

1 PLANNING BOARD COUNTY OF ALBANY

2 TOWN OF COLONIE

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DORAN OPEN DEVELOPMENT AREA

3 TIMOTHY DRIVE

ODA RECOMMENDATION TO TOWN BOARD

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6 THE STENOGRAPHIC MINUTES of the above entitled  
7 matter by NANCY L. STRANG, a Shorthand Reporter,  
8 commencing on October 18, 2016 at 7:28 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 LOU MION  
13 SUSAN MILSTEIN  
14 CRAIG SHAMLIAN  
15 BRIAN AUSTIN  
16 TIMOTHY LANE  
17 KATHLEEN DALTON

18 ALSO PRESENT:

19

20 Kathleen Marinelli, Esq. Counsel to the Planning Board  
21 Joseph LaCivita, Planning and Economic Development  
22 Department  
23 Michael Tengeler, Planning and Economic Development  
24 Department  
25 Fred Metzger, PE  
David Jenkins  
Kevin Doran  
Steve Alrot

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1                   CHAIRMAN STUTO: Next on the agenda is Doran  
2 open developments area, 3 Timothy Drives, open  
3 development area recommendation to Town Board.

4                   Either Mike or Joe, do you want to give any  
5 preliminary comments on this?

6                   MR. LACIVITA: This project is before the  
7 Planning Board tonight based on Resolution 321 of 2016  
8 where the property owners, Kevin and Samantha Doran  
9 are asking for relief under 280-a which will allow  
10 them to build a single-family home within this  
11 district.

12                   Tonight we have Fred Metzger, the surveyor, who  
13 is going to walk us through the process.

14                   You have in your packet a special ruling to go  
15 forward. If there are other conditions, we will add  
16 them as we move forward.

17                   I will turn it over to Fred.

18                   CHAIRMAN STUTO: We want to make sure the  
19 public can see your board, too.

20                   MR. METZGER: Good evening. I'm Fred Metzger,  
21 land surveyor with Mr. and Mrs. Doran this evening  
22 regarding the proposed open development area. The  
23 existing parcel is a 1.13 acre parcel located at 3  
24 Timothy Drive, which is just off of Fonda Road.  
25 basically, the parcel obviously has no frontage there.

1           Therefore, it needs the ODA approval this evening. The  
2           existing parcel meets all the existing requirements.  
3           No variances are needed.

4                       We are here this evening to go through the  
5           process and get your approval so that we can advance  
6           to the next step.

7                       CHAIRMAN STUTO: Open development areas are  
8           required when you don't have the requisite frontage on  
9           a public road.

10                      Show us the nearest public road and how you're  
11           getting access.

12                      MR. METZGER: Right here (Indicating) is Fonda  
13           Road. there are easements - last year when we did the  
14           one next door which is now 5 Timothy Drive that we did  
15           for Nick and Kristin Hawkyard - we address the problem  
16           with 911 to creating a private road and naming it  
17           Timothy Drive and renumbering all the houses so that  
18           way when 911 needs to respond they can find the homes  
19           over there.

20                      We have an existing dirt drive that accesses  
21           off of Fonda Road and then wraps around and services  
22           all the houses in the back.

23                      CHAIRMAN STUTO: Show us where you enter that.

24                      MR. METZGER: We will enter here (Indicating)  
25           and the new houses proposed right here (Indicating).

1 CHAIRMAN STUTO: How large is that lot?

2 MR. METZGER: This lot is 1.13 acres.

3 CHAIRMAN STUTO: What does Fire Safety say  
4 about this in terms of getting emergency vehicles in  
5 there.

6 MR. LANE: There is an email from Peter Barry  
7 of EMS. This is dated June 9. I have reviewed the  
8 Doran open development in the North side of Fonda  
9 Road. Please make sure they mark the road well and  
10 maintain the house numbers as visible.

11 MR. METZGER: There is a sign that was added at  
12 the main corner.

13 MR. LANE: It will need to be indicated. How  
14 are they going to find your home is the emergency  
15 services are in order are required there? It is tough  
16 enough to spot some of the homes now.

17 MR. METZGER: We did this as a request last  
18 year when we came in for Hawkyards. Before they named  
19 it to the drive and gave them all numbers - they were  
20 all like 110a and 110b Fonda Road. So, they said that  
21 was very difficult for them to be able to find a  
22 house. Given the ones in the rear - Timothy Drive and  
23 the numbers to the houses made it a lot better.

