

Town of Clifton Park Planning Board
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PLANNING BOARD

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MEMBERS
Emad Andarawis
Denise Bagramian
Joel Koval
Andrew Neubauer
Eric Ophardt
Eric Prescott

(alternate) Jeffery Jones

Planning Board Meeting
January 26, 2016

Those present at the January 26, 2016 Planning Board meeting were:

Planning Board: R. Ferraro, Chairman, E. Andarawis, D. Bagramian, J. Koval, A. Neubauer,
E. Ophardt, E. Prescott
J. Jones – Alternate Member

Those absent were: None

Those also present were: J. Scavo, Director of Planning
J. Hakes, M J Engineering and Land Surveying, P.C.
P. Pelagalli, Counsel
J. Dean, Secretary

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

Mr. Ferraro explained that Mr. Koval would be recusing himself from any discussion and/or vote on the application regarding an amendment to 5 Dhara Court within the Kain Preserve subdivision. Mr. Jones will sit as a full voting member of the Board for that agenda item.

Mr. Ferraro acknowledged Mr. Jim Ruhl, member of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee who was in attendance to introduce Mr. Roy Casper, recently appointed Chairman of the Trails Subcommittee. Mr. Ruhl explained that Mr. Casper was a long-standing member of the committee who had a Master's Degree in Planning from Albany State University and that he was well-qualified to provide comment and recommendations regarding pedestrian, bicycle, and multi-use pathways for projects presented for Planning Board consideration. Mr. Casper spoke briefly, explaining that he was anxious to provide careful review

of project plans and offer comments and recommendations aimed at “making the community better.”

Mr. Ferraro welcomed Mr. Casper and noted that former Chairperson Dan Hartnett spent many hours reviewing applications, preparing comments, and attending meetings. He stated his appreciation for Mr. Hartnett’s dedication to the Trails Subcommittee and to all volunteer members of the various town boards, commissions, and committees who give freely of their time to make the Town of Clifton Park a better community.

Minutes Approval:

Mr. Ophardt moved, seconded by Ms. Bagramian, approval of the minutes of January 12, 2015 as written. Ayes: Ophardt, Bagramian, Andarawis, Jones, Neubauer, Koval, Ferraro. Noes: None. Abstained: Prescott.

Public Hearings:

[2016-003] **Mastri Ground Mounted Solar** – Proposed construction of a ground-mounted solar array within the CR zoning district, 43 Ashdown Road – Public hearing for Special Use Permit #81069 and preliminary site plan review and possible determination. SBL: 263.-2-26.1

Mr. Ferraro explained the review process to those present, stating that the Board was required to render a determination pursuant to SEQRA (State Environmental Quality Review Act) prior to conducting a public hearing on this application. He explained that although the Planning Board would deem the application complete, assume Lead Agency status, and issue a negative declaration, these actions would neither grant nor imply approval of this Special Use application. Should it be determined that additional environmental review is required based on input received at the public hearing, SEQRA discussions would be reopened and a decision rendered when all environmental issues are satisfactorily addressed.

Mr. Koval moved, seconded by Mr. Neubauer, 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. Ferraro, Chairman, called the public hearing to order at 7:15p.m. The Secretary read the public notice as published in the Daily Gazette on January 17, 2016.

Ms. Anna Marciano, consultant for the applicant and representative for Kasselmann Solar, LLC, explained that this application calls for the construction of a 13’ x 33’ residential ground-mounted solar PV array in the back yard of property owned by Nick and Sonia Mastri situated on the easterly side of Ashdown Road approximately ¾ of a mile north of its intersection with Blue Barns and Bradt Roads in the CR zoning district. A Special Use Permit pursuant to Section 208-16D(3)[22] of the Town Code must be approved by the Planning Board. The speaker stated that the approximately 462 SF array would be placed on south-southwest direction and be situated

behind the existing residence which is located nearly 500' from the roadway. Ms. Marciano reported that no tree cutting would be required for installation of the solar equipment.

Mr. Scavo reported that all comments prepared by Mr. Myers, Director of Building and Development, Ms. Reed, Chief of the Bureau of Fire Prevention, the ECC, Mr. Reese, Stormwater Management Technician, M J Engineering and Land Surveying, P.C., and the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee for all projects to be reviewed at this evening's meeting have been forwarded to Board members for their consideration.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, commented that he "did not believe that the proposed installation will have any significant impact on neighboring properties" in a memo dated January 13, 2016.

Mr. Scavo reported that the ECC recommends that the Special Use Permit specifically delineate the specification and size of the solar array. Any expansion or modification would require additional review by the Planning Board.

