

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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5 O.J. MEYER & SON/QUILTING BOUTIQUE
6 4 VLY ROAD

7 REVIEW AND ACTION TO OVERTURN PLANNING DEPARTMENT
8 SITE IMPROVEMENT RECOMMENDATIONS TO ADD GREEN SPACE
9 IN THE FRONT YARD BY REMOVING PAVEMENT

10 *****

11 THE TAPED AND TRANSCRIBED MINUTES of the above
12 entitled proceeding BY NANCY STRANG-VANDEBOGART
13 commencing on August 24, 2010 at 8:11 p.m. at the
14 Public Operations Center 347 Old Niskayuna Road,
15 Latham, New York 12110

16 BOARD MEMBERS:

- 17 CHARLES J. O'ROURKE, CHAIRMAN
- 18 MICHAEL SULLIVAN
- 19 THOMAS NARDACCI
- 20 LOUIS MION
- 21 TIMOTHY LANE
- 22 PAUL ROSANO
- 23 ELENA VAIDA, Esq., Attorney for the Planning Board

24 Also present:

25 Chris Meyer,
Joe Grasso, Clough Harbour and Associates

Joe LaCivita, Director, Planning and Economic
Development

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1 CHAIRMAN O'ROURKE: Next on the
2 agenda is actually an appeal to a Planning
3 Department recommendation and denial from two
4 years ago.

5 Is that right, Joe?

6 MR. LACIVITA: Yes, September of 2009.

7 CHAIRMAN O'ROURKE: That's something that
8 I didn't know until earlier today. We are the
9 Appeals Board, as well, for small or minor
10 site plan applications.

11 This evening we have O.J. Meyer and
12 Son/Quilting Boutique, 4 Vly Road.

13 MR. LACIVITA: Can I give a quick
14 summary, C.J.?

15 CHAIRMAN O'ROURKE: Yes, absolutely.

16 MR. LACIVITA: Back in July, you guys
17 were handed your Land Use Law in your manuals,
18 and under Section 190-55 it talks about minor
19 site plan review, which is an administrative
20 function within the Planning and Economic
21 Development Department. It lists the criteria
22 and how we go about approving minor
23 applications that come before the Board. The
24 same criteria that we follow through with
25 major applications, we look for in the minors

1 as we review them.

2 A couple of things that you look at are
3 circulation, parking, screening, landscaping,
4 traffic access and road frontage.

5 There was a recommendation that was given
6 by Planning and Economic Development to remove
7 parking that Mr. Meyer is going to show you in
8 the front yard that existed for some 30-plus
9 years. Mr. Meyer is a tenant in that building
10 and owns the building, I believe, and has
11 never left occupancy. The recommendation was
12 to remove the core parking spaces that backed
13 out onto Vly Road and replace that with
14 landscaping. He has since changed some of the
15 occupancy. That recommendation to remove that
16 parking still existed as an approval from
17 Planning and Economic Development. He is now
18 here before the Board to try to remove it.

19 MR. NARDACCI: Joe, I have a quick
20 question. The applicant came in for a change
21 in tenancy, and at that time it was decided by
22 the Department staff that if he changed the
23 tenant, he had to eliminate the front yard
24 parking that existed already and put grass in
25 and a tree.

1 MR. LACIVITA: That's correct, because
2 now you're talking about how the Land Use Law
3 changed. There is now no parking in the front
4 yard. There are all those design standards.
5 They tried to apply this to this project which
6 just functionally doesn't work.

7 MR. NARDACCI: How many changes of
8 tenancy does the Department see within a year?

9 MR. LACIVITA: I would say that there is
10 well over 100 on an annual basis.

11 MR. NARDACCI: Are there other times that
12 a change in tenancy has resulted in the
13 elimination of parking like this?

14 MR. LACIVITA: This is the first time
15 that you'll see an appeal with the parking
16 request.

17 CHAIRMAN O'ROURKE: We don't know that to
18 be a fact.

19 MR. LACIVITA: This is true. I can tell
20 you that one time, based on the Route 9
21 corridor study, there was a project that was
22 being reviewed by our Department and it was
23 right next to the Century House. It's for
24 small car detailing. There was a
25 recommendation by the Planning Department that

1 I happen to see before we made it formal to
2 remove the southern entryway.

3 That lunch hour I went up and almost got
4 rear-ended trying to make that turn into that
5 building. That weekend, I went out and tried
6 to make that turn into the building and
7 similarly almost got rear-ended.

