

PLANNING BOARD
TOWN OF COLONIE

COUNTY OF ALBANY

PUBLIC HEARING REGARDING THE CAPITAL DISTRICT
CELTIC CULTURAL ASSOCIATION PROPOSED LOCATION
OF 430 NEW KARNER ROAD PARKING WAIVER REQUEST

THE TAPED AND TRANSCRIBED MINUTES of the above
entitled proceeding BY NANCY STRANG-VANDEBOGART
commencing on August 11, 2009 at 8:51 p.m. at the
Public Operations Center 347 Old Niskayuna Road,
Latham, New York 12110

BOARD MEMBERS:

JEAN DONOVAN, CHAIRPERSON
MICHAEL SULLIVAN
ELENA VAIDA
TIMOTHY LANE
TOM NARDACCI
PETER STUTO, Jr. Esq.,
Attorney to the Planning Board

Also present:

Joe LaCivita, Director, Planning and Economic
Development

Mike Lyons, Planning and Economic Development

Kevin Roe, Executive Director, Capital District
Celtic Cultural Association

1 CHAIRPERSON DONOVAN: Also on the
2 agenda this evening, we have the Capital
3 District Celtic Association, 430 New Karner
4 Road. It's a change in use; parking in the
5 front yard waiver request.

6 MR. ROE: My name is Kevin Roe and I'm
7 the Executive Director of the Capital
8 District Celtic Cultural Association.

9 Before we get to the issues, I'd like
10 to thank Mr. LaCivita and Mr. Lyons from
11 Planning and Economic Development. We have
12 been with them for the last month and they
13 have been incredible with this.

14 I'd also like to thank our new
15 neighbors for coming out tonight. Twice
16 they've been out to Zoning Board meetings
17 and sitting here for the last hour and a
18 half. I'd like to thank them for their
19 patience.

20 I'd like to ask the board to perhaps
21 change the protocol for them and let the
22 neighbors speak a little sooner than they
23 normally do.

24 CHAIRPERSON DONOVAN: No, we're fine.
25 Thank you though.

1 MR. ROE: We're here to ask you for a
2 waiver of the restriction from parking in
3 front of the building of 430 New Karner
4 Road. I suppose the last applicant already
5 had that waiver.

6 CHAIRPERSON DONOVAN: Yes, he received
7 his parking waiver.

8 MR. LYONS: The former building? That
9 building is set behind the existing building
10 that comes out toward Central Avenue so the
11 parking is actually set behind that
12 building.

13 CHAIRPERSON DONOVAN: I was talking
14 about Mr. Fein.

15 MR. LYONS: so was I.

16 CHAIRPERSON DONOVAN: But he didn't
17 need a parking waiver.

18 MR. LYONS: There is a section of the
19 building that comes up toward
20 Central Avenue. It's L shaped. He's merging
21 two parcels together.

22 MR. ROE: We're looking to buy this
23 property - the old Pitney Bowes building
24 over at 430 new Karner Road. It's an office
25 building. We're proposing to use it as a

1 cultural community center.

2 We're a not for profit educational
3 cultural organization. We basically do Irish
4 and Scottish cultural programming, dance,
5 music, piping, history, lectures, seminars,
6 workshops or whatever we can do. For our use
7 we need another 40 parking spaces.

8 Originally, in meeting with the town
9 variance boards, the Building Department,
10 the Planning Department and everybody else,
11 we have come in with an additional plan of
12 parking back here in this triangular part of
13 the property (Indicating). The Zoning Board
14 asked that we reconsider and come to this
15 board with the plan to put those extra
16 spaces in the front of the building.

17 We previously have been advised that
18 there is a town Land Use Law that prohibits
19 that and we would need a waiver from this
20 board.

21 Our engineer couldn't be here tonight.
22 He had to be at a different Planning Board.
23 We're not for profit and the other client
24 actually pays.

25 The neighbors obviously object.

1 There are some aerial shots here.

2 As you can see in the back of this lot
3 (Indicating), the residential properties are
4 very close to that parking that we have
5 proposed. Of course, they objected for all
6 the reasons that people don't want parking
7 next to their houses. That's how we ended up
8 with this proposal.

9 Not shown on this but clearly shown on
10 all the maps and all the aerial views you'll
11 find that regardless of the town Land Use
12 Law, the commercial operation right next
13 door to us which is the Funeral Directors
14 Association of New York State have parking
15 in front of the building. Across the street
16 which used to be the Lawrence Group
17 insurance company - there are a group of
18 buildings in there. All of their parking is
19 up on Karner Road. As you go up
20 New Karner Road in that area you'll find
21 that seems to be the rule that there is
22 parking in the front.

23 If we're allowed the waiver that we're
24 asking for, it really doesn't change the
25 neighborhood.

1 Next to us immediately going north is
2 the Niagara Mohawk power easement. We use
3 park of their land for parking. Immediately
4 beyond that there is a about a 3,000 square
5 foot commercial building on four acres. The
6 way that this lot is set up, there is
7 parking behind this building (Indicating).

8 Next to that is a residential piece of
9 property which apparently has commercial use
10 for auto parts. It's a custom type shop and
11 he clearly uses the front of that building
12 to park. Actually he parks cars for sale on
13 the front lawn. He doesn't use it for
14 parking but he uses it -

15 MR. LANE: On a residential lot?

16 MR. ROE: I don't think that it's
17 residential. I think that it's zoned
18 commercial. It just happens to be a
19 residential raised ranch that somebody built
20 and converted it.

21 MR. LYONS: It used to be a stone and
22 gem shop, I think.

23 MR. ROE: It looks like a house.

24 MR. LYONS: Initially it was, I
25 believe.

1 MR. ROE: In any case, we have
2 submitted our application. We have gotten
3 our comments. We believe that we have
4 addressed them all.

5 There is a sanitary sewer going behind
6 the property that comes from the funeral
7 directors and from our building. It joins up
8 behind us and extends out the back into the
9 town sewer system. The necessary easements
10 were granted to the funeral directors so
11 that they could cross our property to put
12 their sewer in; making this a public sewer
13 line.

14 Pure Waters has asked that be done and
15 obviously we would like to do that. It's in
16 our favor to do that because then the town
17 will take over the maintenance on it.

