

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

3 *****
4 ZEH OPEN DEVELOPMENT
5 29 BACON LANE
6 FORMERLY 100 BACON LANE
7 OPEN DEVELOPMENT AREA RECOMMENDATION
8 *****

9 THE STENOGRAPHIC MINUTES of the above entitled
10 proceeding BY NANCY STRANG-VANDEBOGART,
11 a Shorthand Reporter, commencing on
12 May 8, 2012 at 7:06 p.m. at the Public Operations
13 Center 347 Old Niskayuna Road,
14 Latham, New York 12110

15 BOARD MEMBERS:

- 16 PETER STUTO, CHAIRMAN
- 17 MICHAEL SULLIVAN
- 18 KATHLEEN DALTON
- 19 TIM LANE
- 20 LOUIS MION
- 21 BRIAN AUSTIN
- 22 BRIAN HAAK
- 23 ELENA VAIDA, Esq., Attorney for the Planning Board

24 Also present:

- 25 Joe LaCivita, Director, Planning and Economic
Development
- Greg Zeh, Property Owner
- Aline Galagy, Esq.

1 CHAIRMAN STUTO: The first item on the
2 agenda is the Zeh Open Development, 29 Bacon
3 Lane, formerly 100 Bacon Lane. It's for
4 recommendation or non-recommendation for an
5 open development area.

6 Joe, I know that you've worked very hard
7 on this, and I think that this is the third
8 time that we've seen this. You had gone
9 through the minutes of the prior meeting to
10 ascertain what the feeling or the objection
11 may have been from the Planning Board. You
12 composed a letter to the Zehs; is that right?

13 MR. LACIVITA: That's right.

14 CHAIRMAN STUTO: Can you go through the
15 five points that you made in your letter? I
16 think that it might be worth doing that.

17 MR. LACIVITA: Sure. I think that if this
18 Board remembers, the Board had not given a
19 favorable recommendation for the open
20 development. Part of that was based on what
21 this Board felt was unsafe conditions for
22 emergency use - egress and ingress, and a
23 couple of other issues about the potential to
24 create another land-locked parcel in the
25 future.

1 We did want to bring in Greg and Andrea
2 Zeh to try to come to resolution on a number
3 of their points, as well as with their
4 attorney.

5 They did present in front of the Town
6 Board. The Town Board, in fact, sent it back
7 to the Planning Board because they didn't
8 override the decision, but they wanted to have
9 some type of resolution to the talking points
10 that have been put on the record now.

11 I sent a letter to Greg Zeh on March 20,
12 2012 regarding the open development under
13 Section 280A.

14 The talking points are first, that the
15 site plan showed the current conditions and
16 the site plan showed what is being proposed by
17 the applicant. We wanted clarity between what
18 currently exists and what they were doing. The
19 plans that were submitted - I think that the
20 Board has had a little trouble deciphering
21 where everything was going. We met with the
22 Zehs and we actually got, as you can see,
23 individualized plans from that point.

24 Two said that a complete revision of the
25 driveway - and I've given you a cross section

1 shown, but construction is the method of the
2 materials. I met with our DPW showing a cross
3 section and as you can see, it's on Sheet 5
4 with them. That is, in fact, drawn to scale on
5 the plan as they would accept it that it could
6 hold the weight of our emergency vehicles as
7 well.

8 Three said that the plans should show a
9 driveway of 15 foot width in the cross
10 section, which it actually does now. The width
11 that they had before was 12 feet and this
12 Board had concerns, rightfully so, as to any
13 safety personnel stepping off of the vehicle
14 and any shoulder that they had. They complied
15 and came back with the 15 foot driveway.

16 The entire driveway should be depicted
17 from Bacon Lane to the proposed house. Again,
18 it was a little unclear as to how it went in
19 the past. You can see that this is now a lot
20 clearer. The driveway should not bring in a
21 new landmark parcel.

22 Again, this Board struggles with open
23 developments - how they are created and not
24 created in the future.

25 We are here tonight to review the plans

1 and address the minutes from the last meeting
2 and move forward with recommendation back to
3 the Town Board.

4 CHAIRMAN STUTO: Just so the public
5 understands - the open development area - the
6 normal Town requirement is that they have to
7 have front frontage on a Town road. The open
8 development area is a way for the Planning
9 Board and the Town Board to ensure -- we're
10 making a recommendation of the Planning Board,
11 but it's a way for us to ensure that it has
12 adequate access to the parcel for EMS vehicles
13 and for every other purpose.

