

STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH ZONING BOARD

-----X

In the Matter of

CHARLES GIAMETTA

#1500 Route 9W, Marlboro, New York 12542

-----X

CONTINUATION OF MEETING FOR AN APPEAL
OF CODE ENFORCEMENT OFFICER'S DETERMINATION
REGARDING SITE PLAN.

Date: July 11, 2019
Time: 7:00 p.m.
Place: Town of Marlborough
Town Hall
#21 Milton Turnpike
Milton, New York 12547

BOARD MEMBERS: WILLIAM GIAMETTA, Chairman
JEFF MEKEEL
DAVE ZAMBITO
LENNY CONN
GEORGE SALINOVICH, absent
ALSO PRESENT:

THOMAS CORCORAN, JR. BUILDING INSPECTOR/CODE
ENFORCEMENT

IAN MacDONALD, ESQ.

PENNY E. CASHMAN, ZONING BOARD SECRETARY,
absent

CHARLES GIAMETTA, APPLICANT
JOHN LYONS, ESQ., REPRESENTING APPLICANT
KIMBERLY GARRISON, ESQ. REPRESENTING
APPLICANT

-----X

2

- 1 CHARLES GIAMETTA - MEETING
- 2 CHAIRMAN GIAMETTA: I'd ask you
- 3 all to stand for the pledge to the
- 4 flag.
- 5 (Pledge of Allegiance)
- 6 CHAIRMAN GIAMETTA: Thank you very
- 7 much. Welcome to the July 11th, 2019
- 8 meeting of the Town of Marlboro Zoning
- 9 Board of Appeals. We had minutes
- 10 associated with our last meeting of
- 11 June 13th, and if the Board members

12 have looked at those, I'd ask, do I
13 receive any changes on those minutes?
14 MR. MEKEEL: No.
15 MR. ZAMBITO: No.
16 MR. CONN: No.
17 CHAIRMAN GIAMETTA: I'd ask for a
18 motion to approve, somebody.
19 MR. ZAMBITO: I will make a motion
20 to approve the minutes from the last
21 meeting.
22 CHAIRMAN GIAMETTA: And a second.
23 MR. MEKEEL: I will second.
24 CHAIRMAN GIAMETTA: All in favor?
25 MR. ZAMBITO: Aye.

3

1 CHARLES GIAMETTA - MEETING
2 MR. MEKEEL: Aye.
3 MR. CONN: Aye.
4 CHAIRMAN GIAMETTA: Aye. Thank
5 you very much. We have the main and
6 only matter on our agenda, which is a
7 continuation of a meeting for an appeal
8 of Code Enforcement Officer's
9 determination regarding a Site Plan for
10 property located at 1500 Route 9W,
11 Marlboro, New York, and as the Board
12 knows, there has been a lot of input,
13 and a lot of discussion regarding this
14 matter. I have taken a long look at
15 it. I'm sure the other Board members,
16 and Attorney MacDonald has looked at
17 it. I want to offer to the members a
18 handout of some information that I
19 would like to go through and just
20 briefly review because it may or may
21 not make any sense with regard to our
22 proceedings tonight. Particularly, if
23 we turn to the last page of the

24 handout, there is an area that has been
25 highlighted, and it states certain code

4

1 CHARLES GIAMETTA - MEETING
2 sections and certain information about
3 those code sections, particularly under
4 155-12(e)(4)(a), the following
5 information states that the property in
6 question is an allowed use. I ask that
7 you flip to the next page.

8 MR. ZAMBITO: Second to last page?

9 CHAIRMAN GIAMETTA: Second to last
10 page. The second to last page has the
11 Highway Development District, and --
12 within that district -- Ian, did you
13 get one?

14 MR. MacDONALD: I did.

15 CHAIRMAN GIAMETTA: Within that
16 district, there is certain uses that
17 are allowed, and those are enumerated
18 on the page. And if we go to the third
19 from the last page, when you're ready,
20 we see that, along with the permit use,
21 there is also special uses that are
22 permitted in the HD Zone, and those
23 include things like automobile service,
24 repairs and other related activities;
25 okay? I bring that up, because if we

5

1 CHARLES GIAMETTA - MEETING
2 go to, again, the following page, and
3 that page is a document dated back in
4 1995 decade, and it states that it
5 expired March 30th of 1996. This
6 document, the way that I read it and,
7 Ian, if you could confirm or deny, is
8 that a Special Use Permit?

