

1 PLANNING BOARD COUNTY OF ALBANY
 2 TOWN OF COLONIE
 3 *****
 4 PROPOSED REZONING
 5 617 BOGHT ROAD
 6 RECOMMENDATION TO THE TOWN BOARD ON REZONING
 7 4.05 ACRES FROM NEIGHBORHOOD COMMERCIAL OFFICE RESIDENTIAL
 8 TO A SINGLE FAMILY ZONING DISTRICT
 9 *****

7 THE STENOGRAPHIC MINUTES of the above entitled
 8 matter by NANCY STRANG-VANDEBOGART, a Shorthand
 9 Reporter, commencing on July 16, 2013 at 9:15 p.m. at
 10 The Public Operations Center, 347 Old Niskayuna Road,
 11 Latham, New York

11 BOARD MEMBERS:
 12 TIMOTHY LANE, ACTING CHAIRMAN
 13 SUSAN MILSTEIN
 14 KATHY DALTON
 15 KAREN GOMEZ
 16 LOU MION
 17 BRIAN AUSTIN

15 ALSO PRESENT:
 16 Michael Tengeler, Planning and Economic Development
 17 Elena Vaida, Esq., Counsel to the Planning Board
 18 Joe Grasso, PE, CHA
 19 Nick Costa, PE, Advanced Engineering and Surveying
 20 Bill Jones

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1 ACTING CHAIRMAN LANE: The next item on the agenda
2 is the rezoning request. This is 617 Boght Road and to
3 request for a rezoning of 4.05 acres from NCOR to SFR.

4 MR. COSTA: Good evening. My name is Nick Costa
5 and we have prepared an application for the rezoning of
6 617 Boght Road.

7 With me tonight is also the applicant, Bill Jones.
8 He also is the owner of the parcel. As presented in
9 the documents, Mr. Jones is requesting the change in
10 zone from neighborhood/commercial/office/residential to
11 single family residential for this 4.05 acres of land.
12 The parcel is vacant. It does have frontage on Boght
13 Road. It has about 100 feet of frontage, but it's
14 exactly 100 feet of frontage on Boght Road. It does
15 have one small shed that's located on the site. It's
16 fairly wide open. It's mowed for most of the area.
17 There are some sparse trees along the side. This is
18 serviced by Town water and Town sewer, which are
19 located along the frontage of Boght Road. The proposed
20 development would be extended service as NCOR or Single
21 Family Residential. Of course Mr. Jones would like to
22 have this site rezoned to single family residential.
23 The site is complementary to single family because
24 adjacent to it is single family development and across
25 the street is all single family.

1 The site is about 500 feet from the intersection
2 of Loudon Road and it does lend itself to utilize this
3 as a single family residential. The use of it as
4 single family residential will reduce some of the
5 impacts versus developing it as a
6 neighborhood/commercial/office/residential. If it was
7 developed as a
8 neighborhood/commercial/office/residential, it has the
9 potential of being developed with about 14,500 square
10 feet of commercial space and about 19 residential
11 units. That would create some additional traffic and
12 would also create some additional sanitary sewer and
13 water demands that are not of the same magnitude as if
14 it was zoned as a single family residential.

15 MS. VAIDA: Can't NCOR also have up to 80 percent
16 residential?

17 MR. COSTA: That's correct. The 19 units is a
18 conversion of the 20 percent commercial and 88 percent
19 residential.

20 MS. VAIDA: What were the districts that surround
21 that parcel?

22 MR. COSTA: This area right here is all
23 neighborhood/commercial/residential.

24 MS. VAIDA: Isn't there a COR district on one side?

25 MR. COSTA: This is NCOR and NCOR and this is SFR.

1 MS. VAIDA: In your plan that you submitted, up in
2 the corner you have a little insert notification there.
3 On there you have a COR district.

4 MR. COSTA: That's right at this area here
5 (Indicating).

6 MR. TENGELER: Nick, if you were to look at that
7 there, where would it be?

8 MR. COSTA: There's NCOR on this side and NCOR on
9 this side (Indicating). On the north side of Boght
10 Road, it's also NCOR on the east side of Route 9. This
11 probably goes 500 feet from the right of way of Route 9
12 - that's NCOR. And then it transitions to single family
13 residential.

14 MS. DALTON: Does this rezoning benefit you?

15 MR. COSTA: Mr. Jones would rather have it single
16 family residential. He lives at this location and the
17 entire neighborhood is single family residential.

