



VILLAGE OF COLONIE

VILLAGE HALL
2 THUNDER ROAD
COLONIE, NY 12205
(518) 869-7562 FAX (518) 464-0389

THOMAS J. TOBIN
MAYOR

jblot@colonievillage.org
www.colonievillage.org

PUBLIC HEARING MINUTES

PUBLIC HEARING FOR SOUTH COLONIE SCHOOL DISTRICT - EXEMPT OR IMMUNE
FROM VOC ZONING LAWS
MONDAY, NOVEMBER 1, 2021
7:00 P.M.

EDWARD SIM
DEPUTY MAYOR

PATTY SCHWARZ LOCKART
TRUSTEE
JAMES M. RUBINO
TRUSTEE
ART WHITE
TRUSTEE

JAMIE BLOT
CLERK

Mayor Tobin opened the public hearing at 7:00 p.m.

Treasurer Secor read the advertisement aloud as it appeared in the newspaper.

Village Attorney Ben Neidl made a couple of remarks in regard to the nature of the proceedings. The question before the board of trustees is whether the South Colonie Central School District is immune or partially immune from the Village local land use and zoning laws. Attorney Neidl advised the School District would be making a detailed presentation fully explaining certain developments at the Broderick Street property. Attorney Neidl gave a brief legalese on immune, for most of New York state history, School Districts and certain other public institutions were considered immune for local land use laws of municipalities. Attorney Neidl stated back in the 1980's that changed, New York's highest court handed down two decisions which abandoned the absolute immunity rule but adopted what we call a "situational immunity rule". That based on certain factors to be balanced by the locality or a court if its appealed. The "visiting municipality" may or may not be immune once they balance the factors. Attorney Neidl advised strictly speaking the board of trustees are not asked to approve or disapprove a project, what they are considering is whether they have jurisdiction to regulate this project or not.

A motion was made by Trustee Lockart to open the public hearing.
Motion seconded by Trustee Rubino.

VOTE:	Trustee Lockart	Yes
	Trustee Rubino	Yes
	Deputy Mayor Sim	Yes
	Mayor Tobin	Yes

Motion passed.

David Perry, Superintendent of South Colonie School District and a group of individuals including School Attorney-Mr. Ryan, Asst. Superintendent from Management Services-Jacqlene Mcallister, Articular firm, Alastair Aitchison-Sei Design, Don McPherson-LA Group. Matthew Schools-Sei Design.

Superintendent Perry advised they were there to talk about the proposed project, their voters approved the potential purchase of the four parcels in May 2021 thru a public vote, with over 70% of voter approval to be able to purchase the land.

Superintendent Perry stated through out this entire process the School District is looking to be a good part of the community and wants to make sure any project they do is beneficial to both the School District and the residents of both the Village and Town of Colonie. Superintendent Perry gave some background on the existing bus garage, which was built in the 1930's the other portion located on Winston Place was built in 1980's. It is estimated to need over \$2 million dollars in repairs. It does not meet the current fleet needs as now the South Colonie School District size has now grown to over 5,000 students. Not all buses can fit inside the barn for storage or repairs. Superintendent Perry also mentioned they are in a heavily residential area. In addition, the School District office is located on Loralee Drive, built back in 1970's is also in need of over \$2 Million in repairs. The School District has outgrown their facilities and looking at options due to the cost repairs for both locations.

The proposed area, is a 57 acre property but looking at developing a lot less. The property borders Broderick Street on the north and Railroad Avenue on the south. The School District anticipates coming in off of Petra Lane where there is a current stop light near Cumberland Farms. The goal is to develop a transportation facility and a district office with potential athletic fields in the future.

