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TOWN BOARD COUNTY OF ALBANY

TOWN OF COLONIE

PUBLIC COMMENT

THE STENOGRAPHIC MINUTES of the above entitled matter by NANCY L. STRANG, a Shorthand Reporter commencing on September 26, 2019 at 7:16 p.m. at Memorial Town Hall, 534 New Loudon Road, Latham, New York

BOARD MEMBERS:

- PAULA MAHAN, SUPERVISOR
- LINDA MURPHY, DEPUTY SUPERVISOR
- DAVID GREEN
- MELISSA JEFFERS-VONDOLLEN
- PAUL ROSANO
- JENNIFER WHALEN
- CHRISTOPHER CAREY

ALSO PRESENT:

- Michael C. Magguilli, Esq, Town Attorney
- Julie Gansle, Town Clerk
- Kurt Daigel
- Joseph Rourke
- Wayne Spenziero, Manager, Building Department

1 MR. DAIGLE: You know me by now and my name is
2 Kurt Daigel. I live at 3 Gregory Lane.

3 A couple of weeks ago Mike Magguilli brought
4 a couple of gentlemen over and arranged for them to
5 see my property. I want to again say the conditions
6 just get worse. Sooner or later you got to do it
7 because if you come back now - you're invited to come
8 back and say in two weeks what kind of deterioration
9 there is.

10 Now they were talking - the gentleman from
11 the Building Department Joe Mahan and Wayne Spenziero
12 - they were talking about getting an engineer's
13 opinion for the foundation which they have a right to
14 do, but it seems to me that building was enforced
15 structurally four or five years ago so I would assume
16 that's in the Town records also.

17 I'm asking you again, it's not pleasant but
18 it's got to be done. Things just get worse and worse.

19 MR. MAGGUILLI: My understanding of the
20 situation right now is that I am waiting for a report
21 from Mr. Spenziero, our Building Department Manager. He
22 is in the process of because of the technical nature of
23 the complaint, he is in the process of getting an
24 engineer's opinion. If we are going to do anything
25 against your adjoining property owner or file a

1 violation, we have to be able to prove that by a
2 preponderance of the evidence in Court. Without an
3 opinion of an expert, we wouldn't be able to do that.
4 So, that takes some time, sir, but they're moving as
5 quickly as possible. Hopefully, we will get this
6 resolved within a matter of weeks.

7 MR. DAIGLE: I can accept that, but if you
8 wanted to come back, you can see in two weeks how things
9 have gone downhill.

10 Also, as far as the building being reinforced
11 five years ago, there must be an engineer's record on
12 that also. There should be.

13 MR. MAGGUILLI: We are trying to help.

14 MR. DAIGEL: I will accept your answer. Thank
15 you.

16 SUPERVISOR MAHAN: Thank you, Mr. Daigel.

17 Anybody else?

18 MR. ROURKE: My family is trying to get a
19 generator installed and evidently we are rolling out a
20 new Building Code on the website and that requires
21 building permits. On September 10 when Ambrose Electric
22 was at my home installing, a Town employee stopped
23 because we did not have a building permit. There was
24 nothing on the website requiring a building permit.

25 Since then, a frequently asked question has

1 added to known permits. When I submitted the building
2 permit, the person at the office didn't understand all
3 the requirements and couldn't point to the Code.

4 So, what I would ask is before - as we are
5 rolling out -- this is more of a process and not a
6 people issue. As we are rolling out the regulations,
7 could you not enforce it until it's actually on the
8 website and have proper information so that residents
9 can comply? We would like to comply with regulations,
10 but if there's nothing on the website - I feel like
11 I'm the one resident in the Town of Colonie that has
12 had their generator stopped and Ambrose is installing
13 every day.