18 MS. VAIDA: But it doesn't stop him from developing
19 it as a residential area.

20 MR. COSTA: The NCOR does. NCOR requires 20
21 percent to be commercial.

22 MR. TENGELER: You can't have the exclusive
23 residential use.

24 MS. VAIDA: Did you check to see if that would be
25 consistent with the Comprehensive Plan? I know that

1 from just taking a look at the cases - what we want to
2 avoid and the reason that the questions are being asked
3 is we don't want to be accused of spot zoning. I know
4 that one of the factors is whether or not it's
5 consistent with the Comprehensive Plan so that it serves
6 the benefit of the public and it's not just exclusively
7 - you're not rezoning for the land use owner and it's
8 for the welfare of the community.

9 MR. COSTA: I believe that we have that documented
10 with the information that was submitted to you that
11 there is a benefit in developing this as an NCOR because
12 it reduces the impacts and demands for certain services.
13 It reduces the traffic and it also reduces the amount of
14 water and sewer that it would generate if its changed to
15 a single family residential.

16 MS. GOMEZ: So, the back of it is Dutch Meadows and
17 it's all residential except for the one shed.

18 MR. TENGELER: Right.

19 MS. GOMEZ: And then there is residential and then
20 there is Freihofer's and it's all residential.

21 MR. TENGELER: Right.

22 MR. COSTA: These are existing homes right here
23 (Indicating). The use is residential, although it's
24 zoned neighborhood/commercial/office/residential.

25 MS. DALTON: I understand that the land towards

1 Route 9 is NCOR. You want to make this single family
2 residential. It backs up against single family
3 residential, but you still have NCOR on the other side.
4 Has anyone talked to the owner of the that area there
5 (Indicating)?

6 MR. COSTA: Mr. Jones owns that.

7 MS. VAIDA: He owns that as well. So, is he asking
8 to change both of them or just one of them?

9 MR. COSTA: No, just one of them.

10 MS. DALTON: Why is he not asking to change all of
11 them?

12 MR. JONES: The left hand side has a single family
13 home there, and a garage there.

14 MS. DALTON: Then why would you want that to be
15 single family as well? Right now it's NCOR.

16 MR. JONES: I don't care about that part. I wanted
17 to put houses in here that are single family
18 residential. I also want a piece of the back to be
19 developed in the future. Behind that is 200 homes.

20 MS. DALTON: I have no problem making it single
21 family residential. What I have a problem with is just
22 cutting out that one piece. If we want to leave Route 9
23 as NCOR and then starting with your property back in the
24 area that's currently single family residential, that
25 makes sense to me. I just don't want to carve out this

1 one parcel and then go back to the NCOR on the other
2 side so that on both of your sides - on your east and
3 your west - the NCOR.

4 MR. COSTA: I think that what Mr. Jones was saying
5 is that this is already used as single family
6 residential.

7 MR. JONES: I'm never going to touch it again.
8 There is a single family home on it and a garage. There
9 is a residence on it. I would never change it anyhow.

10 MS. DALTON: Well, you have to think about the
11 future. In the future, say 10 years from now something
12 changes in your situation. You've got that nice
13 neighborhood there and then on the other side there is
14 NCOR somebody wants to come in and now you have
15 something that everybody hates which is a neighborhood
16 right in the middle of two office buildings. It doesn't
17 work. The office buildings are all to the east. There
18 is a demarcation point after which it's single family
19 residential.

20 MR. COSTA: He's agreeable to this parcel, as well.

21 ACTING CHAIRMAN LANE: But that's not before us
22 right now.

23 MS. DALTON: I think that they should amend the
24 application and ask for the whole thing to be single
25 family residential.

1 ACTING CHAIRMAN LANE: But that's a separate lot.
2 We're making a recommendation.

3 MS. DALTON: Right, and my recommendation is that
4 it's inconsistent with the development that you're
5 trying to create in that area, if it's all NCOR from
6 Route 9 to where Bergin Woods starts. Right now, it is.
7 We've seen a lot of development right before us in that
8 same Boght Road/Route 9 area. So, if you want to
9 protect it, protect it. If you want to make it single
10 family residential, then that's a good plan. Otherwise,
11 you're going to wind up with the situation where 10
12 years down the road someone is going to want to build an
13 office building where that house is and they're going to
14 be allowed to and you're going to have all those
15 neighbors screaming at us at what bad planning that was,
16 and they would be right.

17 MR. MION: If we do that, you're going to add this
18 part of Wilson -- which now you've got an NCOR
19 landlocked surround that.

