

TOWN BOARD

COUNTY OF ALBANY

TOWN OF COLONIE

A PUBLIC HEARING AND SUBSEQUENT VOTE IN RELATION TO THE
RECOMMENDATION FOR THE PROPOSED OPEN DEVELOPMENT AREA
LOCATED AT 14 COLONIAL GREEN

THE STENOGRAPHIC MINUTES of the above entitled
matter by NANCY L. STRANG, a Shorthand Reporter, on
May 23, 2019 7:20 p.m. at Memorial Town Hall 534 Loudon
Road, Newtonville, New York 12128

BOARD MEMBERS:

- PAULA A. MAHAN, SUPERVISOR
- LINDA MURPHY, DEPUTY SUPERVISOR
- PAUL ROSANO
- DAVID GREEN
- CHRISTOPHER CAREY
- MELISSA JEFFERS-VONDOLLEN
- JENNIFER WHALEN

ALSO PRESENT:

- Timothy MacPhearson, Esq. Town Attorney's Office
- Michelle Turcotte, Deputy Town Clerk
- Nicholas Costa, PE, Advance Engineering and Surveying
- John Brizzell
- Kurt Waldman
- Guy Chamberlain

1 MS. TURCOTTE: This public hearing is being held
2 by order of the Town Board to hear all persons in
3 relation to the recommendation for the proposed open
4 development area located at 14 Colonial Green.

5 Notice the public hearing has been published in the
6 official Town newspaper which is the Spotlight and has
7 been posted on the Town Clerk's bulletin board. I have
8 an affidavit for each. The Town Board will now hear all
9 persons interested in this project.

10 MR. MACPHEARSON: Do we have anybody here tonight
11 for that public hearing?

12 If there's anyone in addition, I'd like to give
13 everybody a couple minutes - three minutes or something
14 like that and you will all have an opportunity to speak
15 your piece. We're not going to cut anybody off.

16 MR. GREEN: Tim, we don't have anybody here on
17 behalf of the applicant.

18 MR. MACPHEARSON: Is there anybody here on behalf
19 of the applicant?

20 MR. GREEN: Can we hear from them first just so we
21 can clarify?

22 MR. MACPHEARSON: Sure

23 MR. COSTA: Good evening. My name is Nick Costa. I
24 am with Advance Engineering and Surveying. We are here
25 on behalf of Keystone Homes who has applied for the

1 ODA. We have been in front of the Planning Board. We
2 have worked with the Planning Department and the rest
3 of the departments and we're getting to the point where
4 we are here requesting the ODA approval.

5 SUPERVISOR MAHAN: One of the maps that we had
6 looked at - whenever we have this type of request and
7 there are paper streets involved in all of that, it
8 goes out to all of our departments to see if there are
9 any needs. It did come back that we need an easement
10 for a water line. We couldn't see it located on the
11 map. We don't believe that it was there and we don't
12 know if you have plotted that yet.

13 MR. COSTA: We are willing to give the Latham
14 Water District and the Town an easement for the water.

15 SUPERVISOR MAHAN: I think the location of it is
16 the piece that we all need to know.

17 MR. GREEN: I think the location would be
18 paramount Nick. At the end of the cul-de-sac - you are
19 probably very familiar, but at the end of the
20 cul-de-sac the applicant needs a portion of our 60-foot
21 paper street to gain access. That piece that the
22 applicant will need will impact where the 30-foot
23 easement connection will begin. Push it far off to the
24 left, if you are looking at the project. We want to see
25 where that 30-foot easement is going to begin and then

1 get it centered as quickly as possible so that we can
2 then make the determination for the surrounding
3 landowners.

4 MR. COSTA: Exactly, yes.

5 MR. GREEN: I want to see the exact dimensions and
6 maybe have it more thoughtfully on-site.

7 MR. COSTA: Yes, we can stake it out.

8 MR. GREEN: That would be really helpful.

9 MR. COSTA: We can survey stake it in the field to
10 see where it goes. I think that there is some
11 vegetation there that we want to make sure - if
12 possible, we could shift some things around to try to
13 avoid clearing. I think that's a buffer that has been
14 beneficial to everyone and I think the applicant is
15 willing to work -

16 MR. GREEN: So, the dimensions in the location are
17 key. I walked at this past Monday with some of the
18 neighbors and I couldn't tell directly where - what was
19 left over based upon where the access is going to be.
20 That's all.