18 There was a question from the county
19 and from the County Public Works regarding
20 the additional stormwater. The storm sewer
21 runs right there (Indicating). We originally
22 proposed that we put dry wells in, but we
23 found that the engineer is recommending that
24 we go right into the existing storm sewer
25 and use two 50-foot 24-inch pipes that would

1 handle the 100 year flood level back up.
2 It's in the submission. I'm not an engineer,
3 so I don't know how to describe it.

4 We also found out that storm sewer
5 sewer runs through our property also. It's
6 being used not only by us but also the
7 adjoining properties across the street. The
8 town doesn't have an easement on that yet.
9 I'm sure that's going to come out and of
10 course, we're more than happy to give the
11 town an easement so that they can maintain
12 the storm sewer.

13 So, that's where we are.

14 CHAIRPERSON DONOVAN: Thank you.

15 I have a quick question for you. A
16 while back, I had met with you and Joe and
17 Mike up in the department and I thought that
18 you had mentioned that the corner of the
19 property, a little triangular piece was
20 actually yours.

21 MR. ROE: We can't figure it out. As
22 far as we can determine, nobody owns it.
23 We're happy to take care of it, though.

24 CHAIRPERSON DONOVAN: Michael, would
25 you please go through the various

1 departments' points and tell us how this
2 gentleman has to address the comments by the
3 different departments, please?

4 MR. LYONS: I'll just start with my
5 August 4, 2009 letter.

6 Some of the items that we require are
7 that eventually once the plans are
8 finalized, they come into our office in
9 either a CAD or a TIF image so that they can
10 eventually be put onto a computerized
11 system.

12 We ask that only down type lighting be
13 installed for the new parking lot area.
14 Actually also in the existing parking lot
15 area so that lighting does not spill over
16 onto adjoining neighbor properties or
17 adjacent roadways.

18 With the proposed number of parking
19 spaces, a total of six handicapped parking
20 spaces must be provided to meet the ADA code
21 requirements.

22 We ask that they provide pedestrian
23 bicycle amenities within the site from the
24 sidewalks leading to the doors; a bike rack
25 for anyone that comes in from Central Avenue

1 who rides a bike. As you know all the CDTA
2 busses now carry bike racks in the front.

3 We ask that the mature trees be
4 preserved along New Karner Road and those to
5 be removed be identified so there is not a
6 clear cutting.

7 CHAIRPERSON DONOVAN: They need to be
8 identified or they have been identified?

9 MR. LYONS: Well, that they be
10 identified. There is fairly substantial
11 growth of trees in front of the building
12 now. Some of them would actually have to be
13 removed. Many of them would be able to stay.

14 CHAIRPERSON DONOVAN: Now who would
15 oversee that, Mike? What prevents the
16 gentleman tonight from just clearing
17 everything down? Do they have to come back
18 with you to your department?

19 MR. LYONS: He would come back with the
20 revised plans that would actually show a
21 clearing/grading line.

22 CHAIRPERSON DONOVAN: So he would have
23 to do that if his parking waiver was granted
24 this evening?

25 MR. LYONS: Correct.

1 We ask that the location of any
2 proposed free standing signs be shown and
3 where they go and that they don't take up a
4 parking space or cause a traffic circulation
5 issue.

6 We ask that the proposed Albany County
7 Planning Board comments are addressed which
8 those items were:

9 The town should determine that the
10 proposed drywell would be sufficient.

11 That's something that our stormwater
12 coordinator is looking at as part of the
13 overall stormwater management for this
14 10,000 square feet of new pavement.

15 CHAIRPERSON DONOVAN: So the stormwater
16 hasn't been reviewed yet. It hasn't been
17 finalized yet.

18 MR. LYONS: It has not been finalized
19 yet. The first round of plans have been
20 reviewed. They also know that the county
21 asked that the plans be reviewed by the
22 Albany County Department of Public Works.
23 New Karner Road is a county highway.

24 We just note that a minimum frontage
25 build-out of 60% is recommended along the

1 New Karner Road corridor in the OR district.
2 This can be met with landscaping and other
3 possibly decorative walls or sections of
4 fence or landscaping. Different things can
5 be used to meet that if much of the existing
6 trees are maintained along the property's
7 frontage. That certainly can meet that
8 requirement.

9 They are here before the board tonight
10 because of the waiver to allow parking in
11 the front yard. The applicant has submitted
12 written request which I believe was included
13 in all your packages.

14 For the new parking area, a minimum of
15 20 square feet of landscaped island shall be
16 included in the interior of the parking
17 area. That's based on the number of parking
18 spaces that are proposed. That can be worked
19 out possibly with small islands within the
20 parking lot.

21 Do you have a door that comes out to
22 the front of the building as well?

23 MR. ROE: Yes, there is. In fact that
24 was the original that was built.

25 MR. LYONS: Perhaps decorative islands

1 in that area could meet that. However, that
2 does reduce the parking a little bit; maybe
3 one or two spaces.

4 Item 12 was an issue that we brought
5 up. This letter is actually to Kevin. It
6 says:

7 As noted in our earlier conversations,
8 this office expresses a concern over
9 available parking during activities such as
10 Bingo. Parking on New Karner Road would
11 create an unsafe situation and cannot be
12 supported by this office.

13 One of the issues that we bring up is
14 that right now based on the size of the
15 building, based on a fully occupied building
16 of business use, parking regulations would
17 require 103 parking spaces including the
18 parking that is on the National Grid
19 property. Currently the site has 105
20 available parking spaces. So, it meets
21 current code requirements for straight
22 business use. With the proposed use with
23 Bingo uses, or you mentioned smaller
24 tournaments like dance tournaments.

25 MR. ROE: Competitions.

1 MR. LYONS: I'm sorry; competitions.

2 MR. ROE: Concerts, dinners, meetings.

3 MR. LYONS: There could be up to 250 to
4 300 people maximum use of that property. Our
5 concern is no mass transit available along
6 the New Karner Road line. The closest mass
7 transit is Central Avenue where the CDTA bus
8 stops currently are. You could have a
9 possible situation where cars could be
10 filling the parking lot and wanting to park
11 elsewhere - whether it be an adjoining lot
12 or possibly New Karner Road, which is not
13 posted no parking. New Karner Road was
14 really not set up for on-street parking,
15 although they do have a paved shoulder.

16 The speed limit, I believe, is 45 miles
17 per hour along New Karner Road and that's
18 primarily our concern. It kind of goes hand
19 in hand with the proposals, as well as the
20 reason why the additional parking is being
21 used.