24 MR. LANE: For someone who is not really  
25 familiar with the area, how would they know where the

1 houses are back there?

2 MR. METZGER: The main road there is a street  
3 sign there labeling it Timothy Drive.

4 MR. LANE: Not just the street. What about for  
5 your particular house?

6 MR. METZGER: I'm sure that once the houses  
7 done, they will put the house numbers on it. There is  
8 a group of mailboxes open the front that have all the  
9 numbers on it, as well.

10 MR. LANE: They just want to make sure that is  
11 easily spotted from the street.

12 MR. METZGER: Okay.

13 CHAIRMAN STUTO: Did you see this email from  
14 Peter Barry, or no?

15 MR. METZGER: I don't remember if I have that  
16 one or not.

17 CHAIRMAN STUTO: Joe, if this is approved, can  
18 you work to make sure Peter Barry is satisfied with  
19 the signage over there?

20 MR. LACIVITA: Sure.

21 MR. MION: I believe the house that we approved  
22 last time was down there. They have a number on the  
23 house. I think it's number 5. It stands right out.

24 MR. LANE: It is a significant issue for them  
25 when they can't quickly identify house numbers.

1                   MR. METZGER: Sure. This will make five houses  
2 on that road.

3                   MR. LANE: I understand.

4                   MR. METZGER: I do understand that time is of  
5 the essence and their response time.

6                   CHAIRMAN STUTO: I will not that I think I saw  
7 fire's memorandum in here. They had no objections.

8                   MR. LACIVITA: The June 8 memo said that,  
9 Peter.

10                  CHAIRMAN STUTO: Can we put a condition in --  
11 what is Barry's agency?

12                  MR. LACIVITA: EMS.

13                  CHAIRMAN STUTO: - that EMS approve the signage  
14 is one of the conditions.

15                  Any other questions or comments?

16                  (There was no response.)

17                  Any members of the public looking to speak on  
18 this?

19                  MR. JENKINS: Hi, I'm David Jenkins. I live at  
20 96 Fonda Road. Last year when they put in the other  
21 housing they did some drainage - they improved the  
22 drainage back there. This past year when we had a  
23 rainstorm we had flooding back through the storm sewer  
24 into my basement. It costs me \$10,000 worth of damage.  
25 We have never had that before. We have got through

1 Katrina, and to everything else and never had any  
2 problems before. Once this drainage came through and  
3 change the water table or whatever they did in the  
4 back there and improved the drainage into the storm  
5 sewer, this past year we had major problems. We had  
6 the fire company there and everything.

7 CHAIRMAN STUTO: Can the applicant speak to  
8 that?

9 Joe, do you know anything about that?

10 MR. LACIVITA: I don't know anything specific  
11 to that, Peter, but I can find out.

12 CHAIRMAN STUTO: You're saying that it's  
13 definitely storm sewer; right?

14 MR. JENKINS: It was definitely storm sewer. My  
15 house is right here on this corner (Indicating). The  
16 storm sewer comes down on the side of Timothy Drive.

17 CHAIRMAN STUTO: Is it underground?

18 MR. JENKINS: It's above ground on Timothy  
19 Drive and then it's underground along Fonda Road.  
20 That storm drain comes down this way (Indicating) and  
21 that edges backs up. It backed up all the rage here  
22 into my house.

23 CHAIRMAN STUTO: Why would that be attributable  
24 to what happened on Timothy Drive?

25 MR. JENKINS: Well, and never happened before.

1 Like I said, we have gone through Katrina in and  
2 through large rainstorms. When they put this first  
3 home in here, they had changed and they had increased  
4 the drainage in this area they had to dig out that  
5 whole side next to Timothy Drive. They increased  
6 drainage underneath Timothy Drive from this area.  
7 That's the only thing that I can attribute to the fact  
8 that we just had a brainstorm last winter I got  
9 flooded when I didn't have it before.

10 Yes, backup does happen over here. We know it.  
11 Katrina - we've been through. The problem is that now  
12 there is extra water coming down -

13 CHAIRMAN STUTO: There is either extra water  
14 coming down, or something got clogged and the drain.

15 MR. METZGER: The only thing that we did the  
16 prior house was the first pipe that was at the end of  
17 the ditch was crushed over and kind of mangled. At the  
18 Town's request, they replaced it with a new 12 inch.

