

**Clifton Park Planning Board Meeting Minutes
January 23, 2007**

Those present at the January 23, 2007 Planning Board meeting were:

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

Those absent were: T. Karam

Those also present were: K. Maynard, Director of Planning;
J. Romano, Clough, Harbour and Associates;
M. O'Brien, Environmental Specialist;
P. Pelagalli, Counsel;
J. Dean, Secretary and Assistant Director of Planning

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

No public hearings are scheduled for this evening's meeting.

Old Business

No items of old business have been scheduled for this evening's meeting.

New Business

Lawrence, Howard and Patricia H. – Proposed (2) lot subdivision, Sugar Hill Road –
Conceptual review.

Mr. Gil VanGuilder, consultant for the applicant, presented this application that calls for the subdivision of lands located on the easterly side of Sugar Hill Road, approximately 300' north of its intersection with Ray Road. The applicant owns 18.80 acres of land in the CR (Conservation Residential) zone. There are two existing residences on the same parcel. Ms. Lawrence, owner, proposes to divide the lot in order to provide a separate 1.5 acre parcel for the older, existing residence since a long-term tenant has expressed an interest in purchasing the house and lot. Mr. VanGuilder understands that the proposal does not meet the code's "family member" requirement, but asks that Planning Board waive this requirement and grant subdivision approval. It is Ms. Lawrence's intention to retain ownership of her existing home and the remaining parcel that contains NYSDEC designated wetlands, woodland, and a Christmas tree farm. There is an existing Conservation Easement on 17.35 acres of the property which the applicant intends to maintain. Mr. VanGuilder explained that the proposed lot does not meet the CR zoning

requirements: an area variance will be required for .5 acres since the creation of a two acre parcel is required pursuant to §208-16E(2)(c). The reduced lot size is necessary to preserve the Conservation Easement on the larger lot. Mr. VanGuilder explained that the proposal also includes the transfer of a .06 acre strip of land along the southern property boundary to the Lands of Shafer.

Mr. VanGuilder reported that he had consulted with Mr. Smead, Town Assessor, regarding the existing conservation easement. Mr. Smead described the 15-year easement as temporary and stated that the subdivision proposal would have no effect on the existing easement.

Ms. Maynard read §208-16E(2)(c) of the Town Code which states the following “A one-time, single-lot exception is allowed, meaning a subdivision of one parcel, as it existed as of January 1, 2005, into a maximum of two lots to be used for single-family residential purposes only. This shall only be permitted for parcels greater than 10 acres and shall only be allowed if both of the newly created lots will be initially owned by family members, at the discretion of the Planning Board. The newly created lot shall be a minimum of two acres.”

She then offered comments prepared by the Planning Department, explaining that an area variance will be required for the lot size since the proposed parcel would not meet the two acre requirement. The Planning Board must also determine if waiving the “family member” requirement would be acceptable. The property has a term conservation easement in place until 2012 on the property for 17.35 acres. Ms. Maynard recommended that a permanent conservation easement be established over the remaining lands of Lawrence. Town Code requires any property over 10 acres to provide 50 percent permanent open space of which 25% is identified as “unconstrained.”

Mr. Myers, Director of Building and Development, commented that “an area variance from 308-16E(2)(c) for 0.5 acres is required for the one time subdivision, as well as waiving the requirement for ownership by family members by the Planning Board.”

Mr. Romano stated that, after reviewing the proposed subdivision proposal, Clough, Harbour, and Associates offered the following comments. The proposed project appears to be an “Unlisted” action pursuant to SEQRA, and as such, coordinated review is optional. Involved agencies are expected to include the Clifton Park Planning Board for Subdivision approval and the Zoning Board of Appeals for necessary variances. The existing parcel includes a total of 18.8 acres and is located in a CR (Conservation Residential) zone. The applicant owns two houses on the parcel. One house is occupied by the landowner; the second house is occupied by a renter who has expressed an interest in purchasing the house. The applicant is proposing to create a 1.5 acre parcel encompassing the rented property. In accordance with Section 208-16.E.2.c of the zoning regulations, a one-time exemption of the typical conservation subdivision design standards is allowable provided a minimum two-acre lot size is maintained and that both of the newly created lots will be initially owned by family members, at the discretion of the Planning Board. The limits of the 1.5 acre parcel were established so not to affect the existing conservation easement. As currently proposed, it appears the applicant will