21 MR. COSTA: We can certainly add that to the map
22 and also go in the field and mark it out. We will work
23 with Latham Water District to get that where they want.

24 MR. GREEN: I don't want to speak for John - is
25 John here?

1 In our agenda review session, they just need a 30
2 foot - - they don't care where. I think it's maybe this
3 Board's position that if we can get that centered as
4 quickly as possible within the 60 feet, that would be
5 helpful because there are 15 feet on each side that we
6 can actually dish off to the landowners.

7 MR. COSTA: Yes, we can work with you on that.

8 SUPERVISOR MAHAN: So, that's possible.

9 MR. COSTA: Oh yes, most definitely.

10 MR. GREEN: I think we spoke about adjourning it
11 for two weeks. I will make that motion to adjourn for
12 two weeks simply because we want to see that because we
13 have a lot of interested neighbors that are going to
14 talk after you're finished. We want to be able to kind
15 of get a global idea rather than piecemealing it.

16 SUPERVISOR MAHAN: The next meeting is three
17 weeks.

18 MR. ROSANO: Yes, three weeks.

19 MR. CAREY: Do we want to let the neighbor speak
20 before we adjourn it?

21 MR. GREEN: Yes, we can certainly hear from the
22 neighbors.

23 SUPERVISOR MAHAN: And if you could use this time
24 in between now and the next meeting to kind of get
25 closure on that part of it. I think would be better

1 able to go forward.

2 MR. COSTA: We can go as early as next week to
3 stick it out in the field. We don't want to add it to
4 the map because we want to make sure everyone is
5 satisfied as to where the location is.

6 MS. WHALEN: I have a question. I reviewed the
7 record. I can't remember. In your application, you're
8 asking for an easement over our paper street, or were
9 you asking to purchase part of the paper street and
10 give us an easement back? I'm just wondering what was
11 it that you proposed?

12 MR. COSTA: We proposed to come off the cul-de-sac
13 as soon as possible and get on our land -

14 MS. WHALEN: With a driveway.

15 MR. COSTA: With a driveway that is shared by both
16 lots.

17 MS. WHALEN: I understand that but it comes over a
18 portion of land that the Town owns which is being
19 referred to as a paper street, correct?

20 MR. GREEN: Yes, the mouth of the driveway is over
21 the paper street.

22 MS. WHALEN: Yes, the driveway comes over a paper
23 street. So, was it part of your proposal to purchase
24 that and then give us an easement back or are you just
25 looking for an easement where we would retain the paper

1 street land? Does it make a difference to you?

2 MR. COSTA: Right now it is a paper street.

3 MS. WHALEN: You just want access through that.

4 MR. COSTA: Yes, without building the street that
5 was originally intended to be constructed.

6 MS. WHALEN: David, I guess - we were anticipating
7 possibly working with neighbors - right - to give them
8 an option to buy a part of the paper street. Would that
9 be something that you would also like to do and they
10 give us an easement back?

11 MR. GREEN: We would not need the easement back
12 because the easement is going to steer around it.

13 MS. WHALEN: You might want to purchase this part
14 of the paper street from us, but right now that's not
15 really being discussed in your plan.

16 MR. COSTA: I'm not sure that we need to. We are
17 coming off of the existing cul-de-sac.

18 MS. WHALEN: So, you just want an easement over
19 our portion of the paper street. So, we would still
20 retain a part of the paper street.

21 SUPERVISOR MAHAN: They want an ODA because they
22 don't have frontage.

23 MS. WHALEN: No, I understand that, but were
24 talking about like the future of this paper street -
25 parceling it off, dividing it up. So, what would we do

1 at their part? Are we going to sell it to them or have
2 an easement over it and retain a little portion of it?

3 MR. GREEN: Let's asked him that question.

4 Tim, do they need an easement over our paper
5 street, or can we grant it as part of the ODA?

6 MR. MACPHEARSON: It looks like we're going to try
7 to divide all of it. I think the Town wants to get rid
8 of it. To the extent that you're willing to purchase
9 it or any of the other residents, we can certainly look
10 into that.