19 CHAIRMAN STUTO: Is that the other house this  
20 gentleman is referring to?

21 MR. METZGER: Yes, this one was in last year.  
22 At the request of the Town - this one was driven over  
23 couple different times. It was just very old and they  
24 asked that it be replaced.

25 CHAIRMAN STUTO: Did you contact anyone in the

1 Town prior to tonight, or no?

2 MR. JENKINS: The Fire Department was there  
3 that night.

4 MR. LANE: The backups used to occur on Timothy  
5 prior?

6 MR. JENKINS: Like I said, they used to happen  
7 but it was never this bad. The sump pumps would never  
8 keep up at this point.

9 MR. LACIVITA: Item number five from storm  
10 water does say at this time the lines of the existing  
11 lots are in need of maintenance.

12 One of the things I can do is follow up with  
13 the Stormwater Department or DPW to see what they may  
14 now. I'm sure Fred has been in contact with them  
15 anyway during this design.

16 MR. METZGER: Yes.

17 MR. LACIVITA: I will follow-up with them and  
18 talk with them about what we are hearing here tonight  
19 and see what concerns -

20 MR. LANE: Is there a back-flow preventer?

21 MR. LACIVITA: That's typically in a house.

22 MR. LANE: Where did it come in?

23 MR. JENKINS: It came right in - our sump pump  
24 went out to the storm drain and it came right back in  
25 through the sump pump.

1           CHAIRMAN STUTO: Will be honest with you, I am  
2 reluctant to start okaying and adding more houses. I'm  
3 not saying we won't do it, but I think that should be  
4 studied a little bit before we start anymore houses. I  
5 think that we will get there, but I think it does  
6 require some attention, particularly with that note  
7 from Stormwater. I don't know how everyone else feels.

8           Do you have any theories or have you looked at  
9 it and studied it?

10          MR. METZGER: Like I said, I don't believe,  
11 from my point of view, that what happened up here what  
12 is created that. I have seen a lot of floods - like  
13 doing flood insurance and things of that nature,  
14 people want guarantees that that is never going to  
15 happen. If you get some debris or something of falls  
16 and that slows down the flow, that might've been  
17 further back -

18          CHAIRMAN STUTO: We just want to make sure that  
19 it's engineered correctly and function properly.

20          Does the owner want to say something?

21          MR. DORAN: I am Kevin Doran and I am the owner  
22 of the lot.

23          The ditch does come down and runs along the  
24 property here. There is a ditch that runs along Fonda  
25 Road, and it all enters together and it continues on

1 (Indicating). So, the drainage isn't just coming from  
2 the back lots when there is a large rainstorm. It  
3 flows this way (Indicating). When it cuts down Fonda  
4 right here, (Indicating)it's like 120°. It's not a  
5 gradual turn, so, it does back up.

6 CHAIRMAN STUTO: Can you read the note?

7 MR. LACIVITA: I think that comment speaks to  
8 what you are hearing here now. It says:

9 "At this time, the ditch lines where the  
10 existing lot is draining is in need of maintenance so  
11 that the positive pitch will be provided for the  
12 proposed house."

13 CHAIRMAN STUTO: Maintenance. So, it needs to  
14 be cleaned out probably.

15 MR. LANE: How do we see that is done?

16 MR. LACIVITA: I will have to talk to DPW and  
17 Stormwater to see who has oversight on that. Then, we  
18 can make sure that it is maintained. We have to find  
19 out who has oversight of it.

20 MR. ALROT: My name is Steve Alrot I live at  
21 96A Fonda Road. I lived directly behind Dave's house.

22 CHAIRMAN STUTO: Can you point to where you  
23 would be on that map?

24 MR. ALROT: I'm right here (Indicating).

25 CHAIRMAN STUTO: How do you access your house

1 from Fonda?

2 MR. ALROT: Have a driveway that is adjacent to  
3 the private road. The drainage pipe actually went  
4 underneath our driveway on Timothy Drive and went out  
5 to Fonda Road. My assessment of what happened is that  
6 when they put this house in back here (Indicating) it  
7 was all cleaned out to make it a pretty wide drainage  
8 ditch. Prior to that, it was all overrun with weeds  
9 and reeds and things of that nature. So, the water  
10 that would have drained from this field would've gone  
11 out at a slower pace. Now, it's completely clean all  
12 the way through. When you get a lot of water back here  
13 (Indicating) there is nothing - it's the rate of flow  
14 that causes the problem. in the past, like I said it  
15 would go out slowly and when it got to Fonda Road and  
16 down the drainage ditch, I think it could handle it.  
17 Now, it's completely cleaned out.

18 Another concern that I have is back in here  
19 (Indicating) someplace there is an area of cattails  
20 and weeds now that was left there when they built this  
21 other house.

22 CHAIRMAN STUTO: So, it holds some of the  
23 water.

24 MR. ALROT: Yes, it acts like a sponge. It  
25 holds some of the water and helps it to go out a

1 little bit slower. If that gets removed, the flow of  
2 the water going out to Fonda Road is just going to  
3 increase. That's my concern - the drainage of all of  
4 that going out to Fonda Road and causing problems to  
5 be adjacent neighbors.

6 MS. DALTON: Joe, is there a wetland anywhere  
7 that we are not seeing here?

8 MR. LACIVITA: Now.

9 MR. ALROT: It's not a designated wetlands but  
10 if you took a site visit, the cattails there and  
11 reeds. There is a low spot.

12 MS. DALTON: I'm just wondering if there's a  
13 designated area anywhere within the general area that  
14 we're not seeing but within a mile radius or  
15 something.

16 MR. ALROT: If there is a what?

17 MS. DALTON: A designated wetland.

18 MR. ALROT: Now, it is not a designated  
19 wetland. There's a designated wetland up at the  
20 landfill.

21 CHAIRMAN STUTO: From the aerial, it doesn't  
22 like there's ponding there and there's some kind of  
23 cattails, I guess.

24 MR. DORAN: It's bone dry out there right now.  
25 I know we haven't had a lot of rain, but the ditch is

1 bone dry right now.

2 CHAIRMAN STUTO: Right, but we are worried  
3 about when conditions are otherwise.

4 Joe, I think he needs one more the further step  
5 of investigation.

6 MR. LACIVITA: I'm wondering, is there any type  
7 of retainage? It certainly doesn't show it from the  
8 storm water department about retaining water onto the  
9 site.

10 MR. METZGER: They just sit to clean it up a  
11 little bit. So, they could provide positive flow from  
12 the house to be existing ditches. Again, I think part  
13 of the issue is probably just further down where  
14 paving the flow was a little quicker. As it hit the  
15 junctions or the bends there, it was slowing down to  
16 the point with the backup was creating issues for the  
17 low-lying houses.

18 MR. LACIVITA: It seems like whatever work has  
19 been done based on these houses, it provided a choke  
20 point where everything started to back up. Maybe DPW  
21 has to look at it. I don't know of that would be  
22 incumbent upon this has to be done because it may be a  
23 Department of Public Works issue.

24 MS. DALTON: Is there something about this that  
25 if we discovered something related to this we would

1 likely not make a recommendation for the ODA.

2 MR. LACIVITA: I think typically the course of  
3 review -- as we know, you can't put any more water  
4 onto adjacent properties at a faster rate. I think you  
5 would agree with that. I think it may be conditioned  
6 upon a review of the Stormwater Department and DPW  
7 that if we have to do a retainage here and really set  
8 then maybe we have to design it and -

9 MS. DALTON: So, we would do that as part of  
10 the ODA that we would recommend.

11 MR. LACIVITA: Right.

12 MR. SHAMLIAN: Is this coming back to us?

13 MR. LACIVITA: It is a single-family home. They  
14 have the right to go directly to the Building  
15 Department if the ODA is granted because then they can  
16 have access and they can then give a building permit.

17 MS. DALTON: The thing that I'm concerned about  
18 is lots of times we have developers who have legal  
19 proceedings built into their budget. And in this case,  
20 I think we're looking at a family that just wants to  
21 build their house. So, I'm trying to be sensitive to  
22 what we can do to accommodate our needs to make sure  
23 that everybody is taking care of. At the same time,  
24 keeping these folks on track.

25 MR. LACIVITA: That's why I said, Kathy, there

1 might be a choke point further on down that everything  
2 is backing it up, as we just heard hear from this  
3 gentleman. It might be a DPW issue and it cannot be  
4 put onto this home.

