

PLANNING BOARD
TOWN OF COLONIE

COUNTY OF ALBANY

THE PROPOSED PROJECT OF VAN BUREN ACRES
21 LOT RESIDENTIAL SUBDIVISION
ALSO KNOWN AS 35 TURNER LANE - FINAL APPROVAL

THE TAPED AND TRANSCRIBED MINUTES of the above
entitled proceeding BY NANCY STRANG-VANDEBOGART
commencing on January 11, 2011 at 7:20 p.m. at the
Public Operations Center 347 Old Niskayuna Road,
Latham, New York 12110

BOARD MEMBERS:

PETER STUTO, CHAIRMAN
TOM NARDACCI
PAUL ROSANO
TIMOTHY LANE
MICHAEL SULLIVAN
KATHLEEN DALTON
LOUIS MION
ELENA VAIDA, Esq., Attorney for the Planning Board

Also present:

Joseph LaCivita, Director, Planning and Economic
Development

Michael C. Magguilli, Esq., Town Attorney

Victor Caponera, Esq.

Tony Stellato, Clough Harbour and Associates

Brad Grant, Barton and Loguidice

Jim Antonio

Kathy Billfield

Catherine Blau

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- 1 <Continued>
- 2 Jim Blau
- 3 Thomas Blau
- 4 Sharon Hall
- 5 Jim Kitts
- 6 Cathie Love
- 7 Phil LaBatte
- 8 Joe Mahota
- 9 Bonnie Miller
- 10 Michael Rowan
- 11 Elena Smith
- 12 Christine Standish
- 13 Michael Swider
- 14 Stanley Walker
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1 MS. VAIDA: Notice is hereby given that
2 pursuant to Section 276 of the Town Law, the
3 Town Planning Board in the Town of Colonie,
4 Albany County, New York will meet and conduct
5 a public hearing at the Public Operations
6 Center, 247 Old Niskayuna Road, Latham, in
7 said Town of Colonie, County of Albany, New
8 York on the 11th day of January, 2011 at
9 7:05 p.m. for the purpose of hearing all
10 persons upon the approval, modification or
11 disapproval of a certain residential
12 subdivision plat in the Town of Colonie,
13 County of Albany, known as Van Buren Acres
14 consisting of a 21 lot subdivision of which 19
15 are identified as single family homes and two
16 lots are designated for stormwater. Dated
17 December 30, 2010, Town of Colonie Planning
18 Board.

19 CHAIRMAN STUTO: Thank you. I'm going to
20 beg the Board's indulgence and the public.
21 This is my first meeting, but I'm going to ask
22 to adjourn this for just less than a minute.
23 There is a reprinted agenda which is calling
24 for a public hearing for Forest Hills,
25 33 Dennison Road. That will be on January 25th.

1 MR. LACIVITA: That is correct.

2 CHAIRMAN STUTO: Okay, I just wanted to
3 get that on the record.

4 Back to our hearing.

5 Joe, do you want to an intro?

6 MR. LACIVITA: Yes. We're here tonight to
7 take review and a public hearing for final
8 approval for the 21 lot subdivision at
9 35 Turner Lane. We had it on the agenda last
10 meeting purely as an update and to call the
11 public hearing this evening. We are here again
12 for the public hearing to hear the residents
13 of that neighborhood and for action by the
14 Planning Board. At this point, in time I can
15 turn it over to Tony Stellato from CHA.

16 MR. STELLATO: My name is Tony Stellato
17 and I'm with Clough Harbour, CHA, here in
18 Colonie.

19 I think maybe what makes sense to do
20 first is since there are members of the Board
21 who haven't been here for the whole
22 project - is just to do a recap of where we've
23 been on this project and how it started.

24 On the center easel is an early plan.
25 It's not the current plan for the project, but

1 an early plan. It's in black and white so it
2 may be hard to see from a distance. I'll just
3 kind of walk you through it.

4 Originally, we had 40 acres of land on
5 three separate parcels. This is Turner Lane
6 that went horizontally through the page
7 (Indicating). What we call 35 Turner Lane,
8 which is the bulk of the project - that
9 23 acres is right here. Then there is
10 27 Turner Lane, which is three acres. Then we
11 have 14 acres on the north side of Turner
12 Lane. All in all, we were proposing 41 lots on
13 those 40 acres in January of 2007 when we
14 started the planning process. There is a color
15 version of the project. Over time with meeting
16 with the Board, hearing comments from the
17 public and numerous meetings between the
18 public and our staff at our offices, the
19 project has evolved to what it is today. We'll
20 get to that, but I just wanted to go through a
21 little bit of history and what has happened
22 from the project and what was originally
23 proposed.

24 There are 14 acres on the north side of
25 Turner Lane. The applicant received a proposal

1 to purchase this piece of property, and
2 instead of 13 lots that we show here, it's
3 been subdivided into 4 lots. That offer was
4 accepted, and as you know that part of the
5 project is underway. There is a house being
6 built, I believe, on this property right here
7 (Indicating). So, we have 14 lots that turned
8 into four, and that reduced our total lots by
9 10.

10 Additionally, 27 Turner Lane, which is
11 three acres -- we originally had subdivided
12 two lots, and likewise a decision was made. It
13 hasn't been sold, but it's for sale now as a
14 single family lot. It's not part of the
15 project anymore, which does create an area
16 that the applicant is hoping to find a
17 purchaser for. That leaves the remainder of
18 the project.

19 We've reduced from 14 and have 4. The
20 balance of the 41 lots - we have reduced them.
21 At one point we had 27 lots on the remainder
22 of this piece of property, and today this
23 color map is where we are right now. These are
24 the same plans. They're just an enlarged
25 version of it. Today we have 19 lots. So, we

1 have reduced from 41 lots on 40 acres to
2 19 lots on 23 acres. If you add that, you have
3 the four lots up here and the one lot over
4 here (Indicating). The total project is going
5 to be reduced to 24 lots. Originally, there
6 were 26 dwellings per acre. So we've reduced
7 the scope of the project by 40 percent over
8 the last three and a half years.

9 MR. CAPONERA: Four and a half, actually.

10 MR. STELLATO: One of the main drivers
11 for how this project laid out was the wetlands
12 and the watercourses that run through the
13 project. This is an early map that shows the
14 early layout. I have it here because the color
15 coding works well in explaining the wetlands.
16 You have a watercourse stream that runs
17 diagonally through the site from north to
18 south, and there is 100 feet on either side of
19 the stream protecting the watercourse area of
20 the Town. Additionally, we had federal
21 wetlands that are disbursed throughout the
22 site. They are really clustered around the
23 stream. There is one central wetland that is
24 really the main wetland, but there are fingers
25 that extend throughout the site.

1 On this map, the federal wetlands are
2 blue. The protected stream corridor is yellow
3 and the areas where the wetland and the stream
4 corridor is are green. So this whole colored
5 area is the environmentally sensitive area
6 that we're seeking to protect (Indicating). We
7 have roughly 6.4 acres of wetlands, total, on
8 the site and our current proposal impacts
9 0.3 acres of wetlands. Farley Lane, which is
10 the connector street that connects Sunset
11 Skipper to Burton Lane -- Farley Lane is about
12 20 percent of that impact crossing this
13 wetland through this area (Indicating).

14 Farley Lane is really proposed as a
15 connector to really provide a second means of
16 egress from Burton Lane to Turner Lane. It
17 really doesn't serve the development by way of
18 providing subdividable lots. It actually
19 consumes land and consumes real estate. From
20 the applicant's point of view, it's not
21 something that we were necessarily advocating,
22 but after a lot of discussion here before this
23 Board and a lot of neighborhood input - some
24 in favor and some against - ultimately the
25 request from the Board was to have a two-way

1 connector street here. That represents about
2 one-quarter of the lot.

3 What I'd like to do is just flip to our
4 wetland mitigation plan. In addition to using
5 our number of lots, we put a proposal before
6 the Army Corps of Engineers and the DEC to
7 mitigate for that 0.38 acres of wetland that
8 we're impacting. Our mitigation plan is
9 three-fold. First, we're proposing to create
10 new wetland area to replace wetland area that
11 we're impacting. The new wetland areas are
12 being created up here in the north, west of
13 the site (Indicating), and there is an area
14 here in the southeast of the corridor of the
15 site where we will actually excavate and widen
16 this existing wetland.

17 In addition to that, there are
18 degradations that are happening to those
19 existing wetlands and the DEC and Army Corps
20 would like us to do something about that. So,
21 as part of the mitigation plan, we'll go in
22 and we'll get a handle on that vegetation.
23 Over a couple of years, we'll eradicate it. In
24 addition, the entire wetland area, along with
25 some buffer and upland area will be placed

1 into deed restricted preservation lands. That
2 area will ride with the lots. It will all be
3 contiguous and there will be an ongoing
4 monitoring plan to make sure that the wetlands
5 that we have created and the invasive species
6 are managed properly over time. That will all
7 be administered by the Army Corps and the DEC.
8 The wetland permit is still outstanding on
9 this project. However, the mitigation plans
10 are in. We have met with the Corps. We've met
11 with the DEC. They are in verbal agreement
12 with the plan. There are a few items that are
13 outstanding that we need to select with them;
14 the landscaping and the plantings that will
15 actually be placed in the mitigation areas.
16 There are a few odds and ends. Nothing that
17 will really impact the development.

18 We don't see a change in the stormwater
19 management plans at this point. The layout is
20 final. We have included the wetland mitigation
21 plans and the latest submission to this Board,
22 although I don't think that they're in your
23 packets. Brad sent them to you. They're really
24 supplemental information. They don't represent
25 a change in the project at all.

1 Another issue that I think that we want
2 to revisit is stormwater management. We've
3 worked pretty closely with Brad, developing
4 stormwater management plans for the project
5 the regulations require that we limit our
6 proposed development run-off at or below the
7 existing predevelopment rates of run-off. In
8 the early days of this project we talked to
9 Brad and we recognized that downstream there
10 are some concerns outside of the scope of our
11 project. Nonetheless, we discussed reducing
12 our proposed development run-off and
13 maintaining a low to current rate. We were
14 able to achieve a reduction depending upon the
15 year storm.

16 We do look at the one year, the 10-year
17 and the 100-year storm. We were able to
18 achieve a 10 percent reduction in the 10-year
19 storm, about a 14 percent reduction in the
20 100-year storm and slightly less of about a
21 four percent reduction in the one-year storm.
22 So, that represents a significant improvement
23 over predevelopment hydrology conditions.

24 We do have two detention areas. They are
25 pocket ponds. One is in this area right here,

1 where it discharges to that stream
2 (Indicating). The other is in this western
3 corner of the site, which discharges to the
4 stream over here.

5 Tonight we are here seeking final
6 approval and we can revisit any of the design
7 elements that the Board wishes to cover. We
8 have gone through all of the TDE comments, I
9 believe. I believe that Brad is satisfied with
10 our responses. As I said, the final plans with
11 all of those responses finalized have been
12 submitted.

13 There is one item that we're asking for
14 consideration on. There is a requirement in
15 the Town Highway Law that we submit test pits
16 every 100 or 500 feet along the centerline of
17 the proposed road. Highway asked for that
18 before final approval from the Planning Board.
19 Logistically, doing that now would mean a
20 pretty serious construction undertaking. We'd
21 have to go in and disturb a lot of ground.
22 There are erosion control issues. The benefit
23 of that information at this point, to us, as a
24 design engineer is really nil. That
25 information of testing information along the

1 road centerline is something that would be
2 useful during construction. The Town Inspector
3 has to inspect the project and the contractor
4 also has to determine which of the Town
5 standard details would apply to different
6 sections of the road. At this point, we
7 wouldn't change any of the detail, and even
8 with the test pit information at hand, we
9 wouldn't be guaranteed that we would cover
10 every situation that we found in the field.

11 What we would propose is to issue final
12 approval, contingent upon that test pit data
13 being provided before the preconstruction
14 meeting so that it can be used at that time to
15 select the appropriate Town road standards.
16 That way, it could be done at a time when the
17 contractor is on Board, erosion control
18 measures are in place, and the SWPPP has been
19 approved. We believe that it serves the
20 interest of all parties much better.

21 MR. GRANT: There are a lot of wetlands
22 on the subject property. Going in there before
23 those permits were in hand to accomplish those
24 pits might not be a good choice at this time.

25 CHAIRMAN STUTO: Brad, are you prepared

1 to present on this?

2 MR. GRANT: Yes.

3 CHAIRMAN STUTO: Okay, any questions
4 before Brad starts?

5 ***(There was no response.)***

6 MR. GRANT: We have completed another
7 review of the redline drawings that are
8 essentially the draft plans or the intended
9 revisions to the plan for our comments. I did
10 get through those and found them to be
11 appropriate. Those have since been sent for
12 final drafting. I have received those plans
13 and have gone through most of those comments.
14 It's just a matter of final notes and that
15 kind of thing. I was satisfied with the
16 responses regarding the revisions to the
17 plans.

18 Many of these are what I would call
19 housekeeping items; comments on various
20 sheets. We've asked for additional detail on
21 the seepage collars leading away from the two
22 pocket ponds. The seepage collars are to
23 control seepage out of the basins and keep the
24 water within them.

25 There are some clarifications on some

1 details on the plans that didn't appear to be
2 proposed. There are some best management
3 practices on the erosion and sediment control
4 plan that have been offered and temporary
5 swales that aren't necessarily on the current
6 plan that are offered for flexibility. Any
7 good stormwater pollution plan, otherwise
8 known as SWPPP, needs to be flexible. It's a
9 working document and will evolve as the
10 project is constructed. There needs to be some
11 additional measures taken.

12 Tony is right about the test pits
13 information. They are used for determining the
14 need for whether or not there needs to be
15 under drains. If there is groundwater within
16 five feet of the surface, typically the Town
17 Highway Department would require under drains
18 as a way of keeping the sub-base of the road
19 dry and promote its longevity. Essentially,
20 that information is needed for the
21 construction phase. It's also needed to
22 determine the exact sub-base requirements for
23 the roads. Generally, these projects are built
24 from the bottom up. Sanitary sewers are
25 usually the deepest. But before the

1 preconstruction meeting, the test pits would
2 be accomplished.

3 CHAIRMAN STUTO: Those findings could or
4 would not change the location of the road?

5 MR. GRANT: Would not.

6 The planting plan for the ponds has been
7 offered. This is not an area for planting
8 trees. Any stormwater management pond is
9 essentially a dam. You don't want trees grown
10 on it in case it blows down and creates
11 seepage paths. I would expect the pocket ponds
12 to be a nice adjunct addition to the existing
13 wetlands; the wetland mitigation both for
14 water quality and habitat needs. The plan here
15 has been sensitive to the environment.

16 I wasn't going to go through the
17 technical comments one by one. I had discussed
18 them quite a bit last meeting. Certainly, if
19 anybody has any questions on any one of them,
20 I'd be happy to expand on them.

21 CHAIRMAN STUTO: Tom, do you have any
22 comments?

23 MR. NARDACCI: I have just a quick
24 question in regard to the water course, Tony.

25 Once a subdivision is built-out and the

1 homes are build-out, who is responsible for
2 maintaining and maintenance of a protected
3 watercourse?

4 MR. STELLATO: To answer the question,
5 the intent would be that there won't be
6 regular maintenance of the water course. It's
7 a protected area and the intent is to not
8 allow people in who really don't want it
9 mowed. We want it to be just natural. That
10 said, we do have deed restrictions on every
11 lot. Those deed restrictions will offer rights
12 of access to the DEC, the Army Corps and the
13 party responsible for the management needs of
14 the created wetlands and the native species
15 vegetation that has been planned. What we
16 expect to see from the Army Corps and DEC is a
17 permit that requires us to over a 10-year
18 period. Annual monitoring and recording will
19 be in the beginning and then maybe spread out
20 over a little bit of time until we prove that
21 the created wetlands are functioning properly,
22 and the native species have been eradicated
23 and the whole wetland is working as a whole.
24 After that, the intent of it is to function as
25 a natural area and not be disturbed or

1 maintained.

2 MR. NARDACCI: And those reports are to
3 DEC and to the Army Corps?

4 MR. STELLATO: Yes, we are typically
5 required to submit the reports to the DEC, the
6 Army Corps and it would be possible that we
7 would send a copy to the Town.

8 MR. NARDACCI: Just with regard to the
9 watercourse, we spent a lot of time on that.
10 We're talking about the development so the
11 SWPPP requirement requires that the no access
12 stormwater goes all through the site and that
13 it has to be maintained on the site. That's
14 the reason for the planned use proposed,
15 right?

16 MR. STELLATO: The SWPPP is what covers
17 our activity during construction. We are
18 protected by these deed restrictions that ride
19 with every deed that really go above and
20 beyond the Town's watercourse law and place
21 even further restrictions on it.

22 MR. NARDACCI: The general thought is
23 that stormwater will be maintained and treated
24 on the site and not be allowed off the site in
25 excess of what is already presently there,

1 right?