Mr. Scavo read comments prepared by the Planning Department. The proposed project calls for the installation of a ground mounted solar array on a parcel that is approximately 12.89 acres in size. Pursuant to Town code, the array requires Planning Board approval of Special Use Permit #81069 and site plan approval. Based on the size of the parcel, proposed location of the solar array, and proximity to the nearest adjacent residential dwelling structure, it is Mr. Scavo's recommendation that the project be approved as per plans submitted and that no additional conditions are warranted.

There being no public comment regarding this application, Mr. Ferraro moved, seconded by Mr. Ophardt, to close the public hearing at 7:22p.m. The motion was unanimously carried.

In response to Mr. Andarawis' question regarding the location of the inverters, Ms. Marciano explained that they would be attached to the panels. Mr. Koval questioned whether the town's building code would restrict the height of the array. Though Mr. Scavo explained that there were no height restrictions on accessory buildings within the CR zone, Mr. Koval suggested – and Mr. Ferraro agreed - that the Board may wish to restrict the height of the array. In response to Mr. Prescott's question regarding the amount of voltage produced by the equipment, Ms. Marciano stated that it would produce 240 volts "at the interior panel." She noted that panel equipment would be secured by a lock box. Mr. Neubauer observed that the panel array would be located quite close to the northerly property boundary. Mr. Scavo explained that the required setback for an accessory structure within the CR district is 10'. Ms. Marciano explained that the placement of the equipment was dictated by the large garden area behind the home and that the location proposed respected all setback requirements. Mr. Pelagalli pointed out that although the proposed use is a permitted use within the zone, the Board could place reasonable conditions on the plan. Board members agreed that it would be reasonable to cap the height of the array at 10' and limit the size of the structure to 500 SF.

The Board first considered approval of Special Use Permit #81069.

Mr. Neubauer offered Resolution #2 of 2016, seconded by Mr. Andarawis, to approve Special Use Permit #81069 to permit the installation of a solar array on the Lands of Nick M. and Sonia Mastri, located within the CR zoning district at 43 Ashdown Road pursuant to Section 208-16D(3)[22] of the Town Zoning Code conditioned upon the following restrictions: that the equipment height be limited to 10' and that the size of the array not exceed 500 SF. Ayes: Ophardt, Andarawis, Bagramian, Prescott, Neubauer, Koval, Ferraro. Noes: None.

The Board then considered site plan approval.

Mr. Neubauer moved, seconded by Mr. Ophardt, to grant preliminary and final site plan approval to this application conditioned upon the requirements that the equipment height be limited to 10', that the size of the array not exceed 500 SF, and satisfaction of all items listed in the final comment letter issued by the Planning Department. The motion was unanimously carried.

Old Business:

[2014-054] **Kain Preserve** – Consideration of a proposed amendment for 5 Dhara Court to permit installation of a fence within the designated Land Preservation Area. SBL: 250.-1-10.11

Mr. Pelagalli, Planning Board Attorney, and Mr. Joel Koval recused themselves from any discussion and/or vote on this agenda item and both left the meeting room. Mr. Jones would sit as a full voting member for this application in Mr. Koval's absence.

Mr. Peter Thalheimer, applicant and homeowner, presented his family's request for approval to add fencing to the rear yard of the home they recently purchased at 5 Dhara Court which is situated within the Kain Preserve development. Mr. Thalheimer explained – as he had at the November 10, 2015 - meeting that after he and his family were living in their new home, he was informed that they would not be able to install the black aluminum fencing as planned that would extend to existing wood fencing on lands of adjoining property owners because the area is considered to be a "protected" area. Since one of the notes included under the title *Land Preservation Area Notes* on the approved subdivision plan states that "any modifications to the land preservation area(s) easement(s) must receive prior approval from the Town of Clifton Park Planning Board," the application is presented at this evening's meeting for Board consideration. The request for modification of the land preservation area restrictions is made for the following reasons: the homeowners had a small and energetic dog and would like to provide an area for him to run; Ms. Thalheimer has difficulty walking and would not be able to chase the dog if he were to escape; fencing would prevent other animals and "intruders" from entering the property. The fencing would also provide additional security for a deck and swim spa which will be added to the rear of the home. The applicant emphasized the fact that the proposed decorative aluminum fencing 4' – 5' in height would not require the removal of existing trees. He stated that, at the recommendation of Mr. Scavo, Director of Planning, he has submitted "supporting signatures" from the current owners of adjoining properties.

Mr. Scavo explained that the ECC provided the following comment regarding this application after review of the application at its January 19, 2016 meeting. The ECC recommends

rejection of this application because the installation of the fence would not conform to the intent of the deed restricted Land Preservation Area.