22 With the additional parking would they
23 meet the code requirement of having one
24 space for every two persons maximum
25 occupancy? Yes, they would. The overall use

1 itself was a concern of the departments and
2 we asked that the board review that.

3 CHAIRPERSON DONOVAN: Just a quick
4 question, Mike. Is the use permitted?

5 MR. LYONS: The use is permitted, yes.

6 As Kevin mentioned, one of the reasons
7 why they're here before the board tonight
8 for this waiver is that they actually did
9 make an application, as Kevin mentioned, to
10 put the parking in the rear. The Chairman of
11 the Zoning Board of Appeals said, wait, we
12 have a lot of residential neighbors in the
13 back which are here tonight. Before we
14 consider that action, we'd like you to
15 explore going before the Planning Board to
16 put the parking out front and to avoid
17 placing the parking near the residential
18 homes.

19 I believe that there is a 50-foot
20 setback from the residential zone that any
21 new parking would require. I'm not quite
22 sure what you got for total parking numbers
23 based on that plan. I don't have that plan
24 there.

25 MR. ROE: The one that was back here

1 (Indicating)?

2 MR. LYONS: Yes.

3 MR. ROE: It was 151 and 152. There
4 were a couple in the back that we really
5 would like to bring closer. It was 150 and I
6 think now it's 172. We're going to lose a
7 couple so we're basically at 151.

8 MR. LYONS: Which as I said, also meets
9 town requirements of one parking space for
10 every two persons maximum occupancy.

11 Pete Lattanzio actually had no
12 comments. He reviewed the first submission
13 of plans.

14 At this time I have no objections to
15 the proposal.

16 That's from the Department of Fire
17 Services.

18 The Public Works comments and comments
19 from the sewer department, as Kevin had
20 mentioned, show the existing sanitary sewer
21 laterals and show a portion of the existing
22 public sanitary sewer with the existing man
23 holes, as well as provide a meets and bounds
24 mapping for the legal description to
25 establish a 30-foot wide utility easement.

1 The Stormwater Coordinator had some
2 comments with regards to the increase in
3 stormwater run off that would come off the
4 additional pavement. They're looking for
5 some more calculations and some engineering
6 work to meet that.

7 As part of our due diligence. This
8 project is an unlisted SEQRA action.

9 Also attached were copies of the
10 approved zoning verification form that says
11 that they're showing here before the board
12 tonight a permitted use in the zoning
13 district; both the use as well as the
14 additional parking. The only reason why it's
15 here again is because it requires a waiver
16 and findings to be determined by the
17 Planning Board to allow parking in the front
18 yard.

19 CHAIRPERSON DONOVAN: I have a question
20 for you Michael. Are we looking at a parking
21 wavier and final plan approval this evening?
22 Are we looking at a parking waiver and
23 concept approval? What is the action that
24 the board is taking?

25 MR. LYONS: This is not a parking

1 waiver. This is strictly to allow parking in
2 the front yard.

3 MR. VAIDA: So, there is no other
4 action by the board?

5 MR. LYONS: Maybe I'll just refer this
6 question to counsel.

7 If a project comes before the board for
8 a waiver, is the board looking at the
9 application as a whole or are they only
10 looking at the portion of the waiver?

11 MR. STUTO: I don't have a definitive
12 legal answer but my thought and impression
13 is that they were looking at the whole
14 application.

15 MR. LYONS: I thought the same thing.
16 It's not really clear in the Land Use Law
17 which way it goes. When something comes
18 before the board, the board usually has the
19 right to view the whole action before the
20 board.

21 CHAIRPERSON DONOVAN: The board would
22 never take final action on a project if we
23 don't have the stormwater issue addressed.
24 That's one of the things that I believe
25 Elena just mentioned. We don't have it

1 addressed at this point. So, it would be
2 another step in the process if I'm not
3 mistaken.

4 MR. STUTO: Unless you make a
5 contingent.

6 CHAIRPERSON DONOVAN: Contingent on
7 stormwater approval which we could do.

8 Here is just a quick question for you.
9 You're going to hold Bingo there.

10 MR. ROE: Friday nights and Sunday
11 afternoons.

12 CHAIRPERSON DONOVAN: Bingo can be
13 tough sometimes. Do you believe that your
14 150 parking spaces are going to be
15 acceptable for Bingo?

16 MR. ROE: We think they'll be
17 sufficient. We operated Bingo for eight
18 years and the last three of them, there
19 seemed to be an issue with the parking.

20 Tim used to go out and count the cars.
21 We know what our average was and the number
22 of cars for the number of people and it
23 didn't even get two persons per car. It was
24 more like 2.5 persons per car.

25 CHAIRPERSON DONOVAN: This would be

1 perfect for this site or it could be a
2 nightmare. It could go either way.

3 MR. ROE: One of the things with Bingo
4 is you have to have an admission card to get
5 in. So, the operator has complete control
6 over the number of admissions. When the
7 parking lot is full, the admission window
8 closes and that's it.

9 CHAIRPERSON DONOVAN: So you have some
10 on-site monitoring?

11 MR. ROE: In our proposal we will have
12 a parking lot monitor first of all to help
13 people get into their spots. As you get down
14 to the last ten or twelve spots, people need
15 a little direction to get there. When the
16 lot is full, the attendant will come in and
17 tell the Bingo captain that the lot is full
18 and that's it. We're all filled up.

19 Over and above that, the thing that's
20 particular about Bingo is that twice a week
21 we will report the exact number of patrons
22 to the Town of Colonie. We are required to
23 do that by law. The minute that we exceed
24 it, you're going to know it. If it happened
25 on a Friday, the Town Clerk is going to know

1 it on a Monday. The Fire Marshal is going to
2 be there on Monday afternoon.

3 The Bingo reports are due within
4 48 hours of the occasion. So, we'll have an
5 exact count for every single session. That's
6 how I know how many people come to Bingo,
7 how many people we average, what the
8 fluctuation was and what the mean attendance
9 was. All the numbers are required to be
10 reported by law.

11 CHAIRPERSON DONOVAN: Will you have
12 access to the building other than the front?
13 I guess that is facing toward the north of
14 the building. Will you have access in the
15 rear of the building so that people can come
16 in, or do people all have to come through
17 this one front door?

