

1 PLANNING BOARD COUNTY OF ALBANY  
2 TOWN OF COLONIE

3 \*\*\*\*\*

4 OUR LADY OF ASSUMPTION  
5 498 WATERVLIET-SHAKER ROAD  
6 APPLICATION FOR OPEN DEVELOPMENT AREA

7 \*\*\*\*\*

8 THE STENOGRAPHIC MINUTES of the above entitled  
9 proceeding BY NANCY STRANG-VANDEBOGART, a Shorthand  
10 Reporter, commencing on July 12, 2011 at 7:20 p.m.  
11 at the Public Operations Center  
12 347 Old Niskayuna Road, Latham, New York 12110

13 BOARD MEMBERS:

- 14 PETER STUTO, Chairman
- 15 THOMAS NARDACCI
- 16 LOUIS MION
- 17 KATHLEEN DALTON
- 18 PAUL ROSANO
- 19 TIMOTHY LANE
- 20 MICHAEL SULLIVAN
- 21 ELENDA VAIDA, Esq., Attorney for the Planning Board

22 Also present:

- 23 Joseph LaCivita, Director, Planning and Economic  
24 Development
- 25 Sang Y. Kim, PE, S. Y. Kim Land Surveyors
- John Tabner, Esq., Tabner Ryan & Keniry
- Karen Senecal
- Chuck Voss, PE, Barton & Loguidice
- Kevin Coughlin
- Loretta Coughlin
- Christopher Fowler
- Gregory Hersh

1                   CHAIRMAN STUTO: Next on our agenda is  
2 Our Lady of Assumption.

3                   Joe, would you like to give us an intro  
4 on that?

5                   MR. LACIVITA: Yes. Before us this  
6 evening is Our Lady of Assumption. Mr. Kim is  
7 here representing Our Lady of Assumption.

8                   What they are asking for is relief from  
9 Town Law 280a, which is not having frontage on  
10 the dedicated street. An open development area  
11 provides the applicant the ability to develop  
12 a parcel of land under that relief of open  
13 development.

14                   The process that we have before us this  
15 evening is that we're reviewing it and making  
16 recommendations to the Town Board for  
17 acceptance and they will actually hold SEQRA  
18 and adopt the open development area for the  
19 parcel itself, if we vote favorably this  
20 evening. The Town is lead agent. I talked to  
21 Rebekah Kennedy on that, asking her  
22 specifically as to who acts on behalf of SEQRA  
23 and she says that the Town Board will act on  
24 that.

25                   CHAIRMAN STUTO: Okay, we have the

1 resolution before us dated the 16<sup>th</sup> day of  
2 December 2010 where the Board does request  
3 that.

4 We'll turn it over to the applicant for  
5 your presentation.

6 MR. KIM: Thank you, Mr. Chairman and  
7 Board Members.

8 CHAIRMAN STUTO: Can you identify  
9 yourself for the record?

10 MR. KIM: My name is Sang Y. Kim. I'm a  
11 land surveyor and planner down the street in  
12 Latham.

13 The property is owned by Our Lady of  
14 Assumption Church. The specific area that I'm  
15 talking about is - we are trying to get them a  
16 lot for a single family home. This portion of  
17 the land has been conveyed back in the 70's to  
18 the church. At the time, they simultaneously  
19 conveyed this strip of land and connected it.  
20 On the backside there is a paper street. That  
21 was conveyed back in the '70's also. Last  
22 November, the Town Board decided to accept  
23 that strip of land as Town property. At the  
24 time, the Town Board indicated that the church  
25 would have an access easement on this strip of

1 land so that's why we are here. This lot won't  
2 have direct access, but because we have an  
3 access easement right on that 50-foot strip,  
4 we have proposed one single family home. I  
5 surveyed this property awhile ago. We couldn't  
6 find the deed and one tax map indicated that  
7 the church owned it and one tax map indicated  
8 that the Town owned it. I couldn't figure it  
9 out. There is no deed.

10 We went to the Town Assessor's office and  
11 finally the deed surfaced all signed and  
12 notarized. The Town Board accepted it as Town  
13 property with an access easement to the  
14 church. That's why I'm here. The church  
15 conveyed it to the Town for that conditioned  
16 purpose. That was a few years ago. Because of  
17 this area, there was flooding there once in  
18 awhile. So that's what the church conveyed to  
19 the Town. Prior to that, the church was  
20 expanding this property in this area  
21 (Indicating). So, I created a detention pond  
22 because of that. The drainage of water came  
23 straight down here to discharge into it. We  
24 designed that area to this detention pond to  
25 discharge slowly here (Indicating). That

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1 really has nothing to do with this project.

2 DEC indicates that we have to purify the  
3 water that goes into the stream. That's about  
4 the one single family home.

5 CHAIRMAN STUTO: I'm going to ask a  
6 couple of questions of clarification before I  
7 turn it to the Board to make sure that I  
8 understand the status of both that 50 by 50  
9 parcel and the trapezoidal parcel - the  
10 1.23 acre parcel.

11 The 50 by 50 is part of a paper street,  
12 correct?

13 MR. KIM: No. That 50 by 50 - the Town  
14 Board gave us an access easement.

15 CHAIRMAN STUTO: I understand that, but  
16 it continues on through there to Comely Lane,  
17 right?

18 MR. KIM: Right.

19 CHAIRMAN STUTO: Which is a paper street.

20 MR. KIM: We're not going to have an  
21 access there.

22 CHAIRMAN STUTO: Understood, but I just  
23 want to understand the status of that square  
24 piece. I guess they don't need a paper street  
25 if they have title to it.

1 MR. KIM: The 50 by 50 is in the front.

2 CHAIRMAN STUTO: Does the paper street  
3 include that?

4 MR. KIM: No.

5 CHAIRMAN STUTO: So, the paper street  
6 doesn't connect to it.

7 MR. KIM: It's not a paper street  
8 anymore.

9 CHAIRMAN STUTO: Because why?

10 MR. KIM: I brought the copy of the deed.  
11 The Town accepted the deed.

12 CHAIRMAN STUTO: Who conveyed the deed to  
13 the Town?

14 MR. KIM: [SIC] Riley Fahey.

15 MR. LANE: The same family.

16 CHAIRMAN STUTO: They are the ones that  
17 recorded the deed.

18 MR. KIM: Yes.

19 CHAIRMAN STUTO: The 1.23 acre piece - is  
20 that a piece that is on a separate tax map  
21 parcel piece now?

22 MR. KIM: No, it is not.

23 CHAIRMAN STUTO: So, is that a minor  
24 subdivision or a major subdivision?

25 MR. KIM: It's a minor. The only thing is

1 that this is the open development. The Town  
2 Board is looking for the Planning Board's  
3 recommendation. That's why we're here.

4 I have a copy of the deed.

5 CHAIRMAN STUTO: Can you give that to our  
6 Counsel?

7 **(Mr. Kim complies with request.)**

8 CHAIRMAN STUTO: Thank you. That deed has  
9 been recorded, correct?

10 MR. KIM: That deed is recorded, yes.

11 CHAIRMAN STUTO: Does the Board have any  
12 questions?

13 Paul, you want to start?

14 MR. ROSANO: Not right now. I want to  
15 wait to hear from the public first.

16 CHAIRMAN STUTO: Tim?

17 MR. LANE: I want to make sure that I  
18 heard you right. You said that the 50 by 50  
19 piece where the paper street residential  
20 is -- that can no longer be used for a road so  
21 there is never going to be any opportunity to  
22 run a street through that property.

23 MR. KIM: Exactly, that's in the deed.

24 MR. LANE: I thought that's what you  
25 said.

1 MR. KIM: I wrote it in just in  
2 case -- you probably haven't seen it.

3 CHAIRMAN STUTO: Can you verify that for  
4 us, Elena?

5 MS. VAIDA: Sure. I'm reading this now.

6 CHAIRMAN STUTO: Take your time.

7 Tim, did you have any other questions?

8 MR. LANE: No. I just wanted  
9 clarification on that.

10 MR. ROSANO: Is there any reason why we  
11 didn't get a copy of this deed prior to  
12 tonight?

13 MR. KIM: I downloaded it from the  
14 website.

15 MR. ROSANO: No, I mean before you came  
16 tonight, was there any reason why we couldn't  
17 have seen this?

18 MR. LACIVITA: I thought you said that  
19 this one wasn't filed, Sang, when we talked.

20 MR. KIM: It was filed. I mentioned to  
21 you that it was filed.

22 MR. LACIVITA: The copy that I have here  
23 doesn't show any of that.

24 MR. KIM: This is the one that's  
25 unrecorded.

1           MR. LACIVITA: That's what I'm saying. I  
2 have the one that's unrecorded one. That's why  
3 I didn't give it to the Members because it  
4 shows that it's unrecorded.