require a variance for the sub-standard lot size and possibly a variance for the family member requirement. As proposed, Clough, Harbour, and Associates believes the proposed subdivision meets the intent of the zoning regulations. The applicant's consultant should also review the subdivision provisions under 208-16.E.2.b as it may eliminate the need for a variance and also meet the applicant's objectives. A requirement would be that all or a portion of the temporary conservation easement would be required to be made permanent.

Mr. O'Brien, Environmental Specialist, reported that, after reviewing the application, the ECC offered no comment on this subdivision proposal.

Mr. Larkin discussed the possibility of future development, calculating that approximately six (6) residences could be constructed on the remaining lands. He encouraged that applicant to consider the establishment of a permanent conservation easement. Mr. Bulger stated his support of the subdivision proposal as presented if the applicant was willing to establish a permanent conservation easement on the remaining lands: he would not support waiving the family member requirements if a permanent easement was not provided.

Mr. Pelagalli offered comment on the application, noting that the word "shall" in the code was significant and possibly meant that the Town Board's intention was that both elements of the article must be present for the Board to waive the subdivision restrictions: the newly created lots must be initially owned by family members and meet be a minimum of two acres. He recommended that the intention of the Town Board be clarified and that department staff seek an advisory opinion from the Town Attorney. Mr. VanGuilder will also research this issue.

Board members offered little comment on the proposal, stating that a determination would be dependent upon a decision from the Zoning Board of Appeals regarding the variance for lot size and a determination from the attorneys regarding the intent of the statute.

[2007-004] McCune, Barbara A. – Proposed (2) lot subdivision, Bruno Road – Conceptual review.

Mr. Gil VanGuilder, consultant for the applicant, presented this application that calls for the subdivision of lands located on the easterly side of Bruno Road in an R-1 zone. The 2.08 acres of land is currently shown as two separate properties on the tax maps: one lot is .43 ; the other is 1.5 acres. The applicant proposes to combine the lots and re-subdivide the property to create lots of 1.07 acres and 43,186 SF, respectively. With the exception of the 100' lot width at the building line, the proposed lots meet or exceed all minimum zoning standards. Proposed Lot #1 has 96' of width at the 50' building line, requiring a 4' area variance. Proposed Lot #2 has 98.1' of width at the building line, requiring a 1.9' area variance. Mr. VanGuilder has submitted a request for approval of the variances to the Zoning Board of Appeals. Both lots will be served by public water and individual septic systems. The conceptual drawing shows that the lots will be accessed via a

combined drive from Bruno Road.

Ms. Maynard offered the following comments from the Planning Department, noting that this Board's determination will be dependent upon the decisions rendered by the Zoning Board of Appeals for variances for required lot widths. A sign-off from the Clifton Park Water Authority will be required. Though the combined driveway seems appropriate, the adequacy of the sight distance at the driveway access should be verified.

Mr. Romano reported that, after review of the project plan, Clough, Harbour, and Associates offered the following comments. The proposed project appears to be an "Unlisted" action pursuant to SEQRA, and as such, coordinated review is optional. Involved agencies are expected to include the Clifton Park Planning Board for Subdivision approval and the Zoning Board of Appeals for necessary variances. The applicant is proposing to subdivide a currently conforming lot and combine one of the resulting pieces with an adjoining parcel. The result will be two lots both with non-conforming lot width at the front building line. Both lots will have to be referred to the Zoning Board of Appeals for the required variance. The applicant is proposing that the driveway to the two houses share a curb cut on Bruno Road. The applicant should confirm that adequate sight distance exists at this location and whether a driveway culvert will be required. The map indicates remains from an above ground pool encroaching on the southerly parcel being created. It appears that the pool may be on other lands owned by the applicant. The applicant should be required to remove these pool remains.

Mr. VanGuilder explained that the pool that encroaches on the southern property boundary will be removed as part of the construction for project.

Mr. O'Brien, Environmental Specialist, reported that the ECC asked 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 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. Larkin recalled Board review of a subdivision application that required variances from the Zoning Board of Appeals, though reconfiguration of the proposed lots could have eliminated such action. He encouraged the applicant to consider the creation of a keyhole lot. Although such a plan would require the removal of additional trees, the driveway location could be moved further from the Bruno Road – Route 146 intersection. Most of the Board members preferred the subdivision plan presented, recommending that the applicant seek the necessary variances from the Zoning Board of Appeals before returning for subdivision approval.

[2007-002] Clifton Country Road Associates – Proposed 32,256 SF retail/office building, Southside Drive – Conceptual site plan review.

Mr. Tom Andress, the applicant's representative, presented this application that calls for the construction of a 69,896 SF two-story building in a B4 zone. Mr. David Sussman, property owner, was also in attendance at the meeting. The property to be developed is located on Southside Drive, directly south of the Panera Bread/Ruby Tuesday's site. Mr. Andress provided a summary of statistics regarding the site, stating that the total site for development was 8.96 acres: the greenspace requirement is 35%. The proposed project would result in the following: greenspace – 31.5%; pavement area of 210,182 SF – 53.8%; building area of 57,327 SF – 14.7%. The building will be designed to accommodate retail uses on the first floor and office uses on the second. The consultant calculates that 409 parking spaces will be required to serve the site: 465 spaces have been provided. The increased number of parking spaces has been provided in order to meet the demands of lease agreements and ensure sufficient parking for all building uses. Mr. Andress explained that on October 16, 2001 the Zoning Board of Appeals granted several setback variances, a variance to increase the building height from 35' to 40' with side and rear building setbacks not changing, and a variance to decrease greenspace from 35% to 33%. The proposed building will utilize existing water and sewer services.

Ms. Maynard offered several comments on behalf of the Planning Department, explaining that the project is an allowed use within the B-4 zone. The proposed building was included in the 2001 design plan as a 26,210 SF one-story building. The speaker asked that the applicant consider integrating the proposed building with development on adjoining parcels. She noted that existing buildings have "a town center feel" which may be enhanced with proposed development. It was recommended that the applicant consider sharing site access with the adjacent parcel to the west owned by DCG Development Company. She suggested that a public outdoor gathering area may benefit both developers. Citing "connectivity among uses" as a public benefit, she encourage the applicant to consider installation of a - sidewalk that would link the shops at Village Plaza to the Panera Bread and Ruby Tuesday site. In response to her question regarding architectural design and façade treatment, the applicant indicated that these elements would reflect the design and coloration used for the existing shops and restaurants. Ms. Maynard advised the application that applicable Exit 9 GEIS fees would be assessed for the project. Ms. Maynard reported that the applicant had submitted a copy of a deed that transferred approximately two (2) acres of land from the applicants to the Town in 2002. The deed expressly states that "the party of the first part reserves to itself and its assigns the right to use the herein described premises for "green space" calculations in connection with the development form time to time of property proximate to Clifton Country Road, owned by the part of the first part or its assigns." It would be necessary for the applicant to apply nearly 6,000 SF of the deeded property to achieve 33% greenspace on the site. Board members must decide if such an application is acceptable.

Mr. Myers, Director of Building and Development commented that "it appears proposal is covered by variances granted 10/16/01 under variance #80337," though a new variance for green space will be required since green space has been reduced from 33% required to 31.5%.

Mr. Romano reported that Clough, Harbour, and Associates prepared the following comments following a review of the project proposal. The proposed project appears to be an “Unlisted” action pursuant to SEQR, and as such coordinated review is optional. Involved agencies are expected to include the following: Clifton Park Planning Board – Site Plan Approval; Clifton Park Zoning Board of Appeals – Front Yard Setback. Clough, Harbour, and Associates commends the applicant for proposing a 2-story multi-use building in the center of Clifton Park’s commercial core, thereby increasing the density of development where infrastructure exists that can support the growth. The applicant is proposing a two-story building with 16,128 S.F. of retail space on the first floor and 16,128 S.F. of office space on the second floor. This site was originally approved for a one-story 26,200 S.F. retail building. Based on the availability of shared use parking with other establishments owned by the applicant, the firm has concerns over the adequacy of parking. The applicant previously discussed the conveyance of open space on another parcel that compensated for a decrease in greenspace on this project site. Though the firm supports this concept, it recommends that a suitable tracking mechanism be established. There are concerns over the vehicular circulation pattern and stacking provisions around the drive-thru: additional analysis of this area is required. In addition, the site plan does not appear to integrate well with the existing and anticipated service drives on the adjacent properties. It is suggested that both developers work together to provide a well planned service drive arrangement that is appropriately screened from view.

Mr. O’Brien, Environmental Specialist, listed the comments provided by the ECC. The Commission recommends that additional greenspace be allocated as part of this project to provide at least the required greenspace of 35% in an area where 45% was recommended as part of the Exit 9 GEIS. It is suggested that parking spaces be eliminated to accommodate the required greenspace. The ECC further recommends that the greenspace be illustrated on the plans and calculated over the entire project area, including the existing commercial development of TGI Fridays and Fleet Bank. The Town Engineer should evaluate the existing stormwater management system’s capacity to ensure that the additional area of the proposed project area can be treated adequately and not overtax the existing stormwater system and negatively impact the surrounding stream corridors. A Stormwater Pollution Prevention Plan should be provided with this project. Any proposed lighting shall be directional and limited.

Board members discussed the application of a portion of the “landbanked” greenspace to this project and supported such a transfer of rights if a suitable mechanism for tracking such transfers could be developed. Board members appeared to be in agreement with requiring further integration of adjoining properties, creation of a shared access drive, development of a public gathering area, and installation of pedestrian connections that would link existing businesses. Mr. Bulger offered to facilitate a meeting with representatives of DCG Development and Windsor Development to discuss site integration possibilities for the area. Mr. Romano’s comment regarding the necessity for a minor setback variance for driveway installation must be addressed. Parking calculations and waivers must also be reviewed. In response to Mr. Kramer’s question concerning the exterior design of the building, Mr. Sussman explained that there would

be service doors installed along the first floor rear of the building with windows provided for second floor office uses. The building would be painted to match the existing buildings.

Board members found the proposal generally acceptable.

Discussion Items

Jolley Associates

Ms. Maynard explained that Mr. Gillespie, consultant for the applicant from Bohler Engineering, provided information regarding remediation for contamination that has been found on the Clifton Park Short Stop site. The applicant requests approval to place a shed on the property that would contain remediation equipment. It is expected that the shed will remain on site for approximately five (5) years. The applicant presented a site plan that showed that the proposed location of the shed would be in the vicinity of the dumpster.

Board members requested more information regarding the proposed structure including a description of the equipment it would house.

Rekucki

A revised site plan for the proposed warehouse on Route 9 was presented for review. The plan now shows that all parking and maneuvering areas meet setback requirements. The architectural rendering provided by the applicant was determined to be acceptable.

Mr. Andress, consultant for the applicant, discussed the traffic fees that had been assessed for the project based on trip generation information provided. Additional information regarding potential traffic at the site has been provided to Clough, Harbour, and Associates for review. Mr. Andress asked that the number of trips generated by the site development be reduced from 19 to 6. Board members authorized the Town Engineer to determine the appropriate amount of mitigation fees.

Addison Estates

The developer of Addison Estates, Amedore Builders, has requested approval of a waiver from the setback required on Lot #51. The Board has established a policy of requiring at least a 40' setback from wetland areas. The applicant has requested approval of a 30' setback from an existing pond on the lot to the proposed residence. Board members found the request unacceptable and asked that the 40' setback be respected, stating that a 40' setback appeared to be reasonable, that precedent for approval of such setback reductions should not be set, and that appropriate buffering between wetland areas and residences is desirable.

Minutes Approval

Mr. Bulger moved, seconded by Mr. Russell, approval of the minutes of January 9, 2007 as amended. The motion was unanimously carried.

Mr. Bulger moved, seconded by Mr. Hughes, adjournment of the meeting at 8:25p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on February 13, 2007.

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, Tom McCarthy, 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.