

**Clifton Park Planning Board Meeting Minutes
February 14, 2006**

Those present at the February 14, 2006 Planning Board meeting were:

Planning Board: S. Bulger, Chairman, S. Hughes, T. Karam, A. Kramer, J. Larkin, S. Pace, J. Russell

Those absent were: None

Those also present were: J. Kemper, Director of Planning; J. Grasso, Clough, Harbour and Associates; B. Marino, ECC Chairman; P. Pelagalli; Counsel

Mr. Bulger, Chairman, called the meeting to order at 7:10p.m. All in attendance stood for recitation of the Pledge of Allegiance.

Public Hearings:

[2006-003] Masullo Brothers Builders, Inc. - Proposed two-family residence in a C-R zone, 18 Legends Way – Public hearing for Special Use Permit and preliminary site plan review.

Mr. Bulger, Chairman, called the public hearing to order at 7:10p.m. The Secretary read the public notice as published in the Daily Gazette on February 6, 2006.

Mr. Steve Masullo, applicant, presented this application that calls for the construction of a two family home within the Fairway Woods subdivision. Mr. Masullo explained that his firm is currently constructing a two-family residence for a family that plans to provide housing for an elderly parent: the “in-law” apartment will be used only to house a family member. No income will be received from the proposed apartment space. The speaker explained that the home will retain the residential character of other homes being built within the subdivision.

Mr. Kemper explained that this proposed two-family residence, located in the Fairway Woods Subdivision, requires approval of a Special Use Permit. Since the application states that the apartment is being utilized for an elderly parent and will not be used to provide rental income, he has found the application acceptable.

Mr. Grasso offered no comment on this application.

Mr. Marino, ECC Chairman, stated that the ECC offered no comment regarding this application.

There being no public comment, Mr. Bulger moved, seconded by Ms. Pace, to close the

public hearing at 7:16p.m. The motion was unanimously carried.

Mr. Karam asked whether access for emergency vehicles was adequate. Mr. Masullo reported that the radius at the driveway entrance would be adequate for maneuverability of emergency vehicles. He explained that the house has been constructed with a sprinkler system. In response to Mr. Russell's concern regarding adequate parking, Mr. Masullo stated that the parking area was sufficient for the number of vehicles using the site. Mr. Bulger asked that the approval be conditioned upon the applicant's agreement that the in-law apartment would always be used for family members: it would never be used as a rental property.

Mr. Larkin commented that he found the project to be a bit "outside the bounds" of what was originally approved for this recently approved subdivision, describing the two-family residence as "incompatible" with other homes proposed for the development. Since there was no legal issue, however, Mr. Larkin would support approval of the application. Mr. Pelagalli noted that precedent for such action has been established. He recalled approval of a two-family residence within the Heritage Green subdivision during initial construction of the development.

The Board first considered the application for approval of the Special Use Permit.

Mr. Bulger moved, seconded by Mr. Karam, to establish the Planning Board as Lead Agency for this application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Hughes offered Resolution #5, seconded by Mr. Kramer, approval of the Special Use Permit conditioned upon the addition of a note to the plan that states that the in-law apartment will be maintained as such and will not be used as a rental property. Ayes: Kramer, Larkin, Pace, Karam, Russell, Hughes, Bulger. Noes: None.

The Board then considered the site plan application.

Mr. Bulger moved, seconded by Mr. Karam, to establish the Planning Board as Lead Agency for this application, an unlisted action, and to issue a negative declaration pursuant to SEQRA. The motion was unanimously carried.

Mr. Karam moved, seconded by Ms. Pace, to grant preliminary and final site plan approval to this application conditioned upon the addition of a note to the plan that the apartment will not become a rental property. The motion was unanimously carried.

[2006-001] Gritziv, Walter – Proposed (4) lot subdivision, Vischer Ferry Road – Preliminary public hearing and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 7:18p.m. The Secretary read the public notice as published in the Daily Gazette on February 6, 2006.

Mr. David Flanders, consultant for the applicant, presented this application that was first reviewed at the January 10, 2006 Planning Board meeting. The plan remains generally as proposed and meets all Conservation Residential (C-R) zoning requirements. Mr. Flanders explained that of the 25.11 acres to be subdivided, 12.56 acres will be protected by a permanent open space easement: 8.33 acres of this area is identified as unconstrained open space: a 4.23 acre portion is considered as constrained open space easement area. The lots will be 4.7 acres, 4.2 acres, 3.8 acres, and 12.4 acres, respectively. The largest lot contains an existing residence that will be accessed by its own driveway. The new lots will be accessed via a combined drive. All lots will be served by individual wells and septic systems. Mr. Flanders reported that the metes and bounds for the open space easement have been provided, sight distance information has been added to the plan, and applicable ECC notes have been included on the plan. The applicant has applied for a NYSDEC wetlands disturbance permit to cross wetland areas for installation of the driveway.

Mr. Kemper explained that this project last appeared before the Board on January 10, 2006. The plan was approved by the Saratoga County Planning Board on January 19, 2006. A NYSDEC Wetland Disturbance Permit must be provided prior to the stamping of the plans. The date and firm that performed the wetland delineation must be added to the plans. Descriptions for the ingress and egress easement must be submitted for review. A sign-off must be provided by Sheryl Reed. A sign-off must be provided on the wetland delineation. A note should be added to the plans stating that this project lies in close proximity to agricultural operations and, as such, there may be certain activities associated with that. Sheryl Reed requested that assigned 911 numbers be placed on the map. Mr. Kemper reported that there are adjoining agricultural operations that have nuisance permits for shooting deer: a note should be added to the plans stating that the proposed houses are located in close proximity to those activities. He told the Board members that it has come to his attention that although there have been wells drilled on this parcel in the past, no water was found.

Mr. Grasso explained that per DOH regulations, one test well for each (5) new lots would be required. No test well would be required for this subdivision.

Mr. Pelagalli recommended that a note regarding the proximity of the properties to farmlands where owners held nuisance permits for controlling animals that would damage crops be incorporated in the deeds prepared for individual lots.