5           MS. VAIDA: You got this one from the  
6 County Clerk?

7           MR. KIM: Yes, I downloaded it from the  
8 website. The Town Clerk's office should have  
9 that copy also.

10          MS. VAIDA: But this is the actual one  
11 and it shouldn't be different.

12          MR. LACIVITA: I didn't want to give this  
13 one to the Board because I was understanding  
14 Sang to say that this was one from before. I  
15 misunderstood you, then. That's why the Board  
16 members don't have that information.

17          CHAIRMAN STUTO: Elena, is there a  
18 restriction on there that prohibits them  
19 continuing the street from Comely to Catherine  
20 Place?

21          MS. VAIDA: One thing that I'm confused  
22 about is this deed is supposed to be the same  
23 as this deed (Indicating).

24          MR. KIM: There is about two or three  
25 deeds. Each of them has different people that

1 signed it.

2 CHAIRMAN STUTO: Can you go to the  
3 microphone? I want to make sure that the  
4 public can hear this.

5 Tim asked whether the Town is prohibited  
6 from connecting two streets; Comely and  
7 Catherine. I believe that the applicant stated  
8 that was correct and that they are prohibited  
9 and that restriction is contained in the deed.

10 Mr. Tabner, do you have something that  
11 you want to add?

12 MR. TABNER: Yes. John Tabner; Tabner,  
13 Ryan and Keniry. I was the attorney when the  
14 church acquired this particular piece of  
15 property. It goes back to the early days of  
16 our Lady of the Assumption, which started in  
17 1964. They had a bad traffic problem on  
18 Albany-Shaker Road and at the time they did  
19 the connection over to Catherine Place.  
20 Initially, their thought was that in buying  
21 this property - was to add it because they  
22 weren't sure how much area the church would  
23 create. They also thought that they would have  
24 an outlet down Catherine Place.

25 After sending it through, they determined

1 that wouldn't really solve any of their  
2 problems so they did sell the outlet - the  
3 piece of property that connected the church  
4 property with Catherine Place. Catherine Place  
5 has the typical turnaround that was there. The  
6 Town Board at the time didn't want Comely  
7 Lane, and didn't want the through traffic from  
8 that standpoint. When they acquired it, the  
9 property was owned by actually two elements of  
10 the same family. So there were two deeds.  
11 There were two deeds also for the paper  
12 street. The paper street was on a subdivision.  
13 I don't remember when that subdivision was  
14 filed, but it was obviously sometime before  
15 1964. So, we had the deeds made out for that  
16 paper street from the family to the Town. When  
17 the Town didn't want to take the deeds to  
18 record them, I just held the deeds for close  
19 to 40 years. So then we decided to start  
20 developing this place and getting this  
21 particular lot, we contacted the Town  
22 Attorney's office and we turned over the deeds  
23 to them at no consideration for the Town.  
24 There was no charge or anything of that  
25 nature. The clear understanding as far as it

1 was concerned was that we were not offering it  
2 for dedication. From what I understood, the  
3 Town Board did not accept it for a street and  
4 it was not conveyed for highway purposes or  
5 anything of that nature. I say that these were  
6 the deeds from way back. So, now the paper  
7 street is owned by the Town. The Town has  
8 agreed that we can have an access easement  
9 from what is the temporary now and would be a  
10 permanent circle at the end of Catherine  
11 Place; and this one house would be built  
12 there. The access easement is from the circle,  
13 which connects out to Albany-Shaker Road and  
14 will not go through to Comely Road. That's  
15 kind of the history of this.

16 If you have any questions, I'd be happy  
17 to try to answer them for you.

18 MR. LANE: Thank you, very much.

19 CHAIRMAN STUTO: Well, we're back to the  
20 original question. Is there anything  
21 prohibiting the Town from connecting Catherine  
22 Place with Comely?

23 MR. TABNER: Well, we didn't put anything  
24 in there that I know of prohibiting the Town  
25 from connecting Catherine Place. My

1           understanding of the law is that if there is  
2           anybody that wants to do that, they would have  
3           to have an acceptance by the Town. I don't  
4           know if there are restrictions in there or  
5           not. I can't say that because I haven't seen  
6           those deeds for about two years because I gave  
7           them to the Town Attorney's office about two  
8           years ago. The Town has the power of  
9           condemnation.

10                    If the Town Board decided that there had  
11           to be a street there, I think that you'd have  
12           a very difficult time in stopping the Town  
13           Board. The Town Board decided long ago that  
14           they didn't want a street there.

15                    CHAIRMAN STUTO: And as far as I know  
16           there is no plan.

17                    MR. TABNER: We didn't offer for  
18           dedication. We have no reason to want to  
19           dedicate this street. I think that the one  
20           thing that there might be is a water easement  
21           to connect the dead-end on Catherine Place  
22           with Comely Court. That would not be anything  
23           that would need an access or of that nature.

24                    CHAIRMAN STUTO: I would say that it's  
25           legally not clear whether they could connect

1 based upon their property rights and the paper  
2 street, however, there are no plans at this  
3 time.

4 Is that right, Joe?

5 MR. LACIVITA: No. Actually, Peter, by  
6 the design of this road that we have on our  
7 plans here, it looks like there wouldn't be  
8 any continuing anyway - the way that the  
9 provision is made for the ingress and egress.

10 CHAIRMAN STUTO: Not from this project, I  
11 mean at some point in the future.

12 MR. TABNER: There has been no attempt to  
13 dedicate the street and as far as it's  
14 concerned, we have no desire to dedicate it.  
15 We've already deeded it over to the Town. So,  
16 if we wanted to, we couldn't. The Town could  
17 have a road put anywhere they really wanted  
18 it.

19 CHAIRMAN STUTO: Tim, anymore questions?

20 MR. LANE: No.

21 CHAIRMAN STUTO: Mike?

22 MR. SULLIVAN: Are there any plans to  
23 develop the remaining part of the parking lot?

24 MR. TABNER: There have been plans to  
25 develop the remaining place. As Sang has told

1           you, they rearranged the drainage because  
2           there was a problem there. The Town donated  
3           that drainage basin. Ultimately, the answer is  
4           yes. You have to go in there and deal with  
5           some wetlands in there. That would have to be  
6           a Phase II on this thing. At the present time,  
7           the plans that have been considered are not  
8           working so we're proceeding with this one lot.

9           CHAIRMAN STUTO: How will they access  
10          this?

11          MR. TABNER: They would come in right  
12          here (Indicating). We were very careful when  
13          we dedicated this or conveyed this to the Town  
14          to make sure that Alena Drive - that we  
15          reserved the rights. Any of the lots back here  
16          that might be developed, they would have the  
17          right to come in on Alena Drive and go in that  
18          fashion. As I say, we were very careful with  
19          this and we had a clear understanding with the  
20          Town. You aren't blocking off Alena Drive.

21          CHAIRMAN STUTO: Tom?

22          MR. NARDACCI: What style of house are  
23          you planning to build there?

24          MR. TABNER: I'm the attorney for the  
25          church.

1 MR. NARDACCI: Mr. Kim, what kind of  
2 house are you going to build there?

3 MR. KIM: I would say probably a 3,500  
4 square foot house. That's what we thought of.  
5 It would be a two-story.

6 CHAIRMAN STUTO: But the church is going  
7 to sell the lot, right?

8 MR. TABNER: That's right.

9 CHAIRMAN STUTO: So whatever the zoning  
10 provides -- you're not putting any deed  
11 restrictions on it.

12 MR. TABNER: There is a lot that's going  
13 to have to meet the zoning and it's going to  
14 have to meet the Building Code. It will be a  
15 one-family house.

16 MR. NARDACCI: So, right now it would be  
17 a one-family house and we have no sense of  
18 what it's going to look like or the  
19 architectural or anything of that nature. I  
20 mean, will it be out of characteristic with  
21 the surrounding neighborhood? That's the  
22 concern that I have with all of these open  
23 development areas. They're going to come  
24 forward and say, you have established  
25 neighborhoods here and they were built-out by

1 developers. Now we have people coming back  
2 saying, well, there is this lot and this lot  
3 and we don't have access and we need a special  
4 development area. I think that it's a  
5 legitimate concern.

6 At what point do the neighbors know what  
7 the house is going to look like? When it's  
8 built?

9 MR. TABNER: I think that the neighbors,  
10 as far as it's concerned, if they want to put  
11 some restriction on it - let's face it, it's a  
12 single-family residence. It's going to be in  
13 that particular area. It's the same as most  
14 any other lot that you approve.

15 MR. NARDACCI: So, say if the Board  
16 doesn't have a problem with an open  
17 development area, the next step is - and ours  
18 is just a recommendation - it goes back to the  
19 Town Board. The Town Board would have to adopt  
20 it as an open development area and as a zoning  
21 change. What's the process moving forward for  
22 the building itself?