8 Before we finalize that recommendation, I
9 had that recommendation pulled because it just
10 didn't make sense to make that 90 degree
11 pattern to try to go into that area where
12 there was such a volume of traffic going in.
13 Unfortunately, this is to remove the parking
14 on something that was preexisting for some
15 40-plus years and Mr. Meyers is here to expend
16 his right to try to appeal that.

17 MR. NARDACCI: I just think that it's
18 just helpful to understand the departmental
19 reviews and how many were done. This is the
20 first time that we're seeing a request for an
21 appeal that such a major change would be
22 requested for a change in tenancy.

23 That removal of that turning lane - was
24 that after the change in tenancy, as well?

25 MR. LACIVITA: That was a change in

1 tenancy coming in. That was one that happened
2 to be pending. I happen to review the file to
3 see it and that's when I disagreed with the
4 recommendation that was coming out from the
5 Planning Department.

6 MR. NARDACCI: Who signs off on these
7 changes? Is this something that it's not just
8 the Director, but it's also the staff? They
9 have the power to sign off on these?

10 MR. LACIVITA: Right, an administrative
11 function.

12 MR. NARDACCI: That's in the Land Use Law
13 that the planners can?

14 MR. LACIVITA: It's typically the
15 planners that would sign off on that approval.

16 MR. NARDACCI: Thank you.

17 CHAIRMAN O'ROURKE: Mr. Meyer?

18 MR. MEYER: Good evening. A little bit of
19 history of the property: We're discussing
20 4 Vly Road, and indirectly 2 Vly Road because
21 they currently function as a unit.

22 Back into the 60's these were residences.
23 Sometime during the late 60's they became
24 businesses. 2 Vly Road is located 60 feet from
25 Central Avenue/Route 5. These properties

1 are really unique in that in this development,
2 the road frontage on this property is probably
3 only 50 feet. In the late 60's, 2 Vly Road was
4 turned into a beauty salon. Actually, my
5 father bought 4 Vly Road around 1970 and
6 converted it from a residence to a land
7 surveying office. We operated there from 1970
8 and my location is still there.

9 In the mid-1980's, we needed room for
10 expansion. We added on a small room in the
11 rear of 4 Vly Road. Since we occupied that
12 building in 1970, parking in the front was the
13 parking for customers and clients. They would
14 park in the front and the employees would park
15 in the rear. The beauty salon had no parking
16 in front so they would always use the parking
17 in the rear. I believe that it was 1996 that
18 the present owner of 4 Vly Road purchased it.

19 At that time, we split 4 Vly Road into
20 two occupancies. We got the approval for that.
21 We have mutually arranged parking with two and
22 four. We share the 22 spots that are there and
23 through the Building Department, we have built
24 to code a unit in the front where the quilting
25 boutique currently is and the use in the rear.

Legal Transcription

1 My office originally occupied the
2 apartment building. A beauty salon occupied
3 the rear. The beauty salon vacated probably
4 five years ago. I moved to the rear because it
5 was a larger space and I operated my business
6 from the rear part of the building.

7 The front remained vacant for a good
8 portion of time. Now we have a quilting
9 boutique. It's two women. I don't know exactly
10 what a quilting boutique does, but they don't
11 have a lot of traffic. We submitted for a
12 tenant change. The tenant change, I believe,
13 came back okayed with provisions or
14 conditions. The condition was that we removed
15 the entire parking lot, plant grass and plant
16 a tree.

17 We have a fire access between the two
18 units, but the only access that they have to
19 their business is the front. There is concrete
20 set in front of the building right at the
21 parking lot. To remove that would require that
22 they park somewhere in the back and walk
23 through the parked cars or circulated traffic
24 in order to access the building. Not only
25 that, but the parking has been in use at this

1 site at least since 1970 and probably before.