18 MR. ROE: No, there are actually four
19 entrances for the building, as it exists
20 right now. There is one on New Karner Road.
21 It hasn't been used in years but it is the
22 main entrance to the building. There is a
23 current main entrance to the building which
24 is on the south side. That will be there
25 (Indicating). There are actually two doors

1 in the back of the building. One through a
2 set of stairs and one handicapped access
3 ramp. Then on the north side of the
4 building, there are two entrances. One of
5 which will continue to be essentially a
6 utility entrance and fire exit. The other
7 one will become the main entrance. The part
8 of the building that we're talking about
9 where concerts and Bingo will be held is
10 the main hall. That's a single door now.
11 When we submit our building plans, they will
12 become a double door with an entrance way.
13 That will be the main entrance, essentially
14 for customers coming for Bingo or anybody
15 coming for a public event. That would be
16 from that side.

17 CHAIRPERSON DONOVAN: I certainly don't
18 want to see any parking on New Karner Road.

19 MR. ROE: No. In our proposal we'll
20 make the roadways interior to the property
21 one way. Coming from the north side, you'll
22 come down and exit out this way
23 (Indicating). The parking area will be one
24 way. So everybody would come in through this
25 part of the property and you're going around

1 the back and out through the main area.

2 On New Karner Road, we would certainly
3 request that posting some no parking signs -

4 CHAIRPERSON DONOVAN: It's a county
5 highway. I don't know.

6 MR. LYONS: We still have enforcement.
7 We don't like to put parking signs up unless
8 it becomes an issue or a problem.

9 MR. ROE: Certainly this needs to be
10 posted out there because we don't want
11 people parking on New Karner Road either.
12 It's just going to create a safety issue.
13 Besides, there is no parking on a town
14 highway anyway. The safety issue is what
15 concerns us.

16 People opening up their car doors on a
17 45-mile per hour road - it's not going to be
18 too long before someone is seriously hurt.
19 We want to do everything we can to avoid
20 people parking on New Karner Road. We think
21 that we can do that by monitoring our own
22 lot, closing Bingo and saying we're full.
23 That's that.

24 CHAIRPERSON DONOVAN: When you say once
25 we're full - you mean the parking lot is

1 closed.

2 MR. ROE: Yes.

3 CHAIRPERSON DONOVAN: If one person
4 comes in a car and there are only 150 people
5 in Bingo because you have 150 spaces, then
6 you close it down.

7 MR. ROE: We encourage people to come
8 four in a car.

9 MR. LYONS: You should get an extra
10 Bingo card for every extra person you have
11 in your car.

12 CHAIRPERSON DONOVAN: You have an
13 easement for an X amount of parking spaces.
14 How many do you have over there?

15 MR. ROE: There's 80 or 90.

16 CHAIRPERSON DONOVAN: Once you lose
17 that with Niagara Mohawk, you lose that use
18 on your building.

19 MR. ROE: That's in 37 years.

20 CHAIRPERSON DONOVAN: I won't be here.

21 MR. ROE: That's basically a 40-year
22 use and that exceeds the lifespan of the
23 building. The mortgage is only 14 years.
24 Once the mortgage is paid, we don't need to
25 do Bingo anymore.

1 Quite frankly for our normal everyday
2 use, which is really a school, it will be in
3 the back of the building. This is a
4 22,000 square foot building; 12,000 in front
5 and 10,000 in the back. What's in the back
6 is going to be used for classrooms, lecture
7 rooms and some storage. That cultural use of
8 it would not exceed the existing parking.

9 CHAIRPERSON DONOVAN: I noticed that
10 you said that you would use it for concerts
11 and things like that. Can you explain that?
12 There is a residential neighborhood close to
13 here and I hate to see the doors open and
14 the windows open with music and bagpipes
15 blaring.

16 MR. ROE: There are no windows here,
17 unfortunately. We could use some windows
18 here (Indicating). That would be in the main
19 hall which is in the front of the building.

20 In our last location I think we did six
21 special events. There's always music
22 presented because that's what we do.
23 Sometimes it's a straight concert and
24 tickets are sold to the public, but
25 generally the vast majority of the patrons

1 are members of the organization. Technically
2 it's open to the public.

3 Some of them are dinners or social
4 gatherings such as Burns night which is the
5 last Saturday in January. It's the national
6 Scottish holiday and there is a whole
7 ceremony that goes along with it. They have
8 a dinner and there is a musical performance.

9 Obviously, we intend to celebrate
10 St. Patrick's Day and we normally have a
11 band there. Typically, depending on when
12 St. Patrick's Day falls, we have a parade.
13 There is a party portion and that would be
14 on Saturday and it goes until 8:00 or 9:00.
15 On St Patrick's Day we normally do a special
16 presentation where we open up to the public
17 and we present dance, traditional music, an
18 Irish speaker and we do things indoors since
19 it's March.

20 We typically do two fundraising
21 concerts one spring and one in the fall.
22 Sometimes that associated with St. Patrick's
23 and sometimes it falls a little later
24 because it depends on when we can get the
25 music. They typically run a little earlier

1 because we're more family oriented. We like
2 to start a presentation at 7:00 and be done
3 by around 10:00 at night. Shortly after,
4 we're cleaned up and out of there because
5 it's all done with volunteers.

6 That's the type of special events that
7 we have.

8 CHAIRPERSON DONOVAN: I do agree with
9 the Zoning Board Chairman that certainly
10 there will be less impact with the neighbors
11 with the parking up to the front of the
12 building. It's a permitted use.

13 I guess the request for us now is for a
14 waiver in the front of the building which I
15 don't have a problem with as long as you can
16 meet your stormwater requirements, you
17 understand that once that easement goes in
18 37 years when none of us will be gone, that
19 you lose your use of the building for Bingo
20 and for your concerts.

21 FROM THE FLOOR: I actually work for
22 National Grid. It is private property and
23 not owned by us. I happen though to know all
24 the regs and rules.

25 CHAIRPERSON DONOVAN: We have to make

1 certain that there is no parking. That would
2 be a nightmare if parking were on the road.
3 If you say that you close down your Bingo
4 and you have entrances in different portions
5 of the building, that's helpful because I
6 can see people wanting to go into their one
7 entrance and not wanting to park in the rear
8 of the building. They would park on New
9 Karner Road and go in from there and that's
10 something that we don't want to see.