23 MR. LACIVITA: They may have to go  
24 through the subdivision. Mr. Kim has to submit  
25 subdivision plans and it then has to go in

1 front of the Building Department. All the  
2 departments will review it from a subdivision  
3 standpoint and from the building component at  
4 the building.

5 MR. NARDACCI: But there is no other  
6 public component.

7 MR. LACIVITA: This is the public  
8 component.

9 MR. NARDACCI: That's a concern that I  
10 have in granting open development areas. The  
11 Town staff does follow up. Once it's approved  
12 as an open development area for these single  
13 family lots, basically it's a Building  
14 Department issue from then on, right?

15 MR. LACIVITA: The neighbors will have  
16 the opportunity to speak at the Town Board  
17 level as well, if there are any concerns.

18 MR. NARDACCI: So, say it goes to the  
19 Town Board and they approve the change. From  
20 there, they sell the lot to someone. A person  
21 says, well, I want to build an X-type of  
22 house. What I'm getting at is that we have an  
23 established neighborhood that has certain  
24 characteristics of homes. There is nothing  
25 that would stop someone from putting in a home

1 that's not characteristic of the neighborhood.

2 MR. LACIVITA: I think that the  
3 neighborhood as a whole - I know that it's an  
4 older neighborhood. Characteristically  
5 speaking, you don't have the cookie cutter  
6 homes that you have in current developments. I  
7 think that they all have their own independent  
8 look and feel to it. I don't know what the  
9 home will be when it comes to building.

10 MR. NARDACCI: It's not just this  
11 specific to this project, but there is another  
12 one coming forward too that we're going to be  
13 talking about that's included in this Town  
14 Law. I'm sure that even with the build-out of  
15 this Town, that it's highly desirable to  
16 build-out on these lots, that it's an issue  
17 that we're going to come up with over and over  
18 again. I don't know how I feel about it. I'm  
19 just trying to probe and figure out what we do  
20 as a Board and what kind of decisions are we  
21 going to make? What precedence are we setting?  
22 I think that the unfortunate part for us is  
23 that when we review other projects, we have  
24 the chance to really see that from start to  
25 finish. We have architectural review and we

1 can kind of work with developers to make sure  
2 that projects are kept characteristic. Here,  
3 you kind of say well, yeah, sure you can build  
4 a home on it and that's it.

5 MR. LACIVITA: I do know that after  
6 talking to Father Burke that there has been a  
7 family of interest in this lot for the past  
8 number of years. They are still trying to  
9 advance it as Colonie is a desirable place to  
10 live. I have not spoken to that person to get  
11 an idea as to what the house is going to look  
12 like. I don't know if that family is here this  
13 evening that might speak. Maybe that's  
14 something that we might have to look at. What  
15 is the characteristic that is going to be  
16 coming in? Maybe there may be a rendering of  
17 something.

18 MR. NARDACCI: For this property here,  
19 you have several neighbors. You have three  
20 that are at least directly effected and  
21 adjacent; kitty corner and across the street.  
22 What are the standards with regards to  
23 screening and all that? It has to fit the  
24 Zoning Laws which are the minimum setback  
25 requirements. I wanted to express that

1 opinion. I understand why this process is  
2 available for these lots. I just think that we  
3 have seen one or two residential in the time  
4 that I've been here. Once the floodgate opens,  
5 people start saying, well, they're approving  
6 these open developments and there will be  
7 more. How many will there be; 15, 20? You're  
8 presenting what you have. You don't have the  
9 renderings. You're not that far yet. You're  
10 going to sell the lot. I think that the  
11 neighbors will have a similar concern with  
12 regard to that.

13 CHAIRMAN STUTO: Lou?

14 MR. MION: I'm waiting for the public.

15 CHAIRMAN STUTO: Kathy?

16 MS. DALTON: I have a question with  
17 regard to the water and the sewer. I noticed  
18 that in the paperwork that we got, it looks to  
19 me that it runs in the back of the property.  
20 Is that correct?

21 MR. KIM: The sewer easement is there.  
22 Here is the sewer line running here  
23 (Indicating). There is a manhole running here.

24 MR. DALTON: So, you'll connect to the  
25 water that way?

1 MR. KIM: Yes.

2 MS. DALTON: And there is nothing that  
3 would impede connecting either of those?

4 MR. KIM: No, that's it.

5 MS. DALTON: Thank you.

6 CHAIRMAN STUTO: I'll now open it up to  
7 the public in a second.

8 I agree with Tom's sensibilities on open  
9 development areas. There is a frontage  
10 requirement in the Town for a reason. There  
11 are some lots there that are truly landlocked  
12 that I do have more reservations about than I  
13 do with this one, upon first blush.

14 If you look at the topographical map  
15 which we have, or the aerial view map that we  
16 have, it looks like a natural extension as it  
17 would be on any subdivision. It's just the  
18 next lot over on the cul-de-sac. Upon first  
19 blush, this doesn't look overly egregious to  
20 me. I do want to hear from the public. I'll  
21 call the names.

22 Karen Senecal.

23 MS. SENEAL: I'd like to say that first  
24 of all I welcome the neighbors and a nice  
25 house in the neighborhood. It's a lovely

1 neighborhood. It's very, very pleasant. It's  
2 very nice. Everybody gets along. However, I'm  
3 most impacted by this. I'm at 21 Catherine.

4 CHAIRMAN STUTO: Can you point so we can  
5 see as well?

6 MS. SENEAL: My property abuts this and  
7 I'm right here (Indicating).

8 I have owned this property for 21 years.  
9 I bought it from the [SIC] Enrights and I put  
10 a lot of time, money and effort into it and I  
11 think that it looks pretty nice.

12 I have three concerns about this  
13 property. I'd like further description of the  
14 plan. What is my neighbor losing by having  
15 access with a dead-end street into this new  
16 lot?

17 MR. KIM: This property is owned by the  
18 Town and your property is this one  
19 (Indicating). The neighbor's property is down  
20 on the other side. So, we are not involved  
21 with your property at all. There is a  
22 deflection of pavement ending up right here  
23 (Indicating).

24 MS. SENEAL: What are you going to do  
25 with the snow during the winter?

1           MR. KIM: I don't know what has been done  
2 by the Town with the snow.

3           MS. SENEAL: They plow it to the end of  
4 the street. They put the wing down on the plow  
5 and plow it on my front lawn. Then they come  
6 with a bucket loader and they scoop it up and  
7 they throw it on my lawn.

8           MR. KIM: This is my personal opinion.  
9 The Town owns this property right here  
10 (Indicating). If they create some kind of snow  
11 stockpile area and push it all to that area  
12 instead of collecting it and spending a lot of  
13 money to take it out, the Town has a right to  
14 have a snow stockpile area.

15          MS. SENEAL: Am I to understand that  
16 their driveway is going to be -

17          MR. KIM: This is 50 foot wide.

18          MS. SENEAL: I stand at my window every  
19 winter and watch them plow it on my property.

20          MR. KIM: If they stockpile the snow here  
21 (Indicating) that doesn't bother anybody.

22          MS. SENEAL: I've lived there for many  
23 years. This street isn't that wide. They've  
24 been pushing it to that location for many  
25 years.

1 MR. KIM: They would now have room to  
2 stock pile the snow in this area (Indicating).

3 MS. SENEAL: How can their driveway  
4 interfere in this area here (Indicating)?

5 CHAIRMAN STUTO: The Town has granted  
6 them an easement, ma'am.

7 MS. SENEAL: This is new to me.

8 CHAIRMAN STUTO: The 50 by 50 parcel is a  
9 square.

10 MR. KIM: The Town accepted this strip of  
11 land and then they conveyed to us as an access  
12 easement.

13 CHAIRMAN STUTO: Mr. Kim, is the access  
14 easement specific or general? Is it specific  
15 in that they layout a 15 or 20-foot wide  
16 driveway, or is it general saying that they  
17 have access?

18 MR. KIM: The Town gave us the access  
19 easement on this 50 by 50 strip.

20 CHAIRMAN STUTO: I don't know if you're  
21 answering the question, or not.

22 MS. SENEAL: Nobody would want this  
23 connected to their street and there is no  
24 reason to do it. Why can't this street come  
25 down farther and have them have a regular

1 driveway like everybody else rather than  
2 taking apart -

3 MR. KIM: No, the pavement was not done  
4 here.

5 CHAIRMAN STUTO: Ma'am, you have very  
6 good questions, but you have to direct the  
7 questions to the Board. If we can answer them,  
8 we will. If we can't, we'll ask the applicant.  
9 We're very interested in what you have to say.

