

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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20 WINDMILL WAY
DEED RESTRICTION

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6 THE STENOGRAPHIC MINUTES of the above entitled
7 matter by NANCY STRANG-VANDEBOGART, a Shorthand
8 Reporter, commencing on December 15, 2015 at 7:05 p.m.
at The Public Operations Center, 347 Old Niskayuna
Road, Latham, New York

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10 BOARD MEMBERS:
11 PETER STUTO, CHAIRMAN
12 CRAIG SHAMLIAN
13 TIMOTHY LANE
14 LOU MION
15 SUSAN MILSTEIN
16 KATHY DALTON

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17 ALSO PRESENT:

18 Michael Tengeler, Planning and Economic Development

19 Kathleen Marinelli, Esq. Counsel to the Planning Board

20 Joseph LaCivita, Director, Planning and Economic
21 Development

22 William Wales

23 William Mafrici, Hershberg & Hershberg

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1 CHAIRMAN STUTO: Joe, do you have anything
2 administratively before we start?

3 MR. LACIVITA: This is the last Planning Board
4 meeting for the year. Our next one is January 14th
5 and the previous agenda that we had, Peter, had the
6 Student Living PDD on 100 Fuller Road. The applicant
7 had asked at the last moment to pull that from the
8 agenda. I'm not 100% sure why they asked that, but I
9 know that there has been conversation back and forth
10 with the Planning Department and Town Hall. They
11 pulled their agenda item at the last moment.

12 If there is anyone here for 100 Fuller Road,
13 that agenda item has been pulled and it is not
14 scheduled at this point in time.

15 CHAIRMAN STUTO: Are you here from Hershberg
16 and Hershberg?

17 MR. MAFRICI: I am. I'm not familiar with why
18 they pulled it; no.

19 CHAIRMAN STUTO: Can you ask them to let us
20 know? Have they withdrawn their application?

21 MR. MAFRICI: I don't think that they withdrew
22 the application; no.

23 CHAIRMAN STUTO: If they're not withdrawing
24 their application, I'd like to know. We went through
25 the notice provision and all that stuff. I just think

1 that it's important to get it on the record.

2 MR. MAFRICI: We will report back to Planning.

3 CHAIRMAN STUTO: Thank you. We appreciate that.

4 Is anybody here on that? That's the last item
5 on the agenda.

6 (There was no response.)

7 Okay, good.

8 Did you want to acknowledge someone from the
9 Conservation Committee?

10 MR. LACIVITA: Yes, Don Allard is here.

11 CHAIRMAN STUTO: What is their function?

12 MR. LACIVITA: They are actually advisory to
13 the Planning Board. They look at, from a conservation
14 component, what the site plan looks like.

15 CHAIRMAN STUTO: And they provide memorandum.

16 MR. LACIVITA: Yes, and they make
17 recommendations as to what they want to see, what they
18 want to do. They actually give out the tree seedlings
19 every year. They have developed the native invasive
20 species list for us for the past couple of years. So,
21 they try to look at what is coming in and when we get
22 our site plan landscaping plans, they look at those
23 and make a recommendation back to our Board.

24 CHAIRMAN STUTO: Well, welcome again. I know
25 that you've been here before.

1 Ready to call the first item?

2 MR. LACIVITA: Yes.

3 CHAIRMAN STUTO: The first one is 20 Windmill
4 Way, deed restriction. The Department of Public Works
5 made a recommendation on this.

6 MR. LACIVITA: I think that we have the
7 applicant here. This was scheduled for our last
8 meeting on November 17th and unfortunately there was a
9 miscommunication between DPW and the resident.

10 The resident of 20 Windmill Way purchased the
11 property, but when they went through the property they
12 noticed that there was a deed restriction on it for an
13 encroachment -- and in fact the entire area that
14 borders the bike path over in the Dutch Meadows area
15 has deed restrictions on it. It's specific to this
16 cul-de-sac that's there. The applicant is looking to
17 put a fence around his pool area, although there is an
18 existing fence. He's trying to enclose the fenced
19 yard a little bit more for one of his household pets.

20 DPW has been reviewing it. They found a note on
21 the plan and they don't have any concerns, as you will
22 see in your application, with the fencing being in
23 there here because there is nothing under there that
24 the fence post would inhibit if they had to get in
25 there to do any work. The applicant is asking for an

1 encroachment to be approved by the Planning Department
2 as it says within the note on the plan that you see
3 the copy of in order for them to go forward.

4 Hopefully, I didn't steal your entire
5 presentation.

6 MR. WINDMILL: That's a pretty accurate
7 assessment. I've been told that one can never talk
8 too short. That's essentially an accurate statement.
9 I've been working with John Riordan and he's been very
10 helpful in making sure that we have crossed all of our
11 T's and dotted our I's and it seems to be approved
12 from an engineering standpoint. Hopefully, everything
13 looks good.

14 MR. LACIVITA: So, the action that we're asking
15 the Planning Board tonight would be to accept the
16 motion to remove the easement encroachment as anything
17 will be under a hold harmless with the applicant and
18 DPW, should they have to get in there and remove the
19 fence and reinstall it, it would become between the
20 two departments. So, we're just asking a motion to
21 allow for the encroachment to happen and the applicant
22 to work with DPW.

23 MR. LANE: Under the hold harmless, if the Town
24 didn't have to go in and do repairs and damage the
25 fence, the Town would be responsible for that.

1 MR. LACIVITA: About 90% of the projects that
2 we have - there are hold harmless because there is
3 some type of easement that happens with the Town. If
4 they go in and disturb pavement, they go forward with
5 it but there is that agreement between DPW that they
6 come in and if there is any damage that is done, the
7 Town replaces it back to where they had it as it was.
8 Any other future damage, of course they can be
9 responsible. Hopefully, I answered that.

10 MR. LANE: So, the Town would be responsible
11 for replacing the fence.

12 MR. LACIVITA: They wouldn't be because of the
13 hold harmless.

14 CHAIRMAN STUTO: Any questions?

15 (There was no response.)

16 Do we have a motion on that - to permit the
17 encroachment with the conditions that have been
18 discussed on the record.

19 MR. AUSTIN: I'll make that motion.

20 MR. SHAMLIAN: I'll second.

21 CHAIRMAN STUTO: Any discussion?

22 (There was no response.)

23 All those in favor say aye.

24 (Ayes were recited.)

25 All those opposed, say nay.

1 (There were none opposed.)

2 The ayes have it.

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4 (Whereas the above proceeding was concluded at
5 7:05 p.m.)

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CERTIFICATION

I, NANCY 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 STRANG

Dated _____