Mr. Scavo provided comments issued by the Planning Department. He highlighted the *Land Preservation Area Notes* found on the approved, stamped subdivision map which read as follows:

The following use/activities shall not be allowed within the designated land preservation area(s)/easement(s): construction of principal or accessory buildings including sheds, barns, and other improvements including, but not limited to, pools and fences.

An additional statement notes that “any modifications to the land preservation area(s)/easement(s) must receive prior approval from the Town of Clifton Park Planning Board.” In accordance with this statement, the applicant has petitioned this Board for consideration to modify the land preservation area to include a fence on his property that will result in no tree clearing. Mr. Scavo noted that review of the Kain Subdivision was controversial and that the approving Board spent many hours considering project plans before granting any approvals.

Mr. Scavo pointed out that the restrictions imposed by the Planning Board for those purchasing property within Kain Preserve were not specifically listed in either the deed that transferred the property from the developer to the builder or from the builder to the purchaser. This has now been rectified and all future deeds will include a list of specific development restrictions. Areas designated as Land Preservation Areas will also be clearly defined and confirmed prior to the release of any building permits.

In response to Mr. Ophardt’s question regarding the purpose of the designated Land Preservation area, Mr. Scavo speculated that it was required to preserve wildlife habitat corridors and provide a buffer between existing homes and the new residences. Ms. Gendron, adjoining property owner pointed out that the undisturbed area was also provided to reduce drainage impacts to adjoining properties since the parcel contained a number of isolated wetlands. Mr. Lorensen, 14 Hearthsides Drive, explained that although the tree clearing which occurred on the easterly side of the Thalheimer’s property inadvertently included 10’ of the Land Preservation area due to confusion regarding the transfer of lands to Gendron, the depth of the Land Preservation area throughout the subdivision has now been verified. He supports Mr. Scavo’s recommendation to “require that the Building Department, as a condition of the Certificate of Occupancy require evidence that the proposed deed for the parcel contains the specific Land Preservation Area’s covenants and restrictions” Mr. Lorensen asked that decision rendered by the Planning Board “not set a precedent” for other homeowners within Kain Preserve.

Board members discussed the application at length. Mr. Ophardt noted that the approving Board spent a great deal of time deliberating issues with adjoining property owners and applicants: he does not “want to tamper with” decisions made by a former Board. Mr. Prescott seemed to support the amendment, pointed out that the fence installation would not require the removal of existing trees and that homeowners within the subdivision found the requested amendment acceptable. In response to Mr. Ferraro’s suggestion that the applicant consider alternative means of protecting his dog and property, Mr. Thalheimer explained that he has already spent a great deal of money installing a fence along one property boundary in anticipation of its connection with

other fencing segments and that the installation of an “invisible fence” will not keep other animals from entering the premises. Mr. Neubauer described the situation as “very unfortunate” and encouraged those who oversee land transfers to ensure that specific restrictions are incorporated in individual deeds.

Mr. Prescott moved, seconded by Mr. Neubauer, to approve the amendment to the approved subdivision plan which called for no fencing to be erected, without any tree removal, through designated Land Preservation Areas to permit the homeowner at 5 Dhara Court to construct 4’ -5’ decorative aluminum fencing through the designated Land Preservation area due to the failure of the site developer and home builder to inform the property owner of the fencing restriction imposed by the Planning Board as a condition of approval for the Kain Development subdivision and listed on the subdivision plan. Ayes: Prescott. Noes: Ophardt, Andarawis, Bagramian, Jones, Neubauer, Ferraro. The motion was defeated.

Mr. Ferraro commented that this decision was the most difficult he had had to make as a Board member and he called on applicants, developers, and builders to ensure that, in the future, all restrictions imposed by the Planning Board as conditions of approval be clearly conveyed to potential homebuyers via specific listings of property development restrictions within all marketing materials, deeds, and transfer of title documents.

[2015-045] **380 Ushers Road (Lands of Randall Valachovic)** – Proposed (4) lot subdivision, 380 Ushers Road – Revised conceptual review. SBL: 259.-3-11

Mr. Duane Rabideau, consultant for the applicant, introduced this application that remains generally as presented at the December 8, 2015 Planning Board meeting. He explained that in response to comments and recommendations issued at that meeting a Stormwater Pollution Prevention Plan has been prepared and that clearing limit lines, approved postal addresses have been indicated, and required standard notes have been added to the subdivision plan. Engineering and stormwater issues have been addressed “as much as possible.” Mr. Rabideau explained that he was in receipt of the comments offered by the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee and that he wished to discuss the recommendations with the Board.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered no new comments regarding this application.