10 MR. LACIVITA: Peter, if I can clarify a  
11 little bit. We spoke a little bit together. I  
12 think that what she is trying to translate to  
13 Mr. Kim is if the Town can somehow or through  
14 the design of this project almost develop some  
15 type of a hammerhead, if you will. Bring that  
16 further past the entryway of the roadway  
17 that's designed. Develop that road a little  
18 bit further deep so that when it comes to  
19 plowing snow, there will be probably 15 or 20  
20 feet past the driveway, so you have that  
21 depository for snow, past the driveway.

22 Is that correct?

23 Then there is an access point to the  
24 driveway.

25 MS. SENEAL: I called the Supervisor's

1 office and discussed it in a very nice way  
2 that we do have a definite problem. In  
3 previous years they used to remove the snow.  
4 They picked it up in a truck and took it away  
5 and that was good. This year they didn't do  
6 anything like that. They just pushed it to the  
7 side and knocked down a sign. We're going to  
8 get more winters like that, too. I think that  
9 with something big like this, you have to  
10 anticipate another winter such as what we've  
11 had so that we don't have the same snow build  
12 up.

13 CHAIRMAN STUTO: I want to try to get  
14 answers to your questions.

15 Joe, is it correct that there are no  
16 plans to extend the road by the Town? I don't  
17 think that the Town is planning to extend the  
18 road.

19 MR. LACIVITA: No, nothing to my  
20 knowledge in speaking with Mr. Magguilli.

21 MS. SENEAL: Nothing?

22 MR. LACIVITA: No.

23 CHAIRMAN STUTO: They own that property,  
24 but I think that might be a huge expense; if I  
25 may speak out of turn on that. I don't think

1           that the Town wants to understand the expense  
2           of extending that road.

3           MS. SENEAL:   Isn't it a plan to put a  
4           cul-de-sac in to the street?

5           CHAIRMAN STUTO:   That's a good question.  
6           There is a circle on my drawing here that  
7           looks like it ends with your house. Is there a  
8           cul-de-sac now?

9           MS. SENEAL:   No.

10          CHAIRMAN STUTO:   What does that circle  
11          indicate?

12          MR. KIM:   It was a temporary easement,  
13          but the road is not going through it any more.  
14          That would be a permanent easement.

15          CHAIRMAN STUTO:   You're not answering my  
16          question. What is the circle at the end of the  
17          road?

18          MR. KIM:   That's the proposed temporary  
19          turnaround.

20          MR. NARDACCI:   That's from 1950, right?

21          MR. KIM:   Yes.

22          CHAIRMAN STUTO:   So, that shows on a 1950  
23          filed map, but it does not reflect reality.

24          MR. KIM:   Correct.

25          MS. SENEAL:   My concern is that in order

1 to service the end of that street with a  
2 driveway coming off of the end of the street -

3 CHAIRMAN STUTO: Right.

4 MS. SENEAL: You may have to put a  
5 cul-de-sac there or something.

6 CHAIRMAN STUTO: Joe, you've had  
7 discussions, so you must have a better  
8 understanding of it.

9 MR. LACIVITA: There is no cul-de-sac  
10 planned here.

11 CHAIRMAN STUTO: Understood. So, how do  
12 you expect them to handle the snow? Right now  
13 as she is explaining it, they come in with a  
14 bucket loader and go forward and they just  
15 dump it.

16 MR. ROSANO: Now the driveway is going to  
17 be farther down Catherine. So, you have to  
18 move the snow further down Catherine so that  
19 those people can get out of their driveway.  
20 So, I guess that's where we are now.

21 MR. LACIVITA: Right. That's what I  
22 explained to you and Lou earlier. The Town has  
23 to figure out a way -- maybe that's through  
24 the developer -- the person who is going to be  
25 developing this land. Through the process of

1 building this road, maybe they have to extend  
2 that roadway to make that hammerhead in order  
3 to get the snow past the driveway and give  
4 them the capability to get that snow out of  
5 there when we have larger snows.

6 MR. ROSANO: Right now where the blacktop  
7 ends, before we can even go talk about a  
8 driveway, you have to have that road extended  
9 some distance just to get that driveway.

10 MR. KIM: You don't have to blacktop  
11 here. You have a flat area.

12 MR. ROSANO: Mr. Kim, I guess the  
13 question is you didn't say you were extending  
14 Catherine. If you are, say it. If you are, how  
15 far are you going to extend Catherine to get  
16 that driveway? That's what I want to know.

17 CHAIRMAN STUTO: Is it correct that  
18 you're just going to run an asphalt driveway  
19 from the end of Catherine Place into the  
20 property?

21 MR. KIM: It's a flat area -

22 CHAIRMAN STUTO: You have to answer my  
23 question first. Is it true that you're just  
24 going to extend an asphalt driveway from the  
25 end of Catherine Place into the newly

1 subdivided parcel? You're also suggesting that  
2 area is flat so there is no reason why they  
3 can't push the snow back. Is that what you're  
4 saying?

5 MR. KIM: This area is a flat area,  
6 except there are some trees here (Indicating).

7 MS. SENEAL: Right, but there is no  
8 street there.

9 MR. KIM: We can take those trees down.  
10 The Town cannot push the snow there. If the  
11 trees come down, the Town can store the snow  
12 there.

13 MS. SENEAL: As you go down Catherine  
14 Place, you're going to enter the driveway to  
15 the new home. The street is only so wide. The  
16 driveway is so wide. I'm talking about a lot  
17 of land that you can push the snow. I want  
18 neighbors. I don't care about that. But I  
19 don't want this to become a greater problem  
20 than it already is.

21 CHAIRMAN STUTO: Can you address the  
22 Board?

23 MS. SENEAL: My apology.

24 CHAIRMAN STUTO: Let me ask a question.  
25 The sidebar here that we have is that there is

1 a suggestion that the developer - the  
2 applicant can somehow create an area within  
3 that 50 by 50 square by which a plow might be  
4 able to maneuver.

5 MS. SENEAL: Where the dead-end is now,  
6 just move it down a little bit and let his  
7 driveway come off of that extension, rather  
8 than an angle off of the present dead-end.

9 CHAIRMAN STUTO: They don't have the  
10 right to do that right now.

11 MR. TABNER: Whoever builds on this lot  
12 will have the same -

13 CHAIRMAN STUTO: The applicant has a  
14 right to put a driveway past that 50 foot  
15 square? I don't think so.

16 MR. TABNER: The Town is giving an  
17 easement to us. Whoever buys that lot is going  
18 to do the same as everybody else on Catherine  
19 Place. They're going to have to provide their  
20 own driveway within the boundaries that the  
21 Town gives. They're going to have to service  
22 their driveway. The Town is not going to plow  
23 out their driveway.

24 MR. ROSANO: John, if you're over there  
25 where this driveway is proposed, there are

1 trees that are going to be on this side of  
2 where the driveway is going to be. Where are  
3 you going to plow the snow? How are people  
4 going to get out of their driveway if there is  
5 snow being pushed down in that corner?

6 MR. TABNER: We have no right to do that.  
7 As far as the driveway is concerned, whoever  
8 owns the house or owns the lot is going to  
9 have to service their own driveway.

10 MR. NARDACCI: The fact is that there is  
11 a public concern here on a public street and  
12 how a public street is plowed. There is a way  
13 that the street is plowed now and the new  
14 development is going to create challenges as  
15 to how the street will be plowed in the  
16 future. So there is a little bit of an onus on  
17 the person who is going to develop that lot  
18 because you're impacting the neighborhood.

19 MR. TABNER: If the Town wants to shape  
20 the driveway differently, we have to get the  
21 easement from the Town. If they want to move  
22 it down or something of that nature, that's up  
23 to the Town. We deeded that property over to  
24 the Town, reserving an easement for access. If  
25 they want to say that it should be 25 feet

1 more down the road, we can put the easement  
2 25 feet more down the road. But as far as how  
3 the snow is piled, that's up to the Highway  
4 Department. If they want to say to us that  
5 they want something here or there, we can  
6 certainly work with them on it.

7 CHAIRMAN STUTO: I asked a question  
8 before. Is the easement that's being reserved  
9 for access to that lot - is it specifically  
10 delineated in the recorded deed? It's  
11 generally delimited, right?

12 MR. TABNER: It's open. We have an  
13 understanding with the Town Attorney's office.  
14 We have the easement.

15 CHAIRMAN STUTO: Is that language in the  
16 deed that was conveyed?

17 MR. KIM: It in the minutes.

18 CHAIRMAN STUTO: I know that there is the  
19 language in the Town Board resolution. I'm  
20 asking whether the deed which conveyed from  
21 that family to the Town reserves a right to  
22 the church for an easement.