Attorney Ryan representing the School District advised that the School District is the contract vendee of the 57 acre parcel and what is proposed is to develop about half of that. the purpose is for the bus garage, district office and alternate education facility with possibly athletic fields in the future. As Attorney Neidl alluded, the Court of Appeals have issued certain decisions over the last few years with respect to municipalities, School Districts with seeking zoning exemptions. Attorney Ryan mentioning, they are "here" seeking an exemption from the use of variance requirements under the Village of Colonie zoning code. They are not "here" seeking any exemption from the site plan review process. They understand if the exemption is granted, they will follow through on site plan and will also follow through with the State Environmental Quality Review Act process. Attorney Ryan mentioned this is a type one action under the State Environmental Quality Review Act and the School District will be required to prepare, draft and review the site plan with the Village Planning Commission and other involved agencies.

Attorney Ryan briefly touched base on the Cornell University case and how after the County of Monroe decision from the Court of Appeals set forth 9 factors that need to be satisfied in order to grant an exemption.

- The first factor is the nature and scope of instrumentality seeking immunity. Attorney Ryan mentioned the School District educates over 5,000 students, with five (5) elementary schools, two (2) middle schools, and one (1) high school. The district office is in desperate need of repair and where the bus garage sits now, is located in a residential community which cannot adequately house the busses nor any type of garage in order to undertake mechanical maintenance of the fleet.
- The second factor is the encroaching governments legislative grand of authority. The New York State Education law vessels school district with the power to purchase sites or

additions to operate school houses, recreation grounds and other structures. Set forth in the Education Law section 1805 and section 1709 subsection six. Attorney Ryan stating in the school districts view there is no doubt the project is an exercise of the School Districts savant powers.

- The third factor is the kind of function land use involved. The project involves proposed land use that's within the ordinary course of operation. Public school district which is part in parcel of the districts mission.
- The forth factor effects of local land use regulations. Attorney Ryan mentioned the public notice read that section 242-4 of the Village code is in play here. Attorney Ryan stated as to which they want to put the property aren't permitted under the Village code. Attorney Ryan advised all the setback requirements would be met. Attorney Ryan addressed the issues with the wetlands. They have already discussed measures to deal with that and Army Core of Engineers have already been on site once and made their initial investigation and will be returning after the School District returns certain documentation to them. Attorney Ryan advised that one of the parcels-100a Broderick Street is the only place, subject development could occur.
- The fifth factor is the impact upon legitimate of local interest. Attorney Ryan mentioned the proposed development could have an impact upon traffic. Again, mentioning the proposal is not to approach ingress and egress from Broderick Street but to have the ingress and egress over on Petra Lane which is an industrial/commercial area. Making it clear their attempt is to avoid that residential area on Broderick Street.
- The sixth factor is alternative methods of providing the proposed improvement. Attorney Ryan stated there are not other alternative methods. Attorney Ryan mentioned earlier 50% of the 57 acres can only be developed. The School District is proposing to only develop between 27-28 acres.
- The seventh factor is for the extent of the public interest to be served by the improvements. Attorney Ryan stated that would be elevated with the prosed traffic on Petra Lane, not on Broderick Street.
- The eighth factor is intergovernmental participation on the project development process and an opportunity to be heard. Attorney Ryan mentioned that the Pine Bush, New York State archaeological agency, DEC will examine the wetlands and will have very active participation from all agencies and all will have an opportunity to be heard and to comment on what the School District is proposing.

Attorney Ryan advising they need to satisfy those requirements under the Court of Appeals cases. Alastar & Matt described and demonstrated in detail what is being prosed for the development and the School Districts ideas for the development. They advised that the thick yellow line on the graphic is the 57 acres parcel and the light grey line coming from the left (Post Road-industrial zone) and right (Petra Lane-commercial zone) proving two means of ingress and egress. They also stated it is an important goal of the project to reduce the single point bus traffic and over all general site safety. Mentioning all traffic is avoiding the residential area. Red boxes on graphic represent buildings- transportation & maintenance facility (maintaining busses & staff of fleet of vehicle). Light grey boxes represent parking that is necessary for busses, staff. Red squares represent a two-story district office which will also house an alternative education program. At this time, it is early in the process and this presentation is just a diagram of what could be, based on the environmental factors that they are uncovering as they explore the site.