Mr. Scavo reported that the ECC recommended that due to the recent vehicular collisions in the immediate area of the proposed subdivision, the ECC has concerns about the safety of the proposed development and location of the driveway access points on Ushers Road because of the limited sight distance. The placement of the proposed driveways is adjacent to a sharp curve on Ushers Road which poses a hazard to vehicles entering and exiting the roadway. The ECC believes that the configuration of the driveways such as a single shared access should be considered.

Mr. Scavo explained that Mr. Reese, Stormwater Management Technician, provided the following comments in a memo dated January 21, 2016. The prepared Stormwater Pollution Prevention Plan dated January 4, 2016 must contain the Notice of Intent information before the MS4 acceptance letter is submitted to the town. Signage near the proposed construction entrance

on Ushers Road should be installed to warn motorists of the ingress and egress of slower moving construction vehicles.

Mr. Scavo offered comments prepared by the Planning Department. The applicant was asked to add the assigned 911 addresses to the subdivision map, obtain a final signoff letter from the Clifton Park Water Authority, and provide a final signoff letter from the Saratoga County Sewer District for the proposed tie-in. The sight distances along Ushers Road from the proposed driveways should be indicated on the subdivision plan. The following standard notes should be added to the subdivision map:

STANDARD NOTES FOR KEYHOLE LOT SUBDIVISIONS:

Final location and orientation of each house is subject to the approval of the Director of Building and Development at the time the building permit is issued. Foundation location surveys (plot plans) are to be provided and approved prior to proceeding with framing in order to ensure compliance with the original approval.

STANDARD NOTE FOR ADDRESS IDENTIFICATION FOR KEYHOLE LOTS:

The street number of a dwelling situated on a keyhole lot shall be permanently and conspicuously displayed on a sign, with lettering no less than 3 inches nor greater than 8 inches in height, and placed no more than 25 feet from the road pavement. The sign shall be displayed for both direction of travel and be reflective. Identification markers must also be placed at any location where a common drive where the common drive splits.

STANDARD NOTE FOR LOTS WITH COMMON RIGHTS OF INGRESS/EGRESS:

The proposed perpetual ingress-egress easements shown hereon shall be used in common by the owners of lot(s) numbered [insert relevant lot numbers per proposed map]. All such easements shall be in effect and binding upon the owners of said lots, their heirs, successors, and assigns and all future owners of said lots, their heirs, successors, and assigns, upon filing of this subdivision plat in the Office of the Saratoga County Clerk.

A note must be added to the plan which states the following: Prior to work commencing within the public right-of-way, the property owner shall obtain a curb cut permit from the Town of Clifton Park Highway Department. A temporary work zone traffic control plan will be required to be submitted for review and approval by Town Staff and Town Designated Engineer if any vehicle travel lane closures are proposed to occur within the public right-of-way. The applicant must be aware that pursuant to Town Law 276(7)(c) a conditional final subdivision plat expires 180 days following the date of the resolution of approval unless all conditions are satisfied. The Planning Board may extend for periods of ninety days each, the time in which a conditionally approved plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances. As such, the applicant is required to request an extension in writing to Planning Board within 30 days of each aforementioned expiration. Mr. Scavo noted that he received a revised plan from the consultant that addressed many of his comments.

Ms. Hakes provided the following comments from M J Engineering and Land Surveying, P.C. on this application in a letter dated January 22, 2016. All prior comments provided on the submitted SEQRA form remain applicable and require responses. As noted in Comment 19c of the September 18, 2015 review letter, the applicant must provide a notation on the plan indicating the existence or absence of regulated wetlands on the parcel. As noted in Comment 21 of the September 18, 2015 review, the applicant should furnish the Planning Board Counsel with a draft driveway maintenance agreement. Should the subdivision be approved, it is suggested that the applicant furnish the town proof of filing of the easement and agreement with the County Clerk's office prior to issuance of a building permit for either lot. As noted in Comment 25 of the September 18, 2015 review letter, information must be included on the plans indicating how potential sump pump laterals may be positioned in conformance with Section 86-7(A)(6) of the Town Code. As noted in Comment 26 of the September 18, 2015 review letter, the noted encroachments of fencing from the adjacent Lands of Huskensfeldt and Lands of Gradola shall be reconciled prior to the granting of final subdivision approval. As noted in Comment 27 of the September 18, 2015 comment letter, the applicant needs to obtain the 911 emergency response addresses for each new lot and show them on the final plat. One comment related to the Erosion Control plan. The plan must indicate the size and materials of construction for each of the proposed driveway culverts with associated detail. Several comments related to the Stormwater Pollution Prevention Plan (SWPPP). Section 2.3 of the SWPPP indicates there are no regulated wetlands on the project site: information must be provided within the SWPPP that supports this statement. The SWPPP needs to provide information relative to the existence or absence of historic or archeologically sensitive areas to determine permit eligibility pursuant to Part I.F.8 of General Permit GP-0-015-002. The Notice of Intent (NOI) within the SWPPP needs to be completed and submitted for review.