9 MR. MacDONALD: It appears to be a

10 Special Use Permit, correct.

11 CHAIRMAN GIAMETTA: That has an

12 expiration date on it.

13 MR. MacDONALD: Just if you could

14 give me a second to read it.

15 CHAIRMAN GIAMETTA: Sure.

16 MR. MacDONALD: Well, I will say

17 this, I'm not sure exactly what you

18 would call it, it does say License to

19 Operate Special Use Home Occupation on

20 the top. The body of it states that

21 the Building Inspector, Town of

22 Marlboro hereby issued the following

23 permit to operate a Home Occupation

24 Special Use in the Town of Marlboro.

25 What traditionally you would consider a

6

1 CHARLES GIAMETTA - MEETING

2 Special Use Permit would not be issued

3 by the Building Inspector, it would be

4 issued by the Planning Board under your

5 Town code. Whether this is just a, you

6 know, documentation of what was issued,

7 it does not appear to be a Special Use

8 Permit issued by the Planning Board.

9 But your Code Enforcement Officer is

10 here, maybe he can, Building Inspector

11 as well --

12 MR. CORCORAN: That's correct.

13 Back in 1978 when it got its original

14 Site Plan approval, it got its Special

15 Use Permit. The Special Permit

16 continued on to today from 1978 when

17 got its Planning Board approval. That,

18 I believe was a -- and I'm only going

19 to speculate because I wasn't here in

20 1995 -- but it was a piece of paper

21 issued. And now we issue the Special

22 Use Permits every year since then under

23 our fire inspection under our fee
24 schedule. The Fire Inspection Fee and
25 Special Use Fee are combined with

7

1 CHARLES GIAMETTA - MEETING
2 either a Fire Inspection and a Fire
3 Inspection and Special Use, and Special
4 Use Inspections are done every year by
5 the Fire Inspector, who is also myself.
6 And I have been doing them for the last
7 16 years. So, any Home Occupation
8 and/or Site Plan Approval has been
9 getting Special Use Approvals every
10 year under the Fire Inspection, and
11 that paperwork has been done.

12 But you are correct, the building
13 department doesn't have the authority
14 to give a Special Use Permit. That
15 permit is issued under the Planning
16 Board application and approval under
17 Site Plan Approval.

18 MR. MacDONALD: So, I don't know
19 if you have seen a copy here.

20 MR. CORCORAN: I have.

21 MR. MacDONALD: What we're
22 referring to exactly is what -- I guess
23 the question is, what is this?

24 MR. CORCORAN: It's going to be
25 impossible to tell you because the

8

1 CHARLES GIAMETTA - MEETING
2 Building Inspector that issued that is
3 no longer alive, Nat Colletti. She
4 died in 1995. It's an irrelevant
5 document to me, because it was never
6 issued to any other business. It was
7 never issued again. It's the only one
8 that I know to be in existence. Why it

9 was issued? I can't answer the
10 question, and I can't even find the
11 answer to that, because that issuing
12 inspector no longer is alive.
13 But, again, I think we're off
14 track because, again, that's all
15 irrelevant because we're working on a
16 determination on making for, you know,
17 continuation of use or change of use.
18 MR. MacDONALD: So I think, Mr.
19 Chairman, the question that you asked,
20 does it have an expiration date? The
21 answer is, yes, it does. The bigger
22 question is though what exactly is
23 this? It sounds like there are permits
24 that are issued by the Building
25 Inspector that are in conjunction with

9

1 CHARLES GIAMETTA - MEETING
2 these annual inspections that are done.
3 And so it's issued -- it's a one-year
4 period, and you do the inspection, then
5 it gets renewed; right?
6 MR. CORCORAN: Correct.
7 MR. MacDONALD: Pay the fee, pass
8 the inspection, and renew it. So, I am
9 not sure exactly what you call this.
10 But you're right, it does have an
11 expiration.
12 CHAIRMAN GIAMETTA: Thank you,
13 gentlemen. And if you would kindly
14 turn to the next page, second from the
15 front, front page under Site Plan
16 Approvals, Code Section 155-31(B(1)(A0.
17 B(1)(a), all Special Uses have to have
18 Site Plan Approval, if I'm reading that
19 correctly. Is that accurate?
20 MR. MacDONALD: That is accurate.

