

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

3 \*\*\*\*\*

4 AFRIM'S SPORTS COMPLEX  
5 969 WATERVLIET SHAKER ROAD  
6 APPLICATION FOR FINAL APPROVAL  
7 AND ENVIRONMENTAL SEQR DETERMINATION

8 \*\*\*\*\*

9 THE STENOGRAPHIC MINUTES of the above entitled  
10 matter by NANCY L. STRANG, a Shorthand Reporter,  
11 commencing on December 13, 2016 at 7:11 p.m. at The  
12 Public Operations Center, 347 Old Niskayuna Road,  
13 Latham, New York.

14

15 BOARD MEMBERS:  
16 PETER STUTO, CHAIRMAN  
17 LOU MION  
18 SUSAN MILSTEIN  
19 CRAIG SHAMLIAN  
20 BRIAN AUSTIN  
21 TIMOTHY LANE

22

23 ALSO PRESENT:

24

25 Kathleen Marinelli, Esq. Counsel to the Planning Board  
Joseph LaCivita, Planning and Economic Development  
Department  
Michael Tengeler, Planning and Economic Development  
Department  
Brian Sipperly, PE, Sipperly and Associates  
Ellen Rosano, conservation advisory committee  
Aaron Vera, PE, Sipperly and Associates  
Victor Caponera, Esq., The Caponera Law Firm  
Andy Carroll, Memory Gardens

26

27

28

1           CHAIRMAN STUTO: The first substantive item on  
2 the agenda is Afrim's Sports Complex, 969 Watervliet  
3 Shaker Road, application for final approval and  
4 environmental SEQR determination, 86,400 square feet  
5 dome, 6425 square feet club house and 900-square foot  
6 storage building.

7           Back to Joe LaCivita - I know that we have seen  
8 us several times.

9           MR. LACIVITA: Yes we have. We have seen this  
10 several times and I must commend Afrim and the  
11 engineer, Sipperly and Associates throughout the  
12 process. There have been a couple of stops and starts  
13 when the project. One was to get a special use permit  
14 and that was granted by the Zoning Board of Appeals.

15           The other which is probably the biggest one was  
16 -- prior to the project to the east of it which is the  
17 Gordon apartments this project was going through the  
18 private utilities. When that project came through a  
19 monkey wrench was thrown to Afrim. The Town was  
20 looking at planning properly throughout the Town and  
21 it became the public infrastructure. So, water was  
22 then brought into the project. Sewer was brought into  
23 the project. Connectivity was brought into the project  
24 to the property next to it. The two properties had  
25 been working very well together. There have been

1 concessions on both sides.

2 We are here tonight for final approval and a  
3 SEQR determination.

4 Again, Afrim thank you for all your work  
5 through the process. You have done exactly what the  
6 Town has asked for.

7 I will turn it over to Brian Sipperly.

8 MR. SIPPERLY: Thank you, Joe. Good evening  
9 Chairman and Members of the Board. My name is Brian  
10 Sipperly of Sipperly and Associates. As Joe mentioned  
11 here tonight with me is the owner and applicant Afrim  
12 Nezaj. We have Victor Caponera from the Caponera Law  
13 Firm and Aaron Vera from our office as well.

14 Joe, you did a great job and you stole the  
15 little bit of the intro. But just for the Board's  
16 perspective here's a little bit of history.

17 We received a special use permit back in  
18 October 2014. We were in to see the Planning Board for  
19 concept vote on March 2015. We then extended concept  
20 not that long ago on October 18 in this very room. We  
21 are here tonight before you to seek your consideration  
22 for final Planning Board approval a negative  
23 declaration finding and a SEAMAB finding.

24 To run the Board through the project real  
25 briefly -- we have a 28.6 acre parcel, undeveloped

1 located in a commercial office zone. We are at the  
2 intersection of Sand Creek Road, north and Watervliet  
3 Shaker Road. So, we have a church, the Shaker Shed,  
4 Memory Gardens to the west and we have this large  
5 undeveloped parcel here. It contains a little over  
6 400 feet of frontage along Watervliet Shaker Road.  
7 There are presently no utilities extended into the  
8 site.

9 From an environmental perspective the  
10 topography is gentle to moderate sloping. We have  
11 roughly two acres of wetlands on the site under the  
12 jurisdiction of the Army Corps of Engineers. The site  
13 is located in the airport GEIS area and is subject to  
14 mitigation fees.

15 About the development itself - we have an  
16 86,400 square foot air inflated dome structure. We  
17 have a 6,425 square foot foundation footprint for a  
18 lobby building, two stories. We also have a small 900  
19 foot shed over on the western property line.

20 We generally have for outdoor turfing soccer  
21 fields. One is located under the balloon in tenant  
22 parking and lighting. For parking itself, we are  
23 providing 410 spaces. As Joe did mention, the  
24 inclusion of a project next door resulted in the Town  
25 departments - mainly water and sewer and highway

1 getting together and properly planning the utility  
2 poles for this corridor. I would echo Joe's comments  
3 that the process went well. The Gordons played nice in  
4 the departments really helped us out in terms of China  
5 to get back on track with construction schedules while  
6 thinking about the greater picture. Here we have today  
7 is we are going to extend gravity sewer up from behind  
8 900 Watervliet Shaker Road. We are going to cross  
9 under Watervliet Shaker Road. We are going to force  
10 main to a deep manhole that we are extending to this  
11 corridor.

12 Water - we are going to tap on the south side  
13 of Watervliet Shaker Road, extend up in the Gordon  
14 development is going to pick up that loop and create a  
15 performance loop for Latham Water.