11 MS. WHALEN: What I am suggesting then is you
12 might have to anticipate - you might have to amend your
13 application to instead of having an easement over our
14 paper street, to buy it flat out and give us an
15 easement back to pending upon where they think we are
16 going to need the easement. Because if we are thinking
17 or anticipating - and I am sure all these neighbors are
18 all here because they are interested in buying part of
19 this paper street up - and if we agreed to do all of
20 that - - I am not saying that we will, but if we do
21 then, Tim, we don't want to be left with one little
22 portion of the paper street after we have just sold
23 possibly the rest of it.

24 MR. MACPHEARSON: I can imagine that we would want
25 to have a little blob.

1 MR. GREEN: I understand.

2 MS. WHALEN: So, I guess I'm asking, or giving a
3 heads up to possibly anticipate - you would have to
4 amend the plan, right? Right now you have an easement
5 over the paper street and not an offer to buy that part
6 of the paper street and then give us an easement back.
7 So, you might have to change that a bit with the
8 Planning Board, correct?

9 MR. COSTA: I think that -

10 MS. WHALEN: I am anticipating in my head that
11 this is going to happen down the road, possibly for
12 you.

13 MR. COSTA: I think the easement that you are
14 seeing is the easement -

15 MS. WHALEN: No, I know what the easement is.

16 MR. COSTA: - below. So, that lot to can get
17 across the driveway and reach lot number two. I don't
18 believe that is where we are going -

19 MS. WHALEN: You still have to go across the paper
20 street -

21 MR. COSTA: We will get it figured out.

22 MS. WHALEN: I think that there's a section of the
23 paper street that you have to go over to get up the
24 driveway to go to the two homes.

25 MR. COSTA: We will take a look at it.

1 MR. ROSANO: I think there's always a chance that
2 we could do a companion driveway, possibly. Maybe we
3 could avoid the paper street completely off that
4 cul-de-sac. I haven't really checked the elevations
5 down there yet and I don't want them to go ahead and
6 cut the trees down, obviously. It may be a way of
7 turning it and because there is an existing driveway
8 there at 37, possibly tying into that driveway with
9 some sort of deed restriction or maybe avoiding it
10 completely and just doing a companion driveway next to
11 it so that they can literally start up that driveway
12 and then take a quick left and that would avoid this
13 whole chokepoint down there at the bottom.

14 MR. COSTA: That what we intended to do is to come
15 into lot number one with the driveway and then turn
16 onto lot number two. That's why lot number one would
17 share the driveway with lot number two.

18 MR. ROSANO: I think we have to look at lot 37 as
19 a possible segue into this development by the same
20 people - the same owner for both lots - 14 and 37 are
21 the two lots - possibly using part of 37's driveway off
22 that cul-de-sac and maybe going up the driveway a
23 little bit and turning and that would take you right
24 out of the paper Street completely.

25 MS. WHALEN: But is that what you submitted to the

1 Planning Board? Was it submitted that way, or no?

2 MR. COSTA: That is the way that it was submitted.
3 My recollection is that -

4 MS. WHALEN: Do you have a picture? Somebody said
5 the paper street was involved, but you are saying that
6 it is not?

7 MR. ROSANO: I'm saying that they have to get down
8 and look at the topography down there. There is a
9 possibility that we could avoid it completely by either
10 going into 37's driveway with some sort of deed
11 restriction or some kind of a contract or companion
12 driveway along the side of it and then turning off of
13 it and staying right out of the paper street
14 completely. Once again, we have to look at the
15 topography. If there are a lot of old oak trees or
16 something - - it could possibly be a sticking point.
17 Once in a while we have that happen.

18 MR. COSTA: That's why think it would be good to
19 stake it out in the field.

20 MR. ROSANO: Once you stake it out, then we can
21 visually look at it and make some changes. You can't do
22 that here talking about it.

23 MR. GREEN: Do you know if we have the cooperation
24 of the landowner of 37 to perhaps do what Paul is
25 suggesting? That would solve everything, if we do that.

1 MR. ROSANO: It is the same owner.

2 MR. GREEN: I thought 37 - I thought that place
3 had been sold off.

4 MR. COSTA: And has been sold off.

5 MR. GREEN: But we have the cooperation.

6 MR. COSTA: Actually, there was a section of 37
7 that was merged with lot 14 to provide the proper
8 frontage for lot number 14. So, the idea was to come in
9 off of 14 and turn and go down to what is going to be
10 16.

11 MR. GREEN: I guess what I was looking at wasn't
12 as revised as what you are suggesting. Maybe we weren't
13 looking at the most revised map.