21 Your current code, if you need -- the
22 use requires a Special Use Permit. It
23 also requires a Site Plan Approval by
24 the planning board.
25 CHAIRMAN GIAMETTA: By the

10

1 CHARLES GIAMETTA - MEETING
2 planning board?
3 MR. MacDONALD: Yes.
4 CHAIRMAN GIAMETTA: Thank you very
5 much. I wanted to call this
6 information to your attention, Board
7 members, counsel and audience, because
8 I thought it was relevant with further
9 proceedings. Ian has summarized some
10 findings of facts.

11 MR. MacDONALD: That's correct.

12 CHAIRMAN GIAMETTA: And in some
13 expeditious way possibly, possibly not,
14 could you summarize this for us, or the
15 contents of them, or is it too much to
16 summarize?

17 MR. MacDONALD: It's a little --
18 it's -- actually, I handed out all of
19 my copies.

20 CHAIRMAN GIAMETTA: Did you?

21 MR. MacDONALD: But I don't know
22 if there is more discussion. I can
23 read the Findings, whatever the Board
24 would like. I made these based on
25 discussions from last month's meeting,

11

1 CHARLES GIAMETTA - MEETING
2 but is that what you want me to do?

3 CHAIRMAN GIAMETTA: Well, does the
4 Board have copies of those Findings of
5 Facts?

6 MR. CONN: Yes.

7 CHAIRMAN GIAMETTA: Do you have
8 them?
9 MR. MEKEEL: Yes.
10 CHAIRMAN GIAMETTA: Did you look
11 at them, Mr. Zambito?
12 MR. CONN: Ian made copies for
13 everybody.
14 MR. ZAMBITO: This was e-mailed to
15 us; correct?
16 CHAIRMAN GIAMETTA: Yes.
17 MR. ZAMBITO: I got an e-mail,
18 yes.
19 CHAIRMAN GIAMETTA: Okay. The
20 Board has received, either via hard
21 copy or e-mail or both a record of
22 Findings summarized by our legal
23 counsel.
24 MR. MacDONALD: So the hard copies
25 are slightly different. I made some

12

1 CHARLES GIAMETTA - MEETING
2 changes to it, nothing of real
3 substance, but in looking at it, again,
4 I just made some additional changes to
5 it, so it's not identical to the
6 e-mail.
7 CHAIRMAN GIAMETTA: So the hard
8 copy is more official and more current?
9 MR. MacDONALD: Well, more
10 current.
11 CHAIRMAN GIAMETTA: Okay. I want
12 to make that clear, that the printed
13 copy is more current, than any e-mail
14 copy.
15 MR. MEKEEL: Can you tell us what
16 corrections you did make?
17 MR. MacDONALD: In the paragraph
18 at the end.
19 MR. MEKEEL: Okay. On page?

20 MR. MacDONALD: It would be the
21 final page. I added the last two
22 paragraphs, I believe three and four,
23 with those Determinations, again, based
24 on what was discussed at the meeting.
25 It's just a more elaborate

13

1 CHARLES GIAMETTA - MEETING
2 Determination based on the facts with
3 respect to, again, that it's
4 basically -- three says, is not a more
5 intensive use of the property in terms
6 of water, sewer, traffic. And then
7 four is finding that the Code
8 Enforcement Officer was within his
9 discretion in making his determination
10 that use -- present use is not more
11 intensive than the use that was there
12 in 1978 in terms of water supply,
13 sewer, stormwater runoff, parking, and
14 traffic.

15 MR. MEKEEL: Okay. Mr. Giametta,
16 did you see those paragraphs?

17 CHAIRMAN GIAMETTA: I talked with
18 counsel about those. And yes, I am
19 familiar with that summary.

20 MR. MEKEEL: Okay.

21 MR. MacDONALD: So, you know, if
22 you want me to summarize it, basically,
23 the document goes through all of the
24 facts that were presented to the Board,
25 and the position of the Applicant and