23 MR. KIM: We haven't found any deed yet -

24 CHAIRMAN STUTO: Isn't that the deed that  
25 you handed us at the beginning of the meeting?

1           MR. KIM: The Town Board gave us an  
2 easement for the 50 by 50 strip and 140 feet  
3 long.

4           CHAIRMAN STUTO: I ask one question and  
5 you answer a different question. Is there a  
6 deed conveying to the Town the 50 by 50 foot  
7 square which is off the end of the street,  
8 here?

9           MR. KIM: No.

10          CHAIRMAN STUTO: Then what is the deed  
11 that you handed us?

12          MR. KIM: It's not a deed.

13          CHAIRMAN STUTO: I thought that you said  
14 that it was filed with the Clerk?

15          MR. TABNER: There were two deeds  
16 conveying it from the original grantor.

17          CHAIRMAN STUTO: Okay, let's hold off for  
18 a second.

19          MR. KIM: They describe that the area is  
20 no longer needed for highway purpose.

21          MS. VAIDA: But that's inconsistent with  
22 the last paragraph.

23          MR. KIM: It was originally drafted for a  
24 highway purpose, but the Town Board put the  
25 additional wording right here (Indicating).

1 MR. TABNER: The above described parcel  
2 is no longer needed for highway purposes.

3 CHAIRMAN STUTO: So, they abandoned it  
4 for highway purposes which means -- does that  
5 have to do with that 50 by 50 square?

6 MR. KIM: No.

7 MR. TABNER: The usual thing with  
8 subdivisions is that you have a temporary  
9 easement, you had 50 foot and then you had  
10 precedence around it. If you put the turn  
11 around in and when you put that strip to  
12 Comely Drive - if you ever did that - then  
13 those crescents would fall in and there would  
14 no longer be an easement there. The only other  
15 thing that I could say is that we have not  
16 searched against that dedication, Catherine  
17 Place.

18 CHAIRMAN STUTO: Who is that deed from?

19 MR. TABNER: There are two deeds. This is  
20 from Phyllis A. Riley and Michael and Joseph  
21 Riley; but there was also another deed too.  
22 There are two deeds to that property.

23 MS. VAIDA: The deed that's not recorded?

24 MR. TABNER: No, they're both recorded  
25 now. We've given the deeds to the Town

1 Attorney's office. I hand delivered them to  
2 them because I didn't want to lose them. There  
3 are two deeds and it's been deeded over to the  
4 Town.

5 CHAIRMAN STUTO: This map delineates a  
6 50 by 50 foot parcel at the end of Catherine.  
7 You've seen that, right? This resolution by  
8 the Town Board says authorizing the acceptance  
9 of a parcel of land located at the end of  
10 Catherine Place and granting an access  
11 easement over said parcel to Our Lady of  
12 Assumption Church. It appears that at some  
13 point there was an intension to convey a 50 by  
14 50 foot parcel to the Town of Colonie. They  
15 appeared to have accepted that in the  
16 September 23<sup>rd</sup> resolution with the intent of  
17 granting an ingress and egress easement to the  
18 church.

19 MR. TABNER: Those deeds cover all the  
20 spots there. That's for the entire paper  
21 street area. It goes back to the original  
22 acquisition. The dates on the deed - this is  
23 the first day of April 1971.

24 MS. VAIDA: One of the other problems  
25 with this deed that I see is that the language

1 in the deed says:

2 "The conveyance is made for a nominal  
3 consideration because it grants to the Town of  
4 Colonie a strip of land for highway purposes  
5 through land in which the decedent had an  
6 interest. It makes the remaining land  
7 desirable to develop."

8 Then typed in above that paragraph in  
9 little tiny print is the clause that Mr.  
10 Tabner read.

11 "The above described parcel is no longer  
12 needed for highway purposes."

13 I'm not really sure how you rectify that.

14 CHAIRMAN STUTO: Although this map  
15 doesn't designate the larger strip as lands of  
16 the Town of Colonie - can you give me the book  
17 and page on that? That's 2993?

18 MS. VAIDA: That's 2993 page 292.

19 CHAIRMAN STUTO: This says 291.

20 MR. KIM: The front page is 291.

21 Mr. Chairman, may I explain the story? When  
22 you look at the map date of November 16, 2010,  
23 at the time, I had information that the lands  
24 be conveyed to the Town. At the time, my  
25 impression was that if there was 50 by 50

1 feet, that's enough for the ingress and egress  
2 and easement for this proposed lot. Then when  
3 you look at the Town resolution, it says that  
4 the entire 144 foot strip of land -

5 CHAIRMAN STUTO: That corresponds with  
6 that deed back in 1971, or the one that  
7 happened in 2010?

8 MR. KIM: That's the same deed as the  
9 1969 - 1971 deed.

10 CHAIRMAN STUTO: You have a Town Board  
11 resolution contemporaneously with that deed?

12 MR. KIM: I don't have that.

13 CHAIRMAN STUTO: Which Town Board  
14 resolution do you have in front of you?

15 MR. KIM: The one in November.

16 MR. LACIVITA: That's the one that you  
17 gave us this evening?

18 CHAIRMAN STUTO: I don't see anything in  
19 reference to 140 feet on here.

20 So, from what you're showing me here,  
21 that's an ancient deed. The Town owns that big  
22 strip of land in some fashion or another.

23 MR. KIM: Right.

24 CHAIRMAN STUTO: Then why do they have  
25 authorizing the acceptance of a parcel? Why

1 did they have to pass that resolution in 2010?

2 MR. KIM: Because the deed was never  
3 filed.

4 MR. LANE: So, this is unnecessary.

5 MR. KIM: Right, because the deed was  
6 never filed.

7 CHAIRMAN STUTO: Okay, I want to keep  
8 this moving. We may have to come back to the  
9 exact status of who owns what.

10 Ma'am, I'm going to go back to you. You  
11 have a problem with the snow. We may have to  
12 go back to the drawing board and come back a  
13 second night on this. I don't know.

14 MS. DALTON: Can I ask one more question?  
15 There is one thing that I didn't understand.  
16 With regard to the cul-de-sac that does not  
17 yet exist - one of the things that I thought I  
18 heard you say was that you're concerned about  
19 what you might lose. It looks to me on this  
20 aerial photo that, in fact, if they did build  
21 that cul-de-sac as opposed to extending that  
22 driveway, you would lose quite a bit of your  
23 front yard.

24 MS. SENEAL: That's true. I've  
25 maintained it to the best - that it looks nice

1 and it just seems that because of somebody  
2 rearranging a strip between Catherine Place  
3 and Comely -- it's a lovely little  
4 neighborhood.

5 MS. DALTON: I didn't think that it was  
6 made clear enough that if the resolution is  
7 creating a cul-de-sac that appears on the map  
8 that does not really exist. That's going to be  
9 a problem for you which is why you are  
10 suggesting a different alternative.

11 CHAIRMAN STUTO: Okay, let's put that  
12 question to the applicant. You understand the  
13 geography at the end of that street.

14 MR. TABNER: Yes.

15 CHAIRMAN STUTO: Is there any way that we  
16 can do a turnaround beyond the current  
17 Catherine Street; whether it's gravel or  
18 whatever? Maybe it's a teardrop going into the  
19 church's property so that a plow can turn  
20 around further down. It kind of makes sense to  
21 have that.

22 MR. TABNER: What was the date on that  
23 subdivision map?

24 CHAIRMAN STUTO: If this is part of it,  
25 it's 1966.

1           MR. TABNER: At that time the Town  
2           Planning Board regulations require when the  
3           street was dedicated that you have a turn  
4           around - a 50 foot radius. You would have two  
5           half-moons on either side. I haven't checked  
6           the record on this, but we can have the record  
7           checked.

8           CHAIRMAN STUTO: Well, the turnaround  
9           which Mr. Kim told us is historic, but it  
10          encroaches on Ms. Senecal's property.

11          MR. DALTON: If they put the street  
12          through, it wouldn't encroach; but the street  
13          isn't going through.

14          CHAIRMAN STUTO: What I'm suggesting is:  
15          Can't we move that round circle further down  
16          and make it partially on the church's  
17          property?

18          MR. TABNER: If the Town wants to do it,  
19          yes.

20          CHAIRMAN STUTO: And that's for the  
21          purposes of a turnaround. I'm not saying that  
22          it has to be paved.

23          Joe, how do you think the Town would  
24          react to that? Maybe gravel?

25          MR. KIM: Mr. Chairman, that's what I was

1 talking about earlier. Right here  
2 (Indicating), 50 feet is wide enough. There  
3 are some trees. It's very flat. There are  
4 trees around here all owned by the Town.  
5 Simply go over there and cut this tree down.

