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PLANNING BOARD
TOWN OF COLONIE

COUNTY OF ALBANY

A HEARING REGARDING THE HODGKINSON RESIDENCE LOCATED AT 1A
SUNNYSIDE AVENUE. A SINGLE FAMILY DWELLING IN AN NCOR
DISTRICT REVIEW AND ACTION ON SPECIAL USE PERMIT

THE TAPED AND TRANSCRIBED MINUTES of the above entitled
proceeding BY NANCY STRANG-VANDEBOGART commencing on
June 23, 2009 at 7:05 p.m. at the Public Operations Center
347 Old Niskayuna Road, Latham, New York 12110

BOARD MEMBERS:

JEAN DONOVAN, Chairman
MICHAEL SULLIVAN
ELENA VAIDA
GEORGE B. HOLLAND, JR.
CHARLES J. O'ROURKE
TIMOTHY LANE
PETER STUTO, Jr. Esq., Attorney for the Planning Board

Also present:

Joseph LaCivita, Director, Planning and Economic Development
Ed Esposito, Esq.
Mike Lyons, Planning and Economic Development
Thomas Dellarocco

1 CHAIRPERSON DONOVAN: We have a public hearing
2 this evening on the Hodgkinson residence which is a
3 single family dwelling in an NCOR district and its
4 review and action on special use permit and final site
5 plan review.

6 Joe, is the representative here from there?

7 Sir, you'll just have to bear with me for a
8 minute. I got my packet and I thought that there were
9 materials missing. What I saw on a memo was that this
10 property was in front of us back in 2007. That must
11 have been the old Planning Board.

12 There wasn't a SEQRA adopted at the time because
13 this is a Type II action which does not require SEQRA.
14 I wasn't sure because it wasn't in my file.

15 Secondly, I don't have any minutes in my file
16 from what happened on that December 7th meeting. Is
17 someone going to let us know? Someone from the Planning
18 Department, please?

19 MR. LACIVITA: I didn't see them in this packet.

20 CHAIRPERSON DONOVAN: Did Kevin prepare this
21 packet?

22 MR. LACIVITA: Yes.

23 CHAIRPERSON DONOVAN: It's lacking, Joe. We have
24 a special use permit in front of us this evening. There
25 are certain criteria that the applicant has to meet. I

1 see no comments from the Planning Department about
2 those special criteria - whether they have been met or
3 they haven't been met. So, here we are. An applicant is
4 in front of us and this board is supposed to take
5 action this evening.

6 Is anybody from the Planning Department ready to
7 go through the special use permit procedure with us and
8 what findings are required by this board as we go
9 forward?

10 No? Okay.

11 Single family home, I believe a special use
12 permit is needed unless it's an accessory structure in
13 the NCOR district, is that correct?

14 This is not an accessory structure? This is a
15 single family structure.

16 The findings that are required in granting or
17 denying a special use permit - we have to know that the
18 use is consistent with the town's current planning
19 documents including the comprehensive plan, that the
20 use is consistent with the purposes of the land use
21 district in which it is located, that the use will be
22 suitable for the property in which it is proposed,
23 considering the property size, location, topography, if
24 it is buffered from neighboring properties, that the
25 use will be compatible with adjoining properties, that

1 the use will not adversely affect surrounding land uses
2 and will not cause undue traffic congestion, that the
3 use will have appropriate fronting and accessible to
4 fire, police and other emergency vehicles and the list
5 goes on.

6 Is the applicant prepared to address those points
7 this evening?

8 MR. ESPOSITO: I believe we are. There is no
9 prior planning actively.

10 My name is Ed Esposito. I'm representing
11 Mr. Hodgkinson and Thomas Dellarocco that had sold the
12 land previously. The only action before I even got
13 involved was December of '07 where there was some Town
14 Board activity to resolve the issue - it's a dead end
15 street. The lot was successfully subdivide and prepared
16 as a .32 acre subdivision.

17 We believe that it is consistent with the
18 surrounding land use. We have been working diligently
19 with Kevin and all the department staff to see that we
20 have the proper utility connections. We were asked to
21 do a little stormwater investigation and it is a single
22 family home. It is a modular home. The neighborhood
23 does have bungalows and ranches. It is very fitting and
24 it's not out of place or context.