14

1 CHARLES GIAMETTA - MEETING
2 the position of the Code Enforcement
3 Officer.

4 And I mean to summarize, the
5 Applicant feels that the current use is

6 change in use of expansion from the
7 use, and a more intense use than what
8 was there and received in approval in
9 1978. And as a result, the property
10 owner needs to get both Site Plan
11 Approval -- I am sorry, both a Special
12 Use Permit and a Site Plan Approval.
13 The Code Enforcement Officer
14 summarized -- his position is that the
15 current use of the property is not
16 different or an expansion of the use
17 that was there and got approval in 1978
18 and is a less intensive use. The
19 current use is a less intensive use
20 then what was there in 1978, because
21 the use in 1978 that got approval was a
22 retail sale of used automobile parts,
23 sale of used automobiles, automobile
24 repair, and bodywork. The current use
25 is all of those with the exception of

15

1 CHARLES GIAMETTA - MEETING
2 the retail sale of used automobile
3 parts, and as a result, the Code
4 Enforcement Officer determined that use
5 is less intensive because there is less
6 traffic going in and out of the
7 property, without the retail sales of
8 the used auto parts. Therefore, that
9 is reduction in traffic, there is a
10 reduction in the number of employees,
11 thereby or therefore production or less
12 intensive usage of water and sewer and
13 also parking and traffic.

14 And, you know, it's up to the
15 Board how it wants to determine, but I
16 have put proposed Findings in there
17 based on those facts. And, obviously,

18 you can, you know, this is your
19 determination to make, you can modify
20 the document any way that you would
21 like.
22 CHAIRMAN GIAMETTA: Okay. Thank
23 you, counsel. And I guess, but I ask
24 the Board members, is there any further
25 questions or concerns that have arisen

16

1 CHARLES GIAMETTA - MEETING
2 or need to be asked or gone over at
3 this point or not?
4 MR. CONN: No.
5 CHAIRMAN GIAMETTA: Gentlemen?
6 MR. ZAMBITO: No.
7 MR. MEKEEL: No.
8 CHAIRMAN GIAMETTA: Okay. I
9 believe the next process and procedure,
10 unless there is something else, would
11 be a vote on the matter; is that
12 correct?
13 MR. MacDONALD: Again, it's up to
14 the Board. My recommendation would be
15 that if you review the Findings, and if
16 you are in agreement with them, read
17 them, and then have a vote on the
18 Findings so that the Board adopts those
19 Findings. And then I prepared a
20 proposed resolution. Assuming that the
21 Board is in agreement with that, I
22 would also read, you know, move and
23 second and vote on adopting that
24 resolution, which incorporates the
25 Findings on it. But I would read the

17

1 CHARLES GIAMETTA - MEETING
2 Findings into the record, so that it's
3 clear to the Board members, and you

4 could vote on that whether the Board is
5 in agreement with that section of
6 findings.

7 CHAIRMAN GIAMETTA: How many pages
8 are there, Mr. Mekeel?

9 MR. MEKEEL: There are two pages
10 and then --

11 CHAIRMAN GIAMETTA: That's the
12 resolution.

13 MR. CONN: The Record of Findings
14 are nine pages.

15 CHAIRMAN GIAMETTA: Nine pages,
16 right.

17 MR. MEKEEL: The resolution is two
18 pages.

19 CHAIRMAN GIAMETTA: Can we read
20 like three pages?

21 MR. MacDONALD: If you're in
22 agreement with the Findings, just make
23 it clear on the record.

24 MR. ZAMBITO: The only changes
25 that you made is paragraph three and

18

1 CHARLES GIAMETTA - MEETING
2 four?

3 MR. MacDONALD: Yeah, there may
4 have been some -- that was the only
5 substantive changes.

6 MR. CONN: The record of Findings
7 that you submitted tonight, do they
8 have to be physically read, or can we
9 all agree that they have been adopted?

10 MR. MacDONALD: As long as you can
11 agree and submit the copies into the
12 record. There is some redundancy in
13 the resolution. So if you read the
14 resolution, it contains a lot of the
15 Findings. It's more of a summary and
16 then it does incorporate the Findings

17 into the resolution itself.
18 CHAIRMAN GIAMETTA: Let the record
19 reflect we're submitting the Findings
20 to the stenographer.
21 MR. MacDONALD: Well, into the
22 minutes. If you're in agreement, just
23 have a quick vote that you're in
24 agreement on the findings and then read
25 the resolution.