2 MR. STELLATO: That's correct.

3 MR. NARDACCI: Do you have concerns or
4 have you run into any concerns with regard to
5 what is downstream as you go through the
6 cemetery? This would be something that you
7 would struggle with. We're looking at this
8 parcel, but we know that there are other
9 issues in the broader scope. There is
10 sedimentation and there is silt, and the
11 watercourse is downstream and may be not as
12 clean as they should be. Is that something
13 that you have looked at?

14 MR. STELLATO: We do know about that.
15 That was one of the reasons that we worked
16 with Barton and Loguidice to actually reduce
17 the total water run-off. That was done,
18 actually, more astringently than the
19 regulations required. Now, I think that Brad
20 would be a good person to weigh in on what the
21 downstream conditions are. He's much more
22 involved in the off-site part of the watershed
23 than we have.

24 MR. NARDACCI: We've talked about it. I
25 guess that's what caused my question - to make

1 sure that you've taken that into
2 consideration, and you answered that you have.

3 MR. STELLATO: Absolutely.

4 MR. NARDACCI: I think that's important.

5 I have no more questions.

6 CHAIRMAN STUTO: Lou?

7 MR. MION: Good job.

8 CHAIRMAN STUTO: Kathy?

9 MS. DALTON: I have a question in regards
10 to the CDC permits that you're going to get.
11 Essentially, you need us to sign off before
12 you get that, is that correct?

13 MR. STELLATO: It doesn't necessarily
14 have to be that way. DEC and the Army Corps
15 will work together and their process is really
16 independent of the Town's process. They work
17 in parallel. I don't think that they need you.
18 They've done their own SEQRA and you've done
19 your own SEQRA, and we can't proceed until we
20 have both your permit and their permit.

21 MS. DALTON: I did have a question in
22 regard to the packet that I got and the
23 incomplete application?

24 MR. STELLATO: That is simply the DEC's
25 way of letting us know that they have

1 additional questions. We had a meeting with
2 them on the 22nd of December in which we
3 presented this mitigation plan. We said, do
4 you like it? We have a few things that we want
5 you to provide us. What they asked us for at
6 that time was to work with them on selecting
7 plans for these three mitigation areas. They
8 wanted certain plantings.

9 MS. DALTON: They want to pick your
10 plants?

11 MR. STELLATO: We haven't done that with
12 them yet. This will not affect the zoning or
13 anything. It would simply be a work session
14 between us and DEC to get those plants
15 selected. They'll want more and we'll give
16 them what they want because that's the way
17 that works.

18 The second thing that they've asked for
19 is State Historic Preservation site sign-off
20 We do have a SHPPO sign-off for this project.

21 However, when the archeologist was out
22 here initially, the archeologist essentially
23 found a couple of areas that needed some field
24 work. There was an area up in here
25 (Indicating) and it's not a prehistoric site.

1 It dated back to the 1800s. There was an old
2 foundation in here and initially, it appeared
3 that we were going to avoid that area. So, the
4 archeologist didn't do extensive work in this
5 area to clear it because it was a deed
6 restricted area, and we couldn't disturb it
7 anyway.

8 When we came in here and decided that we
9 wanted to make some wetland creation areas, we
10 had to get the archeologist back out there to
11 do some test pits and make sure that there
12 wasn't anything in that area. They have done
13 that work and they have cleared it. We're
14 using Harkin Associates and their work is
15 impeccable. Their recognition with SHPPO is
16 impeccable. We're very confident. We're just
17 waiting for SHPPO to sign-off on it and submit
18 a letter that says essentially that we can go
19 ahead and excavate these areas for the plan.
20 We expect that within 30 to 45 days.

21 The third thing that they asked for was
22 they want to approve our restricted
23 covenants - our deed restrictions. Victor is
24 working on that language.

25 MR. CAPONERA: It's really their

1 languages that I've taken from their document.
2 They gave it to me and I've made it exactly
3 the way that they want it.

4 MS. DALTON: That was going to be my last
5 question. Can you explain that a little bit
6 more to me?

7 MR. CAPONERA: I would be happy to.

8 This is one of the most restricted pieces
9 of property that I've worked on in the years
10 that I've been doing this. Every deed that
11 goes out, whether it's to the 19 lots that we
12 have here, or the 1 lot which is called
13 Lot 27, will have the same restrictive
14 covenants. There are two restricted documents.

15 One is called the declaration of
16 easements for Lot 27 Turner Lane and the other
17 one is a declaration of protected covenants
18 and easements for the 19 lot subdivision.
19 Essentially, what it does - and I'll read
20 portions of it - it creates what's called a
21 land preservation area. On Lot 27 Turner Lane,
22 which is again, this three acre lot, 1.7 acres
23 is going to be a land preservation area. On
24 every deed, including the deed to this lot, it
25 will basically say that the land preservation

1 area is protected by a declaration of
2 restricted covenants executed by the property
3 owner and recorded in the Albany County
4 Clerk's office. It even contains easement
5 rights and I've gone through that with you.
6 too.

7 "The property owner reserves unto itself
8 agents, successors and assignees including the
9 Army Corps of Engineers and the New York State
10 Department of Environmental Conservation, a
11 perpetual nonexclusive rights privilege
12 easement over, upon, under, across and through
13 Lot 27, except the portions where the house is
14 located.

15 For appropriate access to Lot 27 and for
16 the purpose of creating, monitoring and fixing
17 the wetland creation area and for the purposes
18 of undertaking the long-term evasive species
19 control."

20 However, the easement is not materially
21 going to interfere with the use of the
22 property for a single family home. That is one
23 of the restrictions that we filed.

24 The other declaration of restrictive
25 covenants is one that I spoke of. This is the

1 document submitted by the Army Corps of
2 Engineers. This is their document. This is
3 what we're using; word for word. It speaks
4 essentially of how this project is protected
5 and on every deed there will be the language
6 of the property subject to declaration of
7 restricted covenants recorded, etcetera.

8 MS. DALTON: So, I think what you're
9 telling me is that anybody that buys this
10 property is going to get a deed that says that
11 you own this property and you can build a
12 house on it. But essentially, you have to
13 allow the Army Corps of Engineers and
14 Department of Environmental Conservation any
15 kind of access they need to make sure that its
16 protected parts of the land are cared for and
17 monitored in appropriate ways.

18 MR. CAPONERA: Yes, and marked. It has to
19 be marked.

20 MS. DALTON: Those property owners won't
21 be able to at some point in the future to
22 subdivide a lot into something else.

23 MR. STELLATO: I'd like to add to that.
24 The preservation area, which is over one-third
25 of the entire area of the project, is going to

1 be in an easement restriction area. That will
2 have signs along the limits of it warning of
3 the restrictions. In certain areas where we
4 have home sites that back up to the
5 preservation area, we're going to have a wood
6 barrel fence that separates the back yard from
7 the restricted area to discourage homeowners
8 from expanding into that area.

9 MS. DALTON: Thank you.

10 CHAIRMAN STUTO: Mike?

11 MR. SULLIVAN: I'm going to wait until
12 Member Lane makes his comments.

13 MR. LANE: I remember reading that Brad
14 had viewed the watershed down below. I
15 actually walked it with him a couple of years
16 ago. You mentioned that the reduction is going
17 to be for the mitigation on a 10-year storm,
18 10 percent; and on a 100-year storm, 14
19 percent?

20 MR. CAPONERA: That's correct.

21 MR. LANE: To me, that doesn't sound like
22 a lot. Down below there has already been a lot
23 of damages and a lot of silting. The issues
24 already exist. I'd like to hear Brad's
25 impression of the mitigation and if that's

1 enough to reduce the impacts that need to be
2 seen in the lower water shed. I walked it with
3 him in the fall.

4 MR. GRANT: Yes, we had a full afternoon
5 going through elements of the watershed and
6 some of the issues downstream relate to the
7 watershed in its entirety. This is a piece of
8 it, or a relatively small piece of it. I
9 worked with Tony on trying to maximize the
10 degree of attenuation. They are bound by the
11 requirements of the DEC permit to discharge no
12 greater outflow than what the preexisting
13 condition was. They have achieved that.

14 MR. LANE: Is the reduction 10 to
15 14 percent for 10 and 100 years? Is that
16 substantial in any way?

17 MR. GRANT: It is a significant number. I
18 often see lesser reductions. I have seen more.
19 In working with Clough on the proposal, I
20 believe that we have maximized to the extent
21 possible, given the areas that we had. A lot
22 of the issues downstream, particularly in the
23 cemetery, are maintenance issues. There has
24 been a great degree of sedimentation.

25 MR. LANE: That was caused by prior

1 development.

2 MR. GRANT: All the sediment comes from
3 every corner of the watershed. There is no
4 area of the watershed that I would say is
5 exempt from that. There have been some issues
6 on the property that contributed to that
7 sedimentation.

8 I had a car down in Watervliet the other
9 day and I drove up to see that culvert. I
10 often visit it. It looks the same as we saw it
11 four or five years ago. It's chucked full of
12 sediment.

13 MR. LANE: That's what I'm seeing. It's
14 still a great concern.

15 MR. GRANT: Even downstream of that
16 culvert there is drainage that goes in back of
17 all those houses. Probably two-thirds of that
18 length is sedimentation in there. There have
19 been some impacts downstream from the former
20 wetlands that were filled in years ago. It has
21 taken away some of the surplus volume that was
22 upstream of that culvert. It's come from all
23 corners. In going through that diagnosis
24 upstream and then into Colonie and into this
25 area - looking for areas where there was

1 significant erosion and contribution of
2 sediments, I really didn't see appreciable
3 amounts of that. I did see a couple of
4 landslide areas.

5 MR. LANE: Thank you, Brad.

6 With the restrictions, what is the
7 procedure with DEC or the Corps of Engineers?
8 What are the consequences, should somebody
9 impact the area against the restriction? Who
10 is monitoring that? Is it the Town's
11 responsibility to monitor that and notify DEC,
12 or the Army Corps?

13 MR. STELLATO: DEC and the Army Corps
14 have seen these things as violations. The Army
15 Corps has been known to monitor wetlands,
16 especially wetlands that have some permanence
17 and fine people.

18 MR. LANE: This is all going to be
19 self-enforced until someone makes the
20 complaint. That's the reality of it.

21 MR. STELLATO: Not necessarily.

22 MR. CAPONERA: They have an absolute
23 right to go in. That's why there are easements
24 in the restricted zoning. They have a
25 perpetual easement to ensure that the lots are

1 maintained.

2 CHAIRMAN STUTO: Do you have to make
3 annual reports? Did I hear you say that
4 earlier in the presentation?

5 MR. STELLATO: We have actually been told
6 by the Corps to expect a 10-year period over
7 which we'll have to make the
8 watercourse -- probably the first, second,
9 third, and fifth year. Depending upon the
10 results of those reports, they may just go
11 back in and do some divisional work on the
12 wetlands. We'll definitely have to make some
13 changes to the plantings.

14 CHAIRMAN STUTO: What if the lots are
15 sold out and there is a problem in the year
16 nine? Who fixes that? The signer of the
17 permit?

18 MR. STELLATO: If there is a problem with
19 the wetland, is there a condition of the
20 permit that there is repair work or
21 maintenance necessary?

22 CHAIRMAN STUTO: Yes.

23 MR. STELLATO: The responsibility will go
24 over to the developer. Currently, it will
25 reside with the applicant, which is the Joe

1 Garrity Trust. The intent is for the developer
2 to be brought into actually building the
3 houses, and that responsibility will be
4 transferred to the developer. Whoever builds
5 these houses will have that responsibility and
6 will be partly responsible for hiring the
7 wetlands specialist to come in and do the
8 inspections during the period that the permit
9 says, or the first, third, fifth and tenth
10 year.

11 CHAIRMAN STUTO: Does DEC require a bond
12 for that to make sure that there are resources
13 there?

14 MR. STELLATO: They sometimes do. Again,
15 if they do require a bond, it will be part of
16 the permit condition. We have not seen the
17 permit yet, so we don't know.

18 MR. LANE: Thanks. That's all I had.

19 CHAIRMAN STUTO: Mike, you want to go
20 now?

21 MR. SULLIVAN: Sure.

22 I had a question getting back to the
23 cemetery property. I assume that produces
24 flooding. Is that localized only on cemetery
25 property, or does that impact neighboring

1 parcels?

2 MR. STELLATO: Again, you're asking me a
3 question and I think that it's better to ask
4 Brad.

5 MR. GRANT: Unfortunately, yes, it does
6 impact other properties.

7 MR. SULLIVAN: My concern is that you're
8 reducing the rate of run-off, and I know that
9 you've done all you can. You've reduced it by
10 14 percent compared to predevelopment and the
11 100-year storm. The amount of run-off has
12 increased due to the development of the site.
13 You can contain that in the pocket pond. Are
14 they sized to hold a 100-year event?

15 MR. GRANT: There is an overflow on the
16 100-year event. There is also a three-inch
17 pipe, so the additional discharge is quite a
18 bit less than what would be coming off from a
19 prebuilt condition.

20 It's not a drop in the bucket, but
21 essentially we're looking at a very large
22 culvert in that area, and until that is pumped
23 out and this discharge repaired there are
24 still going to be problems. There was before
25 with this development.

1 Part of it goes where it's supposed to,
2 but a good part of it goes down Cemetery
3 Drive, British American, Albany Steel and
4 Broadway. It's not a pretty thing. DOT has
5 done some work and we've been down on Broadway
6 and it's helped Broadway's drainage system.
7 There has been improvements on this, but that
8 blockage is a problem.

9 MR. NARDACCI: Can I ask a quick
10 question? Sorry to jump in.

11 Is there a maintenance plan and does the
12 cemetery have a maintenance plan in dealing
13 with them? I think that's the Catch 22. Whose
14 fault is it? Whose maintenance issue is it?
15 This is not a huge project, but it's still
16 part of it.

17 MR. GRANT: Yes, what we're talking about
18 covers a piece in the middle. There are the
19 businesses down on Broadway.

20 MR. NARDACCI: In a perfect world, how
21 does this get cleaned? Who goes in there with
22 the equipment and cleans it out?

23 MR. LANE: It's private.

24 MR. GRANT: It would be the Albany
25 Cemetery. Unfortunately, there are wetlands,

1 it appears, near the culvert. They might also
2 consider changing some of their maintenance
3 practices on their own property. They blow
4 leaves into the system all day long. It's not
5 good for the waterways or the culverts.

6 MR. SULLIVAN: I did have one other
7 question.

8 Tony, I believe that you could answer
9 this.

10 If you provide a summary of the connector
11 road or a history of how it came to be and the
12 various configurations that it has - one way
13 or two way?

14 MR. STELLATO: The connector road is
15 Farley Lane. It connects Sunset Skipper Lane
16 and Burton Lane. Initially, along what we're
17 calling the connector road, it had lots
18 subdivided. As the project got smaller and the
19 number of lots got smaller, they got larger.
20 It became really evident that we didn't need
21 the connector road anymore. We really just
22 have a cluster of lots - the southern part of
23 the project and a cluster of lots. It would
24 impact this wetland. However, it became known
25 that Burton Lane is a long cul-de-sac. I

1 forgot the exact length of Burton Lane, but
2 it's a pretty long cul-de-sac and there is no
3 second means of egress. Fire Safety was very
4 adamant on getting the connector road from
5 Burton down to Sunset Skipper so that we could
6 have that second means of egress from Burton
7 in case of emergency. That's so that we could
8 get emergency equipment out to Turner Lane and
9 Route 9.

10 We came in with a proposal for a
11 one-way road, which was going to be narrower.
12 There was quite a discussion here at the
13 Planning Board one night. I forgot when that
14 was, but the residents were involved and the
15 folks up on Turner Lane had one opinion on
16 what that connector road should be. The folks
17 on Burton had another. In the end, the
18 decision was made by Pete Lattanzio that it
19 needed to be a two-way road. That's what we
20 provided.

21 MR. SULLIVAN: Thank you. That's all I
22 had.

23 CHAIRMAN STUTO: Paul?

24 MR. ROSANO: I think this question is for
25 Joe because I'm hearing different variations.

1 Since this is our first public hearing of
2 the year, would you go through the
3 notification process for a public hearing,
4 real quickly, for the audience?

5 MR. LACIVITA: Sure. First the Board
6 calls action for a public hearing. We then
7 post in the Colonie Spotlight, which is the
8 Town's paper of record. We usually put a
9 notice in the paper prior to, as we have as
10 past practice. We have to submit any
11 information to the Colonie Spotlight by noon
12 of the week prior to the hearing. It then gets
13 posted in it. We then provide information for
14 the applicant that he has to post. We do
15 notify, as a courtesy, anyone within a
16 200 foot area of the property that its
17 bordering. Then we post signs that are
18 applicable that say, "Public Notice Hearing".
19 You'll see pink placards on all the sites.
20 That's typically the practice that the Town
21 uses. We have extended that in areas of
22 concern. I reach out to neighborhood
23 associations as well. This was not an action
24 item, but we will reach out to neighborhood
25 associations as well so that they could branch

1 out and reach everybody that they possibly
2 can.