11 What are you going to do for lighting
12 the parking lot?

13 MR. ROE: There was existing lighting
14 through all of the existing parking. There
15 is actually some existing lighting on the
16 building. I know that it has to be down
17 facing and that it can't shine out. It has
18 to be pointed sideways or out to the road.
19 If we need to put up another lamppost, we
20 will. I believe that there is a major
21 lamppost on that little circle there
22 (Indicating) that apparently is lighting
23 that as a halogen.

24 MR. LYONS: That's probably one of the
25 ones that you used to be able to rent from

1 Niagara Mohawk and they would put it on a
2 telephone pole. It's on a monthly lease. We
3 would ask that be eliminated though.

4 MR. ROE: There is already a circuit
5 for outdoor lighting.

6 CHAIRPERSON DONOVAN: I just wanted to
7 make certain that when the trees lose their
8 leaves that the neighbors don't have a
9 problem with the lighting from either the
10 parking lot or the building.

11 MR. ROE: If there are some existing
12 problems, I don't know of it. I would note
13 that in this drawing we do show which trees
14 are going to go and we want what the town
15 wants. There are some great trees out there
16 and unfortunately, one or two of the best of
17 them is going to have to go. Four or five of
18 the good looking tall oak trees will remain.
19 We will do everything to preserve every
20 single species or monument tree that we can.
21 We're not preserving the scrub that's been
22 allowed to grow up in between the trees. All
23 the big trees, we're going to keep.

24 Along the roadway it's all grown over
25 and it hasn't been maintained. They don't

1 use that front entrance. Visibility is
2 desirable for us and of course a good
3 presentation on the road is even better for
4 us. So, we're obviously going to focus an
5 effort on cleaning that area up; planting
6 grass and trying to maintain the elms that
7 are around there.

8 CHAIRPERSON DONOVAN: Mike, how have
9 the applicant and the Planning Department
10 been working with the engineering in
11 relation to their concerns about the
12 100 year storm run off?

13 MR. LYONS: At this point in time we've
14 provided Kevin and his engineer with
15 comments. We're waiting for a response. They
16 may be waiting for the reaction of the board
17 for parking in front before they go and
18 spend the additional cost for engineering
19 work.

20 CHAIRPERSON DONOVAN: If the board
21 decides to go ahead and grant the parking in
22 the front, I don't think that we'd be ready
23 to approve the final plans.

24 MR. STUTO: At least until the study is
25 conducted and their satisfied with the

1 plans.

2 CHAIRPERSON DONOVAN: I don't know. We
3 haven't heard from everybody yet; only the
4 board.

5 I don't have any problems with the
6 front parking but these issues should be
7 addressed before any kind of final decision
8 is made by the board.

9 MR. NARDACCI: My question is: Who
10 makes final approval? The way that it's
11 described in our agenda is that we're
12 reviewing just the waiver, right? In looking
13 though this, I'd like to hear all the
14 issues; the stormwater issue, the lighting
15 issue. Even the lighting issue got brought
16 up and that's something that we review in
17 the plans.

18 MR. LYONS: Normally, if this were in a
19 different zone, such as an industrial zone
20 or airport business area zone and they came
21 in with a parking lot of this size, under
22 10,000 square feet of site improvements, the
23 board would never see this application. It
24 would come through the department. We would
25 look at the lighting and work with the

1 stormwater and the DPW offices for utility
2 connections as well as stormwater
3 improvements.

4 Can they engineer the new parking area
5 to accommodate new stormwater regulations?
6 Certainly, that can be done. Have they done
7 it, to date? Not yet. The initial was
8 lacking information that was required to
9 just verify that - what they're going to
10 propose as a system.

11 CHAIRPERSON DONOVAN: The stormwater
12 would include the stormwater and sediment
13 control plan, is that correct

14 MR. LYONS: That's correct.

15 MR. LACIVITA: I think that one of the
16 key things here is that there is a thing
17 that we haven't discussed yet is the
18 association is at the point where they're at
19 the financing table with the banks. I think
20 that one of the things right now is if the
21 parking in the front yard waiver request is
22 not approved, then the financial request
23 goes away and this doesn't even happen. I
24 think, as Mike just said, they could
25 engineer around anything but I think that in

1 order for these guys to go forward and make
2 a closing on the building, this is the thing
3 that you're looking at right now.

4 CHAIRPERSON DONOVAN: Like I said, I
5 don't have a problem with dealing with the
6 wavier right now.

7 MR. NARDACCI: As far as the parking
8 itself, it makes sense to me. I'd be
9 inclined to grant that because it's away
10 from the neighbors plus this is still a
11 wooded area in the front yard.

12 I think the question that needs to be
13 answered is: What are we acting on tonight
14 and what is our responsibility.

15 MR. LYONS: That's what I posed to
16 Peter. If the board acts on a wavier, do all
17 the other amenities of the site plan review
18 fall to the responsibility of the
19 departments as a typical minor application?

20 MR. ROE: By the way, the way that I
21 understood it, it was my understanding that
22 we would come in to the Planning Board for a
23 waiver of the town law so we could park in
24 front. It is otherwise just a minor site
25 application that should and can be handled.

1 It should and could be handled by the
2 Building Department and the Development
3 Department.

4 CHAIRPERSON DONOVAN: Mike, you deal
5 with this size plan all the time. It's
6 simply because of the parking waiver that
7 he's here?

8 MR. LYONS: That's correct.

9 CHAIRPERSON DONOVAN: So if the board
10 granted the parking waiver then you would
11 continue to do your oversight of all the
12 other departments problems, is that correct?

13 MR. LYONS: Right. We would do due
14 diligence of the Land Use Law to ensure that
15 there are no impacts onto adjoining
16 properties.

17 CHAIRPERSON DONOVAN: So, I just wanted
18 to make sure that when we take action
19 tonight that we don't say, we're approving
20 the final plans because that falls under the
21 jurisdiction of the Planning Department. The
22 only thing that we would be dealing with is
23 the parking waiver in the front yard.

24 MR. STUTO: I think that's fine
25 procedurally but the board has the

1 jurisdiction to satisfy themselves to
2 anything that they want before they grant
3 the waiver. If you want to bring it back and
4 find out about something else before you
5 grant the final waiver, you can. It's my
6 personal legal opinion that you can retain
7 jurisdiction to whatever extent you want.
8 You can grant the waiver based upon
9 everything that you've heard and give it
10 back to staff to do the final.

11 MR. NARDACCI: Personally, I feel
12 comfortable but as Jean pointed out, you're
13 dealing with this size plan all the time.