2 I'll back up a little bit. We do have in
3 between two and four a one way in for cars.
4 They circulate through the parking lot and
5 park to the right and to the left. If you go
6 to the rear of the parking area and come out
7 between four and six, that's a long way out.

8 We have 22 parking spots currently, and
9 we never have a problem with the amount of
10 parking. We have four parking spaces in the
11 front that could be affected. This would
12 really make middle-aged and elderly people
13 park in the rear and either have to negotiate
14 oncoming cars into the parking areas or cars
15 that are leaving the parking area.

16 So, for a number of reasons, we were
17 petitioning this Board to allow us to leave
18 the site as is and as it's been since 1970
19 with the exception of the addition that I
20 mentioned, and the exception of the division
21 of four and two units.

22 CHAIRMAN O'ROURKE: Thank you, Mr. Meyer.
23 I just got back into town and thought that I
24 had lost my mind when I was reading this. I
25 didn't understand what it was doing coming

1 back before us because my paper note that it
2 was for it. Then I thought, well, if he's for
3 it how did it get denied?

4 I certainly went out to the site. It's
5 typical retro Colonie turned commercial. I
6 honestly think that it would look weird if you
7 had to rip that pavement up and put grass and
8 a tree there on that corner.

9 Again, I noticed the way in - if you took
10 the parking out of the front to access that
11 front, it really would be unsafe for people to
12 try and walk against that traffic coming in.
13 Then you'd almost have to walk all the way
14 around the other side of the building.
15 Honestly, I think that it would put an undue
16 hardship on any business to try to lease or
17 tenant that front. That's undue hardship. In
18 my opinion, it doesn't make sense to me. I
19 certainly would overturn the present
20 recommendation taking away your parking in the
21 front.

22 Tom?

23 MR. NARDACCI: How much time and money
24 and effort have you put into this process?

25 MR. MEYER: I had to do it myself, but it

1 hasn't been a great effort.

2 MR. NARDACCI: I agree with C.J. It's
3 just ridiculous.

4 MR. MEYER: What I found is that we're
5 butting heads with the new rules in trying to
6 incorporate the new rules into an older
7 section, as the Chairman mentioned. The new
8 rules, in my view, don't work in this site. I
9 understand that in the Planning Department
10 that there are guidelines -

11 CHAIRMAN O'ROURKE: The Land Use Law was
12 never meant for an area like this.

13 MR. MEYER: That's what I'm hoping.

14 MR. NARDACCI: There are places in the
15 Town where the new rules work. I agree with
16 C.J. It's a hardship. I don't have a problem
17 with the request here. I don't understand how
18 we even got to this point though. Maybe it's
19 just something departmentally. It's 100
20 applications. Maybe we should start changing
21 the Land Use Law. Maybe the Planning Director
22 is the one that can draw the line and not
23 staff.

24 CHAIRMAN O'ROURKE: I agree.

25 MR. NARDACCI: That's it, C.J.; thanks.

1 CHAIRMAN O'ROURKE: Paul?

2 MR. ROSANO: I have just a comment. If
3 you think that you're butting heads with the
4 new rules, you have no idea what we're going
5 through.

6 I've been over there several times and
7 this whole thing since 2007 has been
8 unbelievable to me. I can't find three people
9 with common sense that actually knew the law
10 had been changed in 2007. It seems like there
11 was just a few people that knew about this.

12 I apologize for what you went through and
13 we're going to try to remedy that for you
14 tonight.

15 MR. MEYER: Thank you for your concern.
16 Being in the business, I was aware that they
17 changed it in 2007, but three years later, I'm
18 still trying to catch up and understand.

19 MR. MION: I've been over there and I saw
20 it too, and I agree 100 percent with what C.J.
21 was saying.

22 MR. LANE: You got stuck. I must say.

23 MR. SULLIVAN: I have no questions. Thank
24 you for your explanation.

25 CHAIRMAN O'ROURKE: Are we required to

1 take a vote? What is our requirement?

2 MR. LACIVITA: You all have a set of the
3 written findings. Either Elena or I can read
4 them into the record, if the motion is taken
5 to approve.