14 Who is making a presentation for the
15 applicant? Mr. Zeh, you're doing it yourself?

16 MR. ZEH: Good evening. I'm the applicant
17 and I'm here with my wife, Andrea, tonight to
18 present back to the Planning Board a proposal
19 for an open development area at 29 Bacon Lane,
20 formerly known as 100 Bacon Lane.

21 With me tonight is the engineer from
22 Ingalls and Associates as well as legal
23 representation Aline Galagy.

24 I'd like to start by thanking Joe
25 LaCivita and his staff. He really did an

1 excellent job helping us go through and
2 decipher all the minutes in trying to identify
3 what items that we weren't addressing and help
4 clarify the situation. As part of that, we
5 tried to put together a number of different
6 plans that as I call it, have layers to kind
7 of show you the presentation of what we're
8 trying to do. So, I'd like to walk through
9 those plans and I'd like to make sure that
10 we're all looking through the same
11 information.

12 Site Plan 1 is what I think Mr. LaCivita
13 recommended that we do, and that is show you
14 an existing site plan, as is.

15 What we did is we took the actual tax
16 parcel maps and the outlines of the
17 properties. With that, we superimposed the
18 Google maps image to really show and highlight
19 what is on the site today, as well as where
20 the property line exist along with those
21 existing buildings and structures.

22 Site Plan 2A, which is the second plan
23 that we showed you, has a drawing of the
24 proposed dwelling, proposed driveway - again,
25 starting from Bacon Lane and going all the way

1 in along with sewer and water services. We'll
2 remove the extra notations on there for
3 elevation and for right of way easements,
4 making it easier to see. If you start looking
5 at the maps, all the lines from the right of
6 ways and the property lines start to kind of
7 overview each other, so we break that apart.

8 Site Plan 2 - we have the same thing, but
9 the Google map is behind it. So, again, it's
10 your preference as to how you want to look at
11 the map. If you want to look at a clean
12 rendition, or what the existing parcel looks
13 like.

14 Site Plan 3 adds in the right of way
15 easements. So, basically it's the same as Site
16 Plan 2A, but that layers in the right of way
17 easements that we are looking to get from the
18 adjacent property owners.

19 Site Plan 3B again, has the Google maps.

20 Site Plan 4A shows the final drawing
21 including all the components of the project.
22 So, it has right of ways, and utility
23 services, driveway notation and the Google map
24 would be imposed on Site Plan 4B.

25 Last, but not least, Site Plan 5 is very

1 similar to Site Plan 4. It's a clean picture
2 of the entire project along with the concern
3 that was noted before about the construction
4 of the driveway and addressing the existing
5 grade of the temporary driveways that are
6 there.

7 If I can, what I'd like to do is if you
8 don't have any questions, I'll walk you
9 through the letter.

10 CHAIRMAN STUTO: I'm going to ask a
11 question.

12 Who is here from the audience is
13 interested in this project?

14 ***(Several audience members raised their hands.)***

15 CHAIRMAN STUTO: Okay, go ahead.

16 MR. ZEH: So, I'll go back to the
17 reference of a letter of March 20th in
18 addressing those comments. I think that the
19 first comments will show the current condition
20 site plan addressing what's on the site today.

21 CHAIRMAN STUTO: By the way, the drawings
22 are excellent. They're a vast improvement.

23 MR. ZEH: Yes, I just wanted to make sure
24 that it was clear. It was kind of confusing,
25 even to me, as I started to look through the

1 plans with all the bold lines and which one is
2 an easement and which one is a property line,
3 water and sewer service. I hoped to clarify
4 things better as we review the information.

5 Again, the first one, as I said is the
6 current site plan. If you want to see what is
7 there today - how the property lines fall and
8 what the existing buildings are that are there
9 - you'll see that when there were comments
10 made at a previous meetings, there were some
11 buildings that may not have been properly
12 depicted. All of that information has been
13 updated with the maps. Garages are properly
14 located. All the information is up to date and
15 as current as a few weeks ago.

16 I kind of combined comments, 2, 3 and 4
17 from the letter and I can address all of those
18 components.

19 I guess I would refer you to Site Plan 5
20 as we talk about these comments. So, on the
21 recommendation, we should address issues
22 related to lateral 3. If you look at Site Plan
23 5 in the upper right hand corner of the site
24 plan, there are two cross section details
25 prepared for you. The very first one shows

1 what the proposed driveway construction would
2 be. I believe that it shows that there will be
3 a two percent cross slope on the driveway.
4 You'll see that we've adjusted the grading, so
5 to speak, to a one on five pitch. What that
6 represents is for every five feet out that you
7 go from the driveway, the elevation will drop
8 one foot in the final construction. So, there
9 is adequate room for emergency services to go
10 up with the apparatus.

11 The recommendation to increase the
12 driveway width of 15 feet has been completed.
13 The ability to support the equipment for the
14 Town - we've met with the Building Department
15 as well as the Chief of Fire Services. That
16 cross section detail in the top right hand
17 corner of that site plan depicts a
18 construction or a driveway that is able to
19 support the heaviest equipment of the Town,
20 and that is addressed with the ODA New York
21 State Fire Code Sections 511 and D102.

22 Last comment - again, my intent was to
23 show the entire driveway starting at the end
24 of Bacon Lane all the way in. I think that
25 you'll clearly see that we shaded and

1 highlighted -- that the driveway will start at
2 the former Bacon Lane and ends all the way to
3 the proposed dwelling.

4 Any questions on those?

5 CHAIRMAN STUTO: No.

6 MR. ZEH: The fifth comment was that the
7 driveway should not create any new landlocked
8 parcel. We went around and around in trying to
9 address this concern.

10 As I looked at the property, we noticed
11 that there is an existing structure there. If
12 you look at Site Plan 5, it's in the top
13 center. It's a wood garage that straddles two
14 properties. That's a way for us to try to
15 address both that situation, as well as the
16 landlocked situation that we'll be combining
17 those two parcels. That will take care of any
18 landlocked parcels in that vicinity.

19 MS. GALAGY: That property owner is
20 actually here tonight, should you need to
21 speak to them.

22 CHAIRMAN STUTO: Okay.

23 MR. ZEH: I think that addressed all of
24 the concerns. I think that there were two
25 other comments that I just want to make sure

1 that I clarify that we addressed. As I went
2 back and looked at the Planning Board minutes.
3 First and foremost were the concerns with
4 public safety factors related to the
5 construction of the driveway and the final
6 elevation of grade. I think that you'll see on
7 Site Plan 5 that we did the best that we could
8 to address all of those concerns. We built a
9 driveway that's wide enough to support fire
10 apparatus and solid enough to support fire
11 apparatus. We adjusted the grades. What you
12 see there today is not going to be what the
13 final product is going to look like. That is
14 just a temporary driveway that's in there now
15 for us to access the property.

16 I think that the secondary concern that I
17 saw that was a major concern was the adjacent
18 property and making sure that we don't create
19 a landlocked parcel. That's been addressed, as
20 well.

21 CHAIRMAN STUTO: Okay, we'll hear from
22 the public first. This is your opportunity if
23 you're for or against it. The Board definitely
24 wants to hear your opinions.

25 ***(There was no response from the audience.)***

1 CHAIRMAN STUTO: Nobody from the public
2 wants to speak?

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

4 CHAIRMAN STUTO: Brian, we'll start with
5 you. Do you have any comments or questions?
6 Were you here for both of the hearings?

7 MR. HAAK: Yes. I was the one who raised
8 the concern about the emergency response
9 vehicles, and so I'm glad that those have
10 certainly been addressed. Other than that, I
11 don't have any questions on these plans.

12 CHAIRMAN STUTO: Mike?

13 MR. SULLIVAN: My questions on the
14 frontage and combining the parcels have been
15 answered.

16 CHAIRMAN STUTO: Brian?

17 MR. AUSTIN: I'll just say that the
18 detail that you just presented was far and
19 above what you were here with last time.
20 You've done your homework and done a nice job.
21 I don't see any problem here.

22 CHAIRMAN STUTO: Lou?

23 MR. MION: I want to complement you on a
24 job well done. You answered all my concerns.

25 CHAIRMAN STUTO: Kathy?

1 MS. DALTON: Thank you. You look nice
2 today, too.

3 MR. ZEH: I look nice every day.

4 CHAIRMAN STUTO: Open development areas,
5 I think, are a troubling problem for the
6 Planning Board because each situation is
7 unique and there is a reason that there is a
8 requirement for frontage on the Town Board. I
9 think that we, as a Planning Board -- I know
10 that we've talked to staff about it - in
11 coming up with some objective criteria that we
12 can think about and even maybe pass a
13 Resolution on so that any applicant that comes
14 before us will be easier to look at. That's my
15 only comment.

16 I think that you have done a great job of
17 going forward. I wish that we didn't have to
18 have open development areas. I think that
19 you've addressed the concerns that were
20 articulated at the last meeting and it appears
21 that the Board is satisfied, too.

22 We have a draft Resolution form before
23 us. I don't think that we need to read it into
24 the record, we can make it part of the record.

25 MR. LACIVITA: These will be the points

1 that go over with the Town Board Resolution.

2 CHAIRMAN STUTO: I'd like to deliver a
3 copy of the record that was talked about on
4 Plan 5. I think that there was a notation in
5 the memo about - we're going to merge the
6 parcels with the deed; correct?

7 MS. GALAGY: The parcels that were
8 addressed for the land-lock issue; yes. What
9 our representation was is that should the
10 applicant receive approval for the ODA, we
11 will do a tax merger. Those are two separate
12 tax lots. We can do a tax merger request and
13 merge those into one tax ID number which
14 basically satisfies that criteria, because any
15 other action would require a subdivision by
16 the Town.

17 CHAIRMAN STUTO: We're going to have a
18 merger deed.

19 MS. GALAGY: If you're requiring a merger
20 deed, certainly. Obviously a tax merger
21 request for the tax ID would be satisfactory.
22 The merger is obviously a lot more expensive,
23 but that's certainly fine and we'll definitely
24 do the tax merger deed.

25 CHAIRMAN STUTO: I would suggest a merger

1 deed. I feel more comfortable with that.

2 MS. GALAGY: Do you want that submitted
3 to Mr. Magguilli for review, prior?

4 CHAIRMAN STUTO: Yes.

5 MR. LACIVITA: The next step would be the
6 Town Board, so if Michael reviews those
7 documents at that point in time, he'll be able
8 to make recommendation to the Town Board.

9 MS. GALAGY: On the merger deed?

10 MR. LACIVITA: Yes.

11 MS. GALAGY: We're not going to be
12 surveying those two parcels. We're just going
13 to consolidate the two descriptions in the
14 existing deeds along with the tax merger
15 request. We have to do that anyway, otherwise
16 they won't merge them.

17 CHAIRMAN STUTO: I don't think that
18 they'll require another survey.

19 MS. GALAGY: Correct. They won't for the
20 County. I'm asking if you're requiring them.

21 CHAIRMAN STUTO: No, I don't think that
22 we'll require that.

23 There was a Resolution before us. There
24 are four conditions there. I would suggest
25 that we add condition five - that it conform

1 with the plans that have been submitted to the
2 Planning Board and condition six, that the
3 parcel - George L. Brizzell and Catherine M.
4 Brizzell parcels at 26 Bacon - -

5 Do you have the address for the other
6 one?

7 MR. ZEH: Twenty-four.

8 CHAIRMAN STUTO: Okay, and 24 Bacon - can
9 be merged with a merger deed that will be
10 recorded at the County Clerk's office.

11 Do we have a motion?

12 MR. MION: I'll make a motion.

13 MS. DALTON: I'll second.

14 CHAIRMAN STUTO: Any discussion?

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

16 CHAIRMAN STUTO: All those in favor?

17 ***(Ayes were recited.)***

18 CHAIRMAN STUTO: All those opposed?

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

20 CHAIRMAN STUTO: The ayes have it.

21 MR. LACIVITA: Just one question. Peter,
22 during the course of the process, I know that
23 you guys you're trying to build and pull
24 permits right away. We're going to go forward
25 and allow them to -- if the Town Board

1 adopts -

2 CHAIRMAN STUTO: That's something that
3 can be done in a day.

4 MS. GALAGY: I'll prepare the merger deed
5 tomorrow. I will e-mail a copy for
6 informational purposes to Mr. Magguilli for
7 his approval. I'll have the landowner sign it
8 and we'll get that out immediately.

9 May I just inquire -- do you know how
10 quickly this will go down to the Town Board so
11 we can schedule?

12 MR. LACIVITA: I just have to finalize
13 the Resolution and add the two amendments - or
14 the two talking points here and we'll put that
15 forward. I can have the resolution to Michael
16 by Friday and then they can get it on to their
17 agenda at the next Town Board meeting. It's
18 the 17th.

19 MS. GALAGY: Do you want a copy of the
20 merger, as well, provided to you?

21 CHAIRMAN STUTO: To the PEDD office is
22 fine.

23 MS. GALAGY: I'll have that done for you
24 tomorrow.

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*(Whereas the proceeding concerning the above
entitled matter was adjourned at
7:31 p.m.)*

CERTIFICATION

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4 **I, NANCY STRANG-VANDEBOGART, Shorthand**
5 **reporter and Notary Public in and for the**
6 **State of New York, hereby CERTIFY that the**
7 **record taken by me at the time and place**
8 **noted in the heading hereof is a true and**
9 **accurate transcript of same, to the best of**
10 **my ability and belief.**

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13
14 **NANCY STRANG-VANDEBOGART**

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16
17 **Dated May 9, 2012**

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Legal Transcription

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