Though Mr. Ophardt described the application as "ready to roll," Mr. Neubauer, citing the concerns expressed by the ECC, questioned whether or not three curb cuts along this particular section of Ushers Road was reasonable. Mr. Rabideau explained that the curb cut locations meet accepted sight distance standards. Although Mr. Ferraro suggested that the driveway locations be reviewed by the Highway Safety Committee, Mr. Koval believes that the additional traffic from the four lots will not impact traffic safety in the area. Board members considered the Trails Subcommittee's recommendation regarding the granting of a 15' wide easement along the property frontage for installation of a future trail or roadway improvements. Mr. Radideau spoke in opposition to the establishment of the requested easement, pointing out that there is an existing pathway on the opposite side of the road. He presented a "street view" photograph of Ushers Road in the vicinity of Chandler Drive, explaining that installation of a pathway would require substantial tree clearing and grading. He noted that it was the applicant's intention to preserve as much vegetation along the roadway as possible. Mr. Casper commented that although the Trails Subcommittee would "optimally" like to see construction of a 10'-12' wide asphalt multi-use path from Crown Point to Stonegate Road, he considered the easement as a "minimal request" that would be important to future trail development that would "link four subdivisions." Mr. Koval did not support the installation of trails on both sides of the road. Mr. Ophardt, Mr. Andarawis, and Mr. Ferraro agreed that the granting of an easement would be reasonable. Mr. Rabideau stated that he would "not encourage destruction of the streetscape." In response to Mr. Jones' question regarding the diminished privacy for potential homeowners should a pathway be installed, Mr. Rabideau explained that the removal of vegetation would indeed have an impact. Mr. Ophardt

asked that Mr. Kukuk be consulted regarding any proposed widening of Ushers Road in this location. Mr. Ferraro commented that visually widening the roadway may encourage drivers to travel faster; maintaining vegetation along the roadway may have a “calming” influence. It appeared that most members agreed that the request for a 15’ easement along the property frontage was reasonable and that Mr. Rabideau’s request for a note on the plans stating that if and when construction of a trail link along Ushers Road is proposed there will be minimal impact to existing vegetation was also reasonable. Board members also commented that if a trail was constructed every effort should be made to retain the existing contours similar to what exists for that portion of the trail along the south side of Ushers Road behind the Fairchild complex east of the Stewart’s Shop. Although Mr. Ferraro stated his dislike of keyhole lots, Mr. Rabideau encouraged him to view approval of the project design as “a fair trade” for the granting of the desired easement. Board members appeared to find the plan acceptable.

New Business:

[2016-001] **Gunner, Marie T.** – Proposed (2) lot subdivision, 10 Castle Pines – Conceptual review. SBL: 265.10-1-26

Mr. Paul Lovell, consultant for the applicant, presented this application that calls for the subdivision of a 41,715 SF parcel of land located on the northerly side of Castle Pines within the Knolltop Subdivision into lots of 20,000 SF and 21,715 SF, respectively. The property lies within the R-1 zoning district. The larger lot contains an existing residence. The new lot will be served by connection to existing municipal water and sewer lines and will be accessed via a new curb cut from Castle Pines. Drainage will be directed to an existing storm sewer. Mr. Lovell stated that “a maximum amount of foliage will be preserved.”

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered the following comment in a memo dated January 13, 2016. The proposed subdivision is situated within the R-1 zoning district. All zoning setbacks and lot size requirements appear to be met for both the new and existing lots.

Ms. Sheryl Reed, Chief of the Bureau of Fire Prevention, commented that the applicant must obtain approved postal addresses and include those addresses on the final plat.

Mr. Scavo reported that, after review of this application at its January 19, 2016 meeting, the ECC offered the following recommendation. In keeping with the rural nature of the project area and the recommendations of the Town Comprehensive Plan, the applicant *should* retain existing vegetation to the maximum extent practical.

Mr. Scavo offered comments provided by Mr. Reese, Stormwater Management Technician. It appears that the runoff from this site will drain into a wing curb along Castle Pines. The rim of the existing catch basin at the existing driveway appears to be high and runoff is diverted around it. The inlet of the catch basin will need to be adjusted or a new inlet installed at the end of the new drainage swale to connect to the existing storm line.