6 It's in the packet that I gave everybody
7 tonight.

8 MS. VAIDA: Are we going to read these in
9 and then take a vote on it?

10 MR. LACIVITA: If you wanted to take a
11 motion, I would say, to approve it, then these
12 findings would then be adopted.

13 MS. VAIDA: I think that would make more
14 sense.

15 CHAIRMAN O'ROURKE: Do I have a motion
16 from the Board to overturn the decision of the
17 Planning and Economic Department?

18 MR. ROSANO: I'll make a motion.

19 MR. MION: Second.

20 CHAIRMAN O'ROURKE: All those in favor?

21 ***(Ayes were recited.)***

22 CHAIRMAN O'ROURKE: All those opposed?

23 ***(There were none opposed.)***

24 CHAIRMAN O'ROURKE: Okay, it is
25 overturned.

1 With that, counsel will read into the
2 record some written findings.

3 MS. VAIDA: The Planning Board hereby
4 makes written findings relative to the
5 following proposed waiver. The waiver is to
6 allow existing blacktop and allow parking in
7 the front yard.

8 Waiver to allow parking in the front
9 yard: The parcel is located in a COR zoning
10 district, according to the Town of Colonie's
11 zoning map. In accordance with the zoning
12 district, Article 9 of the Land Use Law,
13 design standards states: "Off street parking
14 is encouraged to be at the rear of the
15 building. The side of the building parking is
16 also prevented. New parking in the front yard
17 shall be prohibited." The asphalt and parking
18 are already present on the side, therefore, it
19 is not new parking. The Planning Board waives
20 this requirement and finds that it is
21 reasonable to park in the front due to the
22 number of parking spaces contained on the
23 property, as well as the fact that two
24 businesses share the building and parking lot.
25 It would be impractical to eliminate the front

1 four spots as it will have a negative effect
2 on parking volume for the two businesses at
3 4 Vly Road. Building transparency is important
4 at the street level. The building's main
5 façade will still face the front, making it
6 inviting to pedestrian traffic. The waiver to
7 allow front parking is both safe and
8 reasonable and will not diminish the
9 development of the site.

10 CHAIRMAN O'ROURKE: Good luck.

11 MR. MEYER: Does this go with the
12 property so that in five years from now if we
13 change the tenant -

14 CHAIRMAN O'ROURKE: Yes. Waivers should
15 move with the deed; right? If he were to sell
16 the property and somebody bought the property
17 and changed the use, then they would have to
18 come back. As long as he owns the property,
19 this waiver will take care of any tenancy
20 issues for him on this property.

21 MR. LANE: It's very likely that if the
22 owner changes, the use is going to change.

23 MR. LACIVITA: Like a variance that goes
24 with the property, this is for your use as
25 requested.

1 CHAIRMAN O'ROURKE: If you were to put a
2 restaurant in, you'd have to come back before
3 us.

4 MR. MEYER: If I continue to put a tenant
5 in there that is similar to the prior tenant -

6 CHAIRMAN O'ROURKE: Right, another retail
7 that sells sewing bags -

8 MR. LANE: But if he sells it, the next
9 guy has to deal with it.

10 CHAIRMAN O'ROURKE: That's correct. If
11 you were to sell the property and he wanted to
12 make it a law firm, he'd have to come back
13 before us. Once the deed changes, the waiver
14 is applying to you and your use and your
15 tenants of that property.

16 MR. MEYER: Then we'd have to come back
17 for the same process.

18 CHAIRMAN O'ROURKE: That's my
19 understanding.

20 MR. LACIVITA: More than likely what's
21 going to happen is that they would come before
22 us for a change in tenancy and if there is a
23 finding similar to this, that's when you'd
24 have the opportunity and hopefully you could
25 make that change internally to the department

1 to do it. Typically, this is not like a
2 variance that would go with the property.

3 CHAIRMAN O'ROURKE: Right, it's more
4 about use. Certainly, if you need further
5 clarification, I will have Counsel try and
6 give you an answer.

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10 ***(Whereas the proceeding concerning the***
11 ***above entitled matter was adjourned***
12 ***at 8:32 p.m.)***

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