



Neighborhoods and Neighbors First!

March 12, 2018

Paula Mahan, Supervisor
Town of Colonie
PO Box 508
Newtonville, New York 12128-0508

Re: Illegal issuance of grading permits

Dear Supervisor Mahan,

We wish to bring to your attention an issue which has been brewing since the Maxwell Road clear cutting occurred in 2016. Should town staff be issuing clearing and grading permits to applicants prior to Planning Board final site plan and subdivision approvals?

At the March 6, 2018, Town of Colonie Planning Board concept review of the new British American development at 798 Albany Shaker Road, British American Development LLC's representative admitted that British American had cleared and graded the site pursuant to a 2015 clearing and grading permit from the town. To date, however, the Planning Board has not granted final approval for any project on this site.

In 2009, the Planning Board issued British American a concept approval to develop a different project for 798 Albany Shaker Road: 4 office buildings and no hotel. The concept approval was renewed in 2010, and subsequently expired. During the same time period, British American applied for and obtained federal and state wetlands approvals for filling wetlands on 798 Albany Shaker Road, necessitated by their 2010 project plans which required wetlands mitigation. (Wetlands were created off Sand Creek Road.) After the town's concept approval had expired, and without any final approval from the Planning Board, the town apparently issued a clearing and grading permit for 798 Albany Shaker Rd.

The Town Code provisions for site plans and subdivisions are identical. They state that "a grading permit as provided for in this chapter may only be applied for with respect to any proposed site development upon receipt of a final site plan approval. Until such time, no grading or clearing shall be done on the subject site."

These common building code requirements reflect sound public policy. A site should not be altered before the Planning Board has determined that the project, in its final form, can go forward. Prior to final Planning Board approval, a project can change, be abandoned, or not receive the final approval. Nearby towns have these common sense provisions, as well.

However, Town of Colonie staff apparently issue grading and clearing permits without final Planning Board project approval, as in this case. Recall the Maxwell Village grading and clear cut. Town Attorney Magguilli assured the public that no town employee had issued such a permit; it was subsequently revealed that indeed such a permit had been issued. We note that the Rossetti apartment project adjacent to Route 155/New Karner Road has been clear cut without any final Planning Board approval. Did town staff issue a permit for this work, as well?

SAVE pointed this situation out to the Planning Board at the March 6th meeting and asked that the Board investigate the clearing and grading undertaken at the British American property, and also to evaluate why this situation continues to occur. We now request that you also investigate the British American clearing and the circumstances behind the Town's issuance of a grading permit to British American in 2015.

These examples raise the question of the authority apparently being exercised by town staff versus that of the Planning Board, pursuant to the clear language of the Town Code. It is in the Town's best interests to establish clear directives to Town of Colonie employees, including to the town designated engineers, on this issue. If your administration chooses not to follow the Town Code, then the Town Board should determine whether the Code should be amended to reflect current practice, and make the appropriate amendments.

We look forward to hearing the results of your investigation.

Sincerely,

Susan F. Weber
For SAVE Colonie: A Partnership for Planning

Cc:
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