25 I know that John's plight was to deal with the

1 NCOR and I'm sure in that neighborhood it's not the
2 first home that was looked at. It is a new home and we
3 have prepared the existing survey right through the
4 site plan, which hopefully this evening you will take
5 action on. The owner was looking at procuring a
6 building permit. We've got the owner here and we're all
7 here to answer any questions that the board may have
8 regarding the statistics of the property and the use.

9 I think that the narrative - the one page summary
10 really gives us access to some of the information and I
11 believe that mostly all of it. We'd like to discuss the
12 plan, if we could.

13 MR. LACIVITA: Do you have a tax map or anything
14 to show the Planning Board how this fits in within the
15 neighborhood? It does show single families around it.

16 MR. ESPOSITO: I don't know about the package,
17 per se, but this is the 1929 air survey and we're all
18 looking at this property right here (Indicating).
19 That's the tail of the Sunnyside Avenue Extension.
20 These are the surrounding site photos that were
21 submitted to show that it is a wooded site. The
22 pavement is going to be fully restored. Here is where
23 the hydrant ends here and the stormwater ends and the
24 sanitary ends (Indicating). I think that we have very
25 thorough plans to show how we intend to connect. We

1 have met pure waters and so forth. So, these exhibits
2 are all here and a cover letter was given to Kevin to
3 pass along.

4 CHAIRPERSON DONOVAN: Okay, well, we do have the
5 comments from the various departments and I don't know
6 if you've actually seen these and if those have been
7 completed. I'm assuming that they have because I have
8 here May 21, 2009 was a comment from John Frazer and
9 Daniel Sever who is a water engineer at DPW and that
10 was on the 21st. On the 28th it looks like they
11 signed-off on it.

12 MR. LACIVITA: And additionally with highway as
13 well. Steve Russell came in here and it was on
14 May 26, 2009.

15 CHAIRPERSON DONOVAN: The neighborhood is
16 obviously primarily zoned single family and this is the
17 situation that we had.

18 I don't know if you knew about St. Francis
19 de Sales parish that had to come here for a special use
20 permit to continue to use the parish as a single
21 residence. This is another issue in our Land Use Law
22 that probably should be addressed because it's causing
23 people to have to jump through hoops, probably
24 unnecessarily.

25 We'll start with Mike. Do you have any questions

1 of the applicant?

2 MR. STEWART: I had a question on the side yard
3 setbacks. Are they 11 and 25 feet?

4 MR. ESPOSITIO: They are listed under statistics.
5 Sides are - yes, 11.7 and 25.

6 CHAIRPERSON DONOVAN: What are your front yard
7 setbacks, sir?

8 MR. ESPOSITIO: The front yard setback is 40.
9 It's actually a trapezoid site so it is actually more.

10 MR. STEWART: What is the minimum setback for the
11 side yard? Is it 10 feet or is it 15 feet?

12 CHAIRPERSON DONOVAN: Michael, what is it in the
13 NCOR zone; isn't a totally of 25?

14 MR. LYONS: It is a minimum of 10 and a total of
15 25.

16 CHAIRPERSON DONOVAN: So this is actually meeting
17 the criteria of NCOR, I believe.

18 MR. STEWART: That was my only question.

19 CHAIRPERSON DONOVAN: C.J.?

20 MR. O'ROURKE: I'm all set.

21 CHAIRPERSON DONOVAN: George?

22 MR. HOLLAND: I'm all set.

23 CHAIRPERSON DONOVAN: Elena?

24 MS. VAIDA: I didn't have anything either.

25 MR. LANE: I just had a question, but Joe just

1 cleared it up.

2 CHAIRPERSON DONOVAN: Again, we have requirements
3 in the Land Use Law that have to be met. The board will
4 have to draft findings, Joe, in relation to this
5 project.

6 Mike, tonight, our actions - you say that it's a
7 Type II SEQRA so therefore, the board doesn't have to
8 take action on SEQRA, is that correct?

9 MR. LYONS: That's correct.

10 CHAIRPERSON DONOVAN: So what would you this
11 evening - what would you like us to give the applicant,
12 with this permit and approval on his site plan? Is that
13 what you're looking for us to do?