19

1 CHARLES GIAMETTA - MEETING
2 CHAIRMAN GIAMETTA: Okay. Counsel
3 ordered us to have a resolution on
4 those Findings, motion.
5 MR. CONN: I will make a motion to
6 adopt the minutes.
7 MR. ZAMBITO: I will second.
8 CHAIRMAN GIAMETTA: A vote.
9 MR. MEKEEL: Aye.
10 MR. ZAMBITO: Aye.
11 MR. CONN: Aye.
12 CHAIRMAN GIAMETTA: The findings
13 have been adopted. And that brings us
14 to the resolution; does it not?
15 MR. MacDONALD: It does.
16 CHAIRMAN GIAMETTA: Okay. And
17 procedurally, the best way to proceed?
18 MR. MacDONALD: I would read the
19 resolution out loud, and I can do that
20 if you want.
21 CHAIRMAN GIAMETTA: Yes, please
22 do.
23 MR. MacDONALD: Okay. Zoning
24 Board of Appeals of the Town of
25 Marlborough Resolution -- I don't know

20

1 CHARLES GIAMETTA - MEETING
2 if you number your resolutions; do you?

3 CHAIRMAN GIAMETTA: We'll have to
4 ask Ms. Cashman. I don't know for
5 sure. I'm thinking they are numbered.

6 MR. MacDONALD: Zoning Board of
7 Appeals of the Town of Marlborough
8 Resolution, dated July 11, 2019, Appeal
9 of Charles Giametta:

10 Whereas, Michael Property Holding,
11 LLC, ("Owner"), is the owner of the
12 property located at 1500 Route 9W in
13 the Town of Marlborough which property
14 is located in the Highway Development,
15 (HD) Zoning District in the Town and is
16 designated by Tax Parcel Identification
17 Number 109.1-2-15; and

18 Whereas, the property is currently
19 used by New Country Automotive, Inc.,
20 in the business of automotive repairs
21 and bodywork and the sale of used
22 automobiles; and

23 Whereas, the Town Planning Board
24 issued Site Plan approval and the Town
25 Zoning Board of Appeals issued a

21

1 CHARLES GIAMETTA - MEETING
2 variance in 1978 to allow the property
3 to be used in the business of used
4 automobile sales, used automobile part
5 sales, automobile repairs and bodywork;
6 and

7 Whereas, as Charles Giametta is
8 the owner of the property located 1502
9 Route 9W in the Town, which is adjacent
10 to the property; and

11 Whereas, Mr. Giametta submitted a
12 complaint to the Town Code Enforcement
13 Officer, Thomas Corcoran in September
14 of 2007 -- I am sorry, in September

15 2017 claiming the current use of the
16 Property is different in a more
17 intensive use from that for which Site
18 Plan approval had been granted in 1978
19 requiring the issuance of the new Site
20 Plan approval and a Special Use Permit
21 by the Town Planning Board; and
22 Whereas, Mr. Corcoran responded to
23 Mr. Giametta's complaint by letter
24 dated September 18, 2017, stating that
25 Site Plan approval for the current use

22

1 CHARLES GIAMETTA - MEETING
2 of the property was not necessary
3 because the current use is not a change
4 or an expansion of the prior use for
5 which approval had been granted in 1978
6 and the current use is not a more
7 intensive use of the property in terms
8 of water supply, sewage disposal,
9 stormwater runoff management, parking
10 needs, or traffic generation; and

11 Whereas, Mr. Giametta submitted
12 the application herein appealing the
13 September 18, 2017 determination of Mr.
14 Corcoran to the Town of Marlboro Zoning
15 Board Appeals; and

16 Whereas, the Board held a public
17 hearing on the application submitted by
18 Mr. Giametta on the following dates:
19 January 10, 2019 and February 13th,
20 2019; and

21 Whereas, in addition to the
22 Application, the testimony submitted
23 during the public hearing on the
24 Application, and the version of the
25 Town Code currently in effect, the

23

1 CHARLES GIAMETTA - MEETING
2 Board received and considered the
3 following documents: The town it of
4 Marlborough Code in effect in 1976, the
5 September 7th -- I am sorry, the
6 September 18th, 2017 Determination by
7 Zoning Enforcement Officer, Thomas
8 Corcoran, the December 27th, 2018
9 submission by Grant & Lyons, LLP on
10 behalf of Charles Giametta with
11 Exhibits A through G annexed thereto,
12 the Affidavit of Dennis Diehl,
13 D-I-E-H-L, dated December 31st, 2018,
14 the Special Use/Home Occupation Permit,
15 number 95-02, submitted by Code
16 Enforcement Officer, Tom Corcoran, a
17 ZBA meeting held on January 10th, 2019
18 with attachments, the January 31st,
19 2019 submission by Grant & Lyons, LLP,
20 on behalf of Charles Giametta with
21 Exhibits A through D annexed thereto,
22 the February 13, 2019 from Grant &
23 Lyons, LLP to the Town of Marlborough
24 Zoning Board of Appeals, the April 9th,
25 2019 letter from Grant & Lyons, LLP to