16 Generally speaking, that's about it with the  
17 project. I can turn it over to the Board for any  
18 questions.

19 CHAIRMAN STUTO: How about the transportation  
20 connection next door?

21 MR. SIPPERLY: Sure. That's a good point. Cross  
22 access management was discussed with the Gordons.  
23 Albeit they are development plan is not shown on this  
24 plan, their access is going to be through a boulevard  
25 ingress and egress coming into the site in the

1 southern area where my fingers pointed (Indicating).  
2 The traffic study has been done to look at both the  
3 site's demands; stacking, lane width accordingly and  
4 signaled timing. As part of this project, the signal  
5 will get improved under this project's scope. That is  
6 all being worked out with the state and the county.

7 I cannot speak much for the Gordon development.  
8 I believe they are going to seek a right in/right out.  
9 I don't know and we are not showing that on this plan.  
10 It is at least a couple feet away.

11 CHAIRMAN STUTO: But you are locking in a  
12 connection so they'll have access to the traffic  
13 light.

14 MR. SIPPERLY: We are.

15 CHAIRMAN STUTO: How are you locking that in?

16 MR. SIPPERLY: We are going to memorialize the  
17 through an ingress/egress easement.

18 MR. LACIVITA: Brian, also where the dome is -  
19 toward the other part of the parking lot, if you came  
20 down to where that second set of interior parking - -  
21 there is also going to be another access. You're  
22 planning that right now.

23 MR. SIPPERLY: We just saw their concept  
24 planned, actually. As you can imagine, small things  
25 can fluctuate on this plan as they go through concept

1 with you all here. If anything changes -- again, we  
2 have a parking lot and we don't see too many issues as  
3 long as we work out the grading.

4 CHAIRMAN STUTO: Joe, what kind of connection  
5 is going to be there?

6 MR. LACIVITA: It will be for fire access.  
7 There is also a pedestrian connection there.

8 MR. SHAMLIAN: Is there going to be some signs  
9 in some spots telling people that is private property?  
10 If there are any occasions where there is an overflow  
11 parking, at least discouraging people from parking  
12 over on the Gordon property.

13 MR. SIPPERLY: Yes. More than likely we will  
14 institute a crash gate type system to get in and out  
15 so it's mainly fire emergency access only. We are  
16 going to deter anybody from cross parking. Again, with  
17 410 spaces provided there is a lot of parking per the  
18 demand that the manual describes is used for cars.

19 MR. LACIVITA: If I may, Brian, what we are  
20 planning with the Gordons is that there will be  
21 consistent a tree grow here (Indicating). There's  
22 going to be an access point somewhere in this area  
23 (Indicating). That will be an access gate only.  
24 Again, we are trying to preserve the integrity of our  
25 firms as well as here (Indicating). So, anything in

1 here - we are trying to buffer it. There is really  
2 only one row of parking here. Then, the homes start to  
3 come this way (Indicating). We are trying to plan  
4 connectivity.

5 MR. SIPPERLY: Thanks, Joe.

6 One of the things mentioned before was  
7 obviously the integration with some of the agencies -  
8 whether they be permitting agencies or not. One of  
9 those is the Shaker Heritage Society. I believe  
10 Starlyn has issued a letter to the planning office  
11 indicating that the design considerations in terms of  
12 adding and incorporating Shaker elements into the plan  
13 had been reviewed with the Shaker Heritage Society.  
14 They are in full endorsement of what has been  
15 developed from a rendering perspective. Starlyn has  
16 also been on record at the previous concept acceptance  
17 all but endorsing the project and basically  
18 communicating that they are okay with the development  
19 impact of that is occurring up here (Indicating).

20 CHAIRMAN STUTO: Do you want to put your  
21 rendering up?

22 MR. SIPPERLY: Sure. Those are clouds behind  
23 it. That is actually the dome (Indicating).

24 Again, about 6,425 square foot foundational  
25 footprint, two stories - it's going to contain a small

1 vending area for pizza, sodas, water for kids to  
2 drink. Executive and administrative offices will be  
3 upstairs and a general seating area and patio as  
4 parents and chaperones watch the kids play.

5 CHAIRMAN STUTO: Can you describe the  
6 architecture of the finishes?

7 MR. SIPPERLY: Probably not the best person to  
8 do that. I really have not been too engaged between  
9 the architect and the Shaker Heritage Society.

10 This is kind of on the fly, Peter, but we have  
11 some stone and veneer the going on here in the  
12 entrance way. It looks like we are going to have some  
13 shaker straight clapboard type style. There will be a  
14 shake type shingle on the top.

15 Afrim, what were the design elements that  
16 Starlyn requested that you add in the design here?

17 MR. AFRIM: She wanted the windows to have  
18 three or four columns as opposed to two.

19 MR. SIPPERLY: Generally speaking, one of the  
20 biggest things is they really don't want me to emulate  
21 the architecture. They want to add design elements and  
22 that's kind of what you see here, as well.

23 Any specific questions that you have that I  
24 can't answer at the moment, we can certainly take  
25 off-line for you.

1                   CHAIRMAN STUTO: We will turn it over to our  
2 Town designated engineer, Chuck Voss with Barton and  
3 Loguidice.