6 CHAIRMAN STUTO: We're at a little bit of  
7 a disadvantage. A lot of our applications have  
8 a Town Designated Engineer and we don't have  
9 an engineer on this one. To some extent, I  
10 have to take it on faith, or we could send it  
11 back to the drawing board and have you go to  
12 the appropriate people within the Town to  
13 design that specifically. You say that 50 feet  
14 is adequate, but the circle that is on this  
15 map is much more than 50 feet.

16 MS. DALTON: I have another question  
17 about that. My follow up question was: If we  
18 don't take the land as it is currently  
19 depicted and instead we push that down, my  
20 understanding is that it puts it into Town  
21 property. So, this question is for, I guess,  
22 Elena.

23 Is the Town permitted to essentially deed  
24 it back or give that land back, or would it be  
25 considered public space? How could we legally

1 give away land to create that?

2 CHAIRMAN STUTO: I'm not sure what you're  
3 saying.

4 MR. TABNER: There is a 50 foot radius on  
5 either side, and 100 feet across.

6 CHAIRMAN STUTO: Right, but you can't  
7 accomplish that in a 50 by 50 square. You only  
8 have 50 feet. You have 25-foot radiuses.

9 MR. KIM: You're talking about this small  
10 stockpile. My answer was if you cut this tree  
11 down, this area is very flat. Instead of  
12 leaving a stockpile here now, they could push  
13 it up here (Indicating).

14 CHAIRMAN STUTO: But I'm suggesting  
15 something even bigger than that so that they  
16 can have a turnaround that might encroach on  
17 the church property. Or whatever our engineers  
18 tell us they can do, Joe. I would like to  
19 explore a snow removal plan in that vicinity  
20 that you're talking about that our engineers  
21 say is an option. That's what I'm suggesting  
22 because we could be here forever talking about  
23 this.

24 MR. KIM: The Town should have put the  
25 pavement -

1           CHAIRMAN STUTO: Right, on both of those  
2 ladies' properties, but they didn't do that  
3 and I don't see that happening.

4           MS. SENEAL: Whether this is paper or  
5 drawn, I maintain it. It's a dead-end street.

6           CHAIRMAN STUTO: Ma'am I'm speaking to  
7 the applicant and I'm agreeing with you.

8           MR. KIM: There is a permanent easement  
9 here.

10          CHAIRMAN STUTO: I understand that, but I  
11 don't think that they're going to put a  
12 turnaround on these ladies' front lawns. I  
13 just don't see it happening. It comes within a  
14 few feet of their house.

15          MR. TABNER: It's all of record.

16          CHAIRMAN STUTO: I understand that. The  
17 applicant is asking for a special thing. The  
18 property is 1.33 acres - maybe it's  
19 constrained in the back. I don't know. I'm  
20 suggesting that we go back to the Town; speak  
21 to the appropriate department at that meeting  
22 and look for a solution. Perhaps it would be a  
23 turnaround, a redesign of what you have here  
24 with a turn around so that we can do it the  
25 right way. That's what I'm suggesting.

1 MR. LACIVITA: And you're house 20, which  
2 is directly across the street. Where this is  
3 proposed coming in - this new development of  
4 this new home becomes 23. Is there a home  
5 directly across from 23 at this point?

6 MS. SENEAL: We have a big lot.

7 MR. LACIVITA: So, it's your lot.  
8 Unfortunately, our plans don't dictate as to  
9 who is where on that side of the street.

10 CHAIRMAN STUTO: The aerial shows it.

11 MR. LACIVITA: So, even if we were to do,  
12 as you are suggesting, we're taking some of  
13 lot 20 to make a circular -

14 CHAIRMAN STUTO: We'd have to encroach on  
15 23 to do that.

16 MR. LACIVITA: Both 20 and 23.

17 MS. SENEAL: It would be 23 and the Town  
18 because ours is set far enough back that you  
19 wouldn't need to do that.

20 CHAIRMAN STUTO: That's my suggestion.

21 Does everybody on the Board understand  
22 the suggestion?

23 MR. LANE: Yes.

24 CHAIRMAN STUTO: What does the applicant  
25 say?

1           MR. TABNER: We have no idea of what the  
2 cost is of what we're talking about here. We  
3 have no idea what the plan is. Obviously, we  
4 have to see what the Town is going to require  
5 and then make a decision whether or not it's  
6 worthwhile to have this development.

7           MR. LACIVITA: The only alternative to a  
8 turnaround would be some type of a hammerhead  
9 where they pull in, back up, and then turn  
10 around.

11          MS. DALTON: But there is also an issue  
12 with regard to emergency vehicles and whether  
13 or not you're giving them enough room to  
14 maneuver.

15          MR. LACIVITA: As far as the access  
16 point, according to Fire Safety, they said  
17 that enough would be provided as currently  
18 designed, but we'd have to work with them as  
19 well during the course of that design.

20          MS. DALTON: I was going to say, we're  
21 going to have to ask them again.

22          MS. SENEAL: I can just tell you now  
23 that the plow comes up Catherine, pushes it  
24 all in, turns into our driveway and very  
25 nicely plows it and backs up. About 20 years

1 ago they said, do you mind if we do this?  
2 We'll clear your driveway as we back up and  
3 they've been doing it forever.

4 CHAIRMAN STUTO: I'm suggesting that you  
5 might lose that.

6 MS. SENEAL: What the plow man does is  
7 comes up on the left and plows into the middle  
8 and then backs up to Alena and then he plows  
9 to the right. He comes up to the last one,  
10 which is me.

11 Thank you for listening to me.

12 If you build a house here - I'm the last  
13 one up and my back is down very much to a  
14 creek -- there is a creek that runs right down  
15 here (Indicating). I would just like it in the  
16 minutes that it not be elevated such that I'm  
17 lower than the house here so that there is  
18 drainage onto mine or then I become a bowl of  
19 water.

20 CHAIRMAN STUTO: You're right to be  
21 concerned about drainage. I'm going to let the  
22 developer speak to that.

23 MR. KIM: When you look at the contour of  
24 this area, it's high. We don't have to raise  
25 the house. It's high already. That spot there

1 is a high spot.

2 MS. SENEAL: My house is high here  
3 (Indicating). It's a little ranch and my  
4 basement is level with the creek. If the water  
5 level rises because of construction, I'm going  
6 to be flooded.

7 MR. KIM: That's what I'm trying to  
8 explain to you. This is a high spot right here  
9 (Indicating). If we put the house in a high  
10 spot, there is no reason why we have to lift  
11 it up anymore.

12 MS. SENEAL: The only other thing is  
13 that the creek is an open creek which goes  
14 over to the woods and it's unhealthy. It's  
15 never been cleaned in 24 years that I've lived  
16 there. It's under a culvert and then it goes  
17 under the street. If people are going to live  
18 there, you're going to have to do something  
19 about that creek because it's unhealthy.

20 CHAIRMAN STUTO: I know that you're not  
21 hired on this project and I know you don't  
22 want to put your engineering license on it,  
23 but do you have any general suggestions as to  
24 how to approach this in an intelligent way.

25 MR. VOSS: I think that the suggestion

1           that you made in approaching a Town engineer  
2           or Town Highway Department is an ideal  
3           situation, especially when you're talking  
4           about how to create a turnaround or a  
5           hammerhead at the end of Catherine.

6                     Joe was just jotting some things down. It  
7           looks like there is enough room. If you look  
8           at the applicant's proposed new parcel and the  
9           proposed paper street right-of-way, you could  
10          probably design some sort of turnaround  
11          hammerhead in there without affecting the  
12          neighbor's property.

13                    CHAIRMAN STUTO:  Something that would not  
14          be paved?

15                    MR. VOSS:  It depends on what the Highway  
16          Department was looking for.  If they're just  
17          looking to push snow off the end of it, maybe  
18          they can lift their plows a little bit and not  
19          have to scour the road surface.  I don't think  
20          that you need to put subbase down.  You could  
21          probably get away with something less than  
22          that.

23                    CHAIRMAN STUTO:  Joe, just make a note  
24          about that and also the drainage.

25                    Kevin Coughlin.

1                   MR. COUGHLIN: I live at 19 Catherine.  
2                   There are no other 3,000 or 3,500 square foot  
3                   houses on that street. They're probably all 18  
4                   to 22 or 23.

5                   As far as the plowing, the machine that  
6                   is going to plow that is heavy. It can't be  
7                   gravel. The mound of snow at some point in  
8                   time is going to melt. It's going to be  
9                   soaking wet. The truck is going to have a hard  
10                  time backing out of there. When you do plow,  
11                  the first snowfall in December, you can't plow  
12                  right here (Indicating). You really have to  
13                  push it farther back because we're going to  
14                  have more snow.