They have since found an area of the site has been historically identified as an “important habitat” for animal species in which some of them could be rare. They have done reviews of the entire site to look for the flowers the blue Karner butterfly occupy. They have yet to find any rare or endangered species on the site. There is no proposed development for the whole right area of the site. (Higher land-wooded wetlands) Green areas on graph represents storm water management. Most of the development is concentrated along the existing railroad and significantly away from the residential neighborhoods adjacent to the site. They pointed out the big buffer to the residential area.

Attorney Neidl opened the meeting to the public.

Ann Snyder, 60 Broderick Street spoke about zoning and how it wound up to be residential conservation. She stated, the residents on Broderick Street, Stella Terrace, Mayhall Street, Vics Court and Gail Avenue fought long and hard to have that zoning residential. She said, to have more people live here in the Village, this little gem of a place, to love it and to be taxed based, to keep the integrity of the neighborhood, she stated they don’t want ambient light, noise of busses or trucks backing up. She mentioned the graph showed it will protect the Patroon Creek and hopes it does. Ms. Snyder also said she knows this is not the final plan. She asked that the Village help the residents get what they need as residents, more residential and not more traffic and lights.

Erica Battistoni- 14 Stella Terrace stated she recognized a lot of her neighbors because she sees them out all the time. A lot of her neighbors have raised their families here 20,30, 40 plus years. She walks daily in the neighborhood. She moved to Stella Terrace because the property is beautiful. Ms. Battistoni stated her backyard backs up to what is proposed. She spoke of concerns if the Village allows this, it will not be the last project and will lose what she bought her house for-a beautiful affordable property in the Village of Colonie.

Bill Colter-21 Stella Terrace mentioned concerns over the size of the athletic fields. Would like to see a codicil of the legal documents. Indicating that it should be forever wild, never should be developed and its zoning should never change on the wild areas. Also stating if it does go through, he would like to see a link to the main pine bush. He suggested a suspension or walkway that would connect the two.

Richard Barry-11 Broderick Street does not want the traffic and already have cut thru- traffic issues and speeding. Stated he wanted more clarification on the traffic issue. Lighting and noise are a concern. Mentioning Cumberland Farms and Shoprite are a lighting and noise issue. Wanted to know what they will do with the buildings that are there now? Are they just going to sit there and fall apart, or do they plan to get rid of them? (in reference to the current bus garage/district office)

Ed - 70 Broderick Street mentioned the noise from the industrial park now is a problem along with the lighting. He mentioned the wildlife behind the power lines, there are 15-20 deer ever night and up to 50-60 turkeys. He is concerned about that and there are no sidewalks on Broderick Street. He thinks it’s a bad idea, a lot of noise and a lot of traffic. Ed stated he thinks a portion of it should be residential and the rest forever wild.

Lynn Jackson-223 South Swan Street - Volunteer with Save the Pine Bush, non for profit organization dedicated to the preservation of the Albany Pine Bush. Ms. Jackson stated she thinks the zoning should apply to this because if they couldn't get a variance maybe the Village realizes this isn't the most adequate location for this project. It is current zoned as Residential Conservation Zoning. This is one of the last places in the Village that is protected. With climate change, species decline, this is a serious problem. She doesn't think this project should be subject to zoning exemption since it is not a school. She also pointed out eco systems, this layout is the worst because it cuts off the northern part of the parcel from the pine bush. She suggested the Village should consider buying this and adding it to the preserves since we aren't getting taxes from it anyway. She asked what will happen to the current buildings? (in reference to the current bus garage/district office) Ms. Jackson stated she hopes the Village will require that this current project be subject to the current zoning laws and a full environmental impact statement needs to be written because there could be Karner Blue Butterflies. She stated they need to save the pine bush over the busses.