4                   MR. VOSS: Just to be brief with the Board, we  
5 issued a final comment letter on September 26. You  
6 should have that in your packet. Essentially what we  
7 have done is take a look at the final details that  
8 Brian and his team have submitted. To be perfectly  
9 honest with you, there really is not a lot left here.  
10 There are a few minor design details in terms of the  
11 storm water systems and some piping sizes. Other than  
12 that, we are very comfortable with the site as it is  
13 being engineered and laid out. We were present for all  
14 the meetings with the Town departments when the  
15 interconnection when the Gordon property was being  
16 developed. If you remember, we are the TDE for the  
17 Gordon project as well so we are very familiar with  
18 how the two projects are working together, in terms of  
19 the utilities. Again, just as a reminder from what  
20 Brian has said there are really three basic components  
21 of these two projects; the traffic access component,  
22 the sanitary sewer and water systems. We are very  
23 comfortable certainly with working with John Frazier's  
24 office of Latham water about looping the water system  
25 through the site. We think that works very well. That

1 is as per John and certainly as per Chretien Voorg  
2 with Pure Waters. A larger impact study was done by  
3 the developer here and the Gordon developer to look at  
4 a broader range and potential uses and the general  
5 district throughout the site. That is how these two  
6 systems were designed - to not only serve these two  
7 sites but potential other development parcels further  
8 to the east and to the north, if they were to develop  
9 down the road. So, the infrastructure set up here is  
10 potentially sufficient to serve future infrastructure  
11 that this Board might see with subsequent projects.

12 Again, just to recap what Brian said: The three  
13 legged intersection right now with Sand Creek and  
14 Shaker will be expanded to a full four legged  
15 intersection. The traffic control devices will be  
16 installed as per the county and DOT, I know Afrim in  
17 the Gordon folks were working on agreements to put  
18 that in place in terms of cost and those kinds of  
19 infrastructure improvements. All things considered, we  
20 are very comfortable with how this site lays out. We  
21 think that it is well designed and the storm water  
22 will be well managed on-site. Other than that, we  
23 really don't have any other issues. We would certainly  
24 recommend a conditional final approval.

25 CHAIRMAN STUTO: We have a couple of people

1 signed up. I'm not sure if it is this project or  
2 another one.

3 Ellen Rosano from the Conservation Advisory  
4 Council.

5 MS. ROSANO: Not for this project.

6 CHAIRMAN STUTO: Andy Carroll.

7 MR. CARROLL: I'm Andy Carroll. I am the  
8 executive director of Memory Gardens. We would  
9 respectfully ask the Board to consider placing a fence  
10 between Memory Gardens and the Afrim's project.

11 CHAIRMAN STUTO: Is this the first time - -  
12 have you communicated this before?

13 MR. CARROLL: Yes.

14 CHAIRMAN STUTO: In what context? I don't even  
15 know if I remember hearing this or not.

16 MR. CARROLL: We sent a letter to the Town  
17 Board and also we were at the last Zoning Board of  
18 Appeals meeting.

19 CHAIRMAN STUTO: It has been in front of us  
20 several times and this is the first time that I've  
21 heard about it.

22 What type of fence are you looking for?

23 MR. CARROLL: Just to prevent ingress and  
24 egress between the two sites.

25 CHAIRMAN STUTO: What is the lineal distance,

1 do you know?

2 MR. CARROLL: They are abutting.

3 CHAIRMAN STUTO: Understand. How long would the  
4 fence have to be?

5 MR. SIPPERLY: About 1,500 to 2,000 feet, I  
6 believe. I believe comments from the TDE that we  
7 received in September have us planting that property  
8 line with some evergreen plantings. So, we provided  
9 some screening.

10 CHAIRMAN STUTO: Chuck, have you heard of this  
11 request before?

12 MR. VOSS: No, Peter, I have not. I am not  
13 aware of this request.

14 MR. CARROLL: We brought this up in the letter  
15 to the Town, the Zoning Commission and then the ZBA.

16 CHAIRMAN STUTO: I don't doubt you or question  
17 you. We are the Planning Board.

18 Joe LaCivita, have you heard this one before?

19 MR. LACIVITA: Yes. From June 29, 2015 the  
20 President of Memory Gardens it says here that they  
21 respectfully require placing a tall fence but this was  
22 actually to the Supervisor going to the Zoning Board  
23 of Appeals asking them to place a tall fence along the  
24 borders to eliminate possible foot traffic.

25 As I look through the special use permit, it

1           wasn't a condition on that - that the approval be  
2           conditioned on the installation of that. I'm just  
3           looking at the historical stuff here. I don't see any  
4           condition placed upon it.

5                     CHAIRMAN STUTO: Chuck, what do you think of  
6           that request? Or, do you want to have the gentleman  
7           justify that?

8                     MR. VOSS: I think the applicant can certainly  
9           discuss it. The only concern that we would have is  
10          that because of the steep slope of the back there,  
11          it's actually going to be pretty difficult for people  
12          to get up on that hillside.

13                    Brian, you can certainly elaborate on this too.

14                    I'm not sure how much level ground will be at  
15          the top. Brian, maybe you could speak to that -- the  
16          top of that slope between the two parcels?

17                    MR. SIPPERLY: It's kind of hard to see there.  
18          I'm not sure what plans you have in front of you. A  
19          couple things to point out: Obviously, we are making  
20          an up-grade with retaining walls here. So, the access  
21          for people to get to these pinch points to get up  
22          there have been reduced. There is no longer one  
23          contiguous slope going across the property - north to  
24          south.

25                    CHAIRMAN STUTO: Can you describe that a little

1 bit better, so we can appreciate what you're trying to  
2 say?

3 MR. SIPPERLY: In fact, I think we might have a  
4 section here to show you.

5 CHAIRMAN STUTO: You are saying that they would  
6 have to hop on top of a retaining wall in order to  
7 cross over?

8 MR. SIPPERLY: in the pre-developed state, this  
9 is all undeveloped and it elevates from 969 Watervliet  
10 Shaker Rd. to Memory Garden. Anybody who would be able  
11 to walk anywhere would pick the least steep area and  
12 just kind of walk up. After development, the areas for  
13 those individuals to find those access points is  
14 diminished. They are not going to enter down into a  
15 field. These fields are slightly recessed from the  
16 area around it. They are not going to be able to get  
17 up there. I don't think people are going to want to  
18 walk behind the dome -- again, we are providing plenty  
19 of parking on-site. I really don't think that people  
20 are going to want to do this (Indicating) to avoid the  
21 conveniences that we have designed into the site.