15                 CHAIRMAN STUTO: I understand that. Thank  
16                 you.

17                 Loretta Coughlin.

18                 MS. COUGHLIN: My concern is, as my  
19                 husband said, that this proposed house is  
20                 going to be the biggest one on the street.  
21                 It's going to require some land and if I  
22                 understood what Mr. Kim was saying, I live at  
23                 19, so I'm on the right side of Karen. Now,  
24                 Mr. Kim said that this proposed house is  
25                 supposed to be at the same level as Karen's

1 house, which that's what he's saying if I  
2 understand it correctly. I have lived next to  
3 Karen for 23 years. We get along and we do  
4 what we have to do to help each other out. Her  
5 house is street level. Her yard slopes down  
6 approximately 12 to 13 feet. The slope of her  
7 backyard is still higher than my back yard.

8 What happened is when we first moved  
9 there, we would have standing water in our  
10 backyard until August; unless we had an entire  
11 summer like this. So, what we actually did was  
12 we took shovels and we dug 12 inches to the  
13 creek so that when Karen's yard got wet, it  
14 would drain into this ditch and then passively  
15 drain into the creek. My concern is that I  
16 don't believe that the proposed lot is level.  
17 I believe what I would like to know is that  
18 even though the house itself is going to be  
19 level with the street, how much is the slope?  
20 Is it going to be that much higher than  
21 Karen's slope? The water will run from that  
22 property to her property and eventually my  
23 property? Does that mean I need to dig a  
24 deeper ditch to keep the water out of my  
25 property?

1                   CHAIRMAN STUTO: I understand your  
2 questions. We're going to ask our engineer to  
3 review both the snow and the drainage issue  
4 with the applicant.

5                   MS. COUGHLIN: As Karen said, the creek  
6 is there and it's an open creek and you try to  
7 sit at night and it gets pretty buggy there.

8                   MR. COUGHLIN: The Town really dropped  
9 the ball on the creek because they did cover  
10 down the rest of the street. For some reason,  
11 it just didn't come up to the rest of the  
12 houses.

13                  CHAIRMAN STUTO: You don't like having an  
14 open creek.

15                  MS. COUGHLIN: The creek runs straight up  
16 to 17 Catherine. Then what happened is it  
17 veers out so I don't know if that has anything  
18 to do with it.

19                  MR. COUGHLIN: There are a lot of  
20 mosquitoes.

21                  CHAIRMAN STUTO: The creek at this point  
22 is a major undertaking with the DEC.

23                  MR. LACIVITA: Can we have Mr. Kim speak  
24 to that? I just want to try to talk to the  
25 Coughlins for a second. If you look at the

1 grade at this map that it shows, the house is  
2 going to be built around a 325 feet -- but you  
3 can see as you look at the grading and the  
4 contour lines, everything seems to be sloping  
5 back all the way down to 310 feet. You have a  
6 15-foot pitch as it's all going to the back  
7 into that creek. So, I don't see them filling  
8 up this lot anything that's going to impact  
9 both your neighbors, especially the way that  
10 it's designed right now. You're at a contour  
11 at the front.

12 MR. COUGHLIN: That before the  
13 bulldozers, right?

14 MR. LACIVITA: It is before, correct.

15 MS. COUGHLIN: But you're talking about a  
16 pretty large house here. I don't know if that  
17 size house is going to fit on that level  
18 before they start regarding. That's sort of my  
19 point with water. Once they start the grading,  
20 water is going to do what it's going to do.  
21 It's going to flow downhill.

22 MR. LACIVITA: But if you look at the  
23 area of impact on it, there is a significant  
24 amount of space here that allows you to get  
25 down to that contour where all that waters is

1 going to shift and go to the back where it's  
2 going to go. That's something that we'll watch  
3 during the course of plans coming in and  
4 design.

5 CHAIRMAN STUTO: Chris Fowler.

6 MR. FOWLER: My name is Christopher  
7 Fowler and I live at 26 Comely Lane, which is  
8 directly across the paper road of Comely.

9 CHAIRMAN STUTO: You're on the other side  
10 of Comely?

11 MR. FOWLER: I'm on the other side,  
12 right. One of the big issues this evening is  
13 the drainage.

14 Currently I'm taking on the six property  
15 drainage project, myself. The Town is coming  
16 in this week and dropping a catch basin right  
17 here on Comely to address drainage issues  
18 because my yard gets flooded completely. So,  
19 we build a roundabout or a 50 or 100 foot snow  
20 drop. Guess what? It pitches to Comely. This  
21 is continuously wet - this paper  
22 road - continually throughout the year. So,  
23 let's pile the snow back farther. It's going  
24 to eventually end up on Comely and we already  
25 have a flooding problem as it is.

1           The persons on Catherine, they have water  
2           problems already with that creek so the 3,500  
3           square foot house - yes that foundation will  
4           be dug and who knows what's going to happen?  
5           This map shows that you have some high point.  
6           How are they going to grade that? I want to  
7           see that in the minutes that is going to be  
8           sloped back to the creek. Unfortunately, the  
9           persons on Catherine will be inundated with  
10          water now. This is naturally subsiding water.  
11          It's always wet in there. These are wetlands.  
12          This house is going to be on wetlands. Is  
13          there an environmental study to show that?

14                 MR. LACIVITA: No. The design of it is  
15                 actually outside the area that was depicted on  
16                 this. It's further back.

17                 MR. FOWLER: How far off the wetlands are  
18                 they?

19                 MR. LACIVITA: They're well past the  
20                 buffer that SEAMAB looks at.

21                 MR. FOWLER: What are the regulations of  
22                 your drainage going directly into the  
23                 designated wetlands?

24                 MR. LACIVITA: If, in fact, when the  
25                 single family application comes in, if there

1 is any impact to that, they'll have to be in  
2 front of our SEAMAB Board, which will talk all  
3 about water impacts and everything else. We'll  
4 be monitoring this as well as we go through  
5 the process. That's just a typical application  
6 process.

7 MR. FOWLER: This roundabout is just  
8 going to inundate Comely with more water that  
9 it does not need. Again, the Town is spending  
10 money this week putting in a catch basin and  
11 tying it to stormwater just to take care of  
12 surface water. We do not want any more of  
13 that.

14 Secondly, this paper road and Town  
15 property is used by persons of all ages  
16 between properties to get to and fro. All the  
17 neighborhoods back here - Lori Lane, Skyline,  
18 Aspen over to Homestead utilize it to get to  
19 the Junior High. It's the safest route to get  
20 to the Junior High and to the church. I did it  
21 when I was a child and my kids do it  
22 currently. There is a trail in there that's  
23 used on a daily basis by a lot of residents.  
24 Someone's driveway right at the end of it  
25 could be an issue. This is Town property that

1 people are crossing through now but if there  
2 is a driveway there, there is going to be an  
3 issue.

4 When it comes to plowing, the Town plowed  
5 over our personal driveway. There have been  
6 guaranteed issues from day one, every year.  
7 I'm sure that people with the Highway  
8 Department will agree with that.

9 MR. LANE: What kind of issues are you  
10 suggesting?

11 MR. FOWLER: Getting torn up.

12 MR. ROSANO: For safety sake, are you  
13 more concerned about people backing out of the  
14 driveway, or are you more concerned with  
15 blocking off the trail so that no one can go  
16 through?

17 MR. FOWLER: Both.

18 MR. ROSANO: You can't have both. You  
19 have to have one or the other. I walked the  
20 pathway. I know what you're talking about, but  
21 if we were to block that pathway off so there  
22 would be a safe driveway -

23 MR. FOWLER: For persons and families in  
24 the southern neighborhoods -

25 MR. ROSANO: But you brought up backing

1 up out of the driveway. You mentioned the  
2 driveway would be an issue.

3 MR. FOWLER: Absolutely that would be an  
4 issue. The driveway onto Catherine being  
5 plowed by the Town is going to be an issue  
6 because that will be tore up. Obviously, there  
7 is a safety issue with persons pulling out  
8 there with that path being utilized - which I  
9 hope that it is still utilized. It's  
10 definitely an issue with drainage and safety.  
11 To put a roundabout back farther -

12 MR. LANE: It's not a roundabout.

13 MR. FOWLER: If you're talking 50 to 100  
14 foot area to put snow in and turn vehicles  
15 around.

16 MR. LANE: But it's not a roundabout.

17 MR. FOWLER: Then a turnaround. How many  
18 feet do we need to turn around with the plow  
19 trucks? A lot. It's about a six-point turn to  
20 get around it.

21 MR. LANE: They have to turn around now.  
22 They're going into people's driveways.

23 MR. FOWLER: They are.

24 MR. COUGHLIN: On that note, some of the  
25 guys don't. Once in awhile you get a different

1 driver. They push the snow out and back out  
2 and everybody on the street can hear it  
3 because you've got the emergency back up.