14 CHAIRPERSON DONOVAN: If not for the
15 parking waiver, you would not be here.

16 MR. ROE: That's right.

17 CHAIRPERSON DONOVAN: I just didn't
18 want someone to come back and say well, the
19 board approved it. We're not. If we approve
20 or disapprove anything it would simply be
21 the parking waiver itself.

22 MR. ROE: We understand that the
23 application for the minor site plan is
24 incomplete. It couldn't be approved because
25 we haven't done all the engineering

1 necessary for stormwater, lighting and other
2 issues. We understand that we need to
3 satisfy all of that. Our understanding was
4 and what I told the bank is that will go
5 through Mr. Lyons and the Planning
6 Department.

7 CHAIRPERSON DONOVAN: A question to
8 counsel: Could the board approve the parking
9 waiver contingent upon the applicant meeting
10 all the other requirements of the various
11 departments and getting final approval from
12 planning?

13 MR. STUTO: Yes.

14 CHAIRPERSON DONOVAN: Anything else,
15 Tom?

16 MR. NARDACCI: No. that's it, thank
17 you.

18 CHAIRPERSON DONOVAN: Tim?

19 MR. LANE: What currently is the
20 greenspace prior to this and then after with
21 the added parking?

22 MR. ROE: Mr. Lyons can address that.
23 That was discussed with our engineer.

24 MR. LYONS: Greenspace on the parcel
25 will be reduced to 37% with the added

1 parking.

2 CHAIRPERSON DONOVAN: It meets the
3 minimal 35%.

4 MR. LYONS: It does not require the
5 board incentive zoning.

6 MR. LANE: What we're doing basically
7 is granting a waiver of the Land Use Law so
8 he doesn't need a waiver of the Parking Law.

9 CHAIRPERSON DONOVAN: We're granting a
10 waiver so he doesn't park in the rear where
11 he would be affecting the residents.

12 MR. LYONS: The Zoning Board didn't
13 say, well, if you don't get the parking in
14 the front, we'll give you the parking back
15 here. They did not say that. They just said
16 that we're not going to act on the parking
17 in the back. You go talk to the Planning
18 Board first because there is an option that
19 the applicant has prior to us making a
20 decision.

21 CHAIRPERSON DONOVAN: That's
22 understandable.

23 MR. LYONS: Their application before
24 the Zoning Board of Appeals was a use
25 variance and it was to allow parking in a

1 setback where parking is permitted.

2 MR. LANE: Right so if he didn't get a
3 waiver on the Land Use Law, then he would
4 need a waiver of the parking.

5 MR. STUTO: A variance.

6 MR. LANE: Have we ever done anything
7 like that before?

8 MR. LYONS: To be honest, if they can't
9 get the extra parking, I don't think they're
10 interested in the building.

11 MR. ROE: We'd still be interested in
12 the building. It's just not going to get
13 financed.

14 MR. LANE: But that can't be our
15 concern though.

16 MR. ROE: I understand that. Quite
17 frankly, at the Zoning Board, at one point
18 during the meeting I didn't think a parking
19 waiver was going to be granted. There was a
20 significant impact to the neighbors in the
21 back of the building.

22 MR. LANE: Not for that many spaces.

23 MR. ROE: No. Actually there was no
24 room for anything back there with the
25 current setbacks. There was 100 foot setback

1 here (Indicating). The problem is that this
2 property is triangulated in the back and
3 it's just too close.

4 When these buildings were built, some
5 of these homes are right on our lot line
6 without even a 10 foot setback. We thought
7 that we would be able to handle some of the
8 issues in the back. We're not here because
9 the Zoning Board passed the buck to you.
10 We're here because the Zoning Board, I don't
11 think, was inclined to grant it and they
12 suggested that before we give up, to try the
13 Planning Board. Quite frankly, without
14 additional parking, we're not going to be
15 able to use the building.

16 CHAIRPERSON DONOVAN: There really is
17 more sense in parking in front.

18 MR. ROE: I have the drawing here if
19 anyone wants to see it. You can probably see
20 from there. It's a long straight line and we
21 only have one line of parking and there is
22 only one lane coming in and out. It wasn't
23 the best way to do it. Before there was any
24 issue on zoning or planning or town use and
25 if we were just free to put parking wherever

1 we wanted, we would have put it here because
2 it's less expensive and it makes more sense
3 from a traffic flow standpoint.

4 When these cars get down in the back
5 here (Indicating) and the person in the back
6 wants to get out and this person is having a
7 problem, you don't have to go out so far in
8 the parking lot.

9 CHAIRPERSON DONOVAN: Tim, anything
10 else?

11 MR. LANE: No.

12 CHAIRPERSON DONOVAN: Are you satisfied
13 with that?

14 MR. LANE: Actually no. I'm not
15 comfortable with giving one to avoid the
16 other. That's what it seems to me. It's just
17 the way that I'm seeing it.

18 MR. NARDACCI: There's no parking
19 waiver for spaces, right?

20 MR. STUTO: Right.

21 MR. LANE: Well, if they don't get
22 this, they would have to have a variance on
23 the number of parking spaces.

24 MR. STUTO: It's on the location of the
25 spaces. They would be too close to the

1 setbacks in the little triangle.

2 MR. LYONS: To allow parking in the
3 front was not permitted by this board, they
4 basically have two options. Option one would
5 be to go back to the Zoning Board of Appeals
6 with this plan that he has on the chair.

7 Option two would be to come back before
8 this board for a waiver in the number of
9 parking spaces.

10 MR. LANE: That's what I'm saying.

11 MR. LYONS: There are basically three
12 scenarios that you have; parking in front,
13 parking in the back or no additional parking
14 with the waiver from the board.

15 MR. STUTO: Can I restate it to make
16 sure that Tim understands?

17 MR. LANE: I understand. I know exactly
18 what he's saying.

19 MR. STUTO: No, but there is another
20 way to look at it. This type of zone, office
21 residential doesn't allow parking in the
22 front. You may or may not agree with it.
23 There are a lot of people that don't agree
24 with not allowing parking in the front,
25 isn't that right?

1 CHAIRPERSON DONOVAN: Well, I don't.

2 MR. STUTO: Maybe you're one of the
3 ones that agree or disagree.

4 MR. LANE: I think that the reason that
5 they put in that law was to prevent that to
6 a certain extent.

7 MR. STUTO: Some of the discussion
8 before you came on the board - like some of
9 the buildings that are shoved up like on
10 Route 7 and on Albany-Shaker Road was that
11 maybe they should have been pushed back and
12 the parking allowed a little bit in the
13 front. The buildings tend to be pushed to
14 the front. That's the disagreement that some
15 people have.

