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TOWN BOARD COUNTY OF ALBANY

TOWN OF COLONIE

THE PUBLIC HEARING IN CONNECTION WITH THE PROPOSED
LOCAL LAW AMENDING CHAPTER 190 OF THE CODE OF THE
TOWN OF COLONIE ENTITLED COLONIE LAND USE LAW FOR
THE PURPOSE OF AMENDING SECTION 190 - 71 RELATING
TO PROVIDING FOR ADMINISTRATIVE REVIEW OF MINOR
AMENDMENTS TO THE PLAN DEVELOPMENT DISTRICTS

THE STENOGRAPHIC MINUTES of the above entitled matter
by NANCY L. STRANG, a Shorthand Reporter commencing on
September 12, 2019 at 7:22 p.m. at Memorial Town Hall,
534 New Loudon Road, Latham, New York

PRESENT:BOARD MEMBERS:
PAULA MAHAN, SUPERVISOR
LINDA MURPHY, DEPUTY SUPERVISOR
DAVID GREEN
MELISSA JEFFERS-VONDOLLEN
PAUL ROSANO
JENNIFER WHALEN
CHRISTOPHER CAREY

ALSO PRESENT:

Michael C. Magguilli, Esq, Town Attorney
Julie Gansle, Town Clerk
Susan Quine Laurillard
Susan Weber

1 MS. GANSLE: This public hearing is being held
2 by order of the Town Board to hear all persons in
3 connection with the proposed Local Law amending Chapter
4 190 of the Code of the Town of Colonie entitled Colonie
5 Land Use Law for the purpose of amending Section 190 -
6 71 relating to providing for administrative review of
7 minor amendments to the plan development districts.

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

13 MR. MAGGILLI: During the agenda session, just
14 before the meeting, after considerable discussion by the
15 Town Board, and amendment was made to the proposed Local
16 Law to clarify the provision. So, the Local Law, as
17 amended by vote of the Town Board now reads as follows:
18 postdecision actions and limitations. After a PDD is
19 approved, any subsequent development proposed which
20 substantially complies with the density, location and
21 uses of the approved PDD may be for the sole benefit of
22 any individual lot or unit or any minor amendments may
23 be after application to and referral by the Town Board
24 administratively reviewed for approval of the Director
25 of Planning and Economic Development Department without

1 the need for additional public hearing.

2 On that amended provision, we shall hold the
3 public hearing.

4 SUPERVISOR MAHAN: For the Town Board, it makes
5 it much more clear for us if we do a new event, but if
6 somebody else reads it it may mean something different.
7 So, clarification is good.

8 Other than that, does the Board have any
9 questions?

10 MS. WHALEN: I stated a few weeks ago at the
11 last meeting that I wasn't in favor of this, but with
12 the amendment that Mike has just recited in the
13 proposal, I'm good with it. I am pleased with the
14 amendment. Thank you.

15 SUPERVISOR MAHAN: Anybody in the audience?

16 MS. QUINE LAURILLIARD: Hi, Susan Quine
17 Laurillard, Town resident, Town of Colonie.

18 I have a question - a procedural question for
19 the Town Board. Has this proposed legislation been
20 referred to the Albany County planning Board, prior to
21 the vote this evening?

22 MR. MAGGUILLI: I believe so.

23 MS. QUINE LAURILLIARD: Was it referred under
24 General Municipal Law or formal referral? I know it
25 hasn't been on the Albany County Planning Board agenda

1 for any type of review.

2 I would like to ask before the Town Board
3 votes this evening if there could be a determination
4 that this has been in fact referred to the Albany
5 County Planning Board, pursuant to the New York State
6 General Municipal Law. I believe in a change and local
7 zoning laws are required to be referred to the Albany
8 County Planning Board.

9 MR. MAGGUILLI: I don't have any individual
10 knowledge right now, as we sit here, that it has been.
11 I'm pretty sure that it has been, but it's not anything
12 that I know for certain.

13 SUPERVISOR MAHAN: I was under the
14 understanding that it was. If you're not sure -

15 MR. MAGGUILLI: I am not sure.

16 SUPERVISOR MAHAN: If you're not sure, that I
17 think we have to table it.

18 MR. MAGGUILLI: I agree with her that it has to
19 be under 239-M. we typically do that. I would have to
20 tell you that I didn't check before tonight. I just
21 assumed that it was done. It may be better that we not
22 act on an assumption.