24

1 CHARLES GIAMETTA - MEETING
2 the Town of Marlborough Zoning Board of
3 Appeals, the June 12, 2019 letter from
4 Grant & Lyons, LLP, to the Town of
5 Marlborough Zoning Board of Appeals,
6 the June 20th letter from Ian S.
7 MacDonald at Mackey, Butts & Wise, LLP,
8 counsel to the Town of Marlborough
9 Zoning Board of Appeals to John F.
10 Lyons, Esquire of Grant & Lyons, LLP,
11 the 4th Supplement to Appeal: New
12 Evidence, dated July 3rd, 2019
13 submitted by Grant & Lyons, LLP on

14 behalf of Charles Giametta, the July
15 3rd, 2019 letter from Grant & Lyons,
16 LLP to the Town of Marlborough Zoning
17 Board of Appeals; and

18 Whereas, the application is a Type
19 II action pursuant to 6 NYCRR, section
20 167.5 (c) (35) interpretation of an
21 existing code -- I am sorry, strike
22 that.

23 Whereas, the application is a Type
24 II action pursuant to the 6 NYCRR
25 section, 617.5, subsection (c)(37)

25

1 CHARLES GIAMETTA - MEETING
2 interpretation of an existing code,
3 rule or regulation is therefore not
4 subject to environmental review.

5 Now, therefore, be it resolved
6 that the attached record of findings is
7 hereby adopted and the Zoning Board of
8 Appeals finds as follows:

9 Number 1., the Town Planning Board
10 issued Site Plan approval in 1978 to
11 allow the use of the Property for
12 automobile repairs and bodywork and the
13 sale of used automobiles and used
14 automobile parts; and

15 Number 2., in 1978, the Town
16 Zoning Law did not require the issuance
17 of a Special Use Permit for the use of
18 property for automobile repairs and
19 body work and the sale of used
20 automobiles and used automobile parts;

21 And Number 3., the current use of
22 the Property by the Owner, namely
23 automotive repairs and body work and
24 the sale of used automobiles, is not a
25 change or an expansion of the use of

1 CHARLES GIAMETTA - MEETING
2 the Property for which Site Plan
3 approval was granted by the Town
4 Planning Board in 1978, namely
5 automobile repairs and bodywork and the
6 sale of used automobiles and used
7 automobile parts; and

8 And Number 4., the current use of
9 the property by the Owner is not a more
10 intensive use of the Property, in terms
11 of water supply, sewage disposal,
12 stormwater runoff management, parking
13 needs, or traffic generation, but is in
14 fact a less intensive use as the
15 current use of the property no longer
16 includes the retail sale of used
17 automobile parts, which has reduced the
18 amount of traffic at the Property; and

19 Number 5., the current use of the
20 Property by the owner does not require
21 either Site Plan approval or a Special
22 Use Permit under the terms of the Town
23 Code; and

24 Number 6., the determination made
25 by Mr. Corcoran, his letter dated

1 CHARLES GIAMETTA - MEETING
2 September 18, 2017, that the current
3 use of the Property is no more
4 intensive use of the Property in terms
5 of water supply, sewage disposal,
6 stormwater runoff management, parking
7 needs, or traffic generation was within
8 the discretion granted to the Code
9 Enforcement Officer by Section 155-31
10 subsection (B)(1)(c) of the Town Code;
11 and

12 Number 7., the Board hereby
13 affirms the Determination of Mr.
14 Corcoran dated September 18, 2017. And
15 then I would need, assuming that the
16 Board is in agreement with all of those
17 terms, you need a motion and a second
18 and then each board member has to vote.
19 CHAIRMAN GIAMETTA: Thank you,
20 Counselor. Any other questions at this
21 point, Board members?
22 MR. MEKEEL: No.
23 MR. ZAMBITO: No.
24 MR. CONN: No.
25 MR. LYONS: I have a question, Mr.