16 CHAIRPERSON DONOVAN: I think that one
17 of the things that we've been talking about
18 for awhile is that we have to deal with the
19 reality of what exists out there. The
20 reality is that a lot of these buildings
21 border residential areas. In order to have a
22 balanced development, you can't put all the
23 burden on the neighbors by placing all the
24 parking in the rear. I think that it's
25 better to have a buffering in the rear and

1 to have the parking in the front in some
2 areas. Now there is parking in the front of
3 some areas on 155. I've seen it and I don't
4 recall.

5 MR. LACIVITA: There are adjoining
6 properties that have that.

7 MR. NARDACCI: The funeral directors.

8 MR. LANE: But they probably predate
9 the Land Use Law.

10 MR. LYONS: Yes, they do.

11 CHAIRPERSON DONOVAN: And that's one of
12 the many questions with the Land Use Law
13 that I think that the town has to go back
14 and re-address. When the Land Use Law was
15 passed, there were several things that I
16 thought were problems with it and this is
17 one of them.

18 The reality of the situation is that
19 the zones border residential zones. If you
20 move the parking in the rear, you're going
21 to have a greater impact on the neighbors
22 with the parking in the rear than you are
23 with the parking in the front of the
24 building. That's just my opinion.

25 How many spots are they going to be

1 putting in here, Michael?

2 MR. LYONS: How many new spots?

3 CHAIRPERSON DONOVAN: Yes.

4 MR. LYONS: Forty-six new parking
5 spaces.

6 CHAIRPERSON DONOVAN: There are
7 thirty-something.

8 MR. LYONS: Yes, there are
9 thirty-something and then the back of the
10 existing building is kind of a loading dock
11 area, which they don't need. So between
12 restriping some of the existing paved areas
13 in the back and adding a few parking spaces
14 in the back and the front parking spaces,
15 the total number of new parking spaces that
16 they're adding is 46 spaces.

17 CHAIRPERSON DONOVAN: That's 28 in the
18 front.

19 Elena?

20 MS. VAIDA: I think that we should vote
21 on it. I don't have a problem with the
22 parking in the front. It makes the most
23 sense.

24 CHAIRPERSON DONOVAN: We'll open it up.

25 Mike?

1 MR. SULLIVAN: I just had one question
2 and it's just that if additional parking was
3 required in the back, could the easement
4 from Niagara Mohawk be extending such that
5 you have an area bounded by the easement,
6 the 100 year buffer and the 50-foot setback?

7 MR. LACIVITA: I think that's the
8 problem that they couldn't get the easement
9 at this point in time.

10 FROM THE FLOOR: There are some issues
11 out there. One of the issues is that we
12 can't negotiate with Niagara Mohawk until we
13 own the property. We don't own it.

14 MR. ROE: Basically what we were told
15 is that this is not an easement. It's a
16 lease. National Grid owns the property. We
17 lease this little portion of it from them.
18 They don't do that anymore. They will not
19 consider leasing property to anybody for use
20 for any reason. That's the response that we
21 got.

22 FROM THE FLOOR: They said that we were
23 lucky that we had that.

24 MR. LYONS: Another issue is that
25 toward the back of the parking area, the

1 National Grid property as well as the back
2 corner of this building starts to get very
3 wet back in that area. Although it has not
4 been walked from the federal wetlands or
5 possible state wetlands, the likelihood is
6 very high that there are federal wetlands in
7 that area.

8 MR. ROE: Also the stormwater empties
9 out into a ravine that runs through the back
10 of there and runs all the way out eventually
11 to the Lishakill Creek. So there is not a
12 whole lot of usable land even on the Nimo
13 land. Nobody is going to allow us to change
14 the flow of that.

15 CHAIRPERSON DONOVAN: Okay, let's hear
16 from the neighbors.

17 MS. MCCOLGIN: Louise McColgin,
18 9 Casey Court. I just wanted to express my
19 appreciation for the reconsideration of the
20 change of parking. The original plan was
21 giving me nightmares. I do appreciate the
22 fact that you've considered this and I hope
23 that we'll get some support for this
24 tonight.

25 I don't know if this board addresses it

1 or the town department does. My only other
2 concern is the hours of potential operation
3 that will go on. From what I've heard it's
4 either evenings or weekends to 11:00 or
5 12:00 at night and I was just wondering if
6 anything was discussed about that?

7 MR. ROE: There has been no change
8 since we were at the Zoning Board. It was a
9 rather detailed discussion that we got into
10 because we're going to be parking under her
11 bedroom window as to how late we would be
12 there. Nothing has changed.

13 MS. MCCOLGIN: I believe that you said
14 that you would be there until 11:00 or 12:00
15 at night.

16 MR. ROE: Most of the uses between 4:00
17 in the afternoon and 9:00 at
18 night - certainly Monday through Thursday
19 before 9:00 - that's basically when we're
20 open. All day Saturday. Sunday morning there
21 are dance classes that are scheduled and we
22 want to go home on Sunday afternoon. We're
23 out of there by 6:00.

24 By the way, we do not have a liquor
25 license. Obviously we serve alcohol but we

1 do it by special permits. That's why I know
2 the number of special events that we have.
3 We need a beer permit for every one of them.
4 We don't serve liquor, just beer. We're
5 usually done by 9:30 and by 10:00 the
6 parking lot is vacant.

7 CHAIRPERSON DONOVAN: So what time does
8 Bingo end; 9:00 or 10:00?

9 MR. ROE: Usually about 9:30. Sometimes
10 9:45. That's typically when it ends. They
11 don't want to be there any longer than they
12 have to be.

13 MR. LYONS: Kevin what are the
14 operation hours on Saturday?

15 MR. ROE: It's 8:00 to 6:00 typically.
16 They're gone at 6:00 unless there is an
17 event during those few times that we have an
18 event on Saturday night. Then we might be
19 there later. Typically Saturday afternoon by
20 6:00.

21 When the pipe bands are in competition
22 season, they practice Saturday afternoons.
23 Saturday afternoons is also when we do
24 workshops and seminars because it's when
25 people are available.