14 SUPERVISOR MAHAN: I think the bottom line is that
15 - - I think what you have talked about with the
16 Planning Board - I think that's what were looking for.
17 We just need to be assured that everything is set with
18 the easement because we can't go forward without that
19 easement.

20 MR. COSTA: Without the water easement.

21 SUPERVISOR MAHAN: Yes, for Latham Water. So, if
22 you could just get that squared away between John
23 Frazer and everybody so that we are all on the same
24 page - - that was the only feedback that we got - that
25 they did need the easement for the water.

1 MR. COSTA: Like I said, we can take care of that.

2 SUPERVISOR MAHAN: You'll do that over the next
3 couple of weeks and will bring it back up at the next
4 meeting.

5 MS. WHALEN: Does it have to go back to the
6 Planning Board with that amendment or edition or no?

7 MR. ROSANO: We still have to review it.

8 MS. WHALEN: You have to resubmitted to the
9 Planning Board, right - once you map it?

10 MR. COSTA: If you approve the ODA, we still have
11 to go back to the Planning Board.

12 MR. ROSANO: They can put the conditions in there.
13 We can do that at this level. We can't set conditions
14 on an ODA.

15 MS. WHALEN: They are ready have some conditions
16 already.

17 MR. COSTA: That's right.

18 SUPERVISOR MAHAN: What we're going to do now is
19 make a motion to close the public hearing.

20 MR. CAREY: But we want the neighbors to speak.

21 SUPERVISOR MAHAN: Yes, sorry, there were some
22 people here that wanted to speak.

23 We are all set, Nick, thank you.

24 Now you're probably real confused.

25 MR. BRIZZELL: I understand what you're talking

1 about entirely. You're talking about possibly selling
2 that paper street. The Town might want to consider
3 keeping maybe a 20-foot portion outside the cul-de-sac
4 just for future access and stuff like that. I suspect
5 that it is a 60 foot wide right-of-way and that
6 probably the cul-de-sac probably goes up to the edges
7 of it. It might be a thought to keep something like
8 that. That's not what I heard them talking about.

9 MR. CAREY: Sir, can you identify yourself?

10 MR. BRIZZELL: My name is John Brizzell. I live at
11 15 Paul Holly Drive which is immediately behind the two
12 lots that the access is proposed for. I don't have any
13 problem with it being proposed, but we have lived there
14 for 33 years and we have watched all those trees grow
15 up from being relatively small trees to being great big
16 trees. *Contrary to what you hear a lot about, we have
17 to cut some of those trees down. In particular, the
18 ones that are near the rear property line which are in
19 my opinion a public safety hazard for the overhead
20 lines over there. National Grid will come in and a
21 couple of years and does some trimming and stuff, but
22 they really don't trim to the normal standards because
23 they can't get access to those trees through the two
24 lots that are currently being proposed to develop. I
25 think it would behoove public safety and certainly

1 those of us that live on the other side of Paul Holly
2 Drive - at least myself and my two next-door neighbors
3 - to have some of those large trees taken down.

4 I personally have the experience to times in the
5 past 20 years of limbs during storms breaking off of the
6 trees that are growing on the other side of the fence,
7 ripping the power line down it feeds my house and I had
8 to pay somebody to come back and put it up. That's just
9 because they really don't have good access. I don't know
10 if the Town Board can take action on it or if it's
11 something they should go back to the planning board
12 with, but I just wanted to put it on the record that for
13 my sake and I think for the neighbors on either side of
14 me if some of those trees on that rear property line - -
15 there are some really big oak trees there and they need
16 to be taken down for the good of the public. Thank you.

17 SUPERVISOR MAHAN: Thank you.

18 Tim, can you relay that to John as well?

19 MR. MACPHEARSON: Yes.

20 SUPERVISOR MAHAN: Thank you.

21 MR. MACPHEARSON: Did we have anybody else who
22 wanted to speak about this matter?

23 Please come up and stay your name and address.

24 MR. WALDMAN: Hi, my name is Kurt Waldman and I
25 live at 26 Colonial Green, right next door. I am

1 slightly confused because originally on the map that
2 Keystone submitted it looked like they were coming next
3 to me. Now, what you're suggesting Mr. Rosano as they
4 come in off of next to 37?