20 MS. DALTON: It's landlocked now.

21 MR. JONES: That's not landlocked. It goes off of
22 Boght Road.

23 MR. AUSTIN: It's vacant land?

24 MR. JONES: Yes, it's all vacant.

25 MR. MION: To the right of where your line is, he

1 owns Wilson -- is that single family zoned? If that's
2 single family, you still have landlocked --

3 MR. JONES: He owns this piece here (Indicating)
4 and he owns a house here up on Boght Road.

5 MR. MION: What is that zoned?

6 MR. JONES: This is zoned SFR.

7 MR. MION: My concern is that we're going to
8 landlock this property, NCOR, and everything around him
9 is SFR.

10 ACTING CHAIRMAN LANE: Our recommendation can only
11 be the piece that they have an application for at this
12 point.

13 MR. LACIVITA: Before we take any action this
14 evening, I think that one of the things that we should
15 do is define the parcels that you have control of. Take
16 your single family residential in the back where your
17 garage is. If you want to convert that to single family
18 and make this part of this application for future use --
19 I think that one of the key components to this whole
20 request for land use is that we look at the highest and
21 best use of the property and at an NCOR level, the
22 applicant is asking to downsize this density expectation
23 in the request. He could potentially have about 14,000
24 square feet of retail and 19 homes. He's asking for
25 eight homes based on his request. He's downsizing it

1 from the maximum capability of what could happen with
2 this. I think that if you include this, you'd almost be
3 at seven acres. Then, look at the review collectively
4 and come back and get the application done and we'll
5 have a SEQRA review and go forward with that.

6 ACTING CHAIRMAN LANE: Why does he have to combine
7 the lots?

8 MR. LACIVITA: He could ask for it right now and I
9 think that's what everybody is asking for. I think that
10 Mr. Jones is amendable to that.

11 MS. MILSTEIN: Or maybe conditional, so he doesn't
12 have to come back?

13 MR. COSTA: That's what I was going to say. Since
14 the Board is making a recommendation to the Town Board.

15 MR. LACIVITA: I think that one of the things that
16 the application -- we don't have a SEQRA, Nick, so we
17 have to look at the SEQRA review so when we come back,
18 you can combine it collectively and we can do the SEQRA
19 review. We won't be able to take an action until we do
20 SEQRA. It's not done at the Town Board level. It's
21 done here. So, we have to combine that SEQRA review
22 here.

23 MS. VAIDA: We really can't do anything tonight
24 until we do SEQRA.

25 MR. MION: I don't know if you understood what I

1 was saying. I understand the reason why you want to do
2 SFR but now in the future aren't we going to have a
3 problem if we don't get this other --

4 MR. LACIVITA: No because he has access.

5 MR. MION: Right, but where he accesses through is
6 SFR is not an NCOR.

7 MR. JONES: This piece of property abuts that piece
8 of property.

9 MS. DALTON: We get that, but his point is that we
10 are now still doing what we said, which is to isolate a
11 little piece of NCOR surrounded by single family.

12 MS. GOMEZ: There is another rental here and the
13 building that he's talking about is the lot is like a
14 driveway. It's like the littlest tiny driveway. You
15 couldn't build on it even if you wanted to unless you
16 wanted to put a tiny nail salon there. Then the rest is
17 residential. Then you have Freihofer's.

18 MS. DALTON: Right, I understand that.

19 MS. GOMEZ: So, why wouldn't he make his all single
20 family residential; whether it's that one lot that he
21 wants or the other lot?

22 MS. DALTON: Because ultimately the other lot has
23 space -- this is just me. Everyone else can recommend
24 what they want. This shared area right here means that
25 at some point in the future an office building could be

1 built there and they're going to have a neighbor who
2 just spent a million dollars on his nice house saying I
3 don't want an office building next door to me.

4 MS. GOMEZ: But he doesn't own that property. He's
5 talking about his home and then he's got where he's
6 building the apartments or whatever it is and then he
7 has behind that the house for his kids. Next to that
8 there is a little blue rental and then next to that is a
9 little building that's like a nail salon that you
10 couldn't even put a full house on that he does not own.
11 Next to that is a rental that he doesn't own. Next to
12 that is Freihofer's. He's talking about taking
13 everything from - I call it a nail salon - from the left
14 of the nail salon which is his property down Boght Road
15 towards Dunsbach Ferry to make that all single family
16 residential with his side is anyway. I know what you're
17 talking about, but the only thing that you're going to
18 build on there is not going to be an office building.
19 It's going to be like a tree fort.