22 I'm not saying, Andy, that it's not ever going  
23 to happen but we really can't design with that in  
24 mind.

25 Once I flipped to the section area, you will

1 get a chance to see it. What I think that I'm really  
2 explaining here is that we are not going to exit at  
3 the furthest part of Memory Gardens from the road. I  
4 highly doubt that they are going to find their way  
5 behind the dome and up the steep slope here. I  
6 believe the elevation change between the access road  
7 that kind of goes around Memory Gardens and the access  
8 road behind the dome - the elevation change there is  
9 about 40 feet. It's a one on three slope which while  
10 that can be maintained, it's not the most convenience  
11 for walking. Again, with the landscaping that we are  
12 adding per Chuck's comment and just the fact that the  
13 slope is so steep, there really is no purpose for  
14 anybody -

15 MR. LACIVITA: I think that leaving it in its  
16 natural state and supplementing it with the trees - -  
17 it's really room for the animals and things like that.  
18 If you put a barrier up at that point - - I really  
19 don't see that as being practical.

20 CHAIRMAN STUTO: Can you describe it again?

21 MR. SIPPERLY: Yes. Let me just walk up and  
22 show the Board. I think this is going to be important.  
23 This is the slope of Memory Gardens. It's hard to see  
24 into and out of the page where the retaining wall  
25 starts. You can't see that. As I was telling you, we

1 have these little walls. Players are on the field.  
2 People that are here are not going to get onto the  
3 field and jump over retaining walls to walk up a hill  
4 and then through a vegetative tree buffer - - we  
5 called a great tree buffer that we called a super  
6 buffer at the zoning Board of appeals process. So,  
7 just to give you an indication of kind of the walls -  
8 what obstacles people would have to actually hurdle to  
9 make that happen -

10 MR. SHAMLIAN: The standard that you're using  
11 to make that statement, Brian, is an adult and not a  
12 12-year-old kid.

13 MR. SIPPERLY: That's completely understood. We  
14 are hoping that the 12-year-old is going to get called  
15 back from the parents. But you are absolutely right.  
16 It is hard to control every single person that is in  
17 the same situation.

18 CHAIRMAN STUTO: Chuck, I don't know. What do  
19 you think?

20 MR. VOSS: There is going to be some heavily  
21 landscaped buffers through there. It is landscaped on  
22 the cemetery side. I think if you put a fence there,  
23 you will have long-term maintenance issues and you  
24 will have slope issues with that fence. I think it's  
25 going to be a difficult structure to maintain on that

1 hillside. Personally, I would probably want to see may  
2 be no trespassing signs placed along the top of that  
3 hill every 30, 40, or 50 feet just to keep people off  
4 that hillside and remind them that they should not be  
5 up there. Human nature - you could put up a 20 foot  
6 fence and some 12-year-old kid is going to scale it.

7 MR. SIPPERLY: Chuck, that is on the downhill  
8 side of Afirm's, which is a challenge.

9 MR. VOSS: If you're asking my personal  
10 preference, I probably would not want to see fence  
11 there. I don't think it's appropriate.

12 CHAIRMAN STUTO: What is going to be on the  
13 slope?

14 MR. VOSS: It's going to basically be a grassy  
15 slope.

16 MR. SIPPERLY: Because of storm water issues,  
17 or probably going with a simple grass mix. There are  
18 no plans to maintain that slope. So, eventually it  
19 would be encumbered with brush and low growth.

20 MR. CARROLL: On our side there are graves and  
21 markers. Our concern -- and I can show you on the map  
22 -- on Saturday morning when there are tournaments  
23 going on and Watervliet Shaker Road is backed up and  
24 you are the 10th car behind and you're already a  
25 couple minutes late for your game, you're going to cut

1 through Memory Gardens. When you cut through Memory  
2 Gardens and drop your child off -- we have funerals on  
3 Saturday. We have parking issues, as it is.

4 MR. AUSTIN: So, you are more concerned about  
5 the folks intentionally cutting through from Memory  
6 Gardens to Afirm's.

7 MR. CARROLL: both. Our other concern is  
8 people using this as a shortcut to the parking area.  
9 If they park their three or four times on a Saturday  
10 morning when we have a funeral, what do we do? I can't  
11 get the hearse to the grave. There are some steep  
12 hills here but there are also some 10 feet hills or 15  
13 feet hills. I can easily walk between those -

14 MR. LANE: Offense is not going to solve that.  
15 It's just not going to solve that.

16 MR. CARROLL: That is my concern and we think  
17 the fence. That is what we think -

18 MR. LANE: That is not going to stop people  
19 from doing what you say they are going to do.

20 MR. CARROLL: What would you tell me is the way  
21 to address that problem?

22 MR. LANE: First of all, I'm not sure that is  
23 actually going to happen. So, I'm not sure there's  
24 anything to solve. I don't see people driving their  
25 kids into a cemetery to a soccer game.

1 MR. CARROLL: If they are late for a game?

2 MR. LANE: No.

3 MR. LACIVITA: Afirm, do you have  
4 communications with your coaches and your community  
5 that you work within? The reason I ask you is that  
6 this gentleman is concerned about using Memory Gardens  
7 as a parking lot and what communication can you send  
8 to the sports players that are on the teams and the  
9 coaches to say: anyone found doing so would be - some  
10 type of sanction on your behalf.

