

**Town of Clifton Park  
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PLANNING BOARD

ROCCO FERRARO  
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PAUL PELAGALLI  
Attorney

JANIS DEAN  
Secretary



MEMBERS

Emad Andarawis  
Michael Hale  
Joel Koval  
Eric Ophardt  
Kim Paulsen  
Tom Werner

*(alternate)* Eric Prescott

DRAFT

**Planning Board Meeting**

October 23, 2012

Those present at the October 23, 2012 Planning Board meeting were:

Planning Board: R. Ferraro, Chairman, E. Andarawis, M. Hale, J. Koval, E. Ophardt, K. Paulsen, E. Prescott – Alternate Member

Those absent were: T. Werner, J. Dean

Those also present were: J. Scavo, Director of Planning  
J. Bianchi, M J Engineering and Land Surveying, P. C.  
M. Montague, Environmental Specialist  
P. Pelagalli, Counsel  
M. Springli, Secretary

Absent: T. Werner, J. Dean - M. Springli is alternate secretary, E. Prescott is voting member for T. Werner

Mr. Ferraro, Chairman, called the meeting to order at 7:04p.m. All in attendance stood for recitation of the Pledge of Allegiance.

Mr. Ferraro announced that Mr. Prescott will be sitting as a full voting member in the absence of Mr. Werner and Mrs. Springli will act as secretary in the absence of Jan Dean.

The chairman then spoke about a series of e-mails which had passed among Planning Board members about instituting green infrastructure measures on private property, with specific references to the Bradford Pointe subdivision stormwater practices. Mr. Ferraro remarked that he would like to invite Steve Myers to a future meeting as well as Mike Montague and/or ECC members to a future meeting to have a discussion about addressing these new stormwater requirements. He added that he would like to schedule this on a night when there are not a lot of items on the agenda.

Next, Kim Paulsen stated that she is not getting the emails. There was discussion that her contact information may need to be corrected.

**I. Minutes Approval – 10/10/2012**

Action: Approved

Result: Moved by Andarawis

Second: Hale

Ayes: 6, noes: none

Abstain Paulsen

**II. Public Hearings – None**

**II. Old Business – None**

**IV. New Business**

**[2012-034] Clifton Common Independent Towers**

Proposed installation of wireless communications facilities on 110' light pole with antennae and utilities in 50x80' enclosed area on Clifton Common, Vischer Ferry Road, Conceptual site plan review, **Zoning:** PIR, **SBL:** 271.-5-36

Presented by: Jacqueline Phillips Murray, Consultant for Independent Tower Holdings and AT&T

Ms. Phillips Murray submitted the 500' notices for the Common and contiguous property and list to the Planning Board Secretary. Then, Ms. Phillips Murray showed the location of the proposed light pole and project on the aerial map of the Clifton Common. The consultant described the project stating that the existing light pole will be replaced with a taller pole that will house the lights and then the antennae will be extended above the lights. The speaker stated that the application shows the existing service areas in town and the gaps in service of which Clifton Common is one of those gaps. Ms. Phillips Murray noted that there will also be a fenced equipment area with an equipment shelter and it will be located away from the field and tucked

back in near some vegetation to improve the aesthetics of the project, adding that it will be enclosed by a 10' wooden stockade fence to blend in with existing improvements. She noted that all setbacks are met including the requirement to be more than 500' from existing residences. Ms. Phillips Murray also commented that AT&T was receiving complaints that service was inadequate in the area both indoors and outdoors. It was also noted that the pole would be built to support AT&T, lights and up to 3 other carriers.

## **Staff Comments**

Steve Myers

- Proposal appears to meet zoning requirements

John Scavo

- Professional Staff has reviewed the propagation maps and agrees that the selected location will improve coverage and capacity issues in the immediate area. The proposed project should decrease service interruption events.
- Mr. William Johnson, an engineer and attorney from RIT [Rochester Institute of Technology] has been retained to review the application and provide technical comments for the Planning Boards consideration. Mr. Johnson issued a report dated October 22, 2012 which has been forwarded to both the applicant and Planning Board Members. A copy of this report has been included with the project file.