3 MR. ROSANO: Pete, I just want to make
4 sure that going forward, we're not going in
5 any different direction in this notification
6 process. I've only been on the Board a year.
7 I've heard all different versions of the
8 notification process. People are assuming that
9 they are going to get mailings and such. It
10 could have been a Board decision. I don't have
11 the minutes for those previous meetings. I
12 just want to make sure that we stick to the
13 game plan going forward so that there is no
14 misunderstanding.

15 CHAIRMAN STUTO: I agree.

16 MR. LACIVITA: Actually, Paul, just to
17 follow up on that, we get affidavits from the
18 applicant such as Mr. Stellato had done.

19 CHAIRMAN STUTO: Can you tell me who you
20 mailed this to?

21 MR. STELLATO: Sure. The code requires
22 that we mail to everybody, I think, within a
23 200-foot radius of the outer perimeter of the
24 site. We certainly have done all that.
25 However, over the years that this project has

1 developed, we have developed quite a fan club
2 and a following here. We have had people to
3 our office for informational meetings and
4 we've been collecting names. So, the list has
5 grown over time and now there is 60 or 70
6 names on it. It goes well beyond the 200-foot
7 limit. It goes all the way down Burton Lane.
8 There are folks on Fenway. There are folks on
9 Proctor and Gregory, and I think Fernwood
10 Drive. I think that anybody who gave us their
11 name and address outside of those limits have
12 been on the list since they gave us a name.
13 They get all the notices. In addition, we did
14 post the placards. I posted them myself. I
15 posted them the day before New Year's Eve. I
16 went back and checked them this past weekend
17 and a lot of them were down. I had some extras
18 and I put them back up. I went back and
19 checked them today. A lot of them were down
20 again. I put them back up. We've been
21 monitoring it. We've been doing our due
22 diligence to make sure that the property is
23 posted, and that everybody who wanted to get
24 notice, got notice.

25 MR. ROSANO: I guess you answered my

1 question. This is already way beyond what the
2 Town asked for and what this Board requires.

3 So I want it to be on record that we're
4 going to follow our own rules and our
5 regulations. What you do on your own is fine,
6 but we can't be held to that. We're going to
7 follow Town Code; is that agreed, Peter?

8 CHAIRMAN STUTO: Yes, but I think that we
9 would encourage developers to go above and
10 beyond.

11 MR. ROSANO: Yes, but I want this to be
12 on record. This is going to be in the minutes
13 that this is how it's going to be on this
14 night forward. We're going to follow the rules
15 according to the Planning Department.

16 MR. LACIVITA: Paul, part of our practice
17 that we have implemented probably over the
18 past 24 months -- one of the things that we do
19 when an agenda is posted, or if the agenda is
20 amended or changed and when we put things out
21 onto the website, we also send e-mails to
22 neighborhood associations. We've been
23 continuing adding to those as the new
24 neighborhood associations are born. So, that's
25 another notification process that we do as

1 well.

2 MR. ROSANO: I see a problem there
3 because there are neighborhood associations
4 always in flux. I'm always afraid that someone
5 is going to feel that they were slighted
6 through no fault of ours because they didn't
7 get a letter or notification. That shouldn't
8 fall upon us. That should fall upon the heads
9 of these organizations to get to their people.

10 CHAIRMAN STUTO: I just have a couple of
11 questions and then we'll open it up to the
12 public.

13 You said a lot of things, but I didn't
14 get every detail. How much wetland did you
15 disturb and how much did you create?

16 MR. STELLATO: We disturbed 0.38 of the
17 over six acres of wetlands on the property.
18 We're creating 0.6. So it's a little less of
19 two to one of replacement.

20 CHAIRMAN STUTO: Is that just for the
21 road crossing?

22 MR. STELLATO: The wetland impacts are
23 really in three areas. The Farley main
24 crossing is about a quarter of it. The
25 entrance off of Turner Lane is about a quarter

1 of it. We have a little finger here where
2 Burton Lane comes across and a little bit
3 larger area right here (Indicating). This last
4 area is the driveway to these two large lots.
5 It also serves as an embankment that we're
6 building so that we can run a dry sewer down
7 in this area for the extension down to Fenway
8 Drive. That's in case at some point in the
9 future the property develop down there.

10 CHAIRMAN STUTO: Aside from state and
11 federal permits, is there a local permit
12 that's required for the watercourse?

13 MR. STELLATO: Yes, and we have our
14 permit. However, just to dot the I's and cross
15 the T's, since the Army Corps and DEC have
16 asked us to add some more wetland creation in
17 this area and change the configuration of
18 these, I filed an amendment on the 23rd of
19 December with Mike Lyons and just asked him to
20 have that brought back before SEAMAB so that
21 they can confirm that there is no concerns
22 with us changing the wetland areas a little
23 bit.

24 CHAIRMAN STUTO: Thank you.

25 The deed restrictions that you mentioned

1 so far have to do with access and have to do
2 with no build areas, if you will. Are there
3 any other deed restrictions with respect to
4 the construction?

5 MR. CAPONERA: Absolutely.

6 CHAIRMAN STUTO: Can you just describe
7 those briefly? What type of house are we going
8 to see there?

9 MR. CAPONERA: Robert Marini Builders has
10 a contract for these 19 lots. If you're
11 familiar with down at the end of Burton Lane,
12 those homes are what you're probably going to
13 see here.

14 CHAIRMAN STUTO: Is there a size
15 restriction in the deed restriction?

16 MR. CAPONERA: Yes.

17 CHAIRMAN STUTO: What is it?

18 MR. CAPONERA: Minimum size of the
19 building will be 3,000 square feet for a
20 two-story home, and 2,800 square feet for a
21 ranch. The maximum height shall be 40 feet.

22 CHAIRMAN STUTO: Are there architectural
23 restrictions on it as well?

24 MR. CAPONERA: These deed restrictions
25 are 20 pages long. It covers everything from

1 soup to nuts.

2 CHAIRMAN STUTO: Anybody else have a
3 question?

4 ***(There was no response.)***

5 CHAIRMAN STUTO: We're going to ask the
6 public to please help us with this. I
7 apologize. This is my first meeting.

8 We're going to ask if you can come up
9 here, if you don't have trouble with that, in
10 the order that you signed in. Everybody is
11 going to get a chance. We want to keep it
12 orderly and we ask that you address the Board.
13 If we need to ask questions of the applicant
14 or the Town Designated Engineer, we will.
15 We're not going to cut anybody off. So, we'll
16 call the names in order.

17 Joe Mahota.

18 MR. MAHOTA: Joe Mahota, 7 Turner Lane.

19 Really by way of additional information I
20 was hoping to find out where the plan sat
21 today with regard to the utilities associated
22 with it like the electric, sanitary, storm, or
23 anything to do with a utility basis. My
24 concern is that on 7 Turner I've had sanitary
25 sewage back up all the way up the hill to my

1 property. That sanitary line has been vacuumed
2 by the Town twice in three years. So, the
3 infrastructure is a concern around the
4 country. It's no different where we are. We're
5 affected by ground water certainly.

6 The other concern that I have from a
7 residents standpoint is that I moved in there
8 10 or 11 years ago. We lost power more than
9 two dozen times a year. They've improved it
10 vastly. I'm not quite sure with regard to your
11 power source and where you're coming from
12 whether it's from Schuyler or underground.

13 If you're not going to do your test pits
14 for the underground water to determine
15 underground water for the roads -- I guess my
16 concern is, knowing clearly that you're on the
17 wet land and it may not be wetland, but it's
18 wet land - where are you going to put that
19 water and how is it discharged into what
20 vessels to be able to take that road's
21 groundwater?

22 MR. NARDACCI: We talked a little bit
23 about stormwater and the sewer tie ins. Can
24 you just briefly explain that because that
25 came up in the past

1 Where he is on Turner?

2 MR. STELLATO: We basically have two
3 separate sewer connections to the project. The
4 northern part of the project is a gravity
5 sewer that runs down the centerline of the
6 road and ties into the existing sewer on
7 Turner Lane. The southern part of the project
8 is also a gravity sewer. The way that this
9 works is that there is currently sewer on
10 Burton Lane that runs down Burton Lane and
11 then turns the corner right here along the
12 edge of the property line (Indicating) and
13 makes its way to a pump station back in this
14 area. We are going to take that gravity sewer
15 and we're going to eliminate this leg of it
16 that runs down the property line. We're going
17 to continue it down Burton Lane and then we're
18 going to turn the corner down here and bring
19 it back on the southerly property line and
20 into the pump station. It will be all gravity.
21 In addition, recognizing that Pure Waters
22 doesn't want this pump station long-term to be
23 permanent, they would like to eliminate it in
24 favor of a gravity connection on Fenway Drive.
25 Pure Waters has required that we continue this

1 gravity sewer in the easterly direction with a
2 dry sewer and run it close to the property
3 line so that at some point, should the Town
4 gain control of this paper street again, they
5 would be able to extend it by gravity.

6 MR. NARDACCI: What about the utility
7 question - the electrical?

8 MR. STELLATO: Generally, the electrical
9 service will be applied for by the builder as
10 each lot is developed. It's not something that
11 we pre-engineer with the project, but it's
12 anticipated that the north part of the project
13 will be served from Turner Lane and the south
14 part of the project will be served by Burton
15 Lane. The utility will come in and extend the
16 primary and have transformers on every other
17 lot, like they normally do.

18 MR. NARDACCI: What about the question of
19 test pits?

20 MR. STELLATO: We actually have done some
21 test pits. We submitted some detail on the
22 drawings. They might be on the subdivision
23 plan. But we've done test pits in both
24 stormwater management pond locations to
25 determine where the ground water is there. We

1 recognize that ground water in this area is
2 high. There are standards in the Town roadway
3 specs for other drains where groundwater is
4 close to the pavement sub-base layer. We've
5 also provided, as the Town requires,
6 connections for sump pumps in every house.
7 Every house will have access to a catch basin
8 where they can run their sump pump in their
9 basement. To the extent that we have prepared
10 for groundwater - we have done it. I
11 understand that there are issues in some of
12 the existing homes with groundwater. I don't
13 know if everyone has sump pumps. I assume that
14 they do and they work often. It's just not
15 uncommon in this area.

16 MR. GRANT: They are tributary to the
17 stormwater system.

18 MR. MAHOTA: The last question dealt with
19 the drawing in the middle showing the massive
20 trees in the wetland area, which is not what
21 is there now. I'm not against development;
22 please understand. The misrepresentation of
23 wetlands is misleading. That bunch of trees
24 and that 6.1 acres that you have as wetlands
25 is a little bit misleading. It would certainly

1 be misleading if I were going to buy a
2 property there with a house. We're trying to
3 keep the wetlands. And in order to keep the
4 wetlands, it needs to have wetland dedication.
5 That isn't wetland dedication.

6 CHAIRMAN STUTO: Richard and Sharon Hall?

7 MS. HALL: I'm Sharon Hall. I had a
8 concern about the connector street and the
9 two-way street and the traffic that it will
10 create on Turner Lane, which we don't have a
11 lot of traffic now. That would be my biggest
12 concern.

13 CHAIRMAN STUTO: Thank you.

14 Stanley Walker?

15 MR. WALKER: I'm Stanley Walker and I
16 live at 17 Burton Lane. My concern is the
17 sewer and the pump stations. I'm at the end of
18 the original Burton Lane and the pump station
19 of the subdivision already has connector of
20 gravity systems. That pump station that you're
21 referring to -- the new section of Burton Lane
22 that exists already has issues.

23 Anywhere near the two manholes - I'm at
24 17 and the next one at my neighbor's who is at
25 11 - there is terrible odor. It's constant.

1 And if that odor increases as it adds a house,
2 that issue is going to be worse. Even though
3 they're going to reroute it, there are seven
4 more homes. If all that is going to be pumped
5 up, those manholes, I don't know what the
6 issues that relate to that are but -

7 CHAIRMAN STUTO: Are you visualizing what
8 he's talking about?

9 MR. NARDACCI: This is an issue that has
10 come up at previous meetings, and I think that
11 it has been talked about.

12 CHAIRMAN STUTO: Is there a good map that
13 somebody can point to?

14 MR. WALKER: You have to have the old
15 Burton Lane on there.

16 MR. CAPONERA: Mr. Walker's house is
17 right here (Indicating).

18 MR. WALKER: I'm at the end of the
19 original Burton Lane; at the cul-de-sac.

20 CHAIRMAN STUTO: It continues straight
21 and the goes off to the right, as well, right?

22 MR. WALKER: Right. The pump station is
23 down here and the entire new subdivision - it
24 gets pumped back here (Indicating) and the
25 goes to gravity and then goes over to Gregory

1 Lane and then Turner in the old neighborhood.
2 Now they have added that subdivision close to
3 that manhole. My door is 90 feet from the
4 street. You get the mail and you can't imagine
5 that smell. If you're going to sell the right
6 of way to the sewer, it might be worthy of
7 having the developer investigate that.

8 CHAIRMAN STUTO: You're talking about the
9 Fenway Connection?

10 MR. WALKER: Yes. It might become really
11 offensive. They will have land rights to that
12 paper street. I have letters confirming
13 through that Town that they are in fact going
14 to negotiate an underground easement to
15 possibly save money.

16 CHAIRMAN STUTO: Victor, are you up to
17 speed on that?

18 MR. CAPONERA: Absolutely.

19 CHAIRMAN STUTO: You want to fill us in?

20 MR. CAPONERA: I'd rather your Town
21 Designated Engineer speak to his concerns. He
22 spoke to us at length at the last meeting.

23 MR. WALKER: I understand that they're
24 saying that there is not enough activity. But
25 as it adds homes, it becomes worse. Maybe the

1 system is developed so that the original
2 system down to the last two houses - when
3 they're added on, it goes away. The Town comes
4 out and they seal it up, but the odor is still
5 there.

6 MR. NARDACCI: That's what the Town has
7 done?

8 MR. WALKER: They take a plastic insert
9 and then put the cover back on. For the last
10 couple of years I've been out there, but
11 nothing happens.

12 CHAIRMAN STUTO: Brad, can you speak to
13 that?

14 MR. GRANT: Yes and I did review
15 Mr. Walker's letter and had discussions with
16 Pure Waters. They have installed some of those
17 plastic dishes that are essentially water
18 tightened underneath the cast iron covers in
19 the top in hopes of trying to prevent some of
20 the vapors coming out.

21 When I first read the letter I thought
22 that it might have to do a force main
23 producing turbulent flow into the manhole
24 that's receiving it. Sometimes that's happened
25 in the direction of the pipe. It just goes in

1 and splashes around willy nilly. It will then,
2 smell like a septic tank. I asked Pure Waters
3 to go out and take a look at that and verify
4 that wasn't the case. That would be the
5 simplest thing to do. I suspected that there
6 was also some additional residents, but until
7 they were getting the build-out of the Burton
8 Lane area, there wasn't enough sewage to turn
9 it over and have the appropriate amount of
10 cycling.

11 Pure Waters did check out the discharge
12 connection. It was going in pretty well. They
13 looked at the pump station and there wasn't a
14 lot of activity. There wasn't a lot of flow.
15 The feeling was that additional homes would
16 reduce water flow and more frequent pumpings
17 out of that particular pump station and should
18 be better than that condition. Essentially what has
19 happened is that the sewage is septic. The
20 ultimate goal is to get this covered by
21 gravity sewer and that's why the dry sewer is
22 there. That's the simplest way, but it's also
23 the least expensive way to maintain the pump
24 station. The existing pump station is there.
25 The feeling is that it hasn't been given

1 enough flow. I'm not sure when the problems
2 have occurred, if they've been this year and
3 if they've been worse.

4 MR. WALKER: Worse than before. There are
5 only two houses left. This should have enough
6 flow. It should not be happening.

7 MR. GRANT: Pure Waters is going to
8 continue to monitor this pump station and in
9 some circumstances make adjustments. Whether
10 it pumps 20 times a day, 10 times a day, or 2
11 times a day, until the flow goes up they're
12 going to be bound to a level that they have to
13 pump. As projects are developed in the early
14 stages, there are often septic issues with the
15 pump stations.

16 MR. WALKER: Have they negotiated with
17 the landowner to have that land for that right
18 of way?

19 MR. NARDACCI: Victor, do you have
20 knowledge of the back and forth legal issues
21 on this potential for getting the easement? Do
22 you have any information regarding that?

23 MR. CAPONERA: I'm knowledgeable of the
24 litigation that went on. There was an adverse
25 possession claim that was initiated by the

1 property owners on either side of the paper
2 street. They were successful in the adverse
3 possession, so they own the property. There
4 was a discussion of whether or not they would
5 allow this and initially the answer was no.
6 Then I understand from the decision of The
7 Court of the Appellate Division that denied us
8 that there was a willingness to allow an
9 underground test at a very, very substantial
10 cost. Again, this was done by the Town
11 Attorney's office. It was cost prohibitive.
12 The Town has the right to do an eminent domain
13 procedure if it so chooses to take the
14 property. That's where it stands right now.