11 MR. AFIRM: With regard to the question you  
12 asked about the parking: first of all, we do have  
13 members. Everyone who plays with us -- because we are  
14 a private place, so we have everyone's email and we  
15 can contact them. We usually do. We have to tell them  
16 where they're playing their games. We could certainly  
17 say that absolutely no one is to go up the hill and  
18 warn your kids and so forth. So, we can communicate  
19 that to them. We do have supervised events. There are  
20 referees on the field. Referees are told that if you  
21 see a kid climbing a tree or doing something they are  
22 supposed to tell them. So we literally have on every  
23 field -- if there is a game, there is a ref. There is  
24 an adult on the field.

25 As far as parking close: that is 200 feet away

1 from the field. These spots are like 30 or 40 feet or  
2 50 feet. We made this so that people will park close.  
3 I just don't see that. I am like you, I would not send  
4 my kids through a cemetery to go park.

5 I had spoken to Andy and his concern was that  
6 what if you have a game with a lot of people coming to  
7 the game? I think people have this misconception about  
8 what this is going to be. This is a place where people  
9 play. This is not a stadium. So, I can see that at a  
10 stadium if there was a kickoff at 7:00, everyone is  
11 going to be arriving before the kickoff. Here, we have  
12 a game at 7:00 and you can have a game here at 7:30  
13 another game at eight. That is 10 or 15 cars that are  
14 coming in. There is never going to be a need where  
15 it's so backed up that I'm going to go to the cemetery  
16 and come all the way here (Indicating) to get to these  
17 fields. So, I don't see that either.

18 If you put a fence somewhere, kids are going to  
19 climb it.

20 MR. SIPPERLY: I would like to add -- let's  
21 talk about what drives people to do this;  
22 inconvenience in a site, not ample parking, I have to  
23 cross two lanes of traffic to take a left turn. We  
24 have a full motion intersection. We have over 400  
25 parking spaces all of which are designed to be centric

1 to the location of the field that you are playing on.  
2 In the off events or two off events where we have  
3 maybe tournaments, we have reached out to CBA and 900  
4 Watervliet Shaker Rd. and are working on agreements  
5 that will be in place and we have proof of that  
6 because we want to establish means to get people to  
7 the site conveniently. We have pedestrian access all  
8 the way down, a new crossing and sidewalks going down  
9 Watervliet Shaker Road and down Sand Creek and two  
10 overflow parking arrangements. I don't think we have  
11 created a need for people to become sneaky about how  
12 they get into the site.

13 I will be honest with you, Andy, that's a long  
14 way around. If I'm doing this as a parent, it is a bad  
15 move to send my kid into a site like that. I  
16 understand your point but there is a lot of  
17 infrastructure that has been invested in this design  
18 to take care of it. I will just leave it at that.

19 CHAIRMAN STUTO: Craig?

20 MR. SHAMLIAN: I do not think that a fence is  
21 warranted along the entire length. I do think that  
22 there are legitimate concerns however. For some  
23 distance, to restrict that access, there should be  
24 some kind of offense. From the description, it's going  
25 to be a fence that is going to be buried in with other

1           vegetation. It doesn't have to be a pretty fence. It  
2           could be a 6 foot high chain link fence. DOT puts  
3           fences in some very challenging spots along highways.  
4           There is no way that spot cannot handle a 6 foot  
5           fence.

6                   CHAIRMAN STUTO: How do you tell where it is  
7           more logical?

8                   MS. MILSTEIN: My thought was that it would be  
9           that area right behind the building or the dome is the  
10          area where they would most likely be able to cross. It  
11          seems like that might be a logical place because that  
12          is the area of concern or easiest access. At the same  
13          time, it would be hidden by the building. That makes  
14          sense.

15                  CHAIRMAN STUTO: That is possible.  
16                  You don't think it's necessary?

17                  MR. LANE: Absolutely not.

18                  CHAIRMAN STUTO: I do not have a firm opinion.

19                  MR. MION: I do not see a need for it, myself.  
20          I think it's unreasonable to even consider that.

21                  CHAIRMAN STUTO: I will say that is - when I  
22          took my kids, because my kids used to go to the one  
23          and Latham -- the parking lot got crowded and there  
24          were lines. I never looked for an alternative place. I  
25          just waited. I don't think there was one.

1           MR. AUSTIN:  If you have children involved in  
2           tournaments, those are multiple games so you're there  
3           for a good portion of the day with your child.

4           You say there is an overflow parking  
5           arrangement whether it be CBA or the church - - you  
6           could potentially do that.  How many people will take  
7           advantage of that?  Hopefully they do.  I have seen some  
8           pretty interesting soccer parents do some pretty  
9           interesting things to get to games before also.

10          MR. LACIVITA:  Personally I think that  
11          cemeteries that have big fences - St. Patrick's  
12          Cemetery was completely enclosed at one point in time.  
13          There is a bunch of housing behind it.

14          Here we have a cemetery that does not have any  
15          fencing around it existing now.

16          MR. SIPPERLY:  It is an entirely different  
17          situation.

18          MR. LACIVITA:  What I am saying is that to me  
19          spending money on a fence that is not going to change  
20          that -- because if you have two end points and then  
21          you have a gap.  Something that would be an additional  
22          landscaping to make it a buffer - a natural buffer --  
23          don't put something there that is not going to fit  
24          with the character.  You don't have a fence around  
25          cemeteries.  I think you're talking about a cost of

1 that is just being thrown away. Use it for something  
2 that is going to be a buffer.

3 MR. SHAMLIAN: I think to accomplish what you're  
4 talking you can spend more money landscaping, than you  
5 are fence.

6 If you want to talk about landscaping, let's  
7 talk about landscaping. He has 100% right. People are  
8 going to go through Memory Gardens and are going to  
9 drop their kids off. It will happen.