5 MR. ROSANO: Yes, that's where they're coming in.

6 MR. WALDMAN: On the other side?

7 MR. ROSANO: Yes.

8 MR. WALDMAN: Oh, okay.

9 MS. WHALEN: Do we have the map?

10 Nick, do you have the map?

11 MR. COSTA: No, I don't have it with me.

12 MS. WHALEN: There was a map upstairs in our
13 conference room. Can someone go up and get it?

14 MR. ROSANO: Mr. Waldman, do you want to take a
15 look at this?

16 MR. WALDMAN: Sure.

17 MR. GREEN: Paul, the engineer is going to grab
18 the map and bring it back in.

19 MR. ROSANO: Thank you, Chris.

20 Hang out and will get one for you.

21 MR. WALDMAN: Lastly, when this goes through and
22 the ODA is approved, that paper street that abuts my
23 land - I would like to acquire as much as possible.

24 SUPERVISOR MAHAN: Thank you.

25 Anyone else on this issue?

1 MR. CHAMBERLAIN: Hi, my name is Guy Chamberlain.
2 I live at 10 Colonial Green. I have lived on Colonial
3 Green for 43 years. I have lived there in fear of the
4 paper street being completed because it would wipe out
5 about 25% of my front lawn. It would do the same to my
6 neighbor to the extent of about 50% of their front
7 lawn. It would cut right across both of them.

8 I was emotionally against and opposed to those lots
9 being developed as were the Carters who purchase them
10 originally for fear that road be put in and I would lose
11 a good piece of my property. When I found out they were
12 putting in a driveway and putting two houses or
13 recommending putting two houses off of a driveway and
14 not completing the paper street, I was all for it.

15 It is a beautiful piece of property and there's no
16 question in my mind that eventually it will be developed
17 and from what I understand is being done now and being
18 planned for, seems outstanding. I just wanted to let you
19 know that I am all for it now.

20 MR. GREEN: And you would be all for buying a
21 portion of the land so you can have the paper street,
22 if it is offered for sale? You would be interested in
23 buying up a small portion of that?

24 MR. CHAMBERLAIN: I offered years ago to buy that
25 but you didn't want to it.

1 MR. GREEN: Right, but now it looks like were
2 going to be.

3 MR. CHAMBERLAIN: Right, but now that you own it
4 and it goes across my front yard, why should I buy it?

5 MS. WHALEN: Yes, were not going to do anything
6 else with it, David. We might sell it to who? Who else
7 would buy it?

8 MR. GREEN: This gentleman said he would buy as
9 much of it as we would be willing to sell so you guys
10 can communicate.

11 MR. CHAMBERLAIN: He could buy it and he could mow
12 it too.

13 Thank you very much.

14 SUPERVISOR MAHAN: Thank you very much, sir. We
15 appreciate it.

16 MR. CAREY: Nick, do you need to show the resident
17 the map to clarify that question?

18 MR. GREEN: Did anyone else want to speak on this?

19 MS. WHALEN: Can we note for the record what plan
20 we are looking at? Is this the most current plan? Is
21 this the one that has been approved by the Planning
22 Board?

23 MR. COSTA: Yes.

24 MS. WHALEN: This is what they approved.

25 MR. COSTA: Yes.

1 MS. WHALEN: So, we're going to adjourn this?

2 Let's make a motion to adjourn this because -

3 SUPERVISOR MAHAN: We will close the public
4 hearing and wait for the feedback.

5 MR. GREEN: Paul, you're going to make that
6 motion?

7 MR. ROSANO: I make a motion that would close the
8 public hearing first.

9 MR. GREEN: I will second that.

10 MS. WHALEN: Should we adjourn the public hearing
11 because we might have to have further discussion on
12 this.

13 MR. ROSANO: It's on the table now, so we will go
14 through with the vote. Adjourn to three weeks.

15 SUPERVISOR MAHAN: We are not voting on this right
16 now.

17 MR. ROSANO: Yes.

18 SUPERVISOR MAHAN: We are voting on adjourning it.

19 MR. ROSANO: We adjourn the public hearing to
20 three weeks.

21 SUPERVISOR MAHAN: Supervisor votes aye to adjourn
22 the public hearing. Please call the roll.

23 (The role was called.)

24 I think we are all set with that. It will be in
25 three weeks.

1 (Where is the above entitled proceeding was
2 concluded at 7:40 p.m.)
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CERTIFICATION

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I, NANCY L. STRANG, Shorthand Reporter 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.

NANCY L. STRANG

Dated _____