15 CHAIRMAN STUTO: Are you saying that the
16 Town's rights to take the dedication of the
17 road are extinguished now? The open offer of
18 dedication is extinguished?

19 MR. CAPONERA: I would say, yes.

20 MR. WALKER: I think that there could be
21 negotiations done with the property owner.

22 CHAIRMAN STUTO: Have you talked to the
23 owners?

24 MR. CAPONERA: I have not. The last time
25 I had discussions on this was with the Town

1 Attorney's office. The discussions were going
2 nowhere.

3 CHAIRMAN STUTO: You never talked to the
4 attorney's of those owners?

5 MR. CAPONERA: Absolutely. The last time
6 that I spoke with them the answer was: We are
7 not interested.

8 CHAIRMAN STUTO: How long ago was that?

9 MR. CAPONERA: Quite a while ago.

10 MR. WALKER: Was it after the conceptual
11 part?

12 CHAIRMAN STUTO: Brad, because there were
13 a lot of side conversations, is there anything
14 more that can be done on odor mitigation under
15 the current scenario?

16 MR. GRANT: There might be some additives
17 that could be done to the systems.

18 CHAIRMAN STUTO: Nothing with respect to
19 design? Can you elaborate a little bit on what
20 you're talking about?

21 MR. GRANT: The type of systems that I'm
22 talking about here - there are odor control
23 systems.

24 CHAIRMAN STUTO: Is it the pump station
25 or the open sewer?

1 MR. GRANT: Stan's problem is that the
2 manhole that pump station discharges to is in
3 front of his house.

4 MR. WALKER: There were two manholes on
5 Burton Lane that had the odor problem.

6 CHAIRMAN STUTO: Are you saying that
7 something could be done on the downstream pump
8 station before it gets to Mr. Walker's house?

9 MR. GRANT: If that is indeed the source
10 of the problem.

11 CHAIRMAN STUTO: The Town owns that now?

12 MR. GRANT: Yes. There could be more flow
13 monitoring with the starting and stopping.

14 CHAIRMAN STUTO: Is that an expensive
15 proposition for the Town?

16 MR. GRANT: To monitor it? No.

17 CHAIRMAN STUTO: To treat or mitigate it,
18 I mean.

19 MR. GRANT: It's not something that's
20 typical with the pump station.

21 CHAIRMAN STUTO: Joe, can we explore that
22 with the Town?

23 MR. GRANT: Do you notice the problem
24 more in the summer?

25 MR. WALKER: Definitely in the summer.

1 MS. DALTON: I feel like there is a
2 problem and I haven't heard either a
3 definitive explanation of the problem or a
4 definitive plan for how we are going to
5 determine why it's a problem or how we're
6 going to mitigate the problem. I'm a little
7 uncomfortable moving on this until Mr. Walker
8 gets a little bit more information about what
9 is going to be done - not exacerbating his
10 problem.

11 MR. WALKER: They're going to put in
12 seven more homes.

13 MS. DALTON: That's my concern. Just
14 monitoring the situation -

15 MR. GRANT: Our base opinion and that of
16 Pure Waters is that should they get more flow
17 to the pump station as part of the solution,
18 it doesn't seem to corroborate with finding
19 the pertinent main area that's developed out.

20 MR. ROWAN: My name is Michael Rowan,
21 14 Burton Lane. I would say that around May of
22 this year is when I first noticed the odor
23 when I was outside. In September, there was
24 someone working outside my home and he said he
25 smelled a gas odor, which in fact it was. It

1 was the sewer odor coming from the manhole.
2 That manhole that was directly in the middle
3 of the street and in front of Mr. Walker's and
4 my driveway. The other manhole that they're
5 probably talking about is about 100 feet up
6 the street, or the next door neighbors and
7 that's the one that gets pumped over to Turner
8 Lane.

9 I'm a little concerned because I
10 understand what the Town Designated Engineer
11 is saying. I'm not an engineer, but if I look
12 at the summer of 2010, our first experience
13 was when the new homes went up. If I look back
14 to 2009, there were at last eight homes on
15 line in the summer of 2009 and there was no
16 odor. I'm not exactly sure what the problem
17 is. If it's not something that's going to be
18 able to be mitigated, then I would ask the
19 Board to consider discussions with the Town
20 Attorney's office that if they can't negotiate
21 a price that is acceptable, to look into the
22 possibility of taking that other land by
23 eminent domain for the public good of the
24 street so the gravity system can be in place.
25 We shouldn't be, at this point, being impacted

1 by development to such a degree that there is
2 a noxious odor in front of our homes. On a
3 fairly regular basis, as Mr. Walker said, it
4 depends on which way the wind is actually
5 blowing. We get a lot of northeast wind.

6 MR. GRANT: How far apart did you say?

7 MR. ROWAN: I would say about 100 feet.

8 MR. GRANT: Is one particularly worse
9 than the other?

10 MR. ROWAN: The one in front of us is the
11 where the actual pump station is discharging.

12 MR. STELLATO: Mr. Chairman, can I ask a
13 question?

14 CHAIRMAN STUTO: Sure.

15 MR. STELLATO: You say that you've
16 noticed that the odor has gotten worse as the
17 homes have been added on. Would you say that
18 the intensity of the odor is worse or do you
19 notice it more often?

20 MR. WALKER: Both. The summer before
21 2009, it didn't smell and there were no
22 issues.

23 MR. ROWAN: So, at that point in the
24 summer of 2009, eight homes were on-line in
25 2009. Now there are only two homes that are

1 left that are not on-line yet. This past
2 summer I would say that the intensity and the
3 frequency starting in May became more frequent
4 over the course of the next few months. They
5 were responsive. I'll say that. I wrote a
6 letter in September and that was the first
7 time that I called or communicated with the
8 Town about the situation. Within a couple of
9 days they were out front sealing it with
10 plastic. I had seen them do that before and I
11 knew that they were trying to address the
12 situation. I appreciate that. They've been
13 responsive, but I did write a letter to Pure
14 Waters in September. I shared my copy with
15 Mr. O'Rourke and Mr. LaCivita has a copy of it
16 as well. Mr. Cunningham has a copy of the
17 letter. So, I know that the Town is aware of
18 the situation. I'm just having a concern
19 because of the fact that from what I'm hearing
20 as more houses come on-line, it should be
21 better. That's really not consistent with what
22 our experience has been to date. That's what
23 worries me in the future.

24 MR. STELLATO: I'd like to explain maybe
25 some of that. I think that as Brad described,

1 the root of the problem is that the liquid in
2 the pump station is going septic, to use the
3 lay terms, and that's going to smell like what
4 it's going to smell like. The solution to that
5 is to add more flow and to get that liquid
6 turning over that is pumped out before it goes
7 septic. What that magic threshold is going to
8 be, I don't think that we can answer that. But
9 I think that we can be pretty definitive that
10 more is better and not worse in terms of
11 improving the situation. It seems like what
12 could be happening is as more houses are added
13 on to the system, it hasn't yet been enough to
14 turn the pump station over often enough so
15 that the liquid is not going septic. So what
16 the residents are really experiencing is more
17 frequent odor because the pumps are coming on
18 more often. There is more liquid in the
19 station and they are just noticing it more
20 times over the course of the day, and maybe
21 for a longer duration as the pumps are
22 operating more. Still, it's still pumping the
23 same liquid.

24 MR. WALKER: There are going to be seven
25 additional homes that are there. Is it going

1 to just be more or is it going to finally get
2 the flow up there?

3 MR. STELLATO: The issue is: Do we let
4 the project proceed? I think that we're in
5 agreement that the project is going to help
6 the situation. There may still be a problem
7 that the Town will need to address at its pump
8 station for odor control, long-term. That's
9 possible. But clearly, the solution does not
10 lie in saying no more flow in here. The water
11 maximizes that flow that the pump station
12 sees, it reassesses the situation and then
13 determines whether there is additional odor
14 control.

15 MR. WALKER: We just don't want the extra
16 homes to make it worse.

17 MR. STELLATO: Well, we don't believe
18 that they're going to make it worse. We
19 believe that the solution is that it will
20 flow.

21 MR. WALKER: Yes, but when this was
22 designed I don't believe that they anticipated
23 problems to begin with.

24 MR. STELLATO: It's not an uncommon
25 problem in something that municipalities do a

1 lot of routine maintenance on. This is not
2 unique to pump stations. Again, we believe
3 that the solution lies in maximizing the flow,
4 and turning that liquid over as often as
5 possible. From there, perhaps Pure Waters
6 wants to look at increasing the pump cycles
7 and maximizing the operation. Then if there is
8 more that needs to be done, then they would
9 address that.

10 It doesn't seem that the onus for that
11 lies with this applicant. This applicant is
12 providing flow that the station needs. It's
13 just like any structure that that project ties
14 into. The Pure Waters Department has a
15 responsibility to maintain that pump station
16 and I'm sure that they will. We accept that
17 they would.

18 CHAIRMAN STUTO: Brad, let me ask you a
19 question. The odor mitigation that you were
20 starting to suggest on the pump station - does
21 that include any hardware, or does a man or a
22 woman have to come down?

23 MR. GRANT: No, this would be automatic -

24 CHAIRMAN STUTO: How expensive is
25 something like that?

1 MR. GRANT: I honestly don't know. I
2 would guess maybe \$10,000 but I really don't
3 know.

4 CHAIRMAN STUTO: Brad, is that something
5 reasonable to put on the developer? It that
6 what you are suggesting?

7 MR. GRANT: I'd like to be assured what
8 the problem is. We're surmising it's at the
9 pump station where the flow is going septic.
10 If I'm being told that more flow is making it
11 worse, that concerns me. I'm starting to
12 wonder if there is a force main right outside
13 one of those manholes that is leaking and it's
14 running right down to the next manhole.

15 CHAIRMAN STUTO: So your theory is
16 disagreeing with Mr. Stellato.

17 MR. GRANT: I know that there are pump
18 stations in the Town and elsewhere that have
19 less flow with 17 homes. A lot of times these
20 end up in cul-de-sacs and people's houses tend
21 to be further away than perhaps down the
22 street. I'm starting to wonder if it isn't
23 something else. That's something that Pure
24 Waters would have to repair.

25 MR. CAPONERA: Do you, then, disagree?

1 MR. GRANT: No, I agree that more flow
2 should help.

3 CHAIRMAN STUTO: No, Mr. Stellato didn't
4 suggest that there was some kind of breach in
5 the system. He just suggested that it's not
6 quite enough to trigger the pump. There is
7 more and it's still staying there long enough
8 to get rancid. That's what his theory was.
9 Your theory is different.

10 MR. GRANT: The fact that between May and
11 September when more flow comes up - that it's
12 worse, it starts to make you wonder.

13 CHAIRMAN STUTO: How difficult is it to
14 investigate the theories?

15 MR. GRANT: I would like to talk to Pure
16 Waters. I don't think that it would be all
17 that difficult to get to the bottom of.

18 CHAIRMAN STUTO: Can we make a big note
19 on sanitary sewer and then go through the
20 other issues and other speakers?

21 MR. GRANT: Yes.

22 CHAIRMAN STUTO: John Fahey?

23 MR. FAHEY: No questions.

24 CHAIRMAN STUTO: Jim Kitts?

25 MR. KITTS: No questions.

1 CHAIRMAN STUTO: John Antonio.

2 MR. ANTONIO: I live on 9 Turner Lane. I
3 want to first thank you for all the work that
4 you do. You come to these meetings and I never
5 thought that I would hear the word mitigation.
6 Now we're learning about the watercourse and
7 the groundwater. I have to agree with
8 Mr. Blau. There have been so many questions.
9 It all just concerns me as to who is going to
10 take care of all these issues. We all have
11 sump pumps.

12 It's going to be really scary if we have
13 a Katrina. I'm not going to make a joke about
14 New Orleans, but I would ask the new members
15 of the Board to maybe come down and see
16 exactly what the water situation is. It's the
17 truth. There is so much water down there, it's
18 scary.

19 The two-way street is a bad idea. The
20 number of accidents that we have where
21 Schuyler Road comes in - it's just going to
22 exacerbate the situation.

23 CHAIRMAN STUTO: Jim Blau.

24 MR. BLAU: I live at 1 Proctor Court.

25 I wanted to give you this because I used

1 to be a past Board member of the Albany Rural
2 Cemetery. Since 1952 150 bodies have washed
3 away; believe it or not probably from that
4 water course.

5 I have a lot of questions. I was looking
6 through the minutes and I discovered a meeting
7 that was held on October 13, 2009. Is there an
8 affidavit that proved that there was
9 notification for that meeting?

10 MR. LACIVITA: Which one was that, again,
11 Jim?

12 MR. BLAU: October 13, 2009.

13 MS. VAIDA: I'm not sure of the relevancy
14 of that.

15 MR. BLAU: I didn't get a notice and only
16 one person attended that meeting.

17 MR. CAPONERA: There didn't need to be a
18 notice on that.

19 MR. BLAU: There was no end to the public
20 hearing.

21 MR. LACIVITA: Do we have the right date
22 here? Was it October 13, 2008 when concept was
23 going on?

24 MR. BLAU: It was 2009. At that meeting
25 they were given an extension of one year to

1 the applicant. If my math is right, that year
2 is over with. And if that's right, I think
3 that this project is all over with.

4 MS. VAIDA: You're speaking of concept?

5 MR. BLAU: Yes.

6 I had written a three-page letter and I
7 don't think that I'm going to read it all, but
8 I think that I'd like to highlight it, if I
9 may.

10 There are a bunch of attachments to it
11 and one of them is a notice of 10/13 for that
12 one year extension, which in my mind is over
13 with.

14 I came up with some points as to why I'm
15 against this. There are really just too many
16 homes there and it's on a wetland.

17 Being an ex-board member of the cemetery,
18 I stated back in 2007: Where the heck is all
19 this water going to go? I think that the Board
20 members realized that the cemetery doesn't
21 have a lot of money. If they go out of
22 business and go bankrupt, the Town of Colonie
23 is going to have to become the guardian of the
24 cemetery. The silt that is in those pipes
25 didn't come from the cemetery. It came from

1 upstream. It still floods out the pond on
2 Broadway. There was a bunch of trees down on
3 Cemetery Avenue that had to be cut down
4 because they were all dead. I don't know where
5 all that water is going to go. Four percent,
6 to me, is not a lot of water. I don't know how
7 much difference that's going to make. That's
8 cascading down into the cemetery into Menands
9 on the roadway.

10 I am protesting the non-notification and
11 the term limit of the extension.

12 MS. VAIDA: Peter, do you want me to
13 address this?

14 CHAIRMAN STUTO: We'll take note of it
15 but I don't want to get into debates about
16 this.

17 MR. BLAU: The point that I'd like to
18 make is Mr. Garrity is not an executor of a
19 will. His three sisters are. I don't know if
20 that application is really valid or not.

21 There was no minutes from the
22 October 14, 2008. There was no indication that
23 the public hearing had ended on this
24 application for concept.

25 I'm against a two-way street because of

1 the density of homes and the enormous amount
2 of wetland and the traffic that's going to
3 incur on Turner Lane.

4 I also cited in 2008 the Colonie Land Use
5 Law. That's on page three. It basically says
6 that you folks have to listen to the community
7 for the proper review for the potential
8 impacts relation to the health, safety,
9 welfare, comfort and convenience of the
10 community.

11 I would like very much to suggest to you
12 Board members to seriously think about this. I
13 don't know how much of that water can be taken
14 away. I'm really concerned about the depth of
15 that water. A kid could drown in there. You'll
16 be walking up to your ankles or your knees in
17 water.

18 Thank you.

19 CHAIRMAN STUTO: Thank you.

20 MS. VAIDA: I think that may be to
21 address a couple of the issues might be
22 helpful.

23 One was the applicant. You had raised an
24 issue about the owner of the property. We did
25 look back through the papers on that and I

1 believe that Joe will pull out the
2 application. DWG Development Inc. is actually
3 the applicant. and as required by the Land Use
4 Law, the Town requires an affidavit which
5 means it has to be signed under oath before a
6 notary attesting to the fact that that is the
7 lawful owner of the property and that
8 applicant has a right to make the application
9 So, the Town relies on that.

10 MR. BLAU: I really don't know who has
11 the deed for that. I haven't really seen the
12 deed.

13 MS. VAIDA: I guess what I'm saying is if
14 you think there is an estate issue, the Town
15 doesn't get involved in that. That would be up
16 to somebody to bring a suit against this
17 corporation if they felt that they were
18 gaining something illegally. As far as the
19 Town is concerned, you have a right to rely on
20 this affidavit that this is the lawful
21 property owner.

22 There is no requirement for notice for an
23 extension of concept acceptance. Also, if you
24 look at the Land Use Law, you'll notice that
25 concept is not a prerequisite to going to

1 final. In other words, we could have said that
2 we didn't agree with the whole concept and the
3 applicant would still have the right to move
4 forward to final. Having concept doesn't give
5 him a right to anything. It really doesn't
6 matter if it did expire or didn't expire, as
7 far as the final application is concerned.