10 MR. LANE: I do not think that a fence that.  
11 You said yourself that they're just going to walk down  
12 to the end and around.

13 MR. VERA: You're talking about people who have  
14 no problem traversing a 40 foot slope. I think I see  
15 it as a small deterrent for anyone. If vehicles are  
16 parked in Memory Gardens property, that seems like it  
17 would be an enforcement issue.

18 MR. SHAMLIAN: Why should that have to be  
19 Memory Gardens' responsibility to enforce that?

20 MR. SIPPERLY: I would just imagine that as a  
21 cemetery they have some of those problems already. The  
22 argument is that a vehicle would park on their  
23 property -- if we are not talking about fencing the  
24 entire property line which is 1,500 feet and the  
25 chain-link fence which is 6 feet high is about \$25.00

1 a linear foot. That is quite an expense.

2 CHAIRMAN STUTO: Did somebody do the math?

3 MR. SIPPERLY: I do not have that added up, but  
4 that is just what it is; \$25.00 a linear foot.

5 MR. CARROLL: Is that with the bar at the top  
6 or -

7 MR. VERA: That is just 6 foot high chain link  
8 fence. I think at 6 feet high you are already into a  
9 top bar. It's about \$40,000.00. Again, the grade  
10 change between this driveway in the top of that  
11 property line (Indicating) is significant. It is 40  
12 feet.

13 CHAIRMAN STUTO: But it is not super steep.

14 MR. VERA: It is steep enough to require  
15 erosion control matting as per the Town standard in  
16 the TDE's comments which would make it too steep to  
17 mow and maintain. It is not going to be maintained.  
18 This is not four inch high grass, permanently.

19 MR. SIPPERLY: Mr. Chairman, I have a  
20 suggestion. Can we propose -- we are debating the  
21 unknown. There are lots of good points on both sides;  
22 I would agree. Could we possibly propose to operate  
23 for a year and put on the agenda to come back as a  
24 talking discussion?

25 CHAIRMAN STUTO: I would like to keep our

1 authority, if we do that. I was thinking approving it  
2 and then studying the issue with the one unknown and  
3 studying at a little bit closer and bringing it back,  
4 just for that one issue.

5 MR. SIPPERLY: I don't really see us getting  
6 anywhere tonight. We are both making good points on  
7 each side and I just don't know where it is going to  
8 go.

9 CHAIRMAN STUTO: That is what I am saying -  
10 reserving that issue for us.

11 MR. LACIVITA: With the landscaping plan you  
12 are seeing almost 60 trees being planted along that  
13 line. We are really creating a natural buffer which is  
14 something we're criticized with all the time.

15 MR. VERA: How long is that line, Joe?

16 MR. VOSS: It runs about 1,000 feet.

17 MR. SIPPERLY: It depends upon where they want  
18 it, Chuck.

19 MR. VOSS: Where it is landscaped right now it  
20 runs basically from almost the right corner of the  
21 upper right soccer field all the way behind the dome  
22 to about halfway across the front field. So that is  
23 about 400 feet, give or take.

24 MR. SHAMLIAN: That is a visual buffer, but it  
25 is not an impediment to somebody.

1           MR. VOSS: Not after the first couple years,  
2 but after 10 years.

3           MR. SIPPERLY: Member Shamlian, have you been  
4 to the site and seen how thick the vegetation is - not  
5 only the under story vegetation, but the tall trees?  
6 It is a super buffer. We couldn't make this in 40  
7 years. If I planted trees today, 40 years from now we  
8 would not have what exists there today.

9           MR. CAPONERA: They are 50 feet high - those  
10 trees.

11          MR. SIPPERLY: With a significant understory.  
12 It is not convenient, although trails to get formed. I  
13 do agree with how you are thinking. It is in both  
14 these guys' vested interests to operate, come back  
15 until you how great it is.

16          CHAIRMAN STUTO: I will make a decision tonight  
17 if I have to. I wouldn't mind having a little more  
18 time to think about it. I have been by the site many  
19 times and I looked at these plans many times but I  
20 have not walked the site. I haven't walked the site,  
21 period, or with that in mind.

22          The entrance to the cemetery is further down  
23 and all that. I would like to think about it more. I  
24 guess there is a letter in the record that went to the  
25 Town Board and to the Zoning Board, but it has never

1           been brought up at our meeting here.

2                   MR. SIPPERLY: I will be honest with you, we  
3           heard about it for the first time this evening.

4                   CHAIRMAN STUTO: Well, he's saying that he  
5           brought it up at the ZBA meetings, which your client  
6           was in front of.

7                   MR. SIPPERLY: From a design perspective, we  
8           did not have a chance to talk this over, Incorporated,  
9           look at the costs or anything. Or even come up with  
10          alternatives to discuss it.

11                  MR. AFRIM: They requested it. They never got  
12          approval for the fence. They got approval without the  
13          fence.

14                  MR. CAPONERA: When I did the special use  
15          permit - and it was an exhaustive process. When I did  
16          the appearance in front of the Zoning Board on  
17          multiple occasions, we had photos showing the thick  
18          growth that was there. We went over and over this and  
19          when I had the special use permit, that was not made a  
20          condition. I know that it was requested, but the  
21          zoning Board did not determine that it was needed.

22                  MR. SHAMLIAN: That has no bearing on this.

23                  MR. CAPONERA: And you are absolutely right. I  
24          completely understand what you're saying. I was quite  
25          happy to hear that you had been to the property

1 because it is quite unique. Listen, nothing is going  
2 to stop people from going through there. I don't care  
3 if you put a fence up or you put a tree up every two  
4 feet. If somebody wants to get through, they are going  
5 to get through. My opinion is that the best suggestion  
6 is you can just hold onto this provision of this  
7 particular issue and revisit it.