4 CHAIRMAN STUTO: Okay, do you have any  
5 more questions?

6 MR. FOWLER: I do.

7 This is greenspace. This is an older  
8 neighborhood. We like that greenspace. Mr. Kim  
9 suggested to cut down the trees. Let's not. I  
10 want to see a treed street so that I don't see  
11 the 3,500 square foot house. I want the  
12 neighbors, but I don't want to see the  
13 two-story house across the street from me.  
14 Again, the plans for drainage and sloping for  
15 this property really need to be looked at  
16 because there is going to be issues from all  
17 the property owners over here and all the  
18 property owners on Catherine. All these  
19 properties over here are going to be effected  
20 by it. The 1.33 acre parcel - why is it that  
21 big for a single property? Is it going to be  
22 subdivided into another house behind it?

23 CHAIRMAN STUTO: They've already  
24 addressed that they may do something else with  
25 the rest of the property which would be

1 accessed by Alena. I can't address the size.

2 Can you, Mr. Kim?

3 MR. KIM: This is what they call a paper  
4 street.

5 CHAIRMAN STUTO: Why is the property the  
6 size that it is? Why is it 1.33 acres?

7 MR. KIM: I don't know. They set up the  
8 contract, originally.

9 CHAIRMAN STUTO: The perspective buyers  
10 wanted it, is that what you're saying?

11 MR. KIM: Just one single family house  
12 proposed.

13 The Town owned this piece of property and  
14 conveyed it back to the church. As I  
15 indicated, when you look here, there is a  
16 detention pond that I created. I designed it.  
17 The water that's coming down will discharge  
18 here (Indicating). Simultaneously at the pond,  
19 because of this, the Town wanted this piece  
20 from the church. They wanted to design the  
21 detention pond here to control the flooding.  
22 Since I created this one, what I heard was  
23 that the Highway Department had less complaint  
24 from the neighborhoods, so they amended this  
25 concept. Anybody who wants to develop this

1 land here would get this strip of land from  
2 the Town to create the highway. That concept  
3 would not have feasibility unless the Town  
4 conveyed back -

5 CHAIRMAN STUTO: Okay, so it's somewhat  
6 speculative.

7 MR. KIM: The request was just one signal  
8 family.

9 CHAIRMAN STUTO: Thank you. Do you have  
10 further questions?

11 MR. FOWLER: How much frontage is the new  
12 property going to have?

13 CHAIRMAN STUTO: It's not on a Town road,  
14 but the front part is 151.93.

15 MR. FOWLER: That's on Town property?

16 CHAIRMAN STUTO: It's along the Town  
17 land, along that right of way, along with the  
18 paper street - the line that goes across  
19 horizontal. That's 151 feet.

20 MR. FOWLER: The frontage doesn't have to  
21 be on pavement?

22 CHAIRMAN STUTO: That's what this whole  
23 meeting is about. They're looking for somewhat  
24 of an exception from the Town code.

25 MR. FOWLER: Thank you.

1                   CHAIRMAN STUTO: I think that we have to  
2 go back a little bit to the drawing board. We  
3 need a clear understanding of title; who owns  
4 what property, whether there is a deed that  
5 went with the resolution - the more recent  
6 resolution.

7                   I'm happy to share any of this with  
8 Mr. Tabner - the paperwork that I have.

9                   So we have to understand title and a  
10 clear explanation of what the deeds were. I  
11 think that we may need to reflect it on the  
12 drawing.

13                  There appears to be a designated 50 by 50  
14 foot parcel. I'm not sure what the status of  
15 that is - along the paper street. Second, we  
16 have to have your engineers talk to our  
17 engineers about snow, drainage and I think  
18 even screening. We need the impacts on the  
19 Catherine Place people and also the Comely  
20 Lane people.

21                  MR. HERSH: My name is Gregory Hersh.  
22 Just aside from the one small sign that was  
23 posted across the street from where the  
24 property is going to be built on Comely - I  
25 just would make a recommendation that

1 notification be made to some of the residents  
2 directly impacted by this.

3 MS. DALTON: Mr. Hersh, we've heard this  
4 comment pretty regularly. This Board does not  
5 set those standards. I would suggest that you  
6 would follow up with this with the Town Board  
7 to increase or improve - however you want to  
8 rephrase it - the notice standards that we are  
9 currently using.

10 MR. HERSH: It would also be beneficial  
11 to the builder.

12 MS. DALTON: I absolutely agree with you,  
13 but it's not within our purview.

14 MR. LANE: But it should be posted on the  
15 Town website.

16 MS. DALTON: Right. We have heard before  
17 that people who are directly impacted feel  
18 more strongly that they should get some more  
19 direct kind of notification and I don't  
20 disagree with that.

21 MR. LACIVITA: Anybody that abuts the  
22 property within 200 feet gets the  
23 notification.

24 MR. ROSANO: I would suggest  
25 Mr. Kim - and we've done this many, many

1 times - from this point forward that you reach  
2 out to those neighbors on Comely. You have to  
3 hand deliver those -- and on Catherine Place.  
4 This Board has been very adamant about  
5 communication. It's a big issue in this Town.  
6 If you don't think so, we spend a lot of hours  
7 sitting here talking about a lack of  
8 communication.

9 I don't want to berate you, but I'm more  
10 unclear now than I was when I was with Karen  
11 the other day at her house. I don't even know  
12 which one of these deeds is a real deed. Once  
13 again, I'll go back to where I was. You need  
14 to reach out to the neighbors. You need to  
15 talk to them. Somebody from your office - I  
16 don't care how you do it. I can't tell you how  
17 to do it, but you need to reach out to these  
18 people. Maybe someone from your office should  
19 have been out there talking to them explaining  
20 some of these things before tonight because  
21 I'm not so sure that after tonight that they  
22 are clear as to where we are. So, we're going  
23 to be coming back to this many times and this  
24 shouldn't take this long.

25 MR. KIM: The Town regulation says that

1 we have to notify the 200 feet within the  
2 site. That's what we notified.

3 MR. ROSANO: But you do understand where  
4 I'm coming from. Your life would be  
5 considerably easier if you had reached out to  
6 these folks and gone up and down the streets.  
7 I can't tell you how to do it. I went there. I  
8 met a nice neighbor.

9 CHAIRMAN STUTO: On the larger projects  
10 we normally suggest strongly -- this was a  
11 signal family lot. I didn't know that there  
12 would be so many neighbor concerns, but there  
13 obviously are. It is in your best interest to  
14 talk to the neighbors.

15 I have a map here for Ms. Senecal, if you  
16 want to share it with your neighbors. Maybe it  
17 would give you a little bit more clear of a  
18 picture.

19 MS. SENECA: Thank you for all hearing  
20 us. I'm not opposed to this.

21 CHAIRMAN STUTO: So, I think that we have  
22 a motion to table this until those other  
23 matters are discussed?

24 MS. VAIDA: I think that also if the  
25 applicant is agreeable to adjourning this - to

1 tabling it tonight, rather than us making a  
2 decision.

3 CHAIRMAN STUTO: I'd be happy to hear any  
4 reaction, but I don't think that we'll be  
5 hearing the matter again unless they do what  
6 we have suggested.

7 Do you have any opinion on that, Mr. Kim  
8 or Mr. Tabner as to going back to the drawing  
9 board and talking to our engineers?

10 MR. KIM: We will contact the Highway  
11 Department and we'll discuss this better.  
12 Also, once we discuss this, we'll call a  
13 meeting with some neighbors and designers. We  
14 can iron out those concerns.

15 CHAIRMAN STUTO: That would be very nice.  
16 I know that this is only a single family lot,  
17 but there is probably a reason that this  
18 wasn't developed before. Maybe they had  
19 developing problems. I don't know. I think  
20 that if you follow those suggestions, we'll  
21 come up with a better solution. I know that  
22 it's a lot of work.

23 MR. KIM: We represent the church.

24 CHAIRMAN STUTO: Understood. You  
25 represent the church.

1 We have a motion. Do we have a second?

2 MR. LANE: Second.

3 CHAIRMAN STUTO: All those in favor?

4 **(Ayes were recited.)**

5 CHAIRMAN STUTO: All those opposed?

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

7 CHAIRMAN STUTO: The ayes have it.

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12 **(Whereas the proceeding concerning the above**

13 **entitled matter was adjourned at**

14 **8:36 p.m.)**

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**CERTIFICATION**

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*I, NANCY STRANG-VANDEBOGART, Shorthand Reporter, New York State Approved Transcriber and Notary Public in and for the State of New York, hereby CERTIFY that the record taken by me at the time and place noted in the heading hereof is a true and accurate transcript of same, to the best of my ability and belief.*

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**NANCY STRANG-VANDEBOGART**

**Dated August 26, 2011**