Mr. Scavo read comments prepared by the Planning Department. The proposed subdivision appears to meet the bulk and use zoning requirements assigned within the R-1 zoning district. He expressed his concern about development of the proposed new lot due to the presence of a steep slope and recommended that the following condition and standard note should be added to the plan:

STANDARD NOTE FOR LOTS WITH EXISTING GRADES OF 12% OR GREATER:

Any proposed building lots with existing grades of 12% or greater (defined as 1 foot rise to 8 foot horizontal) shall require the submission of a grading plan for approval by the Town Engineer during subdivision review. Site grading and stabilization are required to be completed in conjunction with road construction; and all grading shall be completed prior to road construction. All areas of the site which are disturbed and not paved shall be topsoiled and seeded or receive hydro-mulch or hydro-seed. Seeded areas shall be well established prior to road conveyance to the Town.

To supplement the EAF submitted the information found within Part I of a Long EAF, Page 11 of 13, "E.2. Natural Resources On or Near Project Site, (Item F)" should also be provided for the Planning Board's consideration. A note should be added to the plan which states the following: This site plan addition is bound by all covenants, restriction, and conditions for the Knolltop Subdivision Plan approval granted by the Clifton Park Town Planning Board on August 23, 1994, stamped on March 22, 1995, and subsequently filed within the Saratoga County Clerk's Office. Since the project is within 500' of Kinns Road (a County Highway), referral to the Saratoga County Planning Board is required.

Ms. Hakes provided comments issued by M J Engineering, P.C. after review of the subdivision plans and documents submitted for conceptual review. Based upon review of Part 617 of NYS Environmental Conservation Law, the project appears to be an "Unlisted" action. If 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 are not necessarily limited to the following: Saratoga County Planning Board – 239m referral due to the parcels proximity to County Route 109 (Kinns Road); Clifton Park Water Authority - water service connection; Saratoga County Sewer District No. 1 – sanitary sewer service connection. Additional agencies may be identified by the Town during its review of the project. Ms. Hakes found the Short Environmental Assessment Form acceptable. Several comments referenced the subdivision plan. The project is located within the town's R-1 residential zoning district. The proposal for a single family home is considered a permitted principal use within district pursuant to Section 208-10(B)(2)(b) of the Town Zoning Code. In reviewing the proposed lot configuration, it appears that the plan meets the minimum bulk lot requirements outlined in Section 208-11. The applicant is asked to provide the following notation on the plan:

- a. No utilities shall be installed beneath the proposed driveways.

The applicant is asked to provide information on the plans indicating how a potential sump pump lateral may be positioned which shall be in conformance with Section 86-7(A)(6) of the Town Code. The submitted plans provide no proposed contours. Considering the topographic relief across the proposed lot, it may be beneficial to develop a conceptual plot plan showing a proposed

house, driveway, and lot grading. The applicant needs to obtain the 911 emergency response addresses and show them on the final plat.

Mr. Koval commented that he was unable to “envision the construction of a house on the site” because of the significant slope and he asked that the applicant provide information that would illustrate “how the house would work from an engineering standpoint.” Mr. Ferraro commented that he was concerned with several issues including the impacts to the significant slope, neighborhood character, environmental features, and stormwater management. Noting that homebuyers purchase properties “with certain expectations,” he explained that approval of this application would “set a precedent for approval of a subdivision within an intentionally designed subdivision” and negatively impact the character of the neighborhood. Mr. Pelagalli pointed out that he served as Planning Board Counsel when the Knolltop Subdivision was reviewed and recalled that there was a “great deal of consideration” given to the project before approvals were granted.

Ms. Marie Gunner, 10 Castle Pines, explained that there was a variety of lot sizes and types of housing within the Knolltop Subdivision, pointing out the more modest lot sizes directly across from her residence. When asked by Mr. Neubauer about her motivation for requesting approval of a subdivision of her property, she explained that the northerly portion of her property was “an eyesore.” Mr. Jones substantiated her observation, commenting that the existing vegetation on the northerly side of the lot “is not attractive.” Mr. Koval commented that there was “likely a reason why the lot is not buildable,” though he agreed that it appeared that all requirements for subdivision within the R-1 zone had been met. His concern for development of the parcel centered on whether or not engineering issues could be satisfactorily addressed. Mr. Neubauer concurred with this assessment and called for the applicant to provide a detailed grading and engineering plan that would show how a house could be constructed on the lot. It was his opinion that a retaining wall would be necessary to secure the slope. Mr. Pelagalli commented that a review of the minutes relating to discussions leading to the original Knolltop Subdivision approval should be undertaken to determine if rationale for the number and location of lots was discussed. Mr. Floyd, applicant, stated that he would not pursue the project if installation of a retaining wall would be required: he did not believe such a wall would be necessary. Mr. Neubauer called on the applicant to present a comprehensive grading plan for the site in order for the Board to accurately evaluate its development potential though he agreed with Mr. Ferraro that the request for approving a “subdivision within an approved subdivision” was one to be carefully considered. Board members did not comment positively or negatively on the application though it was clear that the submission of a site grading plan, engineering design plans for the proposed residence, adequate stormwater management provisions, and provisions for protection and/or preservation of environmental features would be required for the Board’s comprehensive review of the application.