8 Afrim has gone through an incredible amount of  
9 detail on this thing. When the adjacent property came  
10 in, it stopped everything because of the incredible  
11 cost involved in this. This cost involving the sewer  
12 and the water and the intersection - that is going to  
13 open up this whole area because there is no water and  
14 there is no sewer on the side of the road  
15 (Indicating). That's the whole reason why the sewer  
16 department and the water department wanted these  
17 incredibly expensive cost measures to open this all  
18 up. Obviously, cost is a factor in the severe huge  
19 cost for Afrim to do.

20 MS. MILSTEIN: My feeling is that this is the  
21 first time that it has come into us and it's the first  
22 time that it's coming to you. So, we have some ideas.  
23 You know what the concerns are and we know what the  
24 concerns are. I think everybody needs more time to  
25 come up with some ideas that are out viable solution

1 in order to address this.

2 MR. LACIVITA: I think that the project has  
3 addressed everything from a Town perspective. This is  
4 the last - I will call it a hurdle that has come at  
5 the last minute.

6 When we did Maxwell Road and all of the things  
7 that happened on that, we gave conditional approval to  
8 allow the applicant to go forward with everything  
9 else. I think we can afford the same issue here. If  
10 that is the last understanding that we know it's a  
11 landscaping or fencing issue, conditional approval can  
12 be granted where we come back. He still has to go  
13 through getting final stamped plans from our Town  
14 department. Allow that to continue so he doesn't lose  
15 any more time down the road. I think that's perfectly  
16 reasonable.

17 CHAIRMAN STUTO: I'm okay with that.

18 MR. LACIVITA: Allow it to go forward and come  
19 back as the project starts to progress.

20 MR. VOSS: We can certainly work with him on  
21 fencing pieces and landscaping issues.

22 MS. MILSTEIN: Or make it conditional that  
23 there is an approved landscaping plan and/or fencing.

24 CHAIRMAN STUTO: That should be brought back to  
25 us. I think we should get another crack at it.

1 MS. MILSTEIN: Absolutely. If we say no, it is  
2 no. That is the risk that they are going to run.

3 CHAIRMAN STUTO: Are you okay with that?

4 MR. SHAMLIAN: Yes.

5 CHAIRMAN STUTO: Does the applicant okay with  
6 that?

7 MR. CAPONERA; we were having a deep  
8 discussion here, Mr. Chairman, sorry.

9 CHAIRMAN STUTO: The suggestion was have a  
10 conditional approval so that you have a final approval  
11 but reserve our right to modify the fencing and/or  
12 landscaping sometime after the first of the year. I  
13 would be guessing that you would be coming back in  
14 March or something like that. That will give us time  
15 to really deliberate and think behind the scenes for  
16 us as well.

17 MS. MILSTEIN: Understanding that there is also  
18 a risk. We can say that we want a fence down the  
19 entire boundary.

20 MR. VERA: Would the fencing eliminate the  
21 landscaping requirement, or would both of those -

22 MR. LACIVITA: I think that comes to the course  
23 of review.

24 MR. SIPPERLY: So, we are not talking one or  
25 the other. We could be talking about both.

1                   MR. LACIVITA: That's condition upon. I think  
2                   that there is a question: Is the buffer going to be  
3                   substantiated? Is the fencing going to take away from  
4                   it? I think that's something that the TDE and I will  
5                   do as we work with you guys. That's a recommendation  
6                   that could come back to the Board. It could be in  
7                   and, in our, or a supplemental health or one of the  
8                   other.

9                   MR. CAPONERA: Do you want to come back that  
10                  quick?

11                  MR. SHAMLIAN: Scenario would be to work with  
12                  Memory Gardens and come up with something that both  
13                  parties are happy with.

14                  MR. AFRIM: We will go with that.

15                  MS. MILSTEIN: Also, if you would bring any  
16                  visual representation with you.

17                  CHAIRMAN STUTO: When do you recommend coming  
18                  back?

19                  MR. SHAMLIAN: If they could work out something  
20                  together, they could come back right away.

21                  CHAIRMAN STUTO: He's starting to get stacked  
22                  up with projects right now.

23                  MR. AUSTIN: I appreciate with the applicant  
24                  saying, too, when you're mentioning one of the other.  
25                  The landscaping plan and the fence -

1                   MR. SIPPERLY: We were under the understanding  
2                   that the landscaping that was requested would provide  
3                   both visual screening and sort of a physical barrier.  
4                   With cost in mind, we are just curious if it could be  
5                   in either or.

6                   CHAIRMAN STUTO: No, we are reserving all of  
7                   our rights.

8                   MR. SIPPERLY: We understand.

9                   CHAIRMAN STUTO: I will say that Memory Gardens  
10                  could have done a much better job of communicating  
11                  this to the Planning Board into the applicant, I  
12                  guess. This is truly the 11th hour. We've had plenty  
13                  of Planning Board meetings.

14                  MR. CARROLL: This is not the 11th hour for us.

15                  CHAIRMAN STUTO: How many Planning Board  
16                  meetings have you been to?

17                  MR. CARROLL: Every one - the zoning -

18                  CHAIRMAN STUTO: No, this is the Planning  
19                  Board.

20                  MR. CARROLL: We went all the other ones.

21                  CHAIRMAN STUTO: I was not there. That is a  
22                  different Board with a different function.

23                  MR. CARROLL: I apologize. We sent a letter to  
24                  the wrong Board.

25                  CHAIRMAN STUTO: We have had plenty of meetings

1 here.