23 MS. WHALEN: I've a question. What the
24 amendment have to be resubmitted to them anyway, or no?

25 MR. MAGGUILLI: No what the lady is saying is

1 true. Before a vote can be had, it has to go in front of
2 the Albany County Planning Board. She's absolutely
3 correct. I'm not 100% sure that it has been.

4 MR. GREEN: we can complete our public hearing
5 and then adjourn?

6 MR. MAGGUILLI: The way that the law reads as
7 you just can't vote on it before we have approval of
8 Albany County Planning.

9 MS. QUINE LAURILLIARD: Unfortunately, I wasn't
10 able to attend the agenda meeting. I would ask that
11 transcript be available and posted online, so that we
12 can read the discussion that occurred at that agenda
13 meeting.

14 Also, because I wasn't there, were there
15 examples given of what would be considered something
16 that would be minor? Is that minor as defined in the
17 Land Use Law online or how were you all discussing
18 minor? I know this amendment is just to amend the one
19 section of the PDD law. There are other provisions and
20 other parts of the Land Use Law that should be looked
21 at so there is some consistency between different
22 sections in the land use law so maybe while you are
23 checking on the Albany County referral you can also
24 check to see if there are other inconsistencies in the
25 other provisions of the Land Use Law. I believe the

1 major sections of the provisions of the Land Use Law
2 applied to PDD reviews. I am not sure if those
3 sections will jive with what you are proposing to do
4 with the PDD law amendment. That is the new Section H.
5 I would just like to say that.

6 Also, you could give examples this evening of
7 what you believe to be administrative - what you think
8 the Town Board would be proper for an administrative
9 review. That's all I have to say. Thank you.

10 MR. MAGGUILLI: To answer that: Basically what
11 was decided upstairs was that - the way I wrote this
12 initially was that I followed the City of Albany. That
13 was to give the Town Board as much discretion as
14 possible as to what had to go in front of the Planning
15 Board and what didn't. What we did was after our
16 discussion - to clarify and essentially limit what can
17 go - we made the change that in cases where there is no
18 change in density, location or use of the approved PDD
19 and the proposed amendment is for the sole benefit of
20 any one individual, unit or lot, or it is a minor
21 amendment.

22 The example we used upstairs was like the
23 Sisters of St. Joseph at Carondelet. They had to go
24 through the whole PDD process to move a generator pad
25 eight feet. We are trying to eliminate that kind of

1 cost and expense to homeowners. When something does
2 not apply or will affect the community at large. We
3 are trying to even the playing field for people who
4 live in regular subdivisions who can just go in and
5 apply for an inground swimming pool as opposed to
6 people who live in a planned development district that
7 have to go through to public hearings and all that
8 expense. It is not fair to them.

9 So, all this does is gives the Town Board the
10 discretion to do one of three things: The application
11 for any plan development district or any amendment to
12 a planned development district still has to go in
13 front of the Town Board. Once the Town Board gets the
14 application, if this law passes, it will have the
15 right to do one of three things. They can deny it
16 immediately and kill it right then and there.

17 Secondly, they can still referred to the full Planning
18 Board for its consideration and their recommendation
19 as they do now. Third, if they determine that it meets
20 the criteria of this new subdivision and that it is
21 the sole benefit of one lot, one unit or it is minor,
22 they can just referred to the Planning Department.

23 That doesn't mean that just Joe is going to make the
24 decision. It still has to go through the process. It
25 still has to go to the various departments because all

1 the other provisions of the Town Law apply. So, it
2 would be like going through a minor site application -
3 is the best example that I can give. None of that has
4 changed. Really all this is intended to do is make it
5 fair for people who live in plan development districts
6 who probably don't even know that they live in a
7 planned development district, to be honest with you --
8 and try to limit some of the unnecessary costs and
9 expenses that go along with it.

10 So, we are adjourning this?

11 MS. WHALEN: Just for clarification also about
12 what went on upstairs in case it doesn't get posted
13 right away. I would like to see those pre-agendas
14 transcripts posted, but they are not consistently
15 posted.

16 We were really looking at thinking more of
17 the decks, the pools and accessory structures like
18 sheds more than anything.

19 MR. ROSANO: A gazebo?

20 MS. WHALEN: While a gazebo is like and
21 accessory structure, right?

22 MR. ROSANO: As defined in the law.

23 MS. WEBER: Can I speak now?

24 My name is Susan Weber. I'm speaking on
25 behalf of Save Colonie, a Partnership for Planning.

1 We submitted a letter to the Town Board and
2 Supervisor Mahan about this bill and I'm very glad
3 that the bill was amended.