[2016-002] **Stevens, Evelyn** – Proposed (2) lot subdivision, Vischer Ferry Road – Conceptual review. SBL: 271.-5-21

Mr. Duane Rabideau, consultant for the applicant, explained that the applicant proposes the subdivision of a 3.04 acre parcel of land situated within the R-1 zoning district into lots of 1.48 acres and 1.56 acres, respectively, for the purpose of constructing two single-family residences. The parcel is located on the easterly side of Vischer Ferry Road approximately 1,000 feet south of

its intersection with Clifton Park Center Road. Both lots will be served by public water and each will have a private septic system designed by a NYS professionally licensed engineer. Mr. Rabideau explained that the plan calls for the installation of a common ingress/egress and utility easement in order to reduce wetland impacts. All R-1 zoning area requirements and restrictions will be met. The speaker reported that Mr. Myers, Director of Building and Development, determined that Lot #2 was not considered a keyhole lot. Wetland disturbance permits will be needed from NYSDEC and the ACOE to cross the wetlands with the driveway and utility connections.

Mr. Scavo reported that Mr. Myers, Director of Building and Development, offered the following comments in a memo dated January 13, 2016. It appears that approximately 40-50% of the front of the parcel contains significant wetlands and a stream corridor. The proposed 370' driveway will be required to be a minimum width of 20' and able to support a 75,000 pound vehicle. A turn-around must be provided within 100' of the proposed residences. The property to the rear reputedly owned by Berthiaume does not appear on county maps. Confirmation that the public sewer is not available within 100' of the property's boundary will be required. Wetland permits will be required prior to the issuance of any building permits. R-1 zoning requirements appear to be met. Lot #2 would not be considered a keyhole lot.

Mr. Scavo reported that the ECC offered the following two comments regarding this application. The ECC notes that the project may result in intrusion into the LC zone. The applicant must file for an Application for Approval of Work To Be Done in the LC Zone with the Town of Clifton Park. In keeping with the goals and recommendations of the Town Comprehensive Plan, fragmentation of stream and wetland corridors should be minimized to the greatest extent practicable by relocating the shared driveway to the north to minimize the impacts to the existing wetlands.

Mr. Scavo explained that Mr. Reese, Stormwater Management Technician, offered the following comments regarding this application. The proposed driveway culvert configuration will need to be approved by the NYSDEC. A copy of the NYSDEC permit application shall be submitted to the Town for inclusion in the project file. Project plans should clarify whether or not the size of the proposed culvert will be the same size as the existing culvert under Vischer Ferry Road or be an open bottom arch culvert to minimize disturbance of the stream bed. The area of disturbance appears to be narrow at the entrance of the driveway for the amount of grade change. With the amount of grading on this site and the disturbance close to an acre, it is recommended that this project submit a grading plan and placement of temporary orange construction fencing along the proposed disturbance area in assurance that the disturbance will be kept below an acre. The applicant should consider submitting a Notice of Intent to the NYSDEC for the disturbance and prepare an Erosion and Sediment Control Plan in lieu of installing the temporary construction fencing. At a minimum silt fencing should be shown on the plans to protect the stream and wetlands during construction.

Mr. Scavo read comments issued by the Planning Department. The applicant is asked to add a note to the plan which states: The proposed parcels are to be included in the Clifton Knolls/Mill Creek Park District. Assigned 911 address for each lot once provided by the Town Fire Marshall must be added to the final plat. Since the project is located adjacent to a county

highway a referral to and recommendation from the Saratoga County Planning Board is required. As plans progress, the applicant is asked to show where the proposed connections to public water are likely to occur within the public right-of-way. A note must be added to the plan which states: The proposed perpetual ingress-egress easements shown hereon shall be used in common by the owners of lot(s) numbered [insert relevant lot numbers per proposed map]. All such easements shall be in effect and binding upon the owners of said lots, their heirs, successors, and assigns and all future owners of said lots, their heirs, successors, and assigns, upon filing of this subdivision plat in the Office of the Saratoga County Clerk.