Mr. Marino, ECC Chairman, read the comment that had been prepared by the ECC following review of the project proposal. As proposed, it appears that greater than one (1) acre of ground disturbance will occur with this project. As a result, the ECC recommends that the applicant submit a Stormwater Pollution Prevention Plan. The Commission also reiterated the following comment. Due to the potential for federal wetlands on this parcel, the applicant will determine the location and extent of disturbance of these wetlands before a Building Permit is issued. Mr. Flanders stated that a stormwater management plan has been submitted for this project.

Mr. Grasso reported that the review by Clough, Harbour, and Associates resulted in the following comment. The limits of clearing and grading that were used to calculate the wetland disturbance should be clearly defined on the plan to limit a potential increase in disturbance during construction of the driveway.

Mr. Bill Cherry, 193 Vischer Ferry Road, spoke of three issues he had regarding the proposed subdivision. The first concern related to negative impacts of the development on wetlands that have been delineated on the parcel. The second involved the potential negative impact to his well. The third related to the possibility of future subdivision of the lots.

Mr. Boyland, 206 Vischer Ferry Road, expressed concerns related to the driveway location and length. He observed that the proposed combined driveway was approximately 2,000 feet long and that it was located about 10 feet from his property line. It was his understanding that if an access drive way longer than 500 feet, two access points on a town roadway would be required. Mr. Grasso explained the regulations regarding driveways and the number of homes permitted on a cul-de-sac. Mr. Flanders explained that the 16' wide driveway would be located 12' from Mr. Boyland's property line.

Mr. Grasso addressed the issues raised by both speakers. He explained that the driveway would be required to meet all emergency service regulations. The standard driveway note was included on the plan. Though the driveway as shown would be approximately 10 feet from the property line, Mr. Flanders believed that his client would be amenable to locating the driveway to the center of the 40' strip. This revision would provide for the preservation of an existing tree line that is located on the boundary between Boyland property and the Gruebel parcel.

Mr. Paul Miller, resident of Clifton Park, explained that four generations of his family have owned the farm that adjoins the Gruebel property. He stated that he and many of the surrounding neighbors have enjoyed the privilege of hunting in the area. Since law requires that firearms not be discharged within 500 feet of a residence, the approval of these lots would greatly diminish hunting opportunities. He requested that the Board consider requiring that the proposed homes be located 500' from the property boundaries. Mr. Flanders stated that it was his belief that conservation laws required that the direction of discharge was significant.

There being no further public comment, Mr. Bulger moved, seconded by Ms. Pace, to close the public hearing at 7:35p.m. The motion was unanimously carried.

Mr. Kemper explained that the project plan has been presented in conformance with the recently adopted C-R (Conservation Residential) zoning that requires a single dwelling unit for each three developable acres. Frontage requirements would preclude future subdivision of the properties. Mr. Kemper recommended the addition of a note to the plans that states that no further subdivision of the parcel will be permitted.

Mr. Kramer was sympathetic to Mr. Miller's concerns and asked that Mr. Kemper research the laws regulating the discharge of firearms. Mr. Hughes recommended that potential property owners be made aware of the on-going hunting in the area as well as the permits that were held by adjoining owners that would allow farmers to deal with nuisance animals that would harm or destroy crops. These permits often allow for the detonation of charges throughout the night. Mr. Karam supported the preservation of the tree line between the Boyland and Gruebel properties. In response to his question regarding the impact of additional wells on existing ones, Mr. Grasso described the testing process that would require pumping water from well sources while monitoring the effects on wells in the area. Mr. Grasso believes, however, that since the proposed well locations are over 2,000 feet from Mr. Cherry's property, there would be no measurable impact on Mr. Cherry's existing well. Though Board members discussed the well issue, it was determined that the standard note on the plan requiring water flow and potability in accordance with NYS Health Department standards would ensure water quality and quantity for the first of the lots to be developed. Additional lots could possibly require the completion of a test to determine if impacts to the existing systems would result. Mr. Larkin addressed the hunting issue, commenting that it was his understanding that residents could consent to the discharge of firearms within 500' of a dwelling. He did, however, believe that no discharge of firearms should be permitted within the 500' "buffer" area. He stated that he would prefer to see residences located 500' from the property boundaries, and alternatively asked about the possibility of inserting a consent clause into the deeds of the affected properties granting permission to Mr. Miller for hunting within 500' of any dwelling on those properties. Failure to make some sort of an accommodation infringes upon Mr. Miller's property rights. Mr. Larkin did comment that animal nuisance permits were issued on a seasonal basis: future homeowners should be made aware of the methods of control permitted. Mr. Karam agreed that future owners should be apprised of the existing situations. Board members concluded the discussion without resolution of the issues identified. Mr. Pelagalli will research laws related to hunting.

[2004-047] Kain Development Group, LLC – Proposed (18) lot subdivision, Longkill Road – Preliminary public hearing and possible determination.

Mr. Bulger, Chairman, called the public hearing to order at 7:50p.m. The Secretary read the public notice as published in the Daily Gazette on February 6, 2006.

Mr. Frank Fazio, consultant for the applicant, presented this project proposal that calls for the subdivision of 18.7 acres of land on the westerly side of Longkill Road. The parcel adjoins the Town of Ballston line. Though the plan remains generally as presented for revised conceptual review on September 15, 2005, the plans have been revised in response to comments issued by Clough, Harbour, and Associates and concerns identified by Board members. Mr. Fazio reported that although the applicant considered a "cluster" lay-out pursuant to Planning Board recommendations, this option was rejected by the applicant because the proposed roadway required for such a design would result in greater impacts to the delineated wetlands. The current plan minimizes impacts to delineated wetlands, illustrates the installation of a 16" water line from Woodstead Road

to the project site, provides for a connection to the sewer system on Parkside Trail, and shows that the stormwater management area has been relocated to allow for larger lot sizes. The proposed roadway has been moved eastward to provide a wider buffer for those currently residing on Hearthside Drive.

Mr. Fazio addressed several specific issues of concern. The wetlands have been delineated, flagged, and reviewed by the ACOE. The applicant is awaiting a sign-off letter from this agency. The NYSDEC reported that there are neither regulated wetland areas on this parcel nor any accompanying 100' buffer areas. The NYSDEC regulated R-16 wetland area to the north has no connection to this parcel. Although the endangered Frosted Elfin butterfly has been identified on the site, the NYSDEC has determined that there will be no negative impacts to the butterfly or its habitat. The applicant has requested a "re-confirmation" of this from the state agency. The applicant has contacted the State Office of Parks, Recreation, and Historic Preservation to receive a determination regarding areas of archaeological significance. If site analysis is required, the applicant is committed to such review. Soils investigations have been conducted and findings indicate that water is typically located approximately 6 feet below the surface. The speaker provided a plan that showed the ground water levels and the direction of drainage. A sump pump will be installed in each residence. Water will be directed to infiltration basins from (2) other areas and swales will be used to redirect existing drainage in an attempt to improve existing conditions. In response to comments issued by Clough, Harbour, and Associates, additional grading will be considered and additional storm sewers will be added where needed. The buffer areas will be protected by conservation easements.

Mr. Kemper reported that this project last appeared before the Board on December 13, 2005. He stated that although there has been a considerable amount of discussion on the issue of the applicant providing a cluster subdivision layout, pursuant to Section 179-35 (B)(a), the total land area for a cluster subdivision must be greater than 20 acres. This project is approximately 18.5 acres in size. He also noted that a cluster subdivision is an option for the applicant under the Town Code; it is not a requirement. Letters that have been received by the Planning Department were copied for Board members' review. Mr. Kemper recommended that the entrance from Longkill Road be widened per the variance that was granted by the Fire Code of Appeals Board. The applicant received a variance from the Fire Code of Appeals Board on November 10, 2005: a note stating this must be added to the plans. The chain link fence described in the August 19, 2005 correspondence from NYSDEC must be shown on the plans. A Saratoga County Department of Public Works' work permit must be provided. The applicant was asked to evaluate whether or not a multi-use path can be extended to Parkside Trail as part of this project. A jurisdictional determination must be provided from both NYSDEC and ACOE. A catch basin must be provided in the center of the cul-de-sac. A buffer must be provided in the rear of Lots #3, 4, and 5. The status of the small piece of land to the north of the Wassenaar parcel must be clarified. Clearing limit lines should be marked on the plan. Landscaping should be provided in and around the stormwater management area. Easements must be provided over the storm sewer lines and basins that will not be dedicated to the Town. A sign-off must be provided for crossing under the power line. A

split rail fence or plantings should be placed to delineate the boundary of the ACOE jurisdictional wetland. Sign-offs must be provided by the Saratoga County Sewer District and the Clifton Park Water Authority. The stormwater management area and parking area on Parkside Trail should be shown on the utility plan. The applicant must provide a plan for connecting existing homes to the utilities. Mr. Fazio agreed to provide stubs for existing residences. The Saratoga County Planning Board approved the project on October 21, 2004.

Mr. Grasso reported that Clough, Harbour, and Associates reviewed this application and offered the following comments. SEQRA – Part 1 of the Full Environmental Assessment Form has been submitted however there are some items that have not been completed.

The following information is required so that Part 2 may be completed by the Board.

- Question A8 – The depth to groundwater has not been provided. It is recommended that test pits be completed along the centerline of the proposed road and in the area of the proposed storm water management area and submitted for review.
- Question A11 – It is recommended that the USFWS be contacted and that written responses be received from both USFWS and NYS DEC Endangered Species Unit.
- Question B3 – It is recommended that topsoil be stockpiled on site and used to establish lawn areas.
- Question B25 – Additional approvals required should include Saratoga County DPW for a curb cut permit, NYSDEC for Wastewater Disposal System Approval and Storm Water Management Plan (SWPPP) and NYSDOH for Water Supply System Approval.
- Question C11 – The project will create a demand for community services so this box should be checked “yes”.

Mr. Grasso also reported that a portion of the project area appears to be within an Archeologically Sensitive Area pursuant to the NYS Office of Parks Recreation and Historic Preservation GIS site. As such, it is recommended that a Phase 1A archeological study be completed for this site and submitted for review. Jurisdictional determination letters should be provided from both NYSDEC and the US Army Corps of Engineers regarding wetlands and streams within the project site and within 100 feet of any proposed work. The applicant has received a waiver of the maximum eighteen lots on one means of access from the Emergency Services Advisory Board: this should be so noted on the plan and correspondence submitted for Clough, Harbour, and Associates' files. Any easements associated with the existing overhead transmission line that crosses the entrance road should be identified on the drawing. It does not appear as though dedication of park lands to the Town is proposed as part of the project, and as such, the corresponding park fee would be required. The Board may wish to make a recommendation as to whether dedicated open space or payment of a recreation fee per lot is appropriate.

Mr. Grasso offered several additional comments. It is recommended that the proposed fifty foot no-cut buffer be established by a land preservation easement conveyed to the Town for enforceability reasons. In addition, the land preservation area/easement provides greater protection than a no-cut buffer such as restricting fences, sheds, etc. The Town's standard notes for land preservation areas/easements should be added to the

plans. The proposed setback lines should not extend into the land preservation areas/easements (no-cut buffers). Due to the increased vegetative clearing that would be required to construct a berm and the potential for blocked drainage on either side of a berm, construction of a berm along the land preservation easement (no-cut buffer) as suggested by the adjoining residences is not recommended. Although Clough, Harbour, and Associates concurs with the applicant's consultant that the proposed drainage plan is not expected to measurably increase storm water discharge to residences along Hearthside Drive, additional drainage improvements extending into the rear of Lots #7 through #13 are recommended. The firm is concerned with the potential for future incremental impacts and degradation of Wetland A/B following construction. The applicant should propose a method of protection of the wetland that includes restricting the use of fertilizers and pesticides in its vicinity. A street light should be proposed at the proposed curb cut onto Longkill Road and should be oriented over the new road. Catch basins should be located at a low point at the center of the proposed cul-de-sacs. The pavement slope of Dhvani Court should be increased to maintain a minimum 1.0% slope along the outside pavement edge. Due to constructability issues, it is not recommended that storm sewer piping be designed for slopes less than 0.5%. The buffer line and limits of clearing and grading should be clearly labeled on the grading plan. The proposed locations of the water and sanitary sewer service laterals should be shown on the plan. The grading of the swale behind Lot #6 should be verified. It appears the spot elevation of 355.4' is incorrect. Detailed plans of the offsite utility improvements should be provided that include the limits of clearing and grading, the proposed method of crossing Longkill Road, and the location of existing utilities. A culvert should be provided under the proposed curb cut to Longkill Road to maintain the existing ditch line. The following comments on the Storm Water Pollution Prevention Plan dated January 23, 2006 were provided:

- The existing and post development drainage area maps should depict the time of concentration travel paths. The post development map appears to be incorrectly labeled "Existing."
- A detailed planting plan based upon the site soil and hydrologic conditions should be provided for the open channel storm water management practice.
- Per the NYSDEC design manual, in cold weather climates the minimum recommend culvert pipe size is 18".
- A valved backup underdrain and emergency spillway should be provided within the infiltration basin.
- The temporary sediment basin should not be located within the limits of the proposed permanent infiltration basin.
- It appears that greater than 5 acres of disturbance will occur at one time. A waiver is required from NYSDEC.
- A gravel access drive should be provided to the storm water management areas for future maintenance by the Town.
- A post construction operation and maintenance manual for the storm water management facilities should be provided to the Town.

Mr. Grasso stated that Clough, Harbour, and Associates will provide additional comments as the plans are progressed.

Mr. Marino reported that most of the ECC's recommendations had been addressed. He did state that the ECC noted that the applicant's EAF calls for the removal of vegetation from 17.75 acres of the 18.7 acre parcel or 95% of the land area since this is not in keeping with the construction practices employed in the neighboring subdivisions where native vegetation has been retained and protected. The ECC requests that a mature tree inventory be submitted and that the builder retain mature trees on the property. After reviewing the project, the ECC offers the following comments. The ECC reiterated their concerns regarding the presence of environmentally sensitive habitat. The Commission requested that the following standard statements be added to the plot plan.

- Federal jurisdictional wetlands have been identified on this site. The Town of Clifton Park Building Department shall be notified before undertaking any land disturbance activities in Federal wetlands.
- No salts, fertilizers, pesticides, or other materials may be used on this property where they will contaminate any wetland areas or surface water through runoff, leaching, or in any other manner which violates the New York State Environmental Conservation Law (ECL).
- The borders of all land that is to remain undisturbed shall be clearly marked on the site before site preparation begins. These on-site boundary markers shall remain until construction is completed and soils are stabilized.
- All erosion and water quality controls shall be put into place at the initial phase of site preparation and shall be maintained until all construction ends and soils are stabilized.
- The applicant will control fugitive dust and debris during the construction/demolition phase of the project.

Mr. Bulger explained that the Board would listen to the concerns of those who are interested in this project. He stated that the Board would likely not close the public hearing: comments would be received at future meetings. It is his intention to respond in writing to the comments presented.

Mr. Jeffrey Baker, legal representative from the firm of Young, Sommer, Ward, Ritzenberg, Baker, and Moore, LLC, spoke on behalf of a group of citizens known as the Friends of Longkill (FOLK). Mr. Baker stated that he was pleased to hear that the public hearing would be adjourned rather than closed since such action would allow additional public comment. Describing the Kain parcel as "problematic," he stated that this property was very wet and that this characteristic is of concern to those residents who live on its borders. He advised the Board that the proper procedure for the Board to follow would be "strict and literal compliance" with SEQRA guidelines that would require the issuance of a positive declaration pursuant to SEQRA and the completion of an Environmental Impact Statement (EIS). This would create a document that would force the Board to consider alternatives for development of the project, to identify significant environmental concerns, and provide protection for natural resources.

Mr. Baker called the Board's attention to a number of issues. He noted that the site contains evidence of the Frosted Elfin, an endangered species. The installation of the stormwater management area as well as the roadway appears to impact the species and its

habitat: such an impact would be considered in an EIS review. He explained that the variance granted by the Fire Code Board of Appeals was illegal since no municipal agency is permitted to act until the proper SEQRA procedures have been completed. He asked that the variance be revoked until proper SEQRA review has been conducted. The speaker recommended that all those involved “work toward proper development” of the Kain parcel. He labeled drainage on the property as a significant concern. These included the amount of fill that would be required to construct the development as proposed, the amount of clearing proposed for the site, and the loss of wetlands. He pointed out that the applicant’s project plan called for raising the site by as much as 4 feet. He believes that this will change drainage patterns and the ecology of the site. Such action would not only result in problems associated with the truck traffic necessary to bring the fill to the site but also with drainage problems caused by its increased elevation. Stating that the amount of clearing proposed “boggled the mind,” he foresaw that such clearing would forever change the natural environment. The speaker pointed out that isolated wetlands slated for “obliteration” should remain as part of the wetland network. Mr. Baker commented that the calculations related to stormwater management may not be accurate and, therefore, the proposed stormwater retention basin inadequate. He concluded his remarks by stating that his comments were not “exhaustive” and that other issues may be raised at future hearings. Mr. Baker expressed his dissatisfaction with the ability of residents to obtain information from the project file, noting that documents were not available for copying upon request. He asked that in the future all documents submitted with that application are made readily available for review and copying. He implored the Board to issue a positive declaration and request the completion of an EIS.

Mr. Scott Dochat, 22 Hearthside Drive, discussed the non-delineated wetlands that border his property. He is concerned that the fill proposed to be added to the site by developer will channel the water from the development site to his property. Since he already has drainage problems, he asked that the Board ensure that the problem is not increased.

Mr. Bill Lorensen, 14 Hearthside Drive, thanked Mr. Bulger and the Planning Board for allowing him the opportunity to present a Powerpoint presentation that, in his opinion, illustrated the “wetland paradox” that exists on the Kain property. A copy of the presentation is attached to these minutes. The presentation generally compared “theory” with “reality”. The photographs presented illustrated areas of ponding and stream-like areas on the Kain property, the rear yards of the homes along Hearthside Drive, wildlife that inhabit this property, and the forest area. Mr. Lorensen reported that he operates two sump pumps throughout the year in an effort to maintain a dry basement. He is very concerned that additional water flow from the Kain property to his will result in flooding of his basement. Mr. Lorensen asked the Board to reduce the number and improve the lay-out of the homes and to authorize the preparation of an EIS. Though he appreciated the applicant’s willingness to provide a conservation easement for the buffer areas, he asked that a berm be created between the proposed homes and existing residences to prevent water flow between the sites. The speaker also asked that the developer provide a long-term bond that would provide for payment of damages should existing residents be impacted by the new development.

Mr. Larry Brown, 20 Hearthside Drive, described watching the recent re-construction of a manhole on Hearthside Drive. As the workers were unearthing the catch basin, one laborer was standing in water of considerable depth – a condition that indicated the presence of a high water table to the speaker. Mr. Brown also commented that the removal of existing vegetation and clear-cutting on the Kain property would likely cause increased water problems for the existing residents of Hearthside Drive. Though he acknowledged that water problems had lessened during the 30 years he has resided at this location, he was fearful that tree removal and development of the 18 acre parcel that adjoined his would cause problems for those residing on Hearthside Drive.

Ms. Margaret Catellier, 26 Royal Oak Drive, questioned whether or not one entrance for this subdivision was acceptable per Town law. She also stated that personal experience has taught her that building in an area of high water levels is unwise. Her family relies on two or three sump pumps to keep their basement dry. New developments in her area have apparently caused the water table to rise causing additional problems for her family. She recommended that the Board consider the problems that may be experienced by those who will purchase homes that will be built on the Kain property. She also encouraged the Board to protect existing residents from the negative impacts of development.

Mr. Robert Vawter, 10 Hearthside Drive, described himself as a 22-year resident of the Town. He supported the recommendations offered by Mr. Baker and his neighbor, Mr. Lorensen. He reported that he regularly walks through the property and has observed “one or two dozen” standing pools of water – an indication of a serious water problem in the area. Though he is concerned with drainage from the site and its impact on his property, he currently does not experience water problems. He also expressed concern that the potential homeowners who construct homes on the Kain property will suffer from wet basements and other water-related problems. The speaker also noted that the parcel offered a substantial wildlife habitat to many varieties of animals. He supported the request for the preparation of an EIS and asked the Board to give serious consideration to the issues raised by area residents.

Mr. Tony Wassenaar, 85 Longkill Road, presented a petition to the Board that contained 357 signatures. The petition was signed by the “Friends of Longkill (FOLK), other town residents, and those who work or utilize services in the Town of Clifton Park.” The petition is available for review at the Town Clerk’s office. The petition asks that Kain be prevented from proceeding with its current conceptual design which would negatively alter the entire 18 acres off Longkill Road with residences, access roads, driveways, cul-de-sacs, drainage swales, sewage and water lines, that an EIS be completed, that an alternative conservation design be presented, and that the owner/developer work with conservation groups to conserve at least fifty percent of the forest, excluding wetlands, perennially wet pools, and other natural features of the site.

Mr. Peter Looker, Co-Chairman of Saratoga Greens, 22 Midline Road, Ballston Lake, stated that Saratoga Greens has four basic principles: non-violence, economic and social justice, grassroots democracy, and ecological wisdom. He asked the Board to consider if it was “creating climate chaos” by approving subdivisions such as the one being

considered. He also questioned whether “we are walking a sustainable path” and suggested that we should consider doing so. Calling the members’ attention to a stuffed frog, he asked if they were concerned that our children may not be able to observe frogs, ferns, birds, and butterflies. He then questioned whether members believed that frogs, ferns, birds, and butterflies deserved to survive. The planning process should be utilized to help nature rejuvenate – not destroy it.

Mr. William Mackesey, 12 South Hollow Drive, identified himself as the Longkill Park District Chairperson. He encouraged the developer to consider the construction of a multi-use pathway along Longkill Road from the development entrance south to Parkside Trail, explaining that such a trail would not only benefit Clifton Park residents by linking neighborhoods but also by providing a connection to proposed trail links within the Town of Malta. He stated that he is concerned with wetland protection and he encouraged the Board to carefully consider the issues raised by those who spoke at this hearing.

Ms. Gayle Wassenaar, 85 Longkill Road, placed the location of her home as directly south and east of the proposed 18-lot subdivision. She described the “strange water situation” that requires the almost constant operation of a sump pump to remove water from her family’s basement, yet provided no potable water from a driven well. From here perspective, the proposed drainage plan would direct water from the site to her property, making a difficult situation even worse. She was also concerned about impacts of drainage to her family’s existing septic system since water would likely be directed to their lot.

Although Ms. Wassenaar understands that the a future right-of-way was provided for in her deed, she was concerned with disruption of the utilities – gas, electric, and telephone lines - that serve her home, noting that she requires such connections in order to work from home. The speaker was very concerned that the developer has not planned for protection of the utility infrastructure. Ms. Wassenaar reported that her attempt to locate filed easements in County Clerk’s office was unsuccessful. She asked that the applicant provide a 50’ buffer throughout the site. The speaker was very concerned about the proposed clearing, since a significant amount of the site was slated for clearing. She compared the proposed clearing with the goals and strategies outlined in the Comprehensive Plan, noting that the proposal was not in accordance with the Master Plan recommendations.

The speaker asked the Board to consider several issues. She was concerned that the developer would discharge water into the delineated wetland that adjoins property owned by the Carlsons. She is fearful that water flow to the Carlson property will be increased. She asked the Board to identify who would be responsible for the maintenance of the proposed stormwater management area that she believes will become unsightly. Explaining the proposed new roadway is now her driveway, she asked the Board to determine who will provide on-going maintenance. Though she and her husband were aware when they purchased their home that the driveway would eventually become a Town road, there has been little communication by the current owners regarding the transfer of ownership, payment of taxes, or responsibility for maintenance. She believes

that she could identify many more issues of concern. Pointing to the many residents in attendance to discuss this project, she asked that the Board consider the significant environmental impacts of the project and requested that an EIS be completed.

Mr. Bill Wockenfuss, 4 Harvest Place, described a seasonal stream that traverses the area near his home. He was concerned that pesticides and fertilizers utilized on the new properties will negatively impact this stream and, therefore, his property.

Ms. Lynn Larson, 88 Longkill Road, was concerned with traffic safety. By her calculations, the proposed development would produce over 100 vehicle trips per day in addition to visitors, school bus traffic, waste pick-ups, delivery services, and other incidental traffic. Explaining that she now has difficulty safely accessing Longkill Road from her driveway, she was concerned that the proposed development would create additional traffic problems. She also asked that the speed limit along Longkill be enforced.

Ms. Deirdre Schuth, 5 Woodridge Court, described herself as “new” to Clifton Park. She stated that, although she liked the area she and her family had chosen, she was concerned that the Board was not clearly differentiating between “progress” and “development”. In her opinion the Town has approved “too much development.”

Mr. Gerry Meehan, 8 Hearthside Drive, discussed the purpose and design of the proposed retention area. Noting that, in theory, the basin provides discharge through percolation, he asked what would happen should a significant storm cause flooding and the inability of emergency service vehicles to access the site.

Mr. Dave Gibson, 107 Longkill Road, stated that he believes that the development “poorly fits the landscape it wishes to inhabit,” noting that there are many environmental impacts including disturbance of ground water and drainage patterns and diminished wildlife habitat. Referencing the Town of Clifton Park Open Space Plan, he noted that the water resources map indicated much water located on this parcel. Citing the need for better planning, he called upon Board members to support a positive declaration of significance pursuant to SEQRA and the preparation of an EIS in an effort to determine what development alternatives would be feasible for the site. The speaker produced photographs of the woodlands, animals, and wetlands for the Board’s review. He asked that the members visit the site to personally assess the land’s value.

Mr. Bill Engleman, 6 Partridge Plateau, read a prepared statement. The speaker first commented that the engineer’s description of the filtering of nutrients from stormwater water run-off does not mention the filtering out of pesticides and fertilizers. A copy of that statement is attached to these minutes.

Mr. Dan Schuth, 5 Woodridge Court, commented on the overwhelming amount of care and commitment that has been shown by Town residents who oppose this project. Though there have been a number of meetings during which this plan has been discussed, the plan meets the “minimum threshold” of acceptability. As a community we should

“expect better” than a minimum threshold. He called for a comprehensive and objective review of the application that, in his view, can only be accomplished through the preparation of an EIS.

Mr. Ronald VanArnum, 67 Longkill Road, stated that he was concerned about wetland disturbance and the effect that the water line installation could have on drainage to his property and his water supply. He reported that when a new residence was constructed at 60 Longkill Road, he experienced negative impacts to his water quality.

Ms. Susan Gibson, 107 Longkill Road, read a prepared statement. A copy of her comments is attached to these minutes.

Mr. David Gibson, 107 Longkill Road, commented that he resides directly north of the proposed development. He appreciated Mr. Engleman’s comments regarding the wood frog since he enjoys their sounds each year. In 2000 a significant amount of his property was determined to contain the R-16 NYSDEC wetland. The Kain property not only has perennially wet features but also appears to direct water to wetlands to the north. He believes that this wetland offers evidence that wetland characteristics on the Kain parcel provide evidence of a more-expansive connection.

Mr. Bulger thanked all those who participated in the public hearing and assured them that the Board would review all of the comments offered. His goal is to provide written responses to all issues raised by those who spoke.

Mr. Bulger moved, seconded by Ms. Pace, to adjourn the public hearing. The motion was unanimously carried.

Old Business:

[2005-021] Carlson Farm – Proposed (44) lot subdivision, Moe Road – Determination from public hearing held on October 25, 2005 and reconvened on December 13, 2005.

Mr. Gavin Vuillaume, consultant for the applicant, stated that this project proposal was last considered by the Board on December 13, 2005 at which time the public hearing was closed. Since that time, the applicant has addressed a number of issues identified by the Board and several technical concerns listed by Clough, Harbour, and Associates. Mr. Vuillaume asked that the Board issue a determination pursuant to SEQRA since a determination by NYSDEC is dependent on such an action. He also asked that the Board grant preliminary approval to the project. He also explained that because the proposal calls for less the 1/10th of an acre of disturbance of ACOE designated wetlands, no permits are required. No confirmation has been received from the agency and there is no indication that a sign-off will be provided in the near future. The applicant recognizes that the Board is concerned with the ACOE determination regarding an isolated wetland to the north of the site. The consultant presented information related to a feasibility analysis of improvements to the existing Moe Road curve. Sketch drawings of two construction alternatives, a cost estimate of the improvements, and an explanation of the

analysis were provided. The applicant will convey a parcel along the southern boundary of Moe Road to the Town for future road improvements. Mr. Vuillaume reported that the applicant was willing to extend the proposed access road to the new road alignment or to provide the funds for such an extension. The plan now includes notes regarding the possible construction of additional swales or installation of perforated pipe should they be necessary to improve drainage along the residences bordering Arbor Lane. The location of the multi-use pathway will be finalized. A note has been added to the plan that states that no further subdivision of Lot #44 will be allowed.

Mr. Kemper reported that this project last appeared before the Board on December 13, 2005. The major issues discussed at that meeting were the locations of trail connections and existing water problems along Arbor Lane. Mr. Kemper explained that coordinated review was initiated on December 29, 2005 and all agencies concur with the Town of Clifton Park acting as Lead Agency for this application. Sign-offs will be required from the Clifton Park Water Authority and the Saratoga County Sewer District. Split rail fencing must be placed along the stormwater management areas and along the wetland boundary. A sign-off must be provided from the ACOE on the wetland delineation. The status of the archeology investigation should be documented. A trail connection must be shown to Arbor Lane. If the subdivision is approved, a penalty will be assessed for breaking the term conservation easement that is on the property.

Mr. Vauillaume explained that the archaeological investigation will continue in the spring.

Mr. Grass reported that Clough, Harbour, and Associates reviewed the subdivision plans provided as well as a letter that discussed the ramifications of improvements to the ninety degree corner of Moe Road. He offered the following comments. The existing speed limit on Moe Road is 40 mph and the ninety degree corner currently has a cautionary speed limit sign of 20 mph. Creighton Manning Engineering, the traffic engineering consultants on the project, had previously concluded that no improvements are warranted. While Clough, Harbour, and Associates agree that no improvements are required and the proposed project will not have a measurable impact on traffic safety, improvements are warranted and it is expected there to be some level of traffic impacts caused by the project. In addition, the project will cause additional work to be required when improvements are done at the corner. The applicant's consultants have evaluated two alternative improvement scenarios at the corner, those being increasing the corner radius to 300 feet (with a cautionary decrease to 30 mph) and increasing the corner radius to 400 feet (providing a 40 mph design). Due to the marginal increase in construction cost, if improvements are made, it is recommended that they include increasing the corner radius to 400 feet. The consultants have estimated the cost associated with this level of improvement at approximately \$143,000 and Clough, Harbour and Associates concur with this estimate. In addition, it is agreed that there will be additional environmental permitting required due to the presence of NYSDEC and federally jurisdictional wetlands. Mr. Grasso encouraged the Planning Board and Highway Superintendent to discuss the potential for improvements at the corner and that desired improvements be built into the project plans.

Mr. Grasso offered the following comments regarding the Stormwater Management Report:

- A minimum 10-foot wide gravel access drive should be constructed from the proposed roadways to each of the stormwater management areas to facilitate future maintenance by the Town.
- A Stormwater Pollution Prevention Plan with erosion and sediment control methods and details should be provided.
- A Construction Phasing/Sequencing Plan should be prepared showing how the site will be developed while limiting disturbance to a maximum of 5 acres at a time. The plan should also include additional temporary erosion control measures including temporary diversion measures, temporary sediment basins, a stabilized construction entrance and designated topsoil and fill stockpile areas.

Consistent with previous recommendations regarding restricting future subdivision of the Kleinberg/Kazen property, he recommended that a note be added to this effect on the plans. Pedestrian/bicycle crossing signs should be provided where the multi-use pathway crosses the public roads. Although Clough, Harbour, and Associates agree that the proposed storm sewer improvements proposed along the northern property line are appropriate given the limitations caused by the site grades, it is recommended that additional swales be cut and directed to the open end sections wherever feasible. This will result in the best attempt at improving rear yard drainage in this historical high groundwater area.

Mr. Grasso asked that the applicant provide Clough, Harbour, and Associates with a copy of the revised wetland mapping that was prepared following a site investigation by the ACOE. He believes that such a map may be sufficient to allow the Board to issue a SEQRA determination since it has been Clough, Harbour, and Associates' experience that the mapping does not change once a revised map has been prepared.

Mr. Marino, ECC Chairman, stated that the ECC provided the following comments after reviewing the plan. Commission members recommended that the LC zone be indicated on the plot plan and that the following standard statement be added to the plan:

- This parcel (subdivision) is located in an area where aviation activity occurs. Such activity may include, but is not limited to periodic noise, vibration, hours of operation and other associated activities. A study describing this impact in detail is available for inspection in the office of the Albany International Airport.

Mr. Karam recommended that the Town meet with the homeowners on Huntwood Drive who would be most impacted by the installation of the bike path to determine the type of screening that would be preferable. Mr. Karam observed that the property boundary around the cemetery was increased. Board members discussed the design for a walkway or fence along the cemetery area. He supported the applicant's plans for improving the drainage for the residents along Arbor Lane. Mr. Karam recommended that a time frame be provided for the reconstruction of Moe Road in order to determine an accurate cost assessment for construction of the new road to the realigned pavement. He suggested that money for the improvement be held in escrow until required. Mr. Kramer appreciated

that applicant's installation of a pathway around the cemetery and the preservation of historically significant portions of the site. Mr. Bulger discussed the reasonableness of issuing a SEQRA determination at this meeting. Mr. Pelagalli explained that once a negative declaration is issued, it may not be rescinded. After considerable discussion regarding this issue, the Board agreed to delay a decision until Clough, Harbour, and Associates has the opportunity to review the revised mapping and Mr. Pelagalli has the opportunity to review SEQRA guidelines. In response to Mr. Larkin's question regarding the cost estimates regarding realignment of the Moe Road curve, Mr. Vuillaume explained that the estimate provided for this evening's meeting did not include project design. Mr. Grasso explained that the Moe Road curve is an existing poor condition that will not be significantly impacted by the proposed development.

New Business:

[2006-004] Lill, Daniel – Proposed (2) lot subdivision, Southbury Road – Conceptual review.

Mr. Dave Flanders, consultant for the applicant, presented this application that calls for the subdivision of a "remnant" parcel in the Crescent Estates South PUD. The parcel is located on a stub street that was originally provided for future development to the east. The speaker explained that an existing driveway that serves the Patterson residence is partially located on the Lill property. A recent survey also determined that a portion of the driveway serving the existing Lill residence crosses Lot #79 Southbury Road. The owner of that parcel has agreed to transfer a portion of the lot to Mr. Lill. The applicant has agreed to convey a 2,968 SF parcel to the Pattersons to provide a more useable backyard. The proposed plan shows that the required 40' of frontage on a town road is not available: it appears that a variance would be required for the limited frontage.

Mr. Kemper reported receipt of the following comments from Steve Myers dated January 31, 2006: "This subdivision results in only 39' of frontage. This will require a variance since less than 40'. This creates a keyhole lot which requires a 50' setback on all sides – only 30' is provided after the land transfer. It appears that the driveway for 81 Southbury is being taken by the newly formed lot – is this to become a common driveway for both lots." The following comments from the Saratoga County Sewer District: "Sanitary Sewer Service is provided by the Crescent Waste Transportation Corporation and approval will be needed for connection of the proposed house. A permit from this office will also be required." Sign-offs will be required from the Crescent Estates Sewer Company, the Clifton Park Water Authority, and the Saratoga County Sewer District. Steve Myers has stated that it appears as if 2 keyhole lot frontage variances will be required. In addition, the proposed lot will need a setback variance for the proposed house.

Mr. Grasso reported that Clough, Harbour, and Associates provided a number of comments after reviewing the project plans. The proposed project appears to be an "Unlisted" action pursuant to SEQRA, and as such, coordinated review is optional. The involved agencies are expected to be the Saratoga County Planning Board (Section 239

Referral), Town of Clifton Park Planning Board for subdivision approval and the Clifton Park Zoning Board of Appeals for area variances. The Crescent Estates PUD legislation should be reviewed for conformance with the proposed action. The zoning regulations require all lots to have a minimum of forty feet of road frontage and all keyhole lots to have minimum setbacks from all property lines of fifty feet. These do not appear to be provided and as such, variances will be required. Any previous variances granted by the Zoning Board of Appeals should be noted on the plan. Any jurisdictional wetlands or streams should be identified on the plan. If none exist this should be so noted. It should be clarified that the 2,968 square foot parcel will be annexed to the adjoining lands of Patterson and a consolidation deed will be filed.

Mr. Marino stated that the ECC recommended that the following standard statements be added to the plan:

- The borders of all land that is to remain undisturbed shall be clearly marked on the site before site preparation begins. These on-site boundary markers shall remain until construction is completed and soils are stabilized.
- All erosion and water quality controls shall be put into place at the initial phase of the site preparation and shall be maintained until all construction ends and soils are stabilized.
- The applicant will control fugitive dust and debris during the construction/demolition phase of the project.

Board members found the number of issues involved in this application very confusing and asked that a revised map and detailed narrative be prepared. It was recommended that Mr. Myers consult with Mr. Renzi, Town Attorney to determine the proper course of action.

Discussion Items:

Tractor Supply

Mr. Kemper explained that he had received a colored façade rendering and color samples from the consultant for the Tractor Supply company. He presented these for the Board's consideration. A consultant for the company reported that the firm would like to construct the "prototypical" design at the Clifton Park location to make the store readily identifiable for patrons. The design calls for a section of red brick along the foundation, lighter brick for the wall areas and a red stripe for visual interest. Board members found the façade renderings acceptable.

Mr. Kemper explained to the Board that BBL Construction Services had submitted a project plan for renovation of offices on Route 146A. The building that previously housed a day care center will be renovated to create 5,900 SF of professional office space. The renovation will include demolition of all interior finishes and reconstruction of the space into code-compliant professional office space, the majority of which will be occupied by Mr. Paul Unter's business. The existing site, landscaping, parking and vehicle entry will not be changed or altered, though site clean-up and proper landscape

maintenance will be required. Board members agreed that this project did not require formal site plan review.

Mr. Bulger reported that it was time for the Comprehensive Plan to be updated. Members of the Board will be receiving copies of the plan for review and comment. He also reported that Mr. Karam has been selected to act as liaison to the Historic Preservation Commission.

Minutes Approval:

Mr. Bulger moved, seconded by Mr. Russell, to approve the minutes of January 24, 2006 as written. The motion was unanimously carried.

Mr. Bulger moved, seconded by Mr. Kramer, adjournment of the meeting at 11:00p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on February 28, 2006.

Respectfully submitted, Janis L. Dean, Secretary cc: Planning Board Members, Planning Department, Clough, Harbour, and Associates, Supervisor, Town Administrator, Assessor, Zoning Board, Department of Building and Development, Town Clerk, Town Board Members, Highway Superintendent, Joel Peller, Town Attorney, Lou Renzi, Town Attorney, Jim Trainor, Town Attorney, Paul Pelagalli, Town Attorney, Department of Parks and Recreation, ECC, Saratoga County Planning Board, Shenendehowa Central School, Clifton Park Water Authority, Fire Districts.

Resolution #5

APPROVAL

Special Use Permit

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on February 14, 2006 there were:

Present: S. Bulger, Chairman, S. Hughes, T. Karam, A. Kramer
J. Larkin, S. Pace, J. Russell

Absent: None

Mr. Bulger offered Resolution #5 and Mr. Karam seconded, and

Whereas, an application has been made to this Board by Masullo Brothers Builder, Inc. for approval of Special Use Permit #80583 to allow the construction of a two-family dwelling in an R-1 zone pursuant to Section 208-16(3)(a) of the Town Code;

Whereas, pursuant to Section 276 of the Town Law a public hearing was advertised and was held on February 14, 2006 in the Town Office Building,

Whereas, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA, and

Whereas, it appears to be in the best interest of the Town that said application be approved,

Now therefore, be it resolved that the application of Masullo Brothers Builders, Inc. for Special Use Permit #80583 to allow the construction of a two-family dwelling in the Fairway Woods subdivision pursuant to Section 208-16(3)(a) of the Town Code in an R-1 zone is hereby approved conditioned upon the addition of a note to the plan that states that the in-law apartment will be maintained as such and will not be used as a rental property.

Resolution #5 passed 2/14/06

Ayes: Kramer, Larkin, Pace, Karam, Russell, Hughes, Bulger

Noes: None

Steven Bulger,
Chairman