

**Planning Board Meeting**  
**December 8, 2009**

Those present at the December 8, 2009 Planning Board meeting were:

Planning Board:       S. Bulger, Chairman, M. Hale, J. Koval, E. Ophardt, S. Pace, K. Paulsen,  
                              T. Werner  
                              T. Deleonardis – Alternate

Those absent were:   None

Those also present were:   J. Scavo, Director of Planning;  
                                  J. Grasso, CHA Companies;  
                                  M. Montague, Environmental Specialist;  
                                  P. Pelagalli, Counsel;  
                                  J. Dean, Secretary

Mr. Bulger, Chairman, called the meeting to order at 7:00p.m. All in attendance stood for recitation of the Pledge of Allegiance.

**Public Hearings:**

[2009-024] **Hoffman, Margaret E.** – Proposed consolidation of two parcels and (2) lot subdivision, NYS and US Route 9 and Meyer Road – Preliminary public hearing. SBL: 266.3-1-1.1 and 265.-1-22.11.

Mr. Bulger, Chairman, called the public hearing to order at 7:00p.m. The Secretary read the public notice as published in the Daily Gazette on December 3, 2009.

Mr. Andrew Kosiba, consultant for the applicant, presented this application for the Board's consideration. The proposed subdivision plan remains generally as presented at the

October 27, 2009 meeting. The speaker addressed the issues of concern raised by the Planning Board at that meeting, explaining that the revised plan now shows a front setback from US Route 9 as 80' from the right-of-way; a note has been added to the plan that states that a variance for the existing building will be required when a site plan for the parcel is submitted for consideration; existing handicapped parking spaces for the existing building have been illustrated on the plan; a note stating that no dumpster is provided on the site has been added. In response to Mr. Bulger's question regarding the ownership of Meyer Road, Mr. Kosiba stated that the southern portion of the roadway was conveyed to Mr. Bruce Tanski since it serves only the Clifton Court apartment complex that he owns. The northern portion of the road is owned and maintained by the Town of Clifton Park.

Mr. Scavo reported that this application has been forwarded to the Saratoga County Planning Board for review and comment: no action may be taken by this Board until the county agency issues a determination on the application.

Mr. Grasso reported that CHA Companies provided no comment on this application. Mr. Montague, Environmental Specialist, reported that the ECC found this proposal acceptable.

No one from the audience offered comment on this application.

Mr. Bulger moved, seconded by Ms. Pace, to adjourn the public hearing at 7:07p.m. The motion was unanimously carried.

### **Old Business:**

There were no items of old business scheduled for this evening's meeting.

### **New Business:**

[2009-029] **Carlson Farm** – Proposed (2) lot subdivision, 4 Balsam Way – Conceptual review. SBL: 277.2-3-46

Mr. Joe Dannible, consultant for the applicant, Shaker Builders, Inc., presented this application for the Board's consideration. The speaker explained that the application calls for the subdivision of a three (3) acre parcel within the Carlson Farm subdivision that lies within the R1 zoning district into lots of 2.08 acres, 22,571 SF, and 21,664 SF, respectively. The lots would be located on the west side of Balsam Way approximately 200 feet from its intersection with Moe Road. The larger parcel contains an existing farmhouse that is to be preserved and restored. The two new lots, which meet R-1 zoning requirements, will have frontage on Balsam Way and will be served by connections to the Saratoga County Sewer District and the Clifton Park Water Authority.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered no comment on this application.

Mr. Scavo offered comment prepared by the Planning Department. He noted that the archeologically significant areas identified on the original subdivision plans must be shown on the proposed subdivision. He also recommended that a note be added to the plan defining language for rehabilitation of the historic farmhouse. He asked that the Planning Board consider the following language:

*Rehabilitation* is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, and architectural values. In addition, the following statement should be added to the standard notes:

Nothing in the notice of decision or notes on the approved site plan shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of structures noted to be preserved and/or to remain which does not involve a change in design, material, color, or outward appearance. No owner or person with an interest in real property shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Building & Development Department Director, produce a detrimental effect upon the character and cultural value of the Town as a whole or the life and character of the property itself. Examples of such deterioration include:

- (a) Deterioration of exterior walls or other vertical supports;
- (b) Deterioration of roofs or other horizontal members;
- (c) Deterioration of exterior chimneys;
- (d) Deterioration or crumbling of exterior stucco or mortar;
- (e) Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors; and
- (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