28

1 CHARLES GIAMETTA - MEETING
2 Chairman, John Lyons, Grant & Lyons,
3 the attorney for the applicant.
4 MR. CONN: The hearing is closed.
5 CHAIRMAN GIAMETTA: Counsel, can
6 you advise me of this?
7 MR. MacDONALD: It's up to the
8 Board. The public hearing is closed,
9 but it's up to the Board.
10 MR. LYONS: We're not members of
11 the public. We're actually the
12 applicants here.
13 MR. CONN: The public hearing is
14 closed.
15 MR. LYONS: It's our case.
16 MR. MacDONALD: Again, it's up to
17 the Board whether you want to allow the
18 applicant to speak to the Board or not.
19 CHAIRMAN GIAMETTA: I would like
20 to allow you to speak.
21 MR. LYONS: Thank you, Mr.
22 Chairman. I just want to ask whether
23 the issue of the escrow money is going
24 to be addressed as part and parcel of

25 the Board's decision here?

29

1 CHARLES GIAMETTA - MEETING

2 CHAIRMAN GIAMETTA: Not this
3 evening. We have not gone over that.

4 MR. ZAMBITO: Different subject.

5 CHAIRMAN GIAMETTA: I imagine it
6 will be addressed, but not at this
7 meeting.

8 MR. CONN: We don't have
9 jurisdiction over the town coffers.

10 That's not us. That's a town fee.

11 CHAIRMAN GIAMETTA: That issue is
12 not going to be determined as part of
13 this resolution.

14 MR. LYONS: Okay. That's what I
15 wanted to ask before there was any
16 action taken on it. Thank you.

17 CHAIRMAN GIAMETTA: You're
18 welcome. Having heard all of the
19 information and discussion, is someone
20 ready to make a motion on this matter?
21 If so, go right ahead.

22 MR. ZAMBITO: I would make a
23 motion.

24 MR. MacDONALD: It would be a
25 motion to adopt the foregoing

30

1 CHARLES GIAMETTA - MEETING
2 resolution.

3 CHAIRMAN GIAMETTA: That's the
4 wording.

5 MR. ZAMBITO: I would like to make
6 a motion to adopt the foregoing
7 resolution.

8 CHAIRMAN GIAMETTA: And a second?

9 MR. CONN: Second.

10 CHAIRMAN GIAMETTA: Okay. It's an

11 individual voting grid. I'd like to
12 cast the first vote. My name appears
13 first, and I am the chairman, and I
14 would like to cast my vote with an
15 explanation -- brief explanation, and
16 that being that, in my opinion, Code
17 Officer's letter of March 1st, 2018
18 last paragraph is not as definitive as
19 I feel it should be under our code, and
20 therefore, I vote no. Mr. Conn?

21 MR. CONN: Aye.

22 CHAIRMAN GIAMETTA: Mr. Mekeel?

23 MR. MEKEEL: Aye.

24 CHAIRMAN GIAMETTA: And Mr.
25 Zambito?

31

1 CHARLES GIAMETTA - MEETING

2 MR. ZAMBITO: Aye.

3 CHAIRMAN GIAMETTA: Thank you,
4 gentlemen. Counsel, is there anything
5 further?

6 MR. MacDONALD: No. The
7 resolution has been adopted by the
8 majority of the Board. Three votes to
9 one, and so I will follow up with the
10 secretary and make sure this gets put
11 in the minutes along with the annexed
12 findings of fact.

13 CHAIRMAN GIAMETTA: Thank you very
14 much. Anything further Board members?

15 MR. MEKEEL: No.

16 MR. CONN: No.

17 MR. ZAMBITO: No.

18 CHAIRMAN GIAMETTA: I ask for a
19 motion to adjourn.

20 MR. MEKEEL: I will make a motion
21 we adjourn the meeting.

22 MR. ZAMBITO: Second.

23 CHAIRMAN GIAMETTA: All in favor?
24 MR. MEKEEL: Aye.
25 MR. ZAMBITO: Aye.

32

1 CHARLES GIAMETTA - MEETING
2 MR. CONN: Aye.
3 CHAIRMAN GIAMETTA: Aye. Meeting
4 is over. Thank you very much.
5 (Whereupon, at 7:39 p.m., the
6 Meeting was concluded.)

7

8 ? ? ? ?

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25