4 I would like to thank the members of this
5 Board who spoke to clarify what was intended here.
6 They did a very good job and tightening things up and
7 the Supervisor, as well. Thank you very much.

8 I would like to say though, that when we - -
9 I, for nine years was legislative counsel at DEC. It
10 was my job to massage bills that were going from our
11 agency to the legislature. I did a lot of bill
12 drafting myself and I would like to say that bill
13 drafting in a room with a lot of people arguing and
14 coming up with ideas all at once and writing as best
15 we can is not the best way to go about it. I would
16 really love to, Mike, markup what you've got there. I
17 can make it really tight and really nice for you. It
18 will look like it's a professional job instead of a
19 bill that was drafted by committee and a room in a
20 hurry. I would offer that.

21 Secondly, I would like to say also that a
22 planned development district is a very specialized
23 item under the law. What that item does, as we all
24 know, as it gives the developer the right to a much
25 higher density development than he or she would

1 ordinarily have. So, instead of maybe under the
2 single-family residential zoning having the ability to
3 build 10 units, the developer of a PDD may get to
4 develop 30. Instead of making a profit of \$20,000 or
5 \$80,000 on 10 units, he or she gets to make \$20,000 or
6 \$80,000 on 30 units.

7 It's a change in the Zoning Law, in fact.
8 That's why it's necessary under the law to make an
9 amendment with the same very strict scrutiny and steps
10 that are required to change the law. That's why. I
11 understand the need - the desire to make it possible
12 for a level playing field between people who live in
13 an ordinary development who want to put a pool and and
14 people who live in a PDD and want to put a pool in,
15 but it is a different entity and it really has to be
16 done according to statute.

17 I am delighted that you going to be
18 tightening. As Joe LaCivita suggested, what he is
19 looking for is the ability to administratively approve
20 a deck, a pool and a shed and accessory structures -
21 that's terrific.

22 So, thank you for fixing it. Thank you.

23 SUPERVISOR MAHAN: I think with PDD's, I think
24 we are all on the same page as far as that is an area
25 that needs to be looked at from when it was all

1 developed years ago with the new zoning in 2007. That is
2 an area that were looking at. Some of the PDD's were
3 already approved and we worked with them to the best of
4 our ability.

5 I know the one case that you are talking
6 about. They actually reduced the density because they
7 wanted apartments and townhouses. There are some that
8 have been denied because of too much density based on
9 location. If it is in the middle of a commercial area,
10 that is different than in the middle of a residential
11 area on a busy street. So, there are lots of different
12 things that we have to look at. Part of that is that
13 there is still more work to be done because the Comp
14 Plan is completed now. So, the Land Use laws come next.
15 PDD's are at the top of our list.

16 There are some areas where they work very
17 well; the apartments by the Crossings in the
18 commercial area there on Aviation. It fits there. The
19 same thing may not fit somewhere else. That something
20 that we have to look at or Planning has to look at, or
21 whoever is here has to look at those types of things.
22 That's one of the things that was recommended when we
23 did the Comp Plan for very good reason.

24 So, there are some zoning changes from 2007
25 that were made that work well and there were some that

1 don't work so well. We are working on them as well. *I
2 think your question Mike is that are we going to
3 adjourn it?

4 MR. MAGGUILLI: I think what you do is close
5 the public hearing and then adjourn the vote.

6 Is there anybody else who has a question
7 about the PDD's?

8 (There was no response.)

9 MS. WHALEN: Were going to close the public
10 hearing, then and then adjourn it until we confirm that
11 it has been approved by the Albany County Planning
12 vehicle, right?

13 SUPERVISOR MAHAN: Yes, we will close the
14 public hearing.

15 MS. GANSLE: Do we have a motion to adjourn?

16 MS. WHALEN: I make a motion to adjourn this
17 until we have confirmation that the proposal has gone
18 before the Albany County Planning Board for review and
19 compliance with the section -

20 MR. MAGGUILLI: General Municipal Law Section
21 239-M.

22 MS. WHALEN: - 239 - M of the General Municipal
23 Law.

24 SUPERVISOR MAHAN: Do we have a second?

25 MS. JEFFERS-VONDOLLEN: Second.

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SUPERVISOR MAHAN: Supervisor votes aye. Clerk,
call the roll.

(The roll was called.)

MS. GANSLE: The ayes have it, Madam
Supervisor.

(Whereas the above entitled proceeding was
adjourned at 7:35 p.m.)

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.

Dated: _____

NANCY L. STRANG
LEGAL TRANSCRIPTION
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NISKAYUNA, NY 12309