2 Are they on notice of your concept approvals?

3 MR. SIPPERLY: Yes.

4 CHAIRMAN STUTO: I'm not going to be on the  
5 defensive about that. You should have been here. That  
6 is what I'm saying.

7 Any other issues or questions?

8 (There was no response.)

9 I like the architecture. I will say that. That  
10 is positive. All the other issues that have gotten  
11 worked out - I think there have been worked out as  
12 reasonably as we could have worked them out.

13 Do we want to walk through the environmental  
14 review?

15 Chuck, can you help us with that?

16 MR. VOSS: Certainly.

17 The Board has in their packets a prepared  
18 Environmental Assessment Form part one, two and three.  
19 We in conjunction with the Town Attorney have prepared  
20 a Part II. Based on the questions enumerated in Part  
21 II and the answers therein, the Town Attorney's office  
22 advises that a negative declaration be prepared and  
23 we've gone ahead and prepare that. That's part three  
24 that you have.

25 If you like, Peter, I can go through those

1 questions or if you like I can read the conclusions to  
2 each one of those.

3 CHAIRMAN STUTO: Yes, please read the  
4 conclusions.

5 MR. VOSS: There were multiple sections to  
6 this. The lead agency is noted as the Town of Colonie  
7 Planning Board. The project identification is listed  
8 as Afrim's Sports Park. The action is for conditional  
9 site plan approval. That is for the impacts on the  
10 land.

11 The project will results in a significant  
12 physical change to the site because it is currently  
13 developed however based on the site layout and the  
14 site design the above will appear to have a minimal  
15 impact on environmental resources of the land.

16 In terms of the impact on water: The site will  
17 be served by municipal water therefore based on the  
18 above it appears that the project will not have a  
19 significant impact on the environment related to water  
20 resources.

21 In terms of the impacts on air: The conclusions  
22 were the same based on the above it appears that the  
23 project will not have a significant impact on the  
24 environment related to air quality.

25 Impact on transportation: As we noted earlier

1 through the narrative is supporting documentation,  
2 excessive traffic mitigation measures have been taken  
3 for the project therefore it appears that the project  
4 will not have a significant impact on the environment  
5 with respect to transportation.

6 Impact on the aesthetic resources: Again, and  
7 working with the landscaping of the site and the  
8 positioning of the structures and the setbacks  
9 included in the site there will be again no  
10 significant impact on the environment with respect to  
11 the aesthetic resources.

12 Impact on archaeological and historical  
13 resources: There was extensive work done on the site  
14 in terms of environmental resource assessment. Again,  
15 the applicant has worked very closely with the Shaker  
16 Heritage Society. Therefore, based on supporting  
17 information the project, again, will not have a  
18 significant impact on the environment related to  
19 archaeological and historical resources.

20 Impacts on plants and animals: Again, based on  
21 threatened and endangered species report that was  
22 submitted by the applicant as well as the supporting  
23 information, it again appears that the project will  
24 not have a significant impact on plants and animals.

25 Impact on growth, character and health of the

1 community or neighborhood: Again, based on the  
2 special use permit granted as well as additional uses  
3 that are approved for this district, the project,  
4 again, will not have a significant impact on growth,  
5 character and health of the community or neighborhood.

6 Impact on energy: The project will require some  
7 energy but will not be placing any undue burden on the  
8 power grid or any important structures. Therefore,  
9 again, based on the above, it appears the project will  
10 not have a significant impact on energy.

11 Impact on noise and odor: Due to the nature of  
12 the project, the setbacks, the ambient noise levels  
13 that are anticipated for this type of facility, it  
14 again appears that the project will not have a  
15 significant impact on noise and odor.

16 The conclusion, therefore, is that the Town of  
17 Colonie Planning Board has completed a careful review  
18 of the reasonably anticipated areas of environmental  
19 concern raised by the project and based upon that  
20 review, the criteria for the significance contained in  
21 the SEQR regulations and the rule of reasonableness  
22 the Planning Board issues this negative declaration  
23 concluding that the facts and circumstances in this  
24 project will not result in a significant adverse  
25 environmental impacts.

1                   Therefore, in an Environmental Impact Statement  
2 will not be required.

3                   CHAIRMAN STUTO: Does the Board have any  
4 comments or questions on that?

5                   (There was no response.)

6                   Do we have a motion on the negative  
7 declaration?

8                   MR. MION: I'll make a motion.

9                   MR. LANE: Second.

10                  CHAIRMAN STUDIO: Any discussion?

11                  (There was no response. )

12                  All those in favor, say aye.

13                  (Ayes were recited.)

14                  All those opposed, say nay.

15                  The ayes have it.

16                  On the main question before the Board which is  
17 for final approval - final site plan approval  
18 conditioned upon the comments of the Town departments  
19 in the Town Designated Engineer and in particular  
20 reserving our right with respect to fencing and/or  
21 landscaping on the Memory Gardens border, do we have a  
22 motion?

23                  MR. SHAMLIAN: I'll make that motion.

24                  MR. MION: Second.

25                  CHAIRMAN STUTO: To be clear, they will be

1 coming back in the spring.

2 Is that fair to say - to go over the remaining  
3 issue which is landscaping and/or fencing?

4 MR. SIPPERLY: Yes.

5 CHAIRMAN STUTO: Any further discussion?

6 (There was no response.)

7 All those in favor, say aye.

8 (Ayes were recited.)

9 All those opposed, say nay.

10 The ayes have it.

11 Thank you.

12 MR. SIPPERLY: Thank you and good evening.

13

14

15 (Whereas the above entitled proceeding was  
16 concluded at 8:09 p.m.)

17

18

19

20

21

22

23

24

25

CERTIFICATION

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

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 \_\_\_\_\_