ECC

- If hazardous materials, such as fuel oil or gas will be stored on this site, the Applicant must submit a plan for approval addressing handling and storage and spill response to the Town of Clifton Park Environmental Specialist before such materials are stored.

Ms. Phillips replied that a spill response plan would be provided for the backup generator, a necessary component to comply with FCC regulations

## **Public Comment**

Judy Ehrlich, a neighboring resident at Plaid Place, asked if this approval is for one carrier and it was stated that this was for one specific carrier and future carriers would require additional review. Ms. Ehrlich asked if it was required to get approval to do this on parkland. Mr. Ferraro stated that it was approved by the Town Board previously. She asked if Tesago was notified, and if balloon tests were going to be done. It was noted that balloon tests were done and it would be verified if the school district was notified.

## **Planning Board Discussion**

Mr. Koval commented that he felt it was a good location that already has high structures.

Mrs. Ehrlich remarked that the light poles were originally put in to be used only at certain times but that neighbors didn't want them in the first place.

Mr. Ferraro noted that the height below 199 FT. does not require lights per Federal Aviation Administration regulations but felt that it might be desired because of the flight pattern to Albany Airport and possible helicopters landing at the Commons. Ms. Phillips-Murray replied that they have contacted the FAA but have not heard from them yet and a consultation is pending and if structure registration is required, the applicant will follow the recommendations.

The Planning Board was polled for acceptability and found the plan generally acceptable as presented.

Next step: The applicant would like to be placed on the agenda for the next meeting. A public hearing and SEQR would be scheduled at that time if they can get required items in by noon the following day.

[2012-035]

**Root Canal Experts**

Proposed 270 SF addition to existing 1-story building, 930 Rt 146, conceptual site plan review conceptual review, **Zoning B-1, SBL: 277.-4-14**

Mr. Flanders described the location of the property which is 1/3 of an acre with an existing one-story structure. He noted that there is a capped foundation on the plan that the applicant would like to build above. The consultant noted that there is sufficient parking for a dentist office whose hours of operation would be 8am-5pm Monday through Friday. Mr. Flanders showed that onsite well and septic are noted on the plan. Mr. Flanders then stated that the property was originally constructed as a two-family residence in R-1 zoning, then it was converted to an office, then a post office, then it was a credit union. The speaker added that variances were granted for signs and parking setbacks in the past which carry with the land. Mr. Flanders stated that the square footage of the entire building would be 1893 SF. It was added that Route 146 was widened in the past and the State of NY took some of the land making it a pre-existing non-conforming property whose existing build-out is 53% of site, so the green space does not currently meet the standard of B-1. However, the consultant stated that the building footprint is not really changing and no existing vegetation will be effected. Mr. Flanders commented that the site is basically going to be used as it has been for years and is virtually unchanged.

The contract vendee, Francisco Banchs, spoke next and stated that he works with the highest technological standards for dentistry. Mr. Banchs intends to house 3 treatment suites, for 1 dentist and 2 assistants. The applicant showed a bottle that represents their water usage is less than a gallon per day, adding that the sterilizer uses bottled distilled water.

Public Comment

## Staff Comments

Open Space, Trails and Riverfront Committee recommend a bike rack be added to the site

### Steve Myers- comments

- Most recently building was Bronster Law Firm.
- Proposal is for change of use and building expansion in a PDD.
- The PUD legislation does not appear to address this structure yet it is shown as part of the PUD. As a result it is unknown if it is being considered correctly. The legislation does state all buildings will be connected to county sewer and the application states this building is on a septic system. It seems a connection to public sewer would be required.
- The application also states there will be an expansion of the current building area. This combined with the septic issue also appears to necessitate a public sewer connection since a dental office on a septic system may not be viable.
- A full understanding of the legislative intent and prior approvals should be considered prior to approval

### John Scavo

1. The Town Zoning Map incorrectly shows the parcel as being zoned PDD and it has been confirmed with the Chief Zoning Officer that the parcel is within the B-1 Zoning District.
2. The Planning Department has confirmed with the Chief Zoning Officer that he is in agreement with the comments offered by MJ Engineering.
3. Per Section 208-33 of the Town Code:
  - A. The rehabilitation or remodeling of a preexisting building in the B-1 District into an allowable use shall be allowed by the Planning Board, provided that the original building is determined to be structurally safe and able to meet the Code requirements of the Town and New York State as determined by the Building Inspector.
  - B. No preexisting building(s) shall be rehabilitated or remodeled or new building(s) constructed on a vacant lot to a size greater than 12% of the lot size, with no single building to have a maximum square footage exceeding 4,800 square feet. Multiple buildings on a lot are allowed as long as the overall density limitations of this article are not exceeded.

The Planning Director also added that he would recommend it as a good infill project to the ZBA despite its nonconformity.

ECC

- In keeping with the recommendations and goals of the Town Comprehensive Plan, the Applicant should retain existing vegetation to the maximum extent practical and/or the use landscaping and grading to provide visual and auditory buffering between the project and adjacent roadways or other properties.

Joel Bianchi with MJ Engineering and Land Surveying  
State Environmental Quality Review

- Based upon our review of Part 617 of NYS Environmental Conservation Law, the project appears to be an “Unlisted” action. Assuming the Planning Board is to request Lead Agency status under SEQRA, the need to undergo a coordinated review is optional. Under a coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:
  - Saratoga County Planning – 239m referral
  - NYS Dept. of Health – potential plan approval of modification to existing well
  - NYS Dept. of Environmental Conservation – potential plan approval of modifications to existing well
  - Clifton Park Water Authority – if a connection to the public water system is required
  - Saratoga County Sewer District No. 1 – if a connection to the public sanitary sewer system is required.

Site Plan

- Based upon a determination made by Town staff, the project resides within the Town’s B-1 Zoning District. The proposal for a dental office is a permitted use as defined under Section 208-32(A)(2) of Town Zoning.
- In our review of the project with respect to stated relief that has been previously granted to the parcel and the bulk lot requirements of the B-1 District, there appears to be deficiencies that may require additional area variances including:
  - Required minimum lot area of 40,000 s.f. pursuant to Section 208-35(C) of Town Zoning and the plan only shows 14,113 s.f.
  - Required minimum lot width of 180-feet pursuant to Section 208-35(C) of Town Zoning and the plan only shows approximately 92-feet.
  - Required minimum side yard setback of 25-feet pursuant to Section 208-35(D)(2) of Town Zoning and the plan shows a pre-existing side yard of 7.6-feet on the westerly side and a proposed 9.sideyard of 6-feet on the east side.
  - Required lot coverage of no more than 50% pursuant to Section 208-35(D)(3) of Town Zoning, however from the plan it cannot be determined what the current or proposed lot coverage will be.
  - Required 10-foot buffer within the minimum side and rear yard setbacks pursuant to Section 208-35(D)(4) of Town Zoning and the plans appear to show no buffer at the rear yard and less than required on both side yards.
- The parcel is currently serviced by an on-site septic system and its own water well as stated in the narrative and mapping. Section 208-35(B) of Town Zoning requires uses in the district shall be serviced by sanitary sewers and community water system or if none is available at the time of approval, the Planning Board shall require the owner to hook up

to public water and sewer systems as soon as they become available. There may be a desire of the Board to have the applicant determine the viability of making a connection to the closest public water and sanitary sewer systems.

- Since Town staff have determined that the parcel resides within the B-1 District, the site statistics on the provided map needs to be updated. Further, the required verses provided bulk lot requirements should be listed to verify compliance with zoning and further identify if area variances are necessary.
- The plans should show the reputed location of the existing septic system and well.
- Given the proposed change in use from a law office to a medical/dental office, there should be confirmation that the existing well and septic system are adequate to meet the needs of the change in use, if a connection to a public system is determined to be not viable. If any expansions and/or improvements are needed, the plans need to show such improvements and may be subject to regulatory approvals from the NYSDOH and/or NYSDEC.

#### Planning Board Discussion

Mr. Koval asked if a variance would be necessitated by the reduction of greenspace. Mr. Scavo felt that it would not be a true reduction since the foundation actually already exists. Mr. Pelagalli suggests that Planning Board could send a recommendation to the Zoning Board of Appeals and Mr. Koval said he felt this was an improvement and the proper steps just need to be done to make this to code. Other Board members voiced their agreement.

Mr. Ferraro asked about the row of trees near the expansion and the applicant stated that there is no need to disturb them; however there were some trees on the other side of the property that required some maintenance and/or removal due to conditions and safety concerns.

Mr. Koval asked where the existing leech field is. Mr. Flanders stated that the septic was inspected and deemed adequate, but that they don't know exactly where the leech field is located. Mr. Koval stated that they might need to connect to the public water in order to meet state code requirements because it does not look possible to meet requirements of separation of well from septic.

Mr. Hale said he felt it is a good use and would send his support to the ZBA to allow for the expansion over the foundation for an above ground addition.

Mr. Koval added that he has seen that lenders are demanding separation of well and septic be shown or they will not finance.

Mr. Banchs says that he will do what is needed to resolve the septic, Mr. Ophardt felt that it was required without question based on the wording of the Town Code which states that an owner "shall connect" to public water and sewer when available in the B-1 zone.

The Planning Board was polled for acceptability of the project to recommend it to the ZBA.

Mr. Bianchi stated that if no changes are made, existing non-conformities can continue unless a danger to public health is demonstrated. He also added that without a change to the septic, it

would not need to be mandated per State sanitary code; however Town code may mandate that a connection would occur. The applicant replied that he is willing to do what has to be done.

Mr. Scavo suggested that the applicant might consider getting site plan approval for the change of use without modification at this point in time and then seeking the variance from the Zoning Board of Appeals and reapplying for the addition at a future date and time as an alternative to moving forward with the addition at this time.

Next step: Applicant should seek variance from ZBA if they wish to proceed as submitted, then if granted, a public hearing and possible determination by the Planning Board.

**V. Discussion Items**

**[2007-032] Pickett Subdivision**

Proposed reconfiguration of public road design on conditionally approved subdivision, 136 Vischer Ferry Rd., **Zoning:** CR, **SBL:** 282.-2-30.1

Presented by: Jason Dell, Lansing Engineering

Mr. Dell described the location of the site as 22.53 acres on Vischer Ferry Road. The project was approved 8/12/2008. Mr. Dell stated that the proposed modifications still create a 6-lot subdivision, but include a double entrance road with an island that will save some mature trees. The consultant noted that lots would be slightly reconfigured ranging from 1.18-10 acres in size and septic systems and wells were located on the plan. Mr. Dell noted that the applicant would like feedback to see if the Planning Board would entertain changes to approval.

John Scavo

- The Open Space, Trails and Riverfront Committed wants to verify the 15' right of way along Vischer Ferry Road exists

Steve Myers

- No SWPPP has been approved to date but this proposal reduces the management area.
- This proposal shifts the leach fields closer to the property lines along the northern boundary.

Mr. Kukuk, the highway superintendent has been consulted and he indicated that he would require a maintenance agreement for the green area within the boulevard so the town would not be required to maintain it. It was noted that in other parts of town with such structures, park districts currently maintain them but this is outside any park district. Planning board members suggest that the interior green space of the cul-de-sac should also be included in the maintenance agreement. Mr. Koval stated that would have to be deeded for homeowners.

Mr. Witt stated that he would like to keep it more natural and rural with mulch and perhaps some roadside trees at the entrance. The applicant also commented that the road would be one way in, one way out and not truly a wide boulevard. Mr. Witt agreed that a maintenance agreement

would be deeded and property owners within this subdivision would be required to contribute to its maintenance and physically take care of it.

#### Planning Board Discussion

Mr. Koval stated that lot 6 might be getting close to being too far for emergency access - it is now 150' according to state code even though town code is 500'. Mr. Myers has indicated that he is going to adhere to the most restrictive code of 150'. Mr. Witt and Mr. Dell responded that they would look into that before the amended plan is submitted.

Mr. Ferraro recommended keeping the roadway green spaces as natural as possible. Mr. Hale suggested using native species to the fullest extent possible.

Next step: to present draft maintenance agreements for review and then proceed with an amendment for subdivision approval, lot-lines, and landscaping. Permit coverage is already in place and NOI should be submitted.

Motion to close the Planning Board Meeting at 8:40

By: M. Hale

Seconded by: E. Prescott

Ayes: all

Noes: none

Motion unanimously approved.

Respectfully submitted,

M. Springli