

December 13, 2022

Schultzville, NY

A public hearing on the **proposed LL XX of 2022 entitled, “Amendment to Section 250-31 of the Town Code – Alternate Care Facilities** was held on this day in the Town Hall. Present were Supervisor Whitton, Councilmen Dean Michael, Chris Juliano, Eliot Werner, Councilwoman Katherine Mustello and Town Clerk Carol-Jean Mackin. Town Attorney Shane Egan arrives at 6:23 pm.

There were 60 people in the audience.

PLEDGE OF ALLEGIANCE

At 6:00 PM, Supervisor Whitton called the public hearing to order and led the Pledge of Allegiance.

LEGAL NOTICE

The Town Clerk read the Public Hearing Notice aloud.

PUBLIC HEARING

Supervisor Whitton said this is a public hearing concerning proposed LL XX of 2022 entitled, “Amendment to Section 250-31 of the Town Code – Alternate Care Facilities. Public Hearing

He laid out some ground rules for the evening.

- We do not plan on voting on this amendment at tonight’s meeting. We are here to listen, and then to take an appropriate amount of time to consider all of the comments we receive before making a final decision.
- Next, I will read the comments we have received via email. Those comments carry the same weight as comments made tonight at the microphone.
- Come to the microphone in the front of the room, to your right. It is helpful to us, but not required, to state your name and the road you live on.
- All comments should be directed to the five members of the Town Board. Please do not direct any questions or comments to Cornerstone representatives or other audience members.
- We ask that you limit your comments to 3 minutes out of respect for others that would like to have an opportunity to speak. If that is not enough time, you can direct your comments to my email address at townsupervisor@townofclinton.com. I will share those emails with the Town Board.
- In the interest of respecting everyone’s time, you will only be permitted to speak once. Your comments should also be relevant to the amendment we are considering.
- As a general rule during public hearings, we are not going to respond to any comments or questions directed to us. Please understand that we are not trying to be rude, this does not indicate that we haven’t heard you or that we agree or disagree. Our job is to be here to listen, not to speak.

- Please do not interrupt those that are speaking with audible reactions. Many of us are neighbors, and I expect all of us to treat our neighbors with respect and civility. The Town Attorney will speak at the end of the meeting.

Supervisor Whitton started by reading emails received, they are attached.

Brad Cole - supports drug rehab, does not want to shut down Cornerstone, reviewed the Cornerstone issue with the ZBA, said Cornerstone is in the process of selling, concerned the new owners will not adhere to local laws and set a precedent and change for the community. Happy to hear Town Board won't be voting tonight, asked for a referendum so community is informed.

Steve Rathjen - has a professional relationship for 36 years with Cornerstone. Never seen any concerns there that people are talking about. Friends have been helped by Cornerstone. It's a big family and big employer in town. Knows residents to be respectful, he delivers for his business there. Their census goes up and down. NYS has stringent rules with a facility like Cornerstone. If OASIS (the State governing body over facilities such as Cornerstone), says they can have 99 beds we should allow that as that may be the business breakeven point.

Wendie Adelman – bought her home in 1998 when they had 68 beds, does not want to eliminate Cornerstone nor is she opposed to having a rehab in the community. She is concerned about saturation of the property. Their usable area is smaller than their entire lot. Concerned the local law will allow for an increased density in zone C; much of Cornerstone's property is as islands or under water with the usable land being 28 acres of their 40 acres. Feels their applications that use 40 acres is incorrect and misrepresents their usable area. Talks about Rhinebeck having an alternate care facility similar to Cornerstone with a zoning law specifically designed for it; read from their code which is restrictive. Concerned about the Town allowing a higher density in Clinton, particularly in the Conservation district. Discussed the expanded plan previously submitted in 2017, with a request for 200 beds, along with increased staff, physical buildings and parking areas. Concerned a new proposal resubmitted by the new owner won't be rejected, and then, what if the Planning Board is sued if they are rejected to increase the facility? Suggests standing ground about increased density. Concerned that developers will find the Town appealing to expand in the future changing the nature of Clinton. Asks for time to consider this change, asks for 90 days to consider this law.

David Buckner – Exec vp of clinical services at Cornerstone. Thanks to the town for the law. Cornerstone saves lives. We strive to be a good neighbor. Being a good neighbor is a two-way street, saying we will hear tonight from neighbors that Cornerstone has been violating the law for years, says not true. Reviewed the history of going before the board in the past where they were told increasing the physical facility is what needed planning board approval. In 2021, they learned they needed planning board approval to increase bed count from 66 to 99. This is when the neighbors brought the appeal to the ZBA. The local law will allow Cornerstone to continue its application before the planning board. They would rather do that than litigate the ZBA interpretation.

Katerina Maxianova – Discussed her history with Cornerstone as a neighbor. Named as an interested party in the Cornerstone lawsuit against the ZBA. Discussed her meeting David Buckner in 2020 and described their meeting: saying he told her he enjoys the fine restaurants and accommodations in Rhinebeck and that he is chummy with the regulators and commissioner in Albany who oversees Cornerstone. She found the interaction intimidating and she took it a veiled threat. When Cornerstone realized the neighbors researched Cornerstone's history, she said they unleashed a war of intimidation and slander to keep the neighbors quiet. She opined that their lawyer, Warren Replansky, tampered with our town code to fabricate ethical violations against her. She stated that Cornerstone employed the former Planning Board chairman to help them push through their plans to the Planning Board. She expressed that they lied to solicit support letters for Cornerstone saying that the community wants to shut them down. Many letters she read were from current patients of Cornerstone. She questions the ethics of Cornerstone doing this and revealing current patients' information to the public. Asked the Board to take their time to consider this issue.

Mike Whitton reminded the audience to keep comments to the proposed law.

Erin Saks - rehab saved a family member. Does not want to get rid of the rehab. She is also being sued. Presented the application for the sale of the Cornerstone, the application states there will be no changes to the population served or the number of clients or the current staffing. Had a NYS Comptroller assessment document on the new owner. Wants the board to look into the new owners, wants more time for the board to review this law.

Michael Zarin – representing Cornerstone, prepared the lawsuit, explained why these neighbors are being sued; they had to name certain individuals who were the applicants to the ZBA who would be affected by the lawsuit, they are necessary parties under NYS law. They now have the opportunity to represent themselves to argue why the determination should be upheld. Thanked the board for taking up the law amending the ACF provisions of the zoning code. The lawsuit was a last resort, said many ZBA members felt constrained by the language of the code based on their testimony the night of the vote. He commented that they viewed the code as a per-se prohibition of any expansion of a non-conforming use, and that the alt care facility regs governing increases in resident population limited the Planning Board jurisdiction to only conforming uses. The proposed law just clarifies the language allowing the Planning Board to review and determine what is a permissible expansion of an ACF, and to modify a site plan accordingly. This is a beneficial law, better to have the planning board make the determination rather than a court of law. Cornerstone has been here for 40 years. For 16 years, there has been the increase in beds so whatever impact these additional beds may have, those impacts have existing for the past 16 years. This is about the board considering amending the code to be in line with the intent to let the Planning Board do its job. If the law is approved Cornerstone will return to the Planning Board, continue what has already been in process and review the request. The law allows for the

expansion of non-conforming uses if they don't result in any adverse effects to the community.

Kyle Barnett – represents the members of the community opposed to the expansion. While making decisions as a former Town Supervisor, he strove to gather all the facts, making sure he got all of the stakeholders involved in the process. The neighbors wanted to be involved in the creating of the local law, intimating that Cornerstone was involved with the creation of the law and the neighbors were not. Concerned by passing law as is, you'll fix a temporary problem of the lawsuit against ZBA, but he feels it will create a bigger one. If the decision is not favorable to Cornerstone, they will not go home and go away. That determination will follow through with the ZBA, and then Cornerstone and ultimately will sue again if necessary. He feels that Cornerstone has the deep pockets to continue to sue until they achieve what they want. He said that the individuals named in the lawsuit-his clients- are not necessary parties, but were sued to give the message and intimidate them. Concerned that if the law is passed, it will be a slippery slope with Cornerstone returning to the Planning Board time and again to increase beds and sue if they don't get the approval. The process is going too fast and accused the Town of going too fast to pass the law to do so before the opposition papers to the Article 78 are due, which takes time and costs money. Feels the problems with the law are systemic, if passed the way it is, feels the Board is creating a bigger problem and you will go from one lawsuit to another.

At 6:47 PM, there being no further comments, MM Supervisor Whitton, 2nd Councilman Juliano to close the public hearing. All aye. Motion carried.

ADJOURNMENT

MM 6:47 PM, MM Supervisor Whitton, 2nd Councilman Michael to adjourn the meeting. All aye. Motion carried.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Carol-Jean Mackin".

Carol-Jean Mackin,
Town Clerk