Mr. Grasso reported that, after review of the proposed plan prepared by the Environmental Design Partnership, CHA Companies offered the following comments. The parcel is located within the previously approved 42 lot Carlson Farm Subdivision. The approved subdivision plan included an existing house and two barns located on the 3.1 acre parcel. It appears that following Planning Board approval of the original subdivision the existing barns were demolished, though the remaining Peters-Lockrow House has not been renovated nor sold. The intent of the proposed subdivision is to provide economic relief to the owner and allow for the preservation of the existing house. From the information provided it appears the original subdivision was approved with a condition that the Peters-Lockrow house was "to be preserved and renovated at either the Builders expense or to be sold as is with contingency that it will be renovated by new owners" (Town of Clifton Park Historic Preservation Commission May 30, 2007 letter to Mr. Edward Pogoda, Shaker Builders). Assuming this letter was used as a part of the basis of the Planning Board's approval of the original subdivision, this conditional requirement remains valid unless modified by the Planning Board. The proposed subdivision appears intended to generate additional income to the applicant in addition to that generated by the initial development to fund the restoration effort associated with the Peters-Lockrow House. If the proposed subdivision is supported by the Planning Board, it is recommended that a

timeframe be established for the proposed renovation and that a financial security deposit be held by the Town or another agency that has review and approval authority over the work. The proposed project appears to be an “Unlisted” action pursuant to SEQRA, and as such, coordinated review is optional. The only involved agency is expected to include the Clifton Park Planning Board for subdivision review. The Town’s Historic Preservation Commission should be considered an interested agency pursuant to SEQR. The environmental impacts associated with the proposed further subdivision of the former Carlson Farm should be evaluated comprehensively with respect to any impacts associated with the original subdivision. As such, it is recommended that the environmental assessment form be modified to reflect the original subdivision and its impacts, with particular emphasis on the historic and archeological impacts associated with each project. It appears the existing 8’ wide asphalt path was constructed on private property. The walk should be relocated on the open space parcel owned by the Town of Clifton Park. A portion of the archaeological sensitive site is located within the two lots to be developed. The plan does not appear to provide any protection measures of this area during the development of the proposed homes and following construction. The parcel area should be provided in the site statistics and the plan labels two of the lots as Lot #4.

Mr. Montague, Environmental Specialist, reported that the ECC offered the following recommendation after review of the application. Any renovation work on the existing house should be respectful of the LC 100 foot setback zone from the existing DEC regulated wetland.

Mr. Bulger explained that the applicant requested review and comment on the application from the Town’s Historic Preservation Commission because of the conditions placed upon the property by the Planning Board when approval was granted to the Carlson Farm subdivision on November 14, 2006. At the time of approval, the Planning Board required that the farmhouse be “preserved and restored to its original condition.” Ms. Pace, Planning Board liaison to the Historic Preservation Commission, introduced Mr. Mark Kazmeirczak, Historic Preservation Committee Chairman, to comment on the application. Mr. Kazmeirczak explained that although the current owner has attempted to market the property with these conditions, the selling price of the existing structure plus reconstruction costs would be greater than the market value of the property itself. In light of this information, the Historic Preservation Commission conducted a site visit, offered recommendations for securing the house against the weather, and prepared a marketing plan. The document provided to the applicant explains that the existing three (3) acre parcel was created in order to contain the existing historic home and barns on the new town road labeled as Balsam Way. In May, 2007 the developer was allowed to demolish the deteriorating barn and dilapidated chicken coop on the property. At this time, the Historic Preservation Commission recommends that the applicant submit plans to the Planning Board for approval of a three (3) lot subdivision that would allow preservation of the Peters-Lockrow house on a two acre parcel. This plan would provide for the sale of an additional two lots to generate income and allow for the selling price of the house to be reduced to a figure that would likely attract interested buyers. The plan outlined by the Commission cautions that the historic home will be sold with attached contingencies outlining the preservation and restoration of the structure. Mr. Kazmeirczak recommended that the existing structure be preserved in its present condition and noted the Commission’s “strong support” of approval for the proposed subdivision to provide for its restoration.

Ms. Pace thanked the developer of the Carlson Farm project for his concern and stated that she viewed the cooperation between the Town and the developer as a positive effort to achieve preservation of a meaningful, historic structure.

Mr. Bulger offered several comments regarding the approval process for the Carlson Farm subdivision and the pending application. He explained that there was a lengthy review process prior to the Board's approval of the Carlson Farm application: one significant issue of concern during that process concerned the historical significance of the existing farmhouse and the importance of preserving it. It was determined that the home was of historic value, and that its preservation/restoration would be of benefit to the Town. As a result, approval of the subdivision was conditioned upon the preservation of the circa 1830 farmhouse. Subsequent to the issuance of the Carlson Farm subdivision approval, the Planning Board has reviewed several applications that have involved preservation, restoration, or demolition of historic structures and it has become increasingly clear that the Board must not only more unmistakably define the terms "preservation" and "restoration" but also consider the financial impacts of such conditions on the developer. Using the pending application as an example, Mr. Bulger stated that it was difficult to require the developer to spend the estimated \$300,000 to restore the farmhouse to habitable condition.

Mr. Scavo explained that the language provided at this evening's meeting was designed to be used as a "guide" for the Board: exact language would reflect recommendations and conditions on a site-specific basis.