Ms. Hakes stated that, after review of the subdivision plan and accompanying documents for this application, M J Engineering and Land Surveying, P.C. issued the following comments in a letter dated January 22, 2016. Based upon review of Part 617 of NYS Environmental Conservation Law, the project appears to be an “Unlisted” action. If 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 are not necessarily limited to the following: Saratoga County Planning Board – 239m referral due to the parcels proximity to County Route 90 (Vischer Ferry Road); Clifton Park Water Authority - water service connection; NYS Department of Environmental Conservation – potentially NYSDEC Phase II Stormwater Regulations, identification of threatened and endangered species and permanent and temporary impacts within a regulated wetlands and its 100-foot adjacent area; NYS Office of Parks, Recreation and Historic Preservation – if the project is subject to the NYSDEC Phase II Stormwater Regulations then identification of cultural or historic resources; United States Army Corp of Engineers – Joint Permit Application for permanent and temporary impacts within a regulated wetlands and its 100-foot adjacent area. Additional agencies may be identified by the Town during its review of the project. Several comments related to the Short Environmental Assessment Form which was submitted with the application. Part I.3.b. indicates a land disturbance of 0.91 acres. Subsequent plan submissions shall include information that substantiates the stated value. Part I.12.b notes that the site is within an archeologically sensitive area. Additional information may be warranted on this topic in order to obtain the Joint Permit with the NYSDEC and USACOE for planned wetland impacts. Further, if subsequent plans indicate that 1 acre or more of land will be disturbed, the project must demonstrate permit eligibility for coverage under GP-0-015-002 which includes demonstrating that the site is not within or will not adversely impact an archeologically sensitive area. Additional comments related to the subdivision plan. The project is located within the town’s R-1 residential zoning district. The proposal for single family homes is considered a permitted principal use within the R-1 District pursuant to Section 208-10(B)(2)(b) of the Town Zoning Code. In reviewing the proposed lot configuration, each appears to meet the minimum bulk lot requirements outlined in Section 208-11 and 208-86 (Lot 2 is considered a key hole lot) of the Zoning Code. It appears that proposed Lot 2 is considered a keyhole lot. Pursuant to Section 208-86 of the Zoning Code, keyhole lots may be permitted by the Planning Board only in Residential Districts R-1 and R-3 and only in rare instances when required due to unusual conditions of the area. Further, keyhole lots shall not be created for any use other than a single-family dwelling. The Planning Board shall review the circumstances surrounding the applicant’s desire to create a keyhole lot. It was requested that the following notations be included on the plan as follows:

- a. Language noted in Section 208-86(F) of the Town Zoning Code specific to key hole lots.
- b. No utilities shall be installed beneath the proposed driveways.

The size and material of construction for the proposed driveway culvert should be shown on the plans. Since the project proposes a shared driveway, the applicant should furnish the Planning Board counsel with a draft driveway maintenance agreement. Should the subdivision be approved, it is suggested that the applicant furnish the town proof of filing of the easement and agreement with the County Clerk's office prior to issuance of a building permit for either lot. The applicant is asked to provide information on the plans to indicate how potential sump pump laterals may be positioned in conformance with Section 86-7(A)(6) of the Town Code. The submitted plans provide no existing or proposed contours; therefore, the noted area of disturbance cannot be validated. Subsequent submissions shall include sufficient data to support the areas of disturbances noted on the plans. The plan shows conceptual locations for on-site septic systems for each lot. A review of the USDA soil survey suggests moderately poor soils subject to flooding. Further, the existence of wetlands on the parcel suggests groundwater may be at a relatively shallow depth. It may be necessary to advance some soil testing to ensure that site soils can support on-site septic systems and adequate room exists for those systems. The conceptual alignment for the water service to each lot must be shown on the plan. The Planning Board may consider requesting the placement of a split rail fencing along portions of the regulated wetland as a visual indicator of its boundary. This may be limited to areas immediately adjacent to the wetland that are proximate to the development envelope of each lot. The applicant needs to obtain the 911 emergency response addresses for each lot and show them on the final plat.

In response to Mr. Koval's question concerning whether or not the driveway was designed in accordance with NYS code requirements, Mr. Rabideau stated that all applicable standards will be met and a sign-off provided from Ms. Reed, Chief of the Bureau of Fire Protection. Citing the comments issued by the ECC, Mr. Andarawis questioned why the driveway location could not be moved to the north. Mr. Rabideau explained that the placement of a guardrail and steep slope near the northerly property border prohibited the installation of a driveway in that location. He commented that the proposed driveway location minimizes impacts to the wetland and preserves vegetation.

Noting that wetