5 Do we have a motion for final approval?
6 MR. SHAMLIAN: I'll make that motion.
7 MR. AUSTIN: I'll second it.
8 CHAIRMAN STUTO: Any discussion?
9 (There was no response.)
10 All those in favor say aye.
11 (Ayes were recited.)
12 All those opposed say nay.
13 (There were none opposed.)
14 The ayes have it.

15
16
17 (Whereas the above entitled proceeding was
18 concluded at 10:57 p.m.)
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I, NANCY L. STRANG, 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 L. STRANG

Dated _____