Mr. Hale thanked the developer for seeking and pursuing recommendations from the Historic Preservation Committee. He asked that the applicant ensure that encroachment of the archeologically sensitive area does not occur when the proposed evergreens are planted. Mr. Koval questioned the "changes that may have occurred between the time of approval and the present" that would necessitate a reconsideration of the Board's original proposal. Mr. Bulger explained that the conditional approval did not specify a time frame for completion of restoration and/or reproduction of the property. It has become clear that the cost of the property added to the cost of the restoration diminishes the likelihood of a potential buyer. Mr. Kazmierczak noted that the original lot included deteriorating barns and a chicken coop that have since been razed, allowing for the existing farmhouse to sit on a smaller parcel. Mr. Koval commented that the application appears to "reward someone for not following directives" and approval of the subdivision as requested would "compensate the buyer" for adherence to approval conditions. Mr. Pelagalli commented that he believes that the definition of the word *preserve* should be apparent to any reasonable person: one would expect that the structure would be maintained in the condition it was in when the subdivision was approved. Mr. Grasso noted that the Board should consider requiring that a cost assessment for improvements be prepared and that a security bond for that amount be provided to the Town of Clifton Park to ensure that all identified improvements are completed in timely fashion. Mr. Bulger introduced the concept of "public improvement" or "public benefit" with regard to this application, noting that the future public benefit of the cost of the restoration of the historic structure will be borne by the purchaser of the property. Mr. Ophardt noted that since there is no time frame for the sale of the proposed lots, there is no apparent time frame for completion of the necessary improvements to the structure. Ms. Paulsen was concerned that the town would be unable to enforce the conditions of

approval. Mr. Grasso explained that it would be the applicant who would establish the bond in an amount of the “assigned public value” of the required restoration or preservation of the existing structure. Mr. Pelagalli stated that it would be a necessary part of the approval process for the applicant to provide the town an easement that would permit the town to make required improvements should the owner default his commitment to restore the property as mandated. Mr. Bulger commented that the Board’s action on this application will establish precedents for future projects. It was his opinion that the Board should require the use of “benchmarks” to determine how the restoration project was progressing. Board members appeared to agree that the existing garage - built in the 1960’s - and the porch addition need not be considered part of the historic structure.

Mr. Dannible was directed to consult with Mr. Scavo, Mr. Kazmeirczak, Ms. Pace, and Mr. Pelagalli to determine what language may be necessary to ensure that the Town’s interests are protected and that restoration of the “Peters-Lockrow” house is completed in a timely manner and that its completion will provide a “public benefit”.

There was no discernable consensus of the Board regarding this application.

### **Discussion Items:**

[2008-033] **Zaika Indian Restaurant** – 54 Clifton Country Road request for extension of approved site plan pursuant to Section 208-120 of the Town Code. SBL: 271.-3-47.122

Mr. Scavo explained that Mr. Joe Dannible, consultant for the applicant, has requested that the Planning Board approve an extension of the site plan approval that was granted to this project on January 13, 2009.

Mr. Bulger moved, seconded by Mr. Hale, to grant the site plan extension as requested. Per Section 208-120 of the Town Code: the final expiry date for the approved plan will be January 13, 2011. The motion was unanimously carried.

### **Minutes Approval**

Mr. Bulger moved, seconded by Mr. Hale, approval of the minutes of November 24, 2009 as written. Ayes: Ophardt, Pace, Hale, Deleonardis, Werner, Koval, Bulger. Noes: None. Abstained: Paulsen.

Mr. Bulger reminded Board members that the Saratoga County Planning Conference will be held in Saratoga Springs on January 25, 2009. The conference offers an opportunity to fulfill all yearly educational training requirements. He encouraged Board members to attend the program presented by Mr. Pelagalli.

The annual holiday luncheon for Planning Board members and Planning Department staff will be held on December 22, 2009 at Wheatfields Restaurant.

Mr. Bulger explained that Mr. Sandy Roth, Town Councilman, would be retiring from the Town Board in January. He read the following prepared statement:

To mark the upcoming retirement of Sandy Roth from the Clifton Park Town Board, the Clifton Park Planning Board would like to offer our sincere thanks for his many years of dedicated service as a valued adviser and supporter of both the Planning Board and the Town's Planning Department. Sandy made it a point to be both knowledgeable and responsive about many of the projects this Board has reviewed during his Town Board tenure. His insights and awareness of the Town and our residents has contributed greatly to the many awards the Town has garnered over the years involving open space protection, smart growth initiatives, and walking trails. It is because of this dedication and commitment that we wish to note for the record our appreciation and gratitude for his outstanding service, and we wish him well in all future endeavors.

Mr. Bulger moved, seconded by Ms. Pace, to adopt the statement made by Mr. Bulger as a commemoration of Mr. Roth's dedication to Town residents and the Planning Board. The motion was unanimously carried.

Mr. Bulger moved, seconded by Ms. Pace, adjournment of the meeting at 8:05p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on January 12, 2010.

Respectfully submitted,

Janis L. Dean

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, Lou Renzi, Town Attorney, Tom McCarthy, Town Attorney, Paul Pelagalli, Town Attorney, ECC, Clifton Park Water Authority