5 MS. DALTON: So, I guess the question is  
6 whether it's put on to this home or whether there is a  
7 reason why we would want to write something into the  
8 ODA before we move forward; is that it?

9 CHAIRMAN STUTO: Me, personally, I would like  
10 to postpone the vote until we find out what the  
11 problem is.

12 MS. MILSTEIN: I agree.

13 CHAIRMAN STUTO: With a little bit more  
14 definition, and then we'll know how big the problem  
15 is.

16 MR. SHAMLIAN: I understand what is customary,  
17 but can we require it to come back before us and move  
18 this process? The ODA is just going to the Town Board,  
19 anyway.

20 MR. LACIVITA: What they do is they adopt the  
21 ODA and then the Dorans are able to get a building  
22 permit in order to build their home.

23 MR. SHAMLIAN: What I'm questioning is if we  
24 place a condition on it that it needs to come back to  
25 us, grant the ODA and in the meantime they can move to

1 the Town Board and a decision can be investigated and  
2 that he needs to come back to us to make sure that  
3 it's been done to our satisfaction.

4 MR. LACIVITA: I think that during the course  
5 of that time - from the building department, hopefully  
6 with that design they could be in front of the  
7 Stormwater and DPW to see what that issue is and  
8 again, we may find that the Town issue and not a  
9 homeowner issue. It would at least allow everything  
10 to be moving forward.

11 MR. SHAMLIAN: I guess I'm reluctant to vote  
12 favorably unless we can get it back before the  
13 Planning Board.

14 MR. LACIVITA: Well, that's what the condition  
15 would be.

16 MS. DALTON: So, we recommends the ODA under  
17 the condition that they come before us again.

18 CHAIRMAN STUTO: Or should we just hold off on  
19 the ODA?

20 MR. ALROT: I have another concern. The rate of  
21 flow of water has increased since they put that  
22 drainage in and clean the drainage ditch out. Like I  
23 said before, I am not in that area there. There is an  
24 area of weeds and cattails and that has helped absorb  
25 some of the water now. I don't know what the plans are

1 for the building lot if they're going to raise them up  
2 in elevation, that is going to cause the water to flow  
3 even faster.

4 CHAIRMAN STUTO: I just don't know.

5 MR. LACIVITA: Fred, who actually did the  
6 change to the swale? Was that the other home that was  
7 built there?

8 MR. METZGER: Not so much change; just cleaned  
9 them up. They were overgrown. They just wanted to  
10 improve the flow, so they cleaned it up and cut some  
11 of the stuff down and just kind of manicured it and  
12 replace the one pipe. Obviously, not having that old  
13 12 inch diameter for the water to flow through was an  
14 issue.

15 MR. LACIVITA: We could do one of two things.  
16 As Craig just mentioned, we can make it conditional  
17 recommendation to the Town Board for the adoption of  
18 the ODA - under the condition that it comes back to us  
19 and that we look at the drainage issue. Or, we could  
20 ask that it comes back and Fred can work with the  
21 Stormwater Department and DPW to see what that issue  
22 is with the water in order for us to go forward.  
23 Since we are booked out to December, I would ask that  
24 we might be able to get this back on quicker so that  
25 they can move forward with the process.

1 MS. DALTON: That's what I was going to ask  
2 you. Option one is we don't grant the ODA tonight and  
3 we wait until we get answers. Option two is that we  
4 grant the ODA with conditions so that they can move  
5 forward. Can you guesstimate what the impact in terms  
6 of timing for the applicant would be?

7 MR. LACIVITA: Well, I think we can get through  
8 working with Town departments quicker than have to  
9 worry about getting onto a Town Board agenda and going  
10 through that. If you're okay with that and if the  
11 Doran's are okay, get those answers real quick and try  
12 to get back on the next meeting in the early part of  
13 November.

14 MS. DALTON: Okay, if you think that's quicker.

15 MR. LACIVITA: I think the first one in  
16 November is the 14th. Again, were only going to be  
17 there to discuss that drainage issue and adopt that  
18 ODA - we can have those answers very quickly.

19 CHAIRMAN STUTO: Okay, thank you.

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21 (Whereas the above entitled proceeding was  
22 concluded at 7:51 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 \_\_\_\_\_