Andy Artuhter-15A Elm Avenue Delmar is concerned that this is the biggest portion of the protected Pine Bush in Colonie. In which Save the Pine Bush has been concerned about for over 30 years. Stressed the fact that you can build a school anywhere, but you cannot build a Pine Bush Preserve. The Village should also follow the existing zoning laws. Mr. Artuhter also spoke on behalf of the lighting and advised the Led lights are good and energy efficient but also give off a lot of blue light. Stating blue light is very bad for the eco system and suggesting it would be very bad for the pine bush if project is approved. Mr. Artuhter stressed that this project is being funded by taxpayers' dollars and it would not be used to develop the Pine Bush which should be preserved. Mr. Artuhter suggested the School District should consider dedicating these lands to the preserve and try to get an alternative location to build their buildings.

Julie Ferrara-7 Hannifin Avenue stated she chose to buy her house in the Village because her property backs up to open space. She can see a total of 11 acres in her backyard. Ms. Ferrara is concerned because promises of a preserved tree line buffer have already been given up. She mentioned great concerns of the storm runoff and potential flooding issues. Ms. Ferrara wanted to know what will happen with the two buildings that are currently there? She suggested many possible locations available up and down Central Avenue. Ms. Ferrara stressed concerns of the buildings potentially being sold to Rosetti development and then get stuck with more development? Ms. Ferrara stated she doesn't feel as though the Village is representing their voters and representing other interest. Ms. Ferrara mentioned she does not like all the new housing, and we should be thinking of the future of the planet.

Nile Gifford-Conservation Director- Albany Pine Bush Preserve Commission Mr. Gifford handed out maps to provide context. Mr. Gifford stated that Superintendent Perry and his staff requested a meeting this past summer where they approached their concepts for a bus garage and administrative building. Following that meeting a letter was sent to Superintendent Perry advising of the preliminary comment from the commission. Mr. Gifford pointed out a circle on the map which indicated an area within the pine bush that is recommended for particle protection. Mr. Gifford stated a partial protection recommendation is 50% of the property

protected. Mr. Gifford stated in this case the School District is providing for that level of protection (only developing 50%, protection the dunes and the wetlands). They have met and spoken about SEQR (state environmental quality review act). Indicating they are at early stages and the commission is a resource for us and any questions or concerns. The commission is there to help balance all these interests and it's not only about development and conservation it's also about public education for the future of our society.

Jennifer Richards- Parents reside at 1 Broderick Street. Ms. Richards mentioned she knows the proposed project is at the other end of the street, but her concerns are for the nature. Ms. Richards stated she walks her dog regularly in the neighborhood and on Walker Way/ Jupiter Lane, stating it is very rare that she doesn't see deer, fox, and wildlife. Ms. Richards stressed her concerns the animals will be pushed out and have nowhere to go and run out of food. Mrs. Richards asked the board to please take this into consideration because she has seen the butterflies.

Rich Burnley-62 Broderick Street. Mr. Burnley stated there is no such thing as zero pollution. His concerns over the wetlands and contamination of oils, chemicals and everything else which could cause flooding. He advised he knows they will have gas filling stations there and the environment is his biggest concern with this project.

Russel Ziemba-1813 Highland Ave Troy (Volunteer-Albany Pine Bush) stating it is a very poor location for offices, bus garage, parking lot. Mr. Ziemba mentioned it is not on a bus line so it's not convenient and everyone will have to drive there. Mr. Ziemba stressed the pollution of light, noise, air & water, traffic also being a concern. Mr. Ziemba stating this is a critical environmental area that is a home to endangered species. He also dislikes the idea that instead of the School District using it to teach children, they are going to destroy it.

Mayor Tobin thanked everyone for their input. He stated that we will continue to take in public comment, so that if anyone has anything further to add, to please contact Village Hall.

A motion was made by Trustee Lockart to close the public hearing.
Motion seconded by Trustee Rubino.

VOTE:	Trustee Lockart	Yes
	Trustee Rubino	Yes
	Deputy Mayor Sim	Yes
	Mayor Tobin	Yes

Motion passed.

Public hearing closed at 8:15 p.m.
Respectfully Submitted,

Christina Secor
Treasurer
Village of Colonie