14 MR. MAGGILLI: Sir, we have looked into this
15 and I think you recently received an email from my
16 assistant Rebekah Kennedy. Rebekah was kind enough to
17 send you the links to the New York State Law
18 requirements. The building permit requirements are all
19 triggered by the New York State Fire Protection Building
20 Code. These are long-standing regulations and they are
21 nothing new. Also, the New York State Electrical Code,
22 because you're dealing with an electrical generator.
23 Both of those apply. Under the Town Law, a generator is
24 considered an accessory use in all zones. Because it is
25 an accessory use, it requires a \$105.00 building permit

1 fee and then your application is reviewed for compliance
2 with both the New York State Building Code and the
3 electrical code. These are things of public record.

4 Ambrose Electric is an excellent company. I
5 am sure that they are certainly aware of these
6 requirements. They may not have been aware for some
7 reason of the Town's Code Provision about accessory
8 uses, but the Town Code again is on the website and
9 it's been there for quite some time.

10 I certainly agree with you that we should
11 have things open for the public to see and try to make
12 things as easy as possible.

13 MR. ROURKE: So, since I sent the building
14 permit and applied, I since found out that there's an
15 application fee which wasn't asked for at the time I
16 applied for it. I submitted an application to the person
17 who was accepting my application and didn't understand
18 it was a fee. I don't know whether or not there's been a
19 lot of people who have actually gone through this
20 process.

21 MR. MAGGUILLI: We get quite a few.

22 MR. ROURKE: Because you need manufacturer's
23 instructions on how to install it submitted with it. I
24 will look for the email about what the feedback was in
25 terms of the regulations. I will say also that the Town

1 of Clifton Park, it indicates on their website that they
2 do not require a permit for a generator. So, if it's New
3 York State law, I'm not sure how the Town of Clifton
4 Park does not require one.

5 MR. MAGGUILLI: Me either.

6 SUPERVISOR MAHAN: I think Mike, what we can do
7 to is just to be sure so that everything is clear, we
8 will get clarification from the Building Department to
9 make sure that were on the same page.

10 MR. ROURKE: We want to comply -

11 MR. MAGGUILLI: Did you see Rebekah's email
12 today?

13 MR. ROURKE: It was sent to me today? I didn't
14 see it.

15 MR. MAGGUILLI: It's very helpful.

16 MS. WHALEN: Did you get the permit? Did you
17 get acceptance?

18 MR. ROURKE: I have not heard back from and I
19 submitted it.

20 MS. WHALEN: So, you probably need to pay the
21 fee, too.

22 MR. ROURKE: I sent an email and I didn't get a
23 reply back before the email I got sent today that I
24 didn't see that I needed to get manufacturer's
25 installation instructions and I needed to abide by all

1 setback requirements, which I don't know what they are.
2 If there was one page that indicated what all these
3 requirements were for the public, it would be helpful.

4 Again, I start with the process and not the
5 people. Everyone's trying to do their job, but I don't
6 think all the information is available to them.

7 SUPERVISOR MAHAN: Yes. Can you just give us
8 your name.

9 MR. ROURKE: My name is Joseph Rourke;
10 R-O-U-R-K-E.

11 MR. MAGGUILLI: Rebekah sent out an extensive
12 email today that has the actual links to the Code
13 Provisions; both Town and New York State requirements.

14 MR. ROURKE: If I had seen it, I probably would
15 not have come.

16 MR. CAREY: So, do we need like a cheat sheet
17 over at the Building Department so when a resident comes
18 in, we hand it to them and they know exactly what they
19 have to submit back to the Building Department?

20 SUPERVISOR MAHAN: I think we just need to go
21 through and see exactly what occurred. I believe what
22 you are saying it's just that I think we just need to
23 get clarification so we can give you clarification.

24 MR. ROURKE: On day one it was 10 feet of the
25 property line, but there was no fee required when I

1 submitted mine. When the frequently asked questions
2 came out on Saturday, it a gave a fee. So, I asked what
3 my fee was. They said I also need to submit
4 manufacturer's installation instructions. I have to have
5 inspectors to come out after.

6 By the way, I understand the safety issues. I
7 want to be safe. But, if I could find on the first day
8 in the office so that I could try to comply - - I just
9 don't think everyone knows what the compliance issues
10 are.

