

1 STATE OF NEW YORK COUNTY OF ALBANY

2 TOWN OF COLONIE

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4 44 WATERFORD AVENUE EAST

5 REFERRAL FROM TOWN BOARD TO MAKE A

6 RECOMMENDATION ON A REQUEST TO REZONE

7 APPROXIMATELY 2.35 ACRES

8 *****

9 THE STENOGRAPHIC MINUTES of the above entitled

10 matter by NANCY L. STRANG, a Shorthand Reporter

11 commencing on August 11, 2020 at 6:00 p.m. at

12 Memorial Town Hall 534 New Loudon Road, Latham,

13 New York.

14

15 BOARD MEMBERS:

16 PETER STUTO, CHAIRMAN

17 CRAIG SHAMLIAN

18 PAUL ROSANO

19 SUSAN MILSTEIN

20 STEVEN HEIDER, RECUSED

21 LOUIS MION

22 FREDERICK ASHWORTH

23

24 ALSO PRESENT:

25 KATHLEEN MARINELLI, ESQ. COUNSEL TO THE BOARD

1 SEAN MAGUIRE, AICP, CEcD, DIRECTOR, DEPARTMENT
OF PLANNING AND ECONOMIC DEVELOPMENT

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3 ZACHERY HARRISON, PLANNING AND ECONOMIC
DEVELOPMENT

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5 NIA CHOLOKIS, ESQ., ROSETTI DEVELOPMENT

6 ADAM LEONARDO, ROSETTI DEVELOPMENT

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1 CHAIRMAN STUTO: Welcome everyone to the
2 Town of Colonie Planning Board. We have several
3 items on the agenda.

4 I'm going to ask the Director of the
5 department, Sean Maguire, to talk about our
6 sound system. With the Covid situation we
7 are trying to rearrange things a little bit.
8 There has been some improvements to the
9 sound system, although we did get some
10 comments at the last meeting that the
11 presenters could not be heard.

12 Sean, could you talk a little bit more
13 detail about that?

14 MR. MAGUIRE: Sure, with our system it is
15 just going to be important for our Board
16 Members and presenters alike to speak close to
17 the mic. If you can hear yourself over the mic
18 then you're being picked up and that's what
19 we're looking for.

20 For folks presenting, we do know that
21 if you try to walk away and talk, we miss
22 everything you're saying. So, if you need to
23 step away from the podium to illustrate
24 something, please do but please come back
25 and tell us what you're talking about. I

1 think that should handle it for everybody.

2 CHAIRMAN STUTO: I'll just know for the
3 record that all members are here, except for
4 Craig Shamlan.

5 The next item on the agenda is the
6 report from the Planning and Economic
7 Development Director and I will turn it over
8 to Sean.

9 MR. MAGUIRE: Thank you. At the last
10 meeting we started to talk about 44 Waterford
11 Avenue East, which is a rezoning referral from
12 the Town Board. We did an interdiction to that
13 and we have it in your packets this week. We
14 brought them back so we can resolve the issues
15 this week. I understand that public notice has
16 been resolved and I encourage you to come up.

17 Nia?

18 MS. CHOLAKIS: Thank you, Mr. Maguire. I
19 am Nia Cholokis and I am with Rossetti
20 Development.

21 This parcel is, as he indicated,
22 located at 44 Waterford Avenue East in the
23 Town. It is a 2.35 acre parcel. It is
24 currently located in a single-family
25 residential district. In 2000 prior to 2007,

1 it was zoned as B-2 - residential B-2, which
2 at that time permitted two-family
3 residences. Once it was converted in 2007
4 single-family, that ability was removed from
5 the Zoning Code. This is a very highly - in
6 my opinion - mixed-use neighborhood. There
7 are single-family homes, two-family homes,
8 four-unit homes, three-unit homes and just
9 adjacent to this parcel is the Woodlands
10 which is a 180-unit apartment complex. It is
11 my submission that there are several
12 instances - the 2007 rezoning made certain
13 mistakes by not adhering to the then
14 permitted uses.

15 Also just to note that from 1996 to
16 2004 the Business E district, which is no
17 longer, was located 500 feet back from the
18 two and seven with a permitted commercial
19 use which also indicates that this whole
20 general area is mixed in nature.

21 Also the townhome which we are
22 proposing is really a single-family attached
23 home which the Code doesn't recognize as
24 such at this point in time.

25 One last thing to note historically and

1 that in 2017 the Town's ZBA issued a use
2 variance for 23 Waterford which is one of
3 the two-family residences located down the
4 street from this location. I have also just
5 passed out - I think we discussed at the
6 last meeting that there may be some issues
7 or questions that we should address
8 concerning maintaining the integrity of the
9 neighborhood. As I have kind of indicated,
10 we believe we are maintaining the integrity
11 of the neighborhood and that this proposed
12 use is not - it doesn't detract from that.

13 What I have handed out is I looked at
14 the Comprehensive Plan and one of the
15 short-term goals about protecting existing
16 neighborhoods from being encroached upon by
17 a higher density residential development --
18 and what I have attempted to show is that
19 what we are requesting amounts to 2.35 units
20 per acre in a zone which permits two units
21 per acre. So, it is slightly above that just
22 in a single-family residence. These other
23 multi-family residences that are currently
24 existing in this neighborhood amount
25 anywhere from 4.7 units per acre to 22.28

1 per units per acre. Most notably, the
2 Woodlands - the three units across the
3 street are in the neighborhood of about six
4 units per acre. So, we are submitting that
5 the parcel that we are attempting to rezone
6 and maintain the historical nature of that
7 neighborhood and will be in harmony with the
8 existing uses and will not present any kind
9 of quality of life concerns and that we are
10 not requiring any new streets and we are
11 utilizing the frontage that's already there
12 on Waterford Avenue, East and we are
13 utilizing municipal services which are
14 nearby.

15 We are also advising the Board that we
16 will pay particular attention to building
17 and site design, including trying to retain
18 as much as the existing vegetation as
19 possible. Most notably, I think we talked
20 about last time Utica Avenue, which does
21 have a topography increase which really
22 shouldn't have any impact whatsoever on this
23 proposed development. The trees in the back
24 line between our property and Utica Avenue
25 will be maintained. Also the trees on the

1 north side and the south side and to the
2 extent that we can maintain existing tree
3 line as possible, depending on the location
4 of the actual units, try to do that as much
5 as possible on the Waterford Avenue as well.

6 Adam Leonardo from Rossetti Development
7 is here, as well. He has a little bit of
8 additional information.

9 MR. LEONARDO: So, I spoke with a couple
10 of the neighbors who reached out to me - 44
11 Waterford reached out. The biggest concern that
12 she had was the address which I told her if
13 this does move forward, 911 is going to dictate
14 what the addresses are. She was just concerned
15 with 44 East and 44.

16 I spoke with another neighbor who was
17 concerned. He is 24 Waterford and he was
18 concerned about development behind his house
19 which I told him if this plan gets accepted,
20 there is no development that will go any
21 further than what is on the street. That was
22 the only comments that we received from any
23 of the neighbors.

24 CHAIRMAN STUTO: Did we do a mailing to
25 the neighbors?

1 MR. LEONARDO: We did.

2 CHAIRMAN STUTO: Okay.

3 Are there any members of the public
4 looking to speak on this project?

5 (There was no response.)

6 Okay, we will take questions and
7 comments from the Board.

8 Susan, did you have any comments or
9 questions?

10 MS. MILSTEIN: My comment is I don't see
11 any reason for the rezoning change. I know
12 there's enough single-family homes in this area
13 and I think it should remain. There is no
14 hardship. It was known when this property was
15 acquired what the zoning was. I don't see enough
16 of a reason for it to allow for this.

17 MS. CHOLAKIS: We took a look at what
18 historically has been done in the neighborhood.
19 That's why we didn't perceive there to be an
20 issue. Like I mentioned earlier, in 2007 - that
21 parcel was rezoned to a two-family with no
22 hesitation -- not rezoned but a use variance
23 was granted. The parcels immediately across the
24 street are three-family homes. The Woodlands is
25 literally on the border between our parcel and

1 the Woodlands. It shares the same boundary
2 line. So, when you look at the neighborhood,
3 you look at the type of project that we are
4 proposing. We are not proposing an apartment
5 complex. We are not proposing many multi-family
6 homes. We are essentially asking for
7 single-family homes. But because they have a
8 party wall, it's not currently permitted. So,
9 it's a single-family attached home. It's not
10 going to be occupied by more than one family.
11 It's a single-family residence. We are asking
12 that essentially that the record be corrected.
13 I know that the Town - mainly the ZBA, but the
14 Town Board in some instances has attempted to
15 correct what I term as mistakes made by the
16 Land Use rezoning because there have been - not
17 a tremendous amount in my opinion, but there
18 has been some over the course of time where the
19 rezoning negatively affected the development of
20 certain parcels and the ability to maintain
21 certain uses in effect over the course of time.
22 So, we are looking to correct that and again we
23 could build as of right now two units per acre
24 but we are not proposing that. We are not
25 looking to increase density really in any

1 appreciable way.

2 CHAIRMAN STUTO: Do you have the frontage
3 under the current zoning?

4 MR. LEONARDO: Yes.

5 CHAIRMAN STUTO: Do you agree with that,
6 Sean?

7 MR. MAGUIRE: I would have to look that
8 up. I would have to take a look at that. It seems like
9 it would be tight.

10 MS. CHOLAKIS: It is 80 feet per lot.

11 MS. MILSTEIN: It's not going to be
12 one-family. It's going to be two-families per
13 townhouse. You can't say it's one family.

14 MS. CHOLAKIS: No, it's one family per
15 townhouse. You have a townhouse attached to
16 another townhouse.

17 MS. MILSTEIN: That makes it a two-family.

18 MS. CHOLAKIS: Well, no because they're on
19 separate lots.

20 MR. LEONARDO: The Town Code definition of
21 a townhouse is a single-family dwelling.

22 MR. HEIDER: Keep in mind the last time
23 you were up here you called them duplexes. Your
24 official entry was a duplex. Whether it's
25 tomato or tomato, it's the same.

1 MS. CHOLAKIS: Understood

2 MR. HEIDER: I guess the question I have
3 and I don't mean to interrupt, are: These for
4 rent, or for sale?

5 MS. CHOLAKIS: We are contemplating for
6 sale. We don't know whether it's going to get
7 approved. We don't know what the economic
8 climate is going to be, but our contemplation
9 is for sale. So, each unit will be sold to an
10 individual person or family.

11 MS. MILSTEIN: So, they are going to be
12 two-families. So, we have the Zoning Laws and
13 they are there for a reason. Maybe 2017 was a
14 mistake and 2007. Again, it's where these
15 proposed homes are to be located - they're
16 closer to a single-family -

17 MS. CHOLAKIS: They are right next door to
18 a 180-unit apartment complex. They don't look
19 like homes. They look like an apartment complex
20 there right across the street from 23 units.

21 MS. MILSTEIN: I understand, but my
22 position is that I am opposed to it.

23 CHAIRMAN STUTO: Paul, do you any comments
24 or questions?

25 MR. ROSANO: Just a few, Peter.

1 First of all, I'm in favor of the
2 project. I don't see that it's any more of
3 an extension of multi-family that's already
4 there on location. I've been doing this long
5 enough to know that there are still mistakes
6 on the zoning map and as Nia said, we are
7 trying to correct them. I find this to be
8 one of those mistakes where basically I
9 would go over there and see three-family
10 homes and two of them on one lot -- which I
11 almost drove off the road when I saw that.
12 There is a duplex there which all these are
13 nonconforming if they go by the laws of
14 right now. They go around the corner on
15 Utica and they're two-family apartment
16 buildings. Somebody's got a problem here. It
17 should not be you.

18 I am totally in favor of this. I hope
19 they are for sale honestly, but that's your
20 business model and I'm not going to get
21 involved with that.

22 CHAIRMAN STUTO: Chip?

23 MR. ASHWORTH: I am in favor of these. How
24 can you say no when there are two and three
25 units around it? So, I'm in favor.

1 CHAIRMAN STUTO: Lou?

2 MR. MION: I think Paul said it very well.
3 I think it fits right in.

4 CHAIRMAN STUTO: Chief?

5 MR. HEIDER: I think the only thing I have
6 to say is that it is a heavily wooded project.
7 You've already talked about saving as much you
8 can and I only hope the Town departments pay
9 attention to that and save as much as they can.

10 MS. CHOLAKIS: Understand that if this
11 gets referred back to the Town Board, it's
12 going to come back to you guys for the actual
13 planning process.

14 CHAIRMAN STUTO: Okay, I will give my
15 comments. I tend to agree with Susan. I don't
16 see any compelling reason to increase the
17 density. They are attached housing. They are
18 single-family in the sense that each will be in
19 a different deed, but there will not be any
20 setback as a normal single-family would and
21 it's going to be a higher density than there
22 would in single-family. That's my position, but
23 it looks like you have four votes here anyway.
24 I'm opposed to it and I don't think there's any
25 compelling reason to increase the density. It's

1 mixed and I would rather lean to the
2 single-family. I would not want to increase the
3 density. So, those are my thoughts on it.

4 I've a couple of questions about the
5 Resolution that's in front of us. It is a
6 neg dec, but we are only making a
7 recommendation.

8 MR. MAGUIRE: Right, the neg dec will be
9 handled by the Town Board.

10 CHAIRMAN STUTO: Okay, so can we strike
11 that out of the Resolution?

12 MR. MAGUIRE: Sure.

13 CHAIRMAN STUTO: If everybody's going to
14 vote on the Resolution, just make sure we agree
15 with the wording of all of the findings that we
16 make. I personally don't.

17 Kathy, do you mind reading the
18 Resolution?

19 MS. MARINELLI: Written findings of the
20 Town of Colonie Planning Board, 44 Waterford
21 Avenue East. Whereas on February 13, 2020
22 Richard Rossetti, LLC, the applicant requested
23 that the Colonie Town Board rezone 44 Waterford
24 Avenue East from single-family residential to
25 multi-family residential in order to construct

1 8 two-family homes on the 2.35 acre site.