8 MR. BLAU: There are terms that go with
9 things. If it didn't matter, why do they say
10 one year? Why didn't they say three months or
11 why is there a term? It has to mean something
12 to somebody.

13 MS. VAIDA: We actually are in the
14 process of amending the Land Use Law. There
15 are some changes made before this
16 administration came into power. We've been
17 reviewing the Land Use Law and some of these
18 issues have been raised as we have been going
19 along, and there are inconsistencies. I
20 understand what you're saying about getting a
21 term and getting it extended, but when you
22 actually look at it, it's not a requirement
23 for final subdivision approval.

24 MR. BLAU: So is there a conceptual plan
25 out there, or did it expire?

1 MS. VAIDA: It did expire, but it didn't
2 entitle the applicant to anything. This Board
3 could, if it wanted to, treat this application
4 for final as a new application for concept,
5 but I really don't think that is necessary.
6 All the same conditions are taken into account
7 at concept and at final, but final has even
8 more information and considerations. It's even
9 a more thorough review.

10 MR. BLAU: Thank you very much. That
11 helps to clarify. We get frustrated when this
12 is only the concept. That gets approved and
13 all the sudden we're on a fast train to having
14 these house built, traffic coming at us, water
15 problems, and we don't know if the
16 infrastructure and the sewage from these new
17 19 houses can fit into what we have. Maybe we
18 only have a 20-inch pipe down there for the
19 sewer line, and they're going to come in with
20 a 30-inch pipe that's going to back up to this
21 gentleman's house. Does anybody say, let's
22 take a look at the engineering of what's
23 around us? Can you do a study and say, this is
24 Turner Lane. Are the pipes going to be big
25 enough? The water pipes could be too small. I

1 just think we need to have the whole picture
2 put together. It's frustrating when we come
3 here and I know that you're going to try to
4 center in on the development, but we live in
5 the whole area. Thank you.

6 CHAIRMAN STUTO: We do our best with the
7 Town Designated Engineer to address that.

8 MS. VAIDA: Just so you know, there were
9 a lot of engineering studies done. I was just
10 asking Joe about the public records. If you
11 ever wanted to go over and look, you could
12 examine the engineering reports that have been
13 done so that you understand why the decisions
14 that were made were made and what it was based
15 on. It was based on opinions by the various
16 experts in the Town and our Town Designated
17 Engineer. That might be helpful.

18 CHAIRMAN STUTO: Bonnie Miller?

19 MS. MILLER: Hello. I don't normally come
20 to these meeting and I don't normally speak in
21 front of people. However, I live on Turner
22 which is actually on the other side of where
23 this development is going to go. To me, being
24 my first meeting here, I personally don't
25 think that many of you are listening to what

1 the people that live in this neighborhood are
2 saying. The reason that I say that is because
3 the water is a major issue. I don't know what
4 the basins are going to do. They leave X
5 amount of space for spillage and whatever.

6 I've lived on Turnberry Lane for 20
7 years. I have had a water problem in my
8 backyard for 20 years. I cannot get rid of the
9 water. I don't want to bore any of the people
10 here and I don't want to bore you. It's been
11 thousands and thousands of dollars to get rid
12 of water in my backyard. We've had the Town
13 come in. It's not our problem. Fine, it's not
14 your problem. However, when they started to
15 build the house, that big house on the other
16 side of Turner, they had a water problem and
17 they started looking back to where the water
18 was. They're looking at this little stream
19 that's going through and the little stream is
20 flowing and it's doing very nicely. Where is
21 that water coming from? It's coming from the
22 other side of Route 9. That's where the water
23 is coming from that goes through my back yard.
24 It goes through someone else's back yard
25 before it gets there.

1 They're willing to put something in to
2 help them, but they're not willing to look at
3 where the problem is coming from. Turnberry
4 Lane has a lot of water problems. Turner Lane
5 has more water problems. The people on Gregory
6 have a lot of water problems. The people on
7 Proctor have a lot of water problems.

8 CHAIRMAN STUTO: Can you describe where
9 your street is?

10 MS. MILLER: Turnberry Lane is as you're
11 going down Turner, it's the first little left.

12 CHAIRMAN STUTO: From Route 9?

13 MS. MILLER: Yes. It's a little
14 cul-de-sac and it's got eight houses on it.
15 They're decent size houses.

16 CHAIRMAN STUTO: You're way upland from
17 this development.

18 MS. MILLER: I'm on a hill and I have
19 water in my backyard. Yes, we have a sump pump
20 and everybody else has a sump pump. Our sump
21 pump goes nonstop. The drainage thing in front
22 of my house is constantly running. The water
23 is nonstop. You can get a headache listening
24 to it. That's neither here nor there. I don't
25 think that people are listening to what this

1 is going to do to the people that live in the
2 area. Maybe you very nicely came down on the
3 number of homes that you were going to put in
4 there. That's all hunky-dory, but it's not
5 going to help the schools, and it's not going
6 to help the traffic going up and down the
7 streets. When you come right down to it,
8 nobody is concerned about the animals that you
9 displaced. Not that you care about it, but the
10 people that live on that street really enjoy
11 going down and seeing the deer, the fox, and
12 the beavers; none of which are there anymore.
13 The wetlands that are there, they're going to
14 stay there by what you're talking about.
15 You're going to have a little bit of water
16 there and then the rest of us are going to get
17 water in our backyards because you diverted
18 it. I don't see where you're coming up with a
19 solution to the problem. I don't feel that
20 you're looking at what the problem really is
21 and what the people in the area are facing.
22 You've got to look at what the people on
23 Gregory and Proctor Court - I mean we're more
24 out of it because it's not on our side of the
25 street, but they are our neighbors. We care

1 about them.

2 CHAIRMAN STUTO: Can you speak to how
3 this is going to impact basement water and
4 surface water and the neighboring houses? And
5 are these basements in this new development
6 going to be wet?

7 MS. MILLER: Yes. I can guarantee you
8 they're going to be wet. There is no doubt
9 about it.

10 CHAIRMAN STUTO: I'm asking Brad to
11 answer those questions.

12 MR. GRANT: I honestly cannot speak for
13 basement conditions on some of these side
14 streets and this property. I'm sure that this
15 is an area of high ground water.

16 CHAIRMAN STUTO: But the impact of this
17 development -

18 MS. MILLER: Brad, I have standing water
19 in my backyard.

20 MR. GRANT: And you're uphill of this.
21 I'm sure that you'll have zero impact of this
22 project. This project is essentially going
23 eastward.

24 MS. MILLER: Right, but if I have
25 standing water and you're concerned with the

1 person that is on my side of the street, and
2 you're concerned about the water that's there,
3 and you're concerned about where they knocked
4 down the little house that was in front of the
5 farm because there is this great big puddle of
6 water continually, no matter how many times
7 they fill it in, the water comes back, you're
8 going to have a problem.

9 MR. GRANT: A lot of these older
10 developments were formally wetlands. I can't
11 say what Turnberry was.

12 MS. MILLER: Turnberry Lane had wetlands
13 on it. Had my husband and I really looked at
14 it, we'd probably have never bought there. But
15 the fact still remains that the Board okayed
16 to build there. They brought in topsoil and
17 they put it on it. The water is coming up and
18 there is nothing that you can do about it,
19 unless I put one of those ponds with the
20 little seepage things on the side. I've had
21 architects look at it. I've put in French
22 drains. The water exists. You cannot get rid
23 of it. I think that you need to think about
24 that when you're talking about the road that
25 you're going to be putting in. That water just

1 comes.

2 MR. GRANT: That's why the storm drainage
3 system and the utilities that are put in,
4 particularly the road under drains, have a
5 dewatering effect and bring a high water table
6 down. A high ground water table or call it
7 anything you like, but you pierce through the
8 hydrant soils. Hydrant soils are essentially a
9 poorly drained soil and that's what makes
10 wetland. It probably does have a lot of
11 hydrant soils.

12 MS. MILLER: I'm sure of it because we
13 have it. What I'm saying to you is you're
14 talking about putting more homes in a wetland.
15 It doesn't make sense.

16 MR. GRANT: They're not actually in the
17 wetland area. They are around the wetland
18 area.

19 MS. MILLER: It's the same thing.

20 MR. WALKER: It might not be a federal
21 wetland, but it's wet.

22 MS. MILLER: I don't think that you're
23 hearing what I said about 25 years ago when
24 you guys okayed the building on Turnberry
25 Lane. You brought in topsoil. It puts a little

1 covering over it, but it doesn't solve the
2 problem. You have to solve the problem before
3 you create more. That's what I think all of
4 these people are saying. You're just putting a
5 little band aid over the water. Eventually,
6 the bubble is going to come and it's going to
7 burst. Then you're going to have all the
8 people that are buying these lots - they're
9 going to come back and say, why did you sell
10 me this land? I think that you all have to go
11 down there. I think that you all have to see
12 what that land is.

13 MR. NARDACCI: The Board did do a tour
14 and walked that property.

15 MS. MILLER: And, you thought it was
16 suitable to build houses on?

17 MR. NARDACCI: Just to speak to the point
18 of listening, it's my fourth year on the
19 Board. I've been on since this project first
20 came about. This isn't the only project that
21 we have in the Town that abuts an existing
22 development. Whenever we have parcels that are
23 developable and privately owned; they have the
24 right to develop. It's our responsibility,
25 listening to the public, to try to do the best

1 that we can to address the concerns. Now,
2 there are people here that the only answer is
3 no development ever.

4 MS. MILLER: That's not what I'm saying.

5 MR. NARDACCI: There are others that say
6 look, we're trying to work. As they started,
7 this project has changed quite a bit since it
8 first came in. We've tried to do the best that
9 we can to listen to hear the issues and to
10 address specific concerns. We try to agitate
11 and get the Town departments involved to
12 address specific concerns. We're at a point
13 now where it's been this many years, and there
14 isn't anything new here tonight that we
15 haven't heard. The engineers that we
16 have - they understand those issues. The Town
17 Designated Engineers are experts in stormwater
18 management and wetland mitigation and we have
19 to rely upon them.

20 MS. MILLER: I understand that.

21 MR. NARDACCI: So, we're listening but
22 also too, we have to listen to the developer
23 that has a right to develop - the private
24 property owner. I appreciate you coming in and
25 expressing your opinion.

1 MS. MILLER: This is the first time that
2 I've been here. As I said, I don't live on
3 this street, but I do live with these people.

4 MR. NARDACCI: That's why I wanted to
5 take the time to say, look, we are listening.
6 I know that you think that we're not, but we
7 are.

8 MS. MILLER: Kathleen said, I don't hear
9 a definitive answer for Mr. Walker. That's how
10 I see it. You're listening and listening but
11 there is no plan of action. What is the plan
12 of action to go through the water that's going
13 to be there? Well, we're going to have a
14 basement. Well, good, but what happens when
15 the basement fills up?

16 MR. NARDACCI: That's the thing. We went
17 through this stormwater. There is an engineer
18 with a solution that has to be approved by
19 DEC, and the Army Corps. There are Town
20 permits that need to be acquired. There are
21 these processes that have to be approved. It's
22 not just the Town. It's not just this Board,
23 but the Army Corps has to delineate the
24 wetlands. That's why I asked the question.
25 What's the follow up? Every year for 10 years

1 they're going to have to report to DEC and the
2 Army Corps. What else can we do beyond that?

3 MS. MILLER: Where else can we put the
4 water?

5 MR. NARDACCI: The water right now is
6 going to meet all the requirements of the New
7 York State Department of Environmental
8 Conservation Law. That's the answer. The
9 water, as engineered and as reviewed by our
10 Town Designated Engineer is going to meet the
11 state laws. What else can we do?

12 MS. MILLER: I have a question for the
13 developer. Is he going to tell the prospective
14 buyers that they're going to have wet
15 basements? Is he going to tell them that?

16 CHAIRMAN STUTO: Mr. Stellato, do you
17 want to address the condition of the
18 basements, as you see them? I don't know if
19 Brad has any opinion on that.

20 MR. STELLATO: I can't speak to every
21 basement because as lots are developed, there
22 are different levels of groundwater. I think,
23 clearly, that all lots are going to have sump
24 pumps. Generally, the rule of thumb is that if
25 groundwater is within three feet of your

1 basement floor elevation, you put a sump pump
2 in. You're required to put a sump pump in. We
3 are doing that. These lots are not in the
4 wetland. They're on the high ground around the
5 wetland. We do expect groundwater near the
6 surface within a few feet of the surface. We
7 do expect that there will be sump pumps in all
8 of these houses and those sump pumps will
9 pump, just the same as everyone else in the
10 area. It's common in this part of Town. It's
11 not a barrier to development. We engineer
12 around it and that's what will be done.

13 MR. GRANT: I was just looking at the
14 deed restrictions and seeing the wetlands in
15 there, it should be readily apparent -

16 MS. MILLER: You're assuming that.

17 MR. GRANT: Before I buy something I read
18 it. If somebody doesn't, shame on them.

19 MR. STELLATO: Is there a standard note?

20 MR. GRANT: There is a note about
21 persistent standing water whenever there is
22 stormwater management that is going to have a
23 body of water.

24 MR. STELLATO: It's in the covenants.

25 MS. MILLER: I have one other thing. When

1 you send your notifications - because I've
2 never gotten a letter. I got a letter from one
3 of my lovely neighbors that put it in my
4 mailbox to come tonight. Down Turner Lane, I
5 vaguely remember seeing little pink or neon
6 green signs. I thought that somebody lost a
7 puppy. To me, that's not a notification.

8 CHAIRMAN STUTO: If you want to get on
9 the list, give them your name.

10 MS. MILLER: Trust me, I'm sure that he
11 never wants to see me again.

12 CHAIRMAN STUTO: I wouldn't say that,
13 ma'am.

14 MR. STELLATO: We are required by the
15 Town law to mail to everybody within 200 feet.
16 I suspect that you're not within those
17 200 feet. Your opportunity would have been, at
18 this point, to see the notices that were
19 posted. We did try to replace them. Somehow,
20 the notices disappeared. We posted them before
21 the New Year. They disappeared and I replaced
22 them once. They disappeared again and I
23 replaced them again. There was a publication
24 in the Spotlight. If you want to be added to
25 the list, if you write down your name and

1 address and give it to me, I'll make sure that
2 you get on the list for any future public
3 notification that we are required to do.

4 MS. MILLER: I would just suggest with
5 the notification that you don't put them on
6 little sheets that little kids write their
7 notes on that say I lost my dog. Make a decent
8 sized sign that's made out of something.

9 MR. STELLATO: We don't make the signs.
10 The signs are from the Town.

11 MS. DALTON: The best way to convey that
12 is to go to your Town Legislator and suggest
13 to them that they strengthen the rules in
14 regard to public notice. We just do what the
15 law says. We don't make those laws.

16 CHAIRMAN STUTO: Cathie Love.

17 MS. LOVE: I'm at 20 Schuyler Hills. If
18 you're looking at the green spot, I'm on the
19 right hand side on the down side. I have two
20 concerns. My first concern is the water.
21 July 1, 2009 was not a 100-year storm and was
22 not a 10-year storm, but my house was an
23 island. The water got up to about within a few
24 feet of our front door because the door and
25 the drains could not handle the water. It was

1 a good storm, but it was pretty scary when we
2 were watching it come up the driveway and
3 close to the house. I'm not the expert with
4 the water, but there are so many water issues
5 the concern is that there are a lot of houses
6 here. You have lots of water there.

7 My second concern is the two-way street.
8 We looked at a lot of houses and where to buy
9 and one of the advantages of this area was the
10 quietness of the neighborhood. Our children
11 could ride their bikes, we could jog and walk
12 the dogs and not be worried about constant
13 cars. I'm really concerned that a two-way
14 street will bring in lots of traffic from
15 Route 9. More people use Turner as a cross
16 already and that's already an issue for people
17 over there. Those are my concerns.

18 CHAIRMAN STUTO: Thank you, very much.
19 Kathy Billfield.

20 MS. BILLFIELD: I'm Kathy Billfield. I
21 live at 27 Schuyler Hill Road. As you know, I
22 have a lot of issues with the whole
23 development. Even if they do meet the
24 criteria - which I understand that you
25 diligently are overseeing that the developer

1 follow the rules - some developments perhaps
2 should never be built. There are pieces of
3 land that are really not suitable. I do
4 believe that this development is
5 non-conforming with the neighborhood and the
6 way that things are in our neighborhood and
7 the kind of development that we already have.

8 One of the things that occurs to me is
9 the pocket pond. I really don't even know what
10 a pocket pond is. I also think that we
11 shouldn't have to maintain that; i.e., the
12 taxpayers, which is what you're telling me. If
13 I'm incorrect, correct me.

14 I have a split rail fence and it lasted a
15 real long time; about 10 years. So what
16 happens to it after that? I'm putting up
17 little signs about staying off of different
18 pieces of the property - the wetland areas and
19 watching out for it. That doesn't conform with
20 the way that Schuyler Hills Road is. That
21 doesn't conform with Turner Lane. We don't
22 have little signs around these areas. Pocket
23 ponds are a real concern to me.

24 I also think that our Town is already
25 debt ridden from the previous administration.

1 To undertake cleanup, the developer's mistakes
2 I just think is just wrong. I think that it's
3 an awful thing and an awful risk that we're
4 taking. Once you get rid of these wetlands,
5 and once something bad happens and all of
6 these 19 homes start paving their driveways,
7 throwing fertilizer on their lawns, and all
8 that stuff is coming down into these ponds
9 which are going to be smelly and everything
10 else, we're going to have to maintain them
11 that much more. I think that we really should
12 rethink this. If the previous group made an
13 error in judgment, now is the time to start
14 correcting it. I know that you have to go
15 forward with the process and I agree that the
16 developer should have his day. They should
17 continue to propose things like three or five
18 houses, and then we can handle that. But I
19 think that you're taking a big risk. You're
20 taking it with our investments. Those smells
21 aren't going to help sell these gentleman's
22 houses. Maybe Burton Lane should have never
23 gone in. I own property too and some of my
24 property is unbuildable and shouldn't be built
25 upon. So, I think that we need to consider all

1 of these issues. I thank you for your time.

2 CHAIRMAN STUTO: Thank you.

3 Phil LaBatte.

4 MR. LABATTE: My name is Phil LaBatte and
5 I live at 26 Fenway Drive.

6 First, I would like to complement
7 everyone on their service to the community. I
8 really appreciate that.

9 I came here at the last meeting in
10 December and my neighbors came here and we
11 spent three and a half hours here. We were
12 told that we would have first dibs tonight on
13 the agenda, and that wasn't the case.

14 The notification process - I sat here at
15 the last meeting and listened to the Chairman
16 and various people on the Board talk about the
17 notification process and what was right and
18 what was wrong. I don't really care. Get it
19 right to get the people to be notified of
20 these issues and go forward.

21 I was going to talk about the paper
22 street. I'm an interested party in that.

23 This next point is a very personal one.
24 On the plot that was here last time, it was
25 different from the final plot. There are a

1 couple of plots there - buildings 36 and 37.
2 If this is not the final regarding the
3 discussion, let me know and I'll come back and
4 raise this later. If you're going to decide
5 tonight to do this, I do have a question. Plot
6 and building 37 is 25 feet from my property.
7 When you talk about being responsible
8 planners, is this responsible planning?

9 CHAIRMAN STUTO: Can you show us?

10 MR. STELLATO: This is Mr. LaBatte's
11 property down here; 37 Burton Lane. Again,
12 keep in mind that we show the building
13 footprint on this drawing so that we can
14 develop the green. This isn't necessarily what
15 the builder is going to build. It will conform
16 to both area requirements. The setback
17 requirement of the property line is 25 feet.
18 So we are probably pretty close to 25 feet
19 with what we're showing. It's not necessarily
20 what's going to be built but by way of
21 comparison, if you look on the aerial here and
22 this is Mr. LaBatte's house, he's about
23 15 feet from that same property line. So,
24 we're going to be further away from the line
25 that he is at.

1 MR. LABATTE: So this is final?

2 CHAIRMAN STUTO: The Board may
3 potentially take a vote tonight.

4 MR. LABATTE: Then that house will be
5 built 25 feet from my property?

6 MR. NARDACCI: That's the Town Code. It's
7 25 feet.

8 MR. STELLATO: The rear setback is 25.
9 That means we won't be any closer than 25.

10 MR. NARDACCI: How big is that lot?

11 MR. STELLATO: I don't have the sheets up
12 here to show that, but I think that it's a
13 couple of acres.

14 MR. LABATTE: That's probably a
15 4,000 square foot home.

16 MR. NARDACCI: Tony, what's the
17 buffering? Is there a tree line there now?
18 It's wooded now, sir?

19 MR. LABATTE: Yes. It's all woods. I'd
20 like an answer if we're going to do this
21 final. I'd like an answer yes or no. It's your
22 right to do this but -

23 CHAIRMAN STUTO: Well, there is a rule of
24 a footprint.

25 MR. LABATTE: If this is responsible

1 planning from this Board and from the
2 builders, I think that this is very demeaning.
3 They built these 5,000 square foot homes on
4 one-fifth of an acre lot. It's like Long
5 Island and the developments there. If this is
6 where we're going to with your planning and
7 the builders, it's your prerogative. But I'm
8 just going to voice my concern about it.

9 Thank you.

10 CHAIRMAN STUTO: Thank you.

11 Catherine Blau?

12 MS. BLAU: I live at 1 Proctor Court. I
13 am strongly objecting to that two-way street.
14 What is the reason that we have to have that
15 street? There is no reason. We should not have
16 the burden of having more traffic on Turner
17 Lane, which is already getting bad. That
18 little boy was killed in the street from a
19 truck going down that road. That's not
20 necessary. What is the purpose of making this
21 a two-way street and hooking up to that
22 project? I'd like to know the purpose of that.

23 MR. NARDACCI: The memo from Fire Safety
24 was that they wanted emergency access.

25 MS. BLAU: They made a mistake. They can

1 come in and out of there by Proctor Court.
2 They have a wide street there. They don't need
3 any more room down there. That street should
4 not be put in and I strongly object to that.

5 CHAIRMAN STUTO: I just want to make sure
6 that I understand your point. You don't want a
7 two-way?

8 MS. BLAU: I don't want anything really.
9 People that bought homes on Burton Lane knew
10 what they were buying. They should not be
11 allowed to come out onto Turner Lane.

12 CHAIRMAN STUTO: Thomas Blau.

13 MR. THOMAS BLAU: Is this a done deal?

14 CHAIRMAN STUTO: No, it's not a done
15 deal.

16 MR. THOMAS BLAU: So what we say here may
17 have some impact on what you guys vote; is
18 that correct?

19 CHAIRMAN STUTO: That's correct. But you
20 understand that if someone owns property and
21 if they follow the rules, they are entitled to
22 do what they are entitled to do.

23 MR. THOMAS BLAU: Sir, I believe in that
24 100 percent.

25 CHAIRMAN STUTO: We can suggest measures

1 which will mitigate the impact on the
2 surrounding neighbors.

3 MR. THOMAS BLAU: That's what I'm hoping.

4 MR. NARDACCI: We can't vote against a
5 project because the public says that we don't
6 want it.

7 MR. THOMAS BLAU: I understand that, but
8 there is some legal reference in that Land Use
9 Law that says that it has to do with the
10 convenience of the public. I don't want to
11 debate that.

12 Has anybody done any kind of an economic
13 study? There are 19 homes going in there. What
14 is the projection of the property tax and then
15 what is the loss of maintaining what the
16 infrastructure costs will be for fixing a
17 street and plowing a street? What about the
18 possibility of schools? And if such a study
19 was done, would the public have access to
20 that? Maybe this is a losing proposition. He
21 talked about the odor and things like that. Is
22 there liability stuff that is being taken into
23 consideration? Everybody talks about the
24 financial situation in the Town, but does this
25 make economic sense to even do this? Maybe it

1 doesn't. You have all this problem of water
2 and you can say these things about the
3 cemetery having this or not. Where did the
4 ground water come from to begin with? When
5 they did East Hills, they directed all that
6 water into the cemetery. Some of this stuff
7 borders on criminal, in my opinion. I don't
8 disagree, but does this really make sense to
9 do this for the taxpayers of the Town of
10 Colonie?

11 Is there a construction or mitigation
12 fee? Is there any fee like that that's being
13 paid on this project?

14 CHAIRMAN STUTO: This is not one of the
15 GEIS areas, so there are no mitigation fees.
16 Obviously, the homeowners will pay property
17 taxes.

18 MR. CAPONERA: Plus there is a fee per
19 lot. There is a substantial fee that has to be
20 paid. It's in the form of mitigation.

21 CHAIRMAN STUTO: A building permit? Is
22 that what you're saying?

23 MR. CAPONERA: Yes.

24 CHAIRMAN STUTO: And I don't know what
25 the amount of that is.

1 MR. THOMAS BLAU: Is there any budget
2 thing that's been done that says, we're going
3 to take in X amount of property taxes, but
4 it's going to cost us this?

5 CHAIRMAN STUTO: We typically don't do an
6 analysis like that or require one. I've never
7 seen one like that.

8 MR. THOMAS BLAU: Wouldn't it make sense
9 to do that?

10 CHAIRMAN STUTO: We can't deny it on the
11 basis that it doesn't pay for itself. We can
12 make common sense decisions to make an impact
13 on the surrounding neighborhood. We can take
14 something into consideration, but we couldn't
15 say no because the taxes aren't going to be
16 high enough to pay for all the services. I'm
17 not saying that's the case. That's not the
18 criteria for saying no, you can't have a
19 subdivision. It's up to the Town Board to set
20 the property taxes for everybody, adequate to
21 pay for all the services. That's the system. I
22 understand what you're saying and I appreciate
23 it.

24 MR. THOMAS BLAU: It just seems with all
25 the problems with safety issues and

1 environmental issues - and if it doesn't make
2 any sense economically, why do it? I really
3 don't understand. It seems to be that
4 Mr. Garrity should have developed this a long
5 time ago, unless there was some reason why it
6 shouldn't have been developed. I think that
7 because of the wetland, it should not be
8 developed.

9 CHAIRMAN STUTO: It's hard for us to
10 address that, but I'm sure that the developers
11 mixed numbers to see if it made economic sense
12 for them.

13 MR. THOMAS BLAU: You go down to Menands
14 and see the water down at the bottom of the
15 hill in the springtime and the water doesn't
16 go up hill. This lady said if you put a band
17 aid on something like that, we can get it by,
18 but what happens when the final result is not
19 what it's supposed to be?

20 MR. NARDACCI: That's what I was kind of
21 talking about. I understand saying that it's a
22 band aid, but it's not. There is a significant
23 amount of engineering that has gone into this
24 stormwater issue.

25 MR. THOMAS BLAU: I don't disagree with

1 you. I suppose that there was a lot of
2 engineering that went into that lady's house
3 over there on Turnberry. I know that there was
4 a lot of engineering that went on over in East
5 Hills and it's still not right.

6 MR. NARDACCI: I understand. The
7 stormwater regs have changed and they've
8 become a lot more stringent. There is a lot
9 more concentration on it, especially the last
10 three or four years.

11 When did they pass the new regs?

12 MR. GRANT: In 2003, actually.

13 MR. LANE: We're becoming somewhat
14 victims of the development that happened 30
15 and 40 years ago when they didn't have these
16 requirements.

17 MR. THOMAS BLAU: That's my point, I
18 guess.

19 MR. LANE: The point is that with each
20 new development, the parcels that are left to
21 develop are a lot more difficult, otherwise
22 they probably would have been developed
23 earlier.

24 CHAIRMAN STUTO: Brad, I don't know if
25 you can do this, but could you talk briefly

1 about what the stormwater regs were in '78
2 versus what they are now; just in general
3 terms?

4 MR. GRANT: Back then it was capture it
5 and get rid of it. In the 80's the Town of
6 Colonie was one of the first to embrace
7 detention faculties in some cases in critical
8 water sheds to not only lessen, but 10 percent
9 less than the peak discharge rates. Detention
10 basins are basically a big hole. They're dry.
11 During severe events, they fill up
12 temporarily. They are outlets and metered out
13 and over time they keep water. This all came
14 from the 1972 Water Act by Richard Nixon. What
15 we have found is that water quality was
16 diminishing in our watersheds. We thought it
17 was the sewage treatment plants and
18 discharges. They went after those and did some
19 water quality improvements. Further testing in
20 our water sheds found that there is still
21 pollution there. It took a while to realize
22 that quite a bit of that is not sewage
23 treatment plant. It was from stormwater. There
24 is salt on the road, our radiators leak and
25 whatever comes out seems to end up in our

1 streams and our rivers. So in 2003 they said
2 we're not just dealing with the larger
3 communities, but we're dealing with the
4 smaller communities such as Colonie and quite
5 a few in this area where you have to abide by
6 stormwater regulations. We're not just worried
7 about peak flows, we're worried about quality.

8 The pocket pond is one of DEC's best
9 management practices for sites like this where
10 there is very high ground water. It treats not
11 just the quantity, but the quality of the
12 water. That's why the pocket pond is one of
13 these choices for this project and one that
14 has been proposed and has been selected to
15 address stormwater quality and quantity.

16 FROM THE FLOOR: What about the
17 mosquitoes?

18 MR. GRANT: Mosquitoes like wet areas.
19 The ones that are of concern are the ones that
20 carry West Nile Virus, in particular.

21 FROM THE FLOOR: No, I mean mosquitoes in
22 general; all of them.

23 MR. GRANT: There are quite a bit of
24 wetlands there now that the pockets are
25 relatively small in comparison to the whole

1 wetland. So there are mosquitoes there, I'm
2 sure.

3 FROM THE FLOOR: But the pocket ponds are
4 close to the wetlands.

5 MR. GRANT: You can kind of get a sense
6 of where they are in relation to the wetlands
7 if you come and take a look at the maps. In
8 relation to the total acres, it's relatively
9 small.

10 MR. ROSANO: Excuse me for a second.
11 Could we stay with this gentleman first?

12 I'm sorry, sir.

13 MR. THOMAS BLAU: It's okay. I think that
14 I made my point. I think that any development
15 in the Town of Colonie - you should be
16 sensitive to the neighboring property owner. I
17 believe in freedom and that if you own
18 something you have the right to do what you
19 want with it, but not if it has an impact on
20 the residents in the area. This seems to be
21 full of all kinds of problems. At the very
22 least, it seems to me you have to look at the
23 general economics. You're talking about a bond
24 going on here. He says that a mitigation fee
25 is going to be paid by each individual

1 property owner.

2 CHAIRMAN STUTO: That's a building permit
3 fee.

4 MR. THOMAS BLAU: I think I made my
5 point. Thank you for listening.

6 CHAIRMAN STUTO: Beth Antonio.

7 MS. ANTONIO: Beth Antonio,
8 9 Turner Lane. I've lived there since 1955.

9 My parents lived in that house on
10 Turner Lane when it was a dirt road. I have two
11 different things that I'd like to address.

12 One is about the watercourse area
13 management in the Colonie Land Use Law. It
14 seems as if the deeds are certainly going to
15 comply with the spirit of the Land Use Law,
16 but I'm wondering what kind of assurance we
17 will have that this will continue. It was
18 mentioned 10 years, but what happens after
19 10 years? Who continues to look at the
20 property and make sure that the rules are
21 followed? If they're not followed, who pays to
22 have them corrected? That's one of my
23 questions.

24 MR. NARDACCI: That's a good question.
25 The watercourse, itself, is on the property

1 lines. Do the property lines extend into the
2 watercourse so they the private held portion -

3 MR. CAPONERA: This is all owned by the
4 lots. That's why there is the land
5 conservation area that is established pursuant
6 to the rules and regulations of DEC, as well
7 as the Army Corps. In the 10-year period,
8 that's really the period that they want to be
9 sure that these new species of the new plants
10 that we were talking about before - they want
11 to pick and choose which plants and whatever
12 they want -

13 MR. NARDACCI: So 20 years from now,
14 Victor, if there is a problem identified, who
15 would be responsible?

16 MR. CAPONERA: The Army Corps and DEC
17 enforces it. You've heard Tony mention that
18 they impose fines on the property owner where
19 it was violated. These easements are in
20 perpetuity, as well as these restrictions.

21 MR. NARDACCI: It's not a perfect answer
22 because there is no overseer for the next
23 50 years, but like the rest of the
24 watercourse, just like we have issues
25 downstream, it's like whose issue is it?

1 CHAIRMAN STUTO: If you saw someone
2 building or digging in the wetland, you could
3 complain to DEC. I think that would be the
4 easiest route to go. They would enforce the
5 Army Corps permit. It's a federal permit and I
6 don't know if you'd have luck calling the
7 feds.

8 MS. ANTONIO: So, it's not the Town.

9 MR. GRANT: I think that if you see
10 something like that occurring, you could get
11 on the horn and start talking to someone.

12 CHAIRMAN STUTO: I don't know even where
13 you would call the feds.

14 MR. NARDACCI: The Army Corps has a Troy
15 office.

16 MR. STELLATO: But the joint permit is
17 with DEC, which is state. The federal is the
18 Army Corps.

19 MS. ANTONIO: Are these wetlands going to
20 be protected from pesticides and other things
21 that people put on their lawns, on these lots,
22 or all kinds of pesticides and things going to
23 leak into the wetlands that are there?

24 MR. NARDACCI: Whatever is allowable
25 under law for people to treat their lawns;

1 people will be allowed to use that.

2 MS. ANTONIO: So the wetlands could
3 become contaminated?

4 MR. NARDACCI: It's peer pressure.

5 MS. ANTONIO: I live on the side of
6 Turner Lane that's going to be built on with
7 the Van Buren development. Our well in our
8 basement is always filled with water. Once we
9 got water in our backyard and in the spring
10 and early summer, it's like this (Indicating).
11 It's all wet. It squishes when you walk on it.
12 Turner Lane was built on Cecil's Cabbage Farm
13 with a big swamp in front of it and Bonnie was
14 right, it was all just filled in.

15 When you listen to the storm sewers
16 there, there is a lot of water running there.
17 It sounds like gushing water under there. That
18 must all eventually go down to this property.
19 even though on Turnberry Lane there is still a
20 huge pond that was protected and it's still
21 there. Just to reiterate what Bonnie said,
22 water is a huge problem in this area.

23 I also strongly opposed a two-lane road
24 connector.

25 Thank you.

1 CHAIRMAN STUTO: Thank you.

2 Christine Standish?

3 MS. STANDISH: Christine Standish,
4 42 Turner Lane.

5 This actually is a drawing that Clough
6 Harbour did and it looks like it's back in
7 '05. It will show you the watercourse that
8 actually runs through this property. Turnberry
9 is right here (Indicating). You can see how
10 the water just goes through the same track. So
11 it's a fairly large watercourse for the Town
12 of Colonie.

13 I would like to say that I've been to
14 several of these meetings. I thank the Board
15 because I know that you folks have spent a lot
16 of time on this.

17 Some of the residents of Turner Lane
18 recently met with the Town Supervisor, the
19 Town Attorney, the head of Traffic and Safety,
20 the Planning Director, and Planning's Counsel
21 mainly to express our concerns with the impact
22 of the added traffic impact and safety. We
23 reviewed the traffic safety issues in and
24 around the Turner Lane area and we agreed that
25 Turner Lane is a narrow street. It's about

1 20 feet wide and I believe that currently if
2 you're going to build a two-way road, it's
3 about 32 or 35 feet. So it's a significantly
4 narrow road than you would currently put on
5 any street. Of course, that adds to the
6 problems of people jogging, walking or walking
7 their dogs. If there is a parked car, you
8 literally have to come to a stop, wait for the
9 oncoming traffic to pass and then you have to
10 go around. It's not a big deal, except for
11 Turner Lane is dead straight. It's a half-mile
12 long and it's downhill, so people speed very
13 fast on Turner Lane. I can stand at the edge
14 of my driveway and say slow down and they
15 still don't. They are literally inches away
16 from my feet. Getting my mail on certain days
17 can be dangerous. It just depends. It depends
18 on who is on the road, and which way they're
19 going. We all know that Route 9 has a lot of
20 traffic on it. We all know that Turner Lane is
21 a cut through for Route 9. We all know that
22 Route 9 backs up past Turner Lane on occasions
23 so you can't even use that exit. So you have
24 to go down to Turner Lane and Schuyler. Okay,
25 you have a second exit, right? It sounds like

1 a good idea in theory. When you get down
2 there, you've got Turner Lane that's a very
3 narrow street and Schuyler is a very narrow
4 street. Then you have a 90-degree angle. You
5 have to try to make a turn and try to stay in
6 your lane. Okay, that doesn't sound like it's
7 too difficult. The problem is that you're at a
8 low point and the roads go up from both sites.
9 So, they're coming at you at a blind spot and
10 at a turn in the road. You add the fact that
11 Schuyler Road actually floods or freezes and
12 there becomes ice patches on that road and
13 anything else compounds the issue.

14 Sometimes it's blocked by the Town and
15 sometimes you can't use that either. So, I
16 have to find my way out to Wildwood. Okay, at
17 least we have another way, but it isn't ideal.
18 If we're going to add even more traffic to
19 that road, we're just going to compound the
20 issue.

21 Currently, Turner Lane has about 63
22 houses on it. The number is growing and we've
23 all talked about that. We have Burton Lane,
24 Burton Meadows, the proposed Van Buren and
25 there is going to be 21 houses. That's upwards

1 of 54 homes. So you're really doubling the
2 amount of traffic that is supposedly going to
3 be on Turner Lane. It is a major issue. It's
4 not a slight impact on our traffic.

5 I'm almost done. I don't want to take up
6 too much of your time.

7 CHAIRMAN STUTO: How many homes did you
8 say are on Turner and all the side streets?

9 MS. STANDISH: Turner, Proctor - it's
10 about 63.

11 CHAIRMAN STUTO: Thank you.

12 MS. STANDISH: And I counted as I was
13 driving, so it's pretty close.

14 During our meeting we collectively came
15 to a solution to divide and share the
16 increased traffic flow. At this point Traffic
17 Safety and the Supervisor's Office asked to
18 review the project and the surrounding areas
19 which were not originally reviewed. When the
20 Town Planning Board put it to Traffic and
21 Safety, they didn't necessarily take into
22 account all the traffic in the area. They just
23 looked at the project and said, yes, the
24 two-way street is a good idea. They didn't
25 take into account that Turner Lane is narrow,

1 and that Turner Lane has a lot of houses
2 currently. They didn't take into account all
3 of that. We would like some additional time to
4 review the project to complete that process.

5 The outcome of the meeting in the
6 Supervisor's office was two suggestions. I
7 would like to request a motion to be made to
8 either one: Propose or adjourn the vote
9 tonight until after the Traffic Safety
10 Committee meets on January 19th because this
11 issue will be raised at that meeting. Or two:
12 A vote with a condition pending the outcome of
13 the January 19th Traffic Safety meeting.

14 CHAIRMAN STUTO: So what is your specific
15 proposal on traffic? I just want to be clear
16 that I understand it.

17 MS. STANDISH: My proposal is that we are
18 able to go to the meeting on January 19th and
19 have traffic actually do a review. I just want
20 to make sure that we're not treating one
21 problem with another.

22 CHAIRMAN STUTO: Are you advocating back
23 to the one-way scenario, or are you saying
24 that it should be a stand alone subdivision
25 and not connect to Burton?

1 MS. STANDISH: I'm not the expert.

2 MS. DALTON: Correct me if I'm not
3 hearing you right, but I think what you're
4 saying is that the sense of the neighbors is
5 that the traffic pattern was looked at within
6 a small subdivision of what is really at play
7 here, and that the Town should take a broader
8 view with regard to the surrounding roads to
9 really get a sense of what this will do and
10 what the solution should be.

11 MS. STANDISH: You're adding a second
12 access to allow them to come through there so
13 you've got people coming dead straight down
14 Turner Lane, and you're going to have people
15 coming from Van Buren and you're going to have
16 a point in the road where it's 20-feet wide,
17 but they're going to have to make sure that
18 they're careful because you're going to have
19 people walking their dogs, jogging and parking
20 cars.

21 MR. LANE: So, this is scheduled to the
22 January 19th agenda for Traffic Safety. This is
23 on the agenda now?

24 MS. STANDISH: Yes.

25 MR. ROSANO: One of the things that I was

1 always brought up with is if you have a
2 problem, are you going to bring a solution
3 with you, or are you just looking for a
4 recommendation? What are you going to be
5 asking? I might try to go to the meeting. I
6 want to know what you're going to be asking
7 them. Exactly what do you want to see when you
8 walk out of that room?

9 MS. STANDISH: I still have an issue with
10 the watercourse. As you can see there is a lot
11 of water going through that property, do you
12 have access to Burton Lane to have the
13 additional 35-some odd homes that are on
14 Burton Lane flowing through this development
15 going onto Turner Lane? I don't know. Would I
16 propose that it not be connected? It certainly
17 would help traffic on Turner Lane. Can Traffic
18 Safety come up with an idea that is perhaps
19 fair to everybody? One can hope. I don't
20 oppose the development. I understand that when
21 I bought my land on Turner Lane, I realized
22 that it was farmland and Mr. Garrity was
23 90-some-odd years old when I bought my
24 property. I realize that he had a good long
25 life and God blessed him. I had no idea that

1 there was going to be another cut through.

2 CHAIRMAN STUTO: Okay, we understand.

3 MS. STANDISH: I'm just trying to make
4 sure that the value of my property and the
5 street that I live on is safer.

6 CHAIRMAN STUTO: Thank you.

7 Elena Smith?

8 MS. SMITH: I live at 39 Turner Lane. I
9 have a couple of questions. This has been
10 amazing how much you are listening to us
11 tonight. This is just great. We all have these
12 issues with the water and I hate to bring it
13 up again. I live in this corner so there is a
14 little bit of a buffer which is great.

15 My concern is when Dan started this whole
16 process he showed this area including these
17 three acres; 26 acres. He showed two possible
18 propositions. One was five houses on it - the
19 estate lots, and one was 11. Both would have
20 been acceptable because it wouldn't have had
21 as much impact on the current community. We
22 never expected it to grow to this size. My
23 backyard - all spring and usually close to
24 July is a pond with ducks. I have so much
25 water and I'm below this (Indicating). So all

1 this water that is coming down, if I already
2 have this much water and you start digging all
3 these basements, even though we're talking
4 about the stormwater and if it's going to
5 rain, where is this going to go? We are still
6 displacing so much water because the water is
7 so high. My basement is sopping wet. The mold
8 and the mildew -- there is nothing that you
9 can do about that, and I'm on the dry side.
10 So, I can't imagine what is going to happen to
11 all of these families.

12 Tom, you said that you were right when
13 you said if they work within the rules, they
14 can develop. They are certainly working, but
15 it has to be according to the Land Use Law and
16 mitigating the impact on the surrounding
17 neighbors. This is not taken into
18 consideration with the neighbors. The
19 reductions that they've done - they've
20 definitely done quite a bit, but we still have
21 a lot of houses in here. We're not objecting
22 to houses going in, but the sheer number
23 impacts everybody that lives here and
24 everybody below. We're also talking about
25 maintaining it. You have the cemetery and it's

1 their responsibility to clean up that silt,
2 but whose going to make them? They can't
3 afford to do it? What's going to happen in a
4 couple of years when the cemetery doesn't fix
5 that because they can't? Menands is in big
6 trouble because this water is going to go
7 someplace and there is that much more water
8 running off the houses, blacktop, rain,
9 sprinkler systems - I'm sure that these houses
10 are going to have all that. It's just going to
11 be a greater problem than we anticipated. This
12 is the time to look at it.

13 As far as the deed restrictions, we
14 haven't really heard many more of the deed
15 restrictions other than they have the
16 easements and rights to get on the property,
17 but I did hear something about not being able
18 to mow. They can't mow if they can't do
19 plantings. When these houses are all built and
20 we walk down the block, it's my job to call
21 and complain about my neighbors? You're
22 putting us all in a terrible position in the
23 neighborhood to have to watch each other to
24 make sure that they're following the rules. I
25 think that there are so many things to iron

1 out here and we've been at this for years.
2 We're trying to protect our assets right now
3 and we live in a great neighborhood. We're
4 going to change the whole place. I am
5 100 percent against the two-way road. If this
6 is going to get voted on, we would like to
7 push for the condition that we get to meet
8 with the Traffic Safety Committee to give us a
9 chance to see what arises at that meeting.

10 CHAIRMAN STUTO: Thank you.

11 Joe, just out of curiosity, what's on for
12 the 23rd? How is the agenda for that night?

13 MR. LACIVITA: We actually have two
14 sizable projects on.

15 CHAIRMAN STUTO: What's the next date
16 after that?

17 MR. LACIVITA: That would be February 1st.

18 CHAIRMAN STUTO: How does that look?

19 MR. LACIVITA: That's empty at this
20 point.

21 CHAIRMAN STUTO: Anyone that hasn't
22 spoken that wants to speak?

23 MR. SWIDER: I'm Michael Swider and I
24 live at 25 Burton Lane.

25 I didn't want to take a position on the

1 development. That's not why I came here. My
2 general comment has to do with the second
3 access.

4 Where I used to live, I lived on a
5 cul-de-sac and there was a plan to put a road
6 though to connect from the south to a
7 cul-de-sac on the other side on another side
8 on another neighborhood. I just remember that
9 as a child, the parents and the other parents
10 on the other side of the connector road
11 thought that it was going to change the nature
12 of the neighborhood and that there would be a
13 lot of traffic. I must have been about
14 10 years old at the time. I remember the
15 passion at that meeting that night and I see a
16 lot of that here. I can empathize. This is
17 back in the 70's and some of the parents
18 actually built a fence. They were going to
19 stop the bulldozers from going through. It was
20 really passionate. Nothing really changed
21 much. The traffic didn't really increase. All
22 it meant was that the kids could get to more
23 of their classmates. I can sympathize with the
24 people on Turner and some of the problems on
25 the street. I don't think that putting the

1 road through is going to impact that. At the
2 end of the day I don't think that anyone in my
3 old neighborhood - it never did change the
4 character of the neighborhood. I think that it
5 would benefit the neighborhood. It would be
6 easier to walk around and walk your dog down
7 on street and the walk on Turner. It would be
8 easier to bike around there. I don't think
9 that it would change the neighborhood. Again,
10 there was such tremendous opposition back
11 then, but it just didn't change the nature of
12 the neighborhood. It didn't turn into a high
13 speed road. Burton and Turner are pretty
14 quiet. I don't think that it's going to change
15 that a whole lot. Thank you.

16 MR. NARDACCI: One of the ideas in the
17 Comprehensive Plan is this idea that you're
18 trying to connect neighborhoods, and it would
19 make sense. When you consider projects, you
20 have to consider it on a project by project
21 basis. What is the overall impact of the area
22 and other things? I wish I could have a time
23 line that says the back and forth between no
24 road one-way, two-way, and no road one-way. I
25 hate to kick the can down the road longer, but

1 I think that because it was on the agenda for
2 the 19th, I would like to wait and hear what
3 they have to say - the experts. I think that
4 perhaps there is a way to meet in the middle
5 where it's not necessarily - I know that there
6 are developments where we've had this idea of
7 having this second access. We've had a Knox
8 Box for emergency services.

9 With the issue of cars - we've addressed
10 that and the walkability between
11 neighborhoods, as well as the issue of Fire
12 Services. The benefit for the applicant could
13 be a reduction of costs or maybe not. Maybe
14 that doesn't matter. You have to build a road
15 to sustain fire apparatus. It wouldn't cost
16 extra. I know that we've talked about this at
17 some point.

18 MR. CAPONERA: When I have a chance, I'll
19 talk about all the people that we've talked
20 about.

21 MR. NARDACCI: I feel like the stormwater
22 issues - we have drilled them down and we have
23 talked about them. They've been engineered and
24 they've been to the Army Corps and DEC. I just
25 don't know where else we can go. I think that

1 this issue of the roadway - maybe there could
2 be some consensus built. I think that it would
3 benefit the residents of Burton. There is no
4 cut through to Turner to get to Schuyler.
5 You'd have to go out to Route 9 to take that
6 right. I'm sure that there are a lot of
7 residents that do that. I think that given the
8 fact that there is a meeting set up on the
9 19th, it's my opinion to not take action. Let's
10 wait until that meeting happens and get a
11 report and then we can get it back on the
12 agenda quickly for everyone so we don't go on
13 for another year with uncertainty.

14 CHAIRMAN STUTO: Do the other members
15 want to comment now?

16 MR. NARDACCI: Sorry to just jump in.

17 MS. DALTON: I agree that if it's already
18 on the agenda - the point is well taken that
19 you're talking about health, safety and
20 welfare of the existing neighbors. So, from
21 that perspective from what I've heard, I have
22 a concern about health and I have a concern
23 about safety; the safety being traffic.

24 I am concerned about the sewer. I think
25 that we need to have a better answer than we

1 think this is going to happen. I would rather
2 have a better sense of what is creating the
3 issue before we rip up roads, put in new
4 sewers and then find out that's not it. So,
5 those are the two things that I would like to
6 see before we put it back on the agenda.

7 MS. VAIDA: Mr. Chairman, I have a
8 suggestion for the Board. One thing that we
9 could do is unless people have more that they
10 want to say, close the public hearing tonight
11 and the Board does have 45 days under the Land
12 Use Law to take action. During that time we
13 would be able to give Brad some time to speak
14 with Pure Waters and maybe do some further
15 investigation as to the source of the smell.

16 MR. NARDACCI: Could we keep the public
17 hearing open though and then still take action
18 at that February 1st meeting?

19 CHAIRMAN STUTO: That would be my
20 inclination - to keep the public hearing open.

21 MR. NARDACCI: So the public could still
22 have a say.

23 MS. VAIDA: They could still come to the
24 meeting where we're going to vote on it. To
25 keep it open, I think you get into renoticing

1 again.

2 MR. NARDACCI: Just on that point that's
3 why I would prefer to keep it open. Most of
4 the people that are going to come are probably
5 already here.

6 MR. LANE: Does the clock only start at
7 the closing?

8 MS. VAIDA: Correct, but it can also be
9 extended upon consent of the applicant and the
10 Board. We're not locked into 45 days.

11 CHAIRMAN STUTO: My inclination is to
12 keep the hearing open.

13 MR. ROSANO: I think that there still has
14 to be conditions so that we're not revisiting
15 everything all over again. We need to have
16 something to discuss that night and not
17 revisit things. We're going to talk about
18 safety and those concerns.

19 MR. NARDACCI: I agree. There are a lot
20 of issues that we talked about and some of
21 them because they haven't been addressed, and
22 some just because it's opinion. I think that
23 those are the issues that have an answer from
24 this committee on the roadway.

25 MR. ROSANO: I have a concern because in

1 August of 2008 the Traffic Safety Committee did
2 have a meeting and did discuss some issues and
3 came to a conclusion. I don't know how in 2010
4 or in 2011 they can change their conclusion,
5 if it's in writing.

6 MR. NARDACCI: One of the issues to bring
7 up is that we have looked at and approved
8 other subdivisions that bordered and adjoined
9 older neighborhoods with this idea of having a
10 secondary access that was emergency services.
11 It wasn't a strip connection road.

12 MR. ROSANO: We're going to rely on
13 what's going to happen at the meeting for a
14 recommendation and then we're going to make a
15 different recommendation?

16 MR. NARDACCI: We may come back with the
17 same thoughts.

18 MS. VAIDA: I think that it gives the
19 community a chance and if there are changes,
20 we can hear what those changes are.

21 CHAIRMAN STUTO: Do any other Board
22 members have any other comments before we make
23 a motion?

24 MR. MION: I would just like to say that
25 I appreciate the issues that you've raised

1 with us tonight.

2 CHAIRMAN STUTO: Mike, would you like to
3 keep the hearing open?

4 MR. SULLIVAN: I would like to continue
5 the hearing, but also wait and see what the
6 results of the Traffic Committee meeting is.

7 MR. LANE: Ditto.

8 MR. ROSANO: Yes.

9 MS. VAIDA: I think that it's also
10 important that we know that it would just be
11 adjourned so that we don't have to get into
12 republicizing this.

13 CHAIRMAN STUTO: Do you propose a motion
14 to adjourn the hearing to be continued on
15 February 1st?

16 MR. NARDACCI: I think that there are
17 some people that wanted to say something.

18 CHAIRMAN STUTO: Everybody knows that
19 we're coming back, so you'll get another
20 chance. If someone else from the public wants
21 to speak, they can speak.

22 MR. ROWAN: Traffic Safety has already
23 weighed in?

24 MR. ROSANO: August 2008, yes.

25 MR. ROWAN: Mr. Nardacci might have been

1 the only member that was here. Every time the
2 Board changes, the whole process seems to be
3 starting over. Turner Lane is here in force
4 tonight, and Burton isn't here for this. We
5 have a Traffic Safety meeting and I have no
6 idea when that takes place. Is it during the
7 day or during the night? I can say that at
8 final concept approval, during the meeting, I
9 specifically asked during the public session
10 what does final concept approval mean. The
11 answer was that it means the number of lots
12 are fixed and the roads are fixed. I asked
13 Counsel: Is that incorrect - the information
14 that was stated during that meeting?

15 MS. VAIDA: I'd have to see what you're
16 talking about first of all.

17 MR. ROWAN: There was much discussion
18 about whether or not concept approval means
19 anything.

20 MS. VAIDA: It means that they presented
21 a concept of how they wanted to lay out the
22 buildings and the street. The Board at that
23 time basically said, yes, that sounds good.

24 MR. ROWAN: In response to my specific
25 question: What does that really mean? The

1 reply was: The number of lots are fixed.

2 There was much discussion that
3 Mr. Nardacci probably remembers with respect
4 to everyone on the Board. Mr. Holland was on
5 the Board at the time saying that it makes
6 absolutely no sense to have a one-way street.
7 We're not New York City and we're not Boston.
8 We're a suburban area. I don't know if the
9 Town Designated Engineer is a member of the
10 Society of Civil Engineers, but the standard
11 there is 1,500 feet before another point of
12 egress is there.

13 I can tell you for a fact that my
14 neighbors in the new part of the
15 development - I've already had at least two
16 that have told me that they work downtown and
17 they no longer can go up the street and go
18 left. As a matter of course, they go up and
19 take a right and go down Turner because it's a
20 lot easier. I can tell you that when the
21 traffic is backed up, all of us go down Turner
22 instead of cutting up to go further. The
23 people that are further up are really going to
24 experience less traffic because the people
25 that are working downtown are going to go out

1 the other way.

2 MS. DALTON: I understand what you're
3 saying. Again, I cannot speak to what the last
4 vote was in terms of being binding or not.
5 What I can say is that they gave me all those
6 notes and I read them. I got information from
7 a lady over here that says that what was
8 reviewed was not taking an entire area into
9 account and that they felt that there was a
10 safety issue. Whether you put the road here or
11 there and how the traffic moves, I live on the
12 other side of Latham so I can tell you that at
13 different times of the day I go different
14 ways. There is just no sense trying to get
15 down Route 7 at certain hours of the day. So,
16 nobody is going to win that one. If it's a
17 safety issue and it hasn't been fully
18 examined, I did not see that in my notes.
19 That's what I'm concerned about.

20 MR. ROWAN: But I think that it has been
21 fully examined. There are no new arguments
22 with respect to what was said the last time.

23 MS. DALTON: I understand that, but if
24 the traffic safety folks put it on their
25 agenda, they must have felt that there was

1 something else that they could look at.

2 MR. ROWAN: They also certainly knew that
3 the final approval was before you this
4 evening. Did they notify this Board that in
5 fact they were placing that on the agenda and
6 asking you to hold this in abeyance?

7 MR. NARDACCI: I think that it's actually
8 500 feet, which is the limit for secondary
9 egress. It's a major concern, too. It's
10 something that I expressed. I think that at
11 every meeting I've said it. What I was trying
12 to get at is that I think that there is still
13 a way to provide a secondary egress for
14 Emergency Services, which is what we've done
15 in other areas without creating a stream of
16 traffic -

17 MR. ROWAN: But what it doesn't do is
18 give us a second means of egress on a daily
19 basis. Someone said before when we bought on
20 Burton Lane as a cul-de-sac that we knew what
21 we were getting. Well, we didn't know that
22 they were going to put in 17 more homes. We
23 didn't know that they were going to put in an
24 additional 7 on top of this. We didn't know
25 that the Brizzell Family was going to transfer

1 a piece of land for the access for Fenway.
2 None of us knew that. I think that those are
3 all things that took place.

4 MR. NARDACCI: I think that it's very
5 fair. I do recall those meetings. I do
6 recall they were virgin opinions.

7 Joe, do you have the time, date, and
8 place for that meeting for that Traffic Safety
9 meeting?

10 MR. LACIVITA: It is January 19th and
11 it's at 2:00. It's here at the Public Safety
12 Building on the second floor.

13 MR. ROWAN: Why when Traffic Safety has
14 already weighed in?

15 MR. NARDACCI: I do think that the way to
16 go about it though really is to attend that
17 meeting and to have other folks that are
18 interested parties attend, too, and express an
19 opinion. I don't know what they're going to
20 say. This is new information to me that
21 they're going to meet. We've always considered
22 their memos just as we've considered every
23 other department's memos.

24 MR. ROWAN: Nothing has really changed.
25 It's just a question of which group can be

1 louder. People talk about the narrow width of
2 Turner Lane. Traffic engineering knew it.
3 Highway said that it should be two-way. There
4 was a third department. I can't remember which
5 one it was.

6 MR. NARDACCI: I personally haven't heard
7 a lot of new agreements.

8 MR. ROWAN: That's why I'm questioning
9 why the Board isn't going forward with the
10 traffic engineering that you had before.

11 MS. VAIDA: I believe that there are
12 other issues that our Town Designated Engineer
13 would actually like to look into; the source
14 of the smell further.

15 MR. ROWAN: But that doesn't have to do
16 with the roadway connection.

17 MS. VAIDA: But I don't think that the
18 Board feels that they are in a position to
19 vote on this. They want to adjourn the hearing
20 and in the interim, the Public Safety hearing
21 is going to happen.

22 CHAIRMAN STUTO: We don't have to get
23 into a debate about it. He can say his peace.

24 MR. ROWAN: How are people being
25 notified? I think that it's absolutely fair

1 that those particular residents should be
2 mailed a notice. I don't know whose
3 responsibly that would be. Who's going to
4 notify people of the Traffic Safety meeting?

5 MR. LACIVITA: Based on their committee
6 activity, I don't believe that they post any
7 hearing notices.

8 MR. NARDACCI: I'll print something out
9 and I'll walk down Burton and I'll hand
10 deliver to every mailbox.

11 MR. ROWAN: I appreciate that. I'm
12 willing to take that on, too. Can someone tell
13 me where they meet and what time? I hope it's
14 not during the day.

15 MR. NARDACCI: It's the 19th at 2:00 p.m.

16 MR. ROWAN: People work. It's hard for
17 people to rearrange their work schedule to
18 make that meeting at 2:00. Am I the only one
19 seeing a problem with this?

20 I think that in terms of the Traffic
21 Safety Department that the Police Department,
22 which is one of the most professional Police
23 Departments around -- the Traffic Safety
24 people are more than competent and they've
25 done this for many years with respect to many

1 developments. I'm sure that they don't look at
2 each parcel in isolation. I'm not sure why
3 because the Board is going to be constituted
4 with a number of member -

5 MR. LANE: Nobody said that's why it's
6 occurring.

7 CHAIRMAN STUTO: Let's not engage in any
8 kind of debate.

9 MR. ROWAN: They should have notified
10 this Board that this issue was on their agenda
11 asking you to adjourn. Doesn't that seem odd
12 to you that they didn't notify you that, by
13 the way, hold this in abeyance; we're going to
14 take a relook at this situation? The right
15 hand isn't talking to the left hand?

16 MR. NARDACCI: The only thing that I do
17 know is that nothing is final until final and
18 we have had concepts that have come in here
19 that are 12 years old. The argument that we
20 hear from the developer is well, this was
21 approved 12 years ago. Well, we have news for
22 you, it's not final.

23 CHAIRMAN STUTO: We're going to close the
24 hearing probably on February 1st and we have a
25 certain required number of days in which we

1 have to vote.

2 MR. ROWAN: When is the meeting again?

3 MR. LACIVITA: It's the 19th here at
4 2:00 p.m. and we're up in the second floor of
5 this building.

6 MR. NARDACCI: Is there any way for it to
7 be at 5:00?

8 MR. LACIVITA: It's a standardized
9 meeting, Tom. They bring in people from Fire
10 Safety, Traffic Safety and they also bring in
11 DOT members to it. It's a predetermined time
12 frame.

13 CHAIRMAN STUTO: Victor, we'll let you
14 say something and we'll let other residents
15 talk.

16 MR. CAPONERA: I completely agree with
17 this good gentleman's comments. I have to tell
18 you that there are some new members here that
19 weren't here. For the love of God, this is not
20 our maiden voyage through this project. I
21 understand that there are new members.

22 We started this project in November of
23 '07 and we've heard pretty much the same
24 things that were said by pretty much the same
25 people who said what they said tonight on

1 November 7, 2007, December 12, 2007,
2 January 29, 2008, February 26, 2008,
3 August 12, 2008, October 14, 2008,
4 December 14, 2010, and tonight. To sit here
5 and say that we haven't listened to what this
6 Board has said - to say that we haven't
7 listened with the Traffic Safety Committee has
8 said -- more importantly, I'm really tweaked
9 that there are a lot of people talking about
10 the notice. How can these meetings take place
11 when the property owner who is the applicant
12 not know a thing about these meetings? Do you
13 think that notice should have gone to me, as
14 the attorney for the property owner that these
15 meetings were going on? I submit to you that
16 obviously, we should have been given
17 notification. This has been going on for over
18 three years. The point is that everything that
19 we have talked about has been talked about on
20 all these occasions over, and over, and over
21 again. Traffic Safety has spoken by their
22 report in November of 2008 when they
23 recommended the two-way connection for the
24 health, safety and welfare of the entirety of
25 the Town, and not just the residents of Turner

1 Lane or Burton Lane.

2 I understand that the Board has some
3 concerns about this sewer smell issue. Correct
4 me if I'm wrong, that was resolved by your
5 professional opinion that it was an issue of
6 the sewer flowing and nothing else. But I can
7 understand the Board's concern. But to sit
8 here and say that you're still not going to
9 close the public hearing after we've gone over
10 this eight times is essentially
11 saying -- correct me if I'm wrong, if I'm
12 wrong, somebody tell me I'm wrong and what I'm
13 saying is not accurate. You're not closing the
14 public hearing? Maybe there's somebody on the
15 other side of Town that can come in and talk
16 about a water issue that they have over there.
17 I mean, come on. Reality is reality and common
18 sense is common sense. We nailed every single
19 issue that there was with this. We addressed
20 every single document that not only the
21 members of the area, but also every comment
22 and question made by every member of the Board
23 that was on the Board at the time, as well as
24 all the concerns that were raised by the Town
25 Designated Engineer; the professionals that we

1 are legally obligated to listen to. That's the
2 law.

3 I'm very, very concerned about the
4 comment to adjourn this and still not close
5 the public hearing. If you don't think that
6 hearing the same thing eight or nine times
7 over and over -- look at the record if you
8 think that I'm wrong of all the meetings. Tell
9 me what I'm missing that we need to keep it
10 open to listen to more. We listened to
11 everything eight times.

12 I understand your concern and I'm going
13 to listen and respect the will of the Board to
14 adjourn the hearing, but I submit to you that
15 there is no reason not to close the public
16 hearing. It's already been discussed nine
17 times.

18 MR. STELLATO: The issue of Burton
19 Meadows is an old issue. It's an issue that
20 has been looked at. I happen to agree with
21 Brad tonight. He says that maybe there might
22 be something else that's going on within the
23 pipe fitting itself. But that is not the
24 responsibility of the applicant. That is an
25 ongoing concern of a piece of the Town's

1 infrastructure, and that is not a reason to
2 hold up a development. The leverage the Town
3 has there is if there is a problem in the
4 Burton Meadows development with the
5 installation of the infrastructure to support
6 the houses in Burton Meadows, the Building
7 Department still has the ability to withhold
8 COs on that development. It isn't
9 Mr. Garrity's responsibility to go solve
10 Burton Meadow's problem. We just want our
11 project to keep moving forward and we don't
12 think that is really an issue that we have for
13 the site plan for the adjacent property. It's
14 a utility issue that has to be addressed with
15 or without our project.

16 CHAIRMAN STUTO: The Board will close the
17 discussion from the Board's perspective,
18 unless someone else has something else that
19 they want to say.

20 ***(There was no response.)***

21 CHAIRMAN STUTO: With respect to the
22 public, let me just say this - and I'll give
23 you another opportunity to talk. I'll let you
24 know that the motion right now is to continue
25 the hearing so you will get another

1 opportunity. It is getting late and everyone
2 has had a good piece to say. Notwithstanding
3 that, you can still raise your hand and get up
4 here and say something else. I do want to
5 address a couple of things that Mr. Caponera
6 said.

7 I think that your group and the developer
8 have gone very, very far in accommodating the
9 requests of the Planning Board. I was here as
10 Counsel before that. You have reduced the
11 number of houses. You have reorganized where
12 everything is going, lessened the impact, and
13 so on and so forth. I can understand your
14 impatience.

15 One comment - if I understood you
16 correctly though, you said that somebody had a
17 meeting and you weren't notified of it. You've
18 had hundreds of meetings with staff over the
19 course of the few years that I've been
20 involved in. You've had plenty of private
21 meetings and none of the neighbors were
22 involved in that. So, I think that's a low
23 unfair blow on your part and that's why I'm
24 asking you to direct your communication
25 through Counsel to the extent that you have to

1 communicate with the Planning Board or the
2 Planning Department.

3 MR. MAGGUILLI: I agree with that.

4 CHAIRMAN STUTO: That's Mike Magguilli,
5 the Town Attorney.

6 That said, there is still a pending
7 motion. If there is any further comments from
8 the public, come on up and say them or listen
9 to the vote on the motion to adjourn the
10 meeting open until February 1st.

11 MR. STANDISH: I don't mean to hold you
12 up, but I talked to Ken Pero of the Traffic
13 Safety Board and he said to me that he didn't
14 mean to affect any of the surrounding areas.
15 That's why they did not assess the traffic on
16 Turner and the access and the traffic flow.

17 CHAIRMAN STUTO: Thank you.

18 Do we have a motion?

19 MR. NARDACCI: I'll make the motion.

20 MS. DALTON: I'll second it.

21 CHAIRMAN STUTO: All those in favor say
22 aye.

23 ***(Ayes were recited.)***

24 CHAIRMAN STUTO: Nay?

25 ***(There was no response.)***

1 CHAIRMAN STUTO: The motion is passed
2 unanimously. Thank you. We'll see you
3 February 1str.

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*(Whereas the proceeding concerning the
above entitled matter was adjourned at
10:45 p.m.)*