1 CHAIRPERSON DONOVAN: Sir, did you have
2 something that you wanted to say?

3 MR. LAGRAVE: Barret Lagrave,
4 7 Casey Court. I'm three houses down but
5 this going down the end of our street. Not
6 only would the paved parking decrease the
7 value of our homes - right now it's a
8 secluded little neighbor but it would just
9 change the entire aspect of the end of our
10 street. The whole neighborhood is really
11 closed in by trees.

12 I appreciate the fact that they're
13 trying to put the parking up front. My only
14 concern would be any kind of noise coming
15 out of the building.

16 I know they said that sometimes bands
17 might be marching in the parking lot. That
18 would still be my concern. I wouldn't
19 appreciate bag pipes practicing in the
20 parking lot. Even if they're outside the
21 building in the parking lot, we're still
22 going to hear them.

23 Inside the building, do whatever you want
24 but not in the parking lot. That's all I'm
25 asking for.

1 I know that some of my other neighbors
2 live a little bit closer so they'll hear a
3 little bit more.

4 It's not like an office building where
5 they're gone by 5:00 and you don't hear
6 anybody afterwards. That was another major
7 reason for not parking in the back. These
8 people are going to be there at 9:00 or
9 10:00 at night on a weekend or every night
10 until 9:00. It's not like the funeral home.
11 After 5:00, you never see a single one of
12 them. So there's no noise. But as long as
13 the hours of operation are constrained, I'd
14 rather see it up front than in the back.

15 Another couple hundred of feet down the
16 road you have office buildings and you have
17 the minimart. The plan that was right before
18 this that everyone was talking about was the
19 same thing. They had parking in the front
20 even though it was elevated there.

21 CHAIRPERSON DONOVAN: A quick question
22 and all you have to do is give me a number.
23 How many times a year do you think that this
24 site will impact noise for the neighbors in
25 the neighborhoods?

1 MR. ROE: Zero.

2 CHAIRPERSON DONOVAN: We have a court
3 stenographer taking that down.

4 MR. ROE: I know.

5 MS. VAIDA: No marching bands in the
6 parking lot?

7 MR. ROE: If the noise is an
8 issue - we'll try it. Once when Joe calls me
9 and if it's twice, that pipe band is gone.
10 If they have to be outside, they can go over
11 to the town park. It's as simple as that.

12 CHAIRPERSON DONOVAN: Yes, I mean there
13 are places for them to go.

14 MR. ROE: There are several beautiful
15 parks right in the neighborhood. If it's a
16 problem for the neighbors, it won't happen.

17 CHAIRPERSON DONOVAN: Anyone else?

18 MR. ROE: If you call me once, I'll
19 tell them that they have to stay inside.

20 CHAIRPERSON DONOVAN: I just want to
21 make it clear that for the SEQRA
22 recommendation, if the board is going to
23 adopt it, it's for the parking waiver.

24 MR. LYONS: Actually if the board is
25 going to do only the parking waiver and the

1 site plan approval comes from the
2 department, the department will be issuing
3 the SEQRA determination, the board is not
4 responsible for SEQRA.

5 CHAIRPERSON DONOVAN: That's the way
6 that I would prefer to see it done. If the
7 board grants the waiver for 28 parking
8 spaces in the front yard, then the
9 department needs to make certain that all
10 other conditions from all the other
11 departments are met. If they are not met,
12 then the parking waver is not in effect. Is
13 that fair to say, Peter?

14 MR. STUTO: Can you say that again?

15 CHAIRPERSON DONOVAN: The parking
16 waiver becomes nullified if the conditions
17 for the stormwater are not met; is that all
18 right?

19 MR. STUTO: The stormwater and all the
20 other conditions of all the other
21 departments.

22 CHAIRPERSON DONOVAN: So we don't have
23 to adopt the SEQRA.

24 Do I have any type of motion on a
25 parking wavier for 28 parking spots in the

1 front yard of 430 New Karner Road? It would
2 be with the stipulation that the waiver
3 would go into effect if all other
4 departmental conditions and requirements are
5 met by the departments.

6 MR. STUTO: Jean, since there is a
7 requirement of a written finding, I have
8 drafted it in the event that you want me to
9 read this. We can read it into the record
10 and it will be printed with the transcript.
11 If you disagree with it, you can change it.
12 I think that it conforms.

13 Based upon the representations and
14 statements of the applicant and the
15 documents reviewed by the Planning Board,
16 the Planning Board finds that the applicant
17 has established that there are no practical
18 alternatives to the proposed waiver that
19 would conform to the parking standard; i.e.
20 that no parking be permitted in the front
21 yard. The waiver is therefore granted
22 permitting parking in the front yard, as
23 proposed. The application is referred to the
24 Planning and Economic Development Department
25 and the other town departments for further

1 review and approval. This waiver is
2 contingent upon site plan approval.

3 CHAIRPERSON DONOVAN: Do I have a
4 motion on that finding and decision?

5 MR. SULLIVAN: I'll make that motion.

6 MS. VAIDA: I'll second.

7 CHAIRPERSON DONOVAN: All in favor?

8 MR. NARDACCI: Aye.

9 MS. VAIDA: Aye.

10 MR. SULLIVAN: Aye.

11 CHAIRPERSON DONOVAN: Aye.

12 CHAIRPERSON DONOVAN: Opposed?

13 MR. LANE: Nay.

14 CHAIRPERSON DONOVAN: Okay four to one.

15 Here is the situation, if I understand
16 it correctly. The findings have to be filed
17 with the Town Clerk within five days of a
18 decision. I'm going to be out of town so I'd
19 like to designate Tom.

20 Tom, when the findings are complete for
21 his signature - for Tom to come and then
22 Michael would you please file them with Joe
23 and with the Town Clerk, once Tom signs
24 them, please?

25 MR. LYONS: Yes.

1 CHAIRPERSON DONOVAN: Thank you.

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(Whereas the proceeding concerning

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the above entitled matter was

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adjourned at 10:02 p.m.)

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CERTIFICATION

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4 *I, NANCY STRANG-VANDEBOGART, Notary*
5 *Public in and for the State of New York,*
6 *hereby CERTIFY that the record taped and*
7 *transcribed by me at the time and place*
8 *noted in the heading hereof is a true and*
9 *accurate transcript of same, to the best of*
10 *my ability and belief.*

11
12
13
14 -----
15 **NANCY STRANG-VANDEBOGART**

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18 **Dated September 14, 2009**
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