2 CHAIRMAN STUTO: That's a typo, right?

3 It's not 8 two-family homes.

4 MR. MAGUIRE: Again, I guess that's where
5 this comes into question. Is this two-family
6 homes and this is why it's being changed from
7 single-family to multi-family?

8 CHAIRMAN STUTO: If it were two-family
9 homes, it would only be four two-family homes
10 instead of total units.

11 MS. CHOLAKIS: It is eight townhomes. I
12 think that's the best way to describe it
13 because they are in separate lots.

14 MS. MARINELLI: Is that what the Board is
15 voting on - eight townhomes?

16 MR. HEIDER: If it was two-families, it
17 would be 16 units.

18 MS. MARINELLI: So, we're going to switch
19 that to four townhomes on the 2.35 acre site.

20 MS. MILSTEIN: Eight townhome units.

21 MS. MARINELLI: Four buildings, eight
22 townhomes.

23 CHAIRMAN STUTO: Yes.

24 MS. MARINELLI: Whereas in Resolution 151
25 2020 the Town Board referred the project to the

1 Town of Colonie Planning Board for review and
2 recommendations; and whereas prior to the
3 passage of Local Law 1 of 2007, the site had
4 been previously zoned as Res B2 which allowed
5 for multi-family residential with a maximum
6 density of six units per acre attached or
7 detached; and whereas the Planning and Economic
8 Development has research the conditions of the
9 site and surrounding neighborhoods and has
10 found that the site and surrounding
11 neighborhoods is residential in nature with a
12 mixture of home styles and types including the
13 adjacent and including the adjacent Woodlands
14 Apartments, the site does not contain streams
15 protective watercourses or wetlands according
16 to its records; and whereas use and area
17 variances have been granted in this
18 neighborhood to permit the construction of
19 two-family and three-family dwellings

20 Then, I'm going to take up the SEQRA
21 part.

22 CHAIRMAN STUTO: So, the next two
23 paragraphs?

24 MS. MARINELLI: Yes.

25 Be resolved that the Planning Board

1 recommends approval of the rezoning at 44
2 Waterford Avenue East from single-family
3 residential to multi-family residential.
4 This Resolution shall take effect
5 immediately and shall be transmitted to the
6 Town Supervisor and Members of the Town
7 Board

8 CHAIRMAN STUTO: I have one other
9 question. The third whereas that says
10 previously zoned Res B2 allowed for
11 multi-family residential with maximum density
12 of six units per acre -- when you gave your
13 presentation, I understood you to say something
14 different.

15 MS. CHOLAKIS: I didn't go any further
16 than to say two-family. There may have been
17 additional permitted uses for -

18 CHAIRMAN STUTO: So, you don't know.

19 MR. MAGUIRE: I think it's what Mr.
20 Leonardo said - that this would be allowed two
21 units per acre under the current zoning. Maybe
22 that's what we are thinking of here. This is
23 taken directly of the previous Land Use Code.

24 CHAIRMAN STUTO: The density of six units
25 per acre was allowed?

1 MR. MAGUIRE: Yes.

2 CHAIRMAN STUTO: I just want to confirm
3 that's accurate.

4 MS. MILSTEIN: Do we need that paragraph?
5 I don't think that it adds to it. It probably
6 detracts from it.

7 CHAIRMAN STUTO: Whoever makes the motion.

8 MS. MARINELLI: No, we don't need it. We
9 could take it out - about the passage of the
10 Local Law of 2007 the density per acre -- we
11 will just take that whereas out.

12 CHAIRMAN STUTO: Any disagreement from the
13 Board Members?

14 (There was no response.)

15 Does everybody on the Board understand
16 the Resolution, as amended? Does anybody
17 want to make a motion on that?

18 MR. MION: I will make the motion with the
19 changes noted.

20 MR. ROSANO: Second.

21 CHAIRMAN STUTO: Paul seconds.

22 Any comment?

23 We'll take a vote.

24 All those in favor, say aye.

25 MR. ROSANO: Aye.

1 MR. ASHWORTH: Aye.

2 MR. MION: Aye.

3 MR. HEIDER: Aye.

4 MR. SHAMLIAN: Aye.

5 CHAIRMAN STUTO: All those opposed, say
6 nay.

7 Nay.

8 MS. MILSTEIN: No.

9 CHAIRMAN STUTO: Susan Milstein and Peter
10 studio voted no.

11 So, once you mark it up, can you put
12 the roll call on it, too?

13 MR. MAGUIRE: Sure.

14 CHAIRMAN STUTO: Okay, thank you.

15 (Whereas the above entitled proceeding
16 was concluded at 6:21 PM)

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CERTIFICATION

I, NANCY L. STRANG, Shorthand Reporter
and Notary Public in and for the State of
New York, hereby CERTIFIES 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.

Date: _____

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