11 SUPERVISOR MAHAN: That's why I'm saying I'd
12 like to talk to the Building Department.

13 Do you have anything to add to this?

14 MR. SPENZIERO: I sent this gentleman an email
15 telling him some of the things that we would need to get
16 the ball rolling.

17 Rebekah called me the other day and I sent
18 her the same email. I told her where we were coming
19 from and she agreed.

20 A generator is an accessory use structure. It
21 has to comply with setbacks. Unfortunately, the
22 setbacks throughout the Town are not the same. So, we
23 have a lot of new people within the office that don't
24 yet still understand the Land Use Law. That, I
25 understand is a problem. With a generator, there are a

1 lot of things that happen with a generator; electric,
2 gas piping, carbon monoxide. Carbon monoxide is a big
3 issue. The steps tell us to a certain extent where
4 this generator can be placed. Generally, I think it is
5 five feet from any window or door that opens or any
6 furnace or air intake or anything that expels air or
7 hot water tank, dryer vent, vents that go into your
8 house, your ridge vent, your soffit vents; they are
9 all in the specs. That generator has to comply to not
10 only the specifications, but whatever NFPA calls for.
11 Again, you have the gas piping and the electric.

12 The other part is you put the generator in
13 and it's not just your property that it is affecting.
14 Now I have to consider the neighbors' property. Do we
15 have the correct distance from the neighbors property
16 to have a window where you want to put the generator?
17 All that comes into play.

18 I did send an email and I understand. We
19 don't have every little thing on the website. We are
20 in the process. Jim is on vacation so I think we need
21 to wait till he gets back. Then, we're going to update
22 the website with a generator and at least tell you the
23 permit process you have to go through.

24 MR. ROURKE: And that's what I said; it's more
25 the process than the people.

1 I did get your email and your explanation of
2 all these things, I don't know where it's going to
3 fit. I told Ambrose Electric that I will pay you to go
4 through this process and they don't know where to
5 start. What I will tell you is every day they are
6 installing generators at people's houses other than
7 mine.

8 MR.SPENZIERO: They have a bunch of
9 applications and in a lot of things they haven't
10 submitted site plan for. So, we have to wait for the
11 site plan. Once we get the site plan and see if it is
12 determined to comply - - like I said, it's not just one
13 specific setback when it's in the side yard. There are
14 multiple areas in this Town where the law is different.
15 So, that's one of the issues that we run into. Like I
16 said, we have new people and unfortunately they are
17 learning the process and we are doing the best we can.

18 SUPERVISOR MAHAN: And that helps to clarify
19 the situation. There has been a lot of turnover until
20 retirements. It is about a one to two-year with the
21 training. It's difficult and we appreciate your
22 patience, but we do have people here that have years
23 under their belt.

24 MR. ROURKE: I will review the email.

25 MR. SPENZIERO: It's not quite specifically the

1 setbacks because they vary throughout the Town. What I
2 will do is if you take a look at the email and you want
3 to give me a call when I get in tomorrow, I will find
4 out where your application stands and see if anybody has
5 done anything on it yet.

6 MR. ROURKE: I appreciate it. I think other
7 people are going to start running through this process
8 to. People like to buy generators.

9 SUPERVISOR MAHAN: I think once we get it
10 situated and clarified, it will be able to get resolved.
11 I just want you to reach out if you need more
12 clarification and help because we have people here they
13 can help.

14 MR. ROURKE: Thank you for the email.

15 SUPERVISOR MAHAN: We just want to get it
16 resolved for you. Thank you for your patience. It's
17 amazing how many codes and how involved everything is.
18 It is constantly changing. Please reach out if you still
19 have difficulty as to what you need to do.

20 Anyone else?

21 (There was no response.)

22 Okay, we'll go onto the regular Resolutions.

23 (Whereas the above proceeding was concluded
24 at 7:36 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.

Dated: _____

NANCY L. STRANG
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NISKAYUNA, NY 12309