20 MR. LACIVITA: We'll let them decide whatever they
21 want to do. You're going to have two that you're going
22 to design in your narrative for your children. You'll
23 have six remaining parcels based on the density
24 calculation that you can get. What is the intent? To
25 sell those later on?

1 MR. JONES: We can put eight there, but I might not
2 put eight there. I might make the lots bigger and put
3 four there. That was the deal to have the kids there.

4 MR. LACIVITA: All right and then based on the
5 comprehensive plan, the way that you talk about
6 buffering from what you call the commercial or mixed
7 use, which is currently is. We're providing somewhat of
8 a buffer from what currently exists from our commercial
9 to our mixed. That's what this is going to do here as
10 well. Because you came in earlier and you subdivided
11 two parcels off to get the townhomes. To provide that
12 buffer, which has already been done -- you're trying to
13 do the intent of the Comprehensive Plan based on what
14 you're trying to design. All along you've been saying
15 that your children - you're going to be giving some of
16 this land to your children in order to build a home.

17 MR. JONES: At the top, there is another 19 acres
18 there.

19 MR. LACIVITA: So, you're adhering to the
20 characteristics of the neighborhood, based on the
21 Comprehensive Plan, which I have here before me; nothing
22 more or nothing less. Again, based on what is currently
23 there, NCOR standards, you can get 14,380 square feet of
24 retail and 19 homes. That's the maximum profit of your
25 land. You're asking to downsize that density and

1 maintain the character of the neighborhood.

2 ACTING CHAIRMAN LANE: Joe, if the change is
3 recommended, do we create a problem down the road for
4 that one tiny small lot?

5 MR. LACIVITA: I think that there are two concerns.
6 One is what Lou was saying and the other is what the
7 potential could be if Mr. Jones decides that he wants to
8 sell his 2.4 acres, or whatever that may be, demo the
9 house and demo the garage and an office building will go
10 in there. I don't think that will fit within the
11 characteristics although it's properly zoned for it. It
12 won't fit in with the characteristics. I think that
13 this Planning Board will have the option to control what
14 the design would be. Mr. Jones can also come back later
15 on and include that into the SFR change if he would like
16 but to me it makes a good practice here --

17 ACTING CHAIRMAN LANE: He doesn't necessarily have
18 to combine the lots.

19 MR. LACIVITA: No, he doesn't have to. He can
20 combine the zoning requests.

21 MR. JONES: For a single family residential, I can
22 never imagine the Town of Colonie approving a building
23 beyond Boght Road on the right hand side in between the
24 middle of residential units.

25 MS. DALTON: If it's zoned for it and you sell it,

1 anyone can come in and tell us that they want to put a
2 commercial office building there and some apartments.
3 We can talk about the design standards, but we would
4 have very little option toward telling someone that they
5 cannot build what it's zoned for and this Board sees
6 those kinds of situations on a regular basis and there
7 is nothing that we can do about them. What I'm trying
8 to do is essentially protect you and the people that
9 you're going to be selling the other area to.

10 MR. JONES: They're going to be my kids, for the
11 rest of their lives.

12 MS. DALTON: Sir, that's great, but we can't just
13 assume that you and your family are going to own that
14 same piece of property in perpetuity.

15 MR. JONES: I'd like to request to have this lot
16 approved tonight - this zoning change and we'll work on
17 another application for the other half of the property
18 if that's what you would like.

19 MS. DALTON: We wouldn't make the change anyway.
20 We can only make the recommendation.

21 MR. LACIVITA: The recommendation would then go
22 over to the Town Board to accept it. As I look through
23 the file here, I didn't see the SEQRA that was done.

24 ACTING CHAIRMAN LANE: So, he has to come back for
25 that. So, we're going to just table this?

1 MR. LACIVITA: Table it until the SEQRA comes in.
2 After we do the SEQRA on it, based on the zoning then we
3 can get you on for -

4 MR. JONES: What are the possible changes that
5 could happen the next time I come in?

6 ACTING CHAIRMAN LANE: This is foresight. Looking
7 down the road and seeing before you run into a problem
8 how we can prevent you from having or -

9 MR. JONES: Right and we are going to change that.
10 So when we come back, it should be a done deal.

11 ACTING CHAIRMAN LANE: I see no reason why if SEQRA
12 is fine that we can't do that.

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16 (Whereas the above proceeding was concluded at
17 9:14 p.m.)

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CERTIFICATION

I, NANCY STRANG-VANDEBOGART, 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 STRANG-VANDEBOGART

Dated July 18, 2013