14 MR. LYONS: That's correct. The departments have
15 signed off and the site plan is satisfactory.

16 CHAIRPERSON DONOVAN: And we'll have to put
17 together some finding, Michael?

18 MR. LYONS: That's correct.

19 CHAIRPERSON DONOVAN: Any other board members
20 have any other questions?

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

22 CHAIRPERSON DONOVAN: Anybody from the public
23 have any questions on this?

24 MR. DELLAROCO: I have just one question, if I
25 may. I own the three point something acres here

1 (Indicating). I know that back a ways when it was zoned
2 undeveloped they went through this lengthy rezoning
3 that was supposed to be E3 which was residential in
4 small commercial. I have no clue when they changed
5 this. So, now, it means that me, being a property owner
6 down there who always planned on building his house
7 down there - which was part of the first time around
8 when we went through all this. Now, I have to jump
9 through hoops again to try to put a house on the
10 property. It's been in my family since God knows when;
11 maybe the '20's. I don't know who to ask. When was this
12 changed and why wasn't I, as a property owner, informed
13 of this?

14 CHAIRPERSON DONOVAN: It was changed in 2007.
15 There was a new Land Use Law adopted by the town. Now,
16 it's 2009 and the plan is going into implementation and
17 we're finding that there are problems. This is one of
18 the problems that we're finding.

19 MR. DELLAROCCO: I've kept this property
20 pristine. You can run down and see it. It took me
21 totally by shock when I sold Johnny this property. I
22 said, Johnny, you'll have no problem. It's Z3 and you
23 can put a house on their; multi-single family homes.
24 You won't have a problem. Poor John has had to spend
25 his money on this that could have been used better

1 doing something else besides jumping through hoops.
2 This will be the best looking house on that road. It's
3 just a shame that we have citizens paying taxes that
4 have to go through this stuff when it makes no sense
5 because everything around it is for houses. It's a
6 perfect use for this land.

7 CHAIRPERSON DONOVAN: One of the things, as I
8 said, that we realized that the law is in effect and
9 that there are problems with it. Some of the problems
10 were major. We've been addressing them and making
11 recommendations to the Town Board. The Supervisor has
12 also requested and is putting together a Land Use
13 Review Committee and what we'll do is go though the law
14 and try to analyze it. It's not something that's going
15 to be done in a week because it's a big document. The
16 law does have to be addressed. There is no question.

17 MR. DELLAROCO: Do you see this maybe changing
18 or giving some leeway here or there or a little slack?

19 CHAIRPERSON DONOVAN: I hope that issues like
20 this can be addressed. I can't tell you that this
21 particular issue will, be but I'm hoping that issues
22 like this will be addressed.

23 MR. O'ROURKE: Hopefully common sense will
24 prevail. Sometimes in government, it doesn't,
25 unfortunately. This Land Use Law is a prime example of

1 common sense gone awry.

2 CHAIRPERSON DONOVAN: Just like we were saying
3 before, one of the things that we did - when we did
4 make changes was we had the zero foot setbacks. This
5 town was never developed with zero foot setbacks. This
6 new Land Use Committee hopefully will be able to deal
7 with this.

8 MR. DELLAROCO: Hopefully when I do build, it
9 will be a little bit easier.

10 CHAIRPERSON DONOVAN: Anybody else from the
11 neighborhood or the audience have any questions or
12 comments?

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

14 CHAIRPERSON DONOVAN: Do I have a motion on the
15 granting of a special use permit for this property?

16 MR. O'ROURKE: I'll make that motion.

17 CHAIRPERSON DONOVAN: Do I have a second?

18 MR. NARDACCI: I'll second.

19 CHAIRPERSON DONOVAN: All those in favor?

20 ***(Ayes were recited.)***

21 CHAIRPERSON DONOVAN: Do I have a motion on the
22 final site plan approval for this project?

23 MR. O'ROURKE: I'll make that said motion.

24 CHAIRPERSON DONOVAN: Second?

25 MR. HOLLAND: I'll second it.

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CHAIRPERSON DONOVAN: All those in favor?

(Ayes were recited.)

MR. O'ROURKE: Good luck.

*(Whereas the proceeding concerning the above entitled
matter was adjourned at 7:21 p.m.)*

CERTIFICATION

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*I, NANCY STRANG-VANDEBOGART, Notary Public in
and for the State of New York, hereby CERTIFY that the
record taped and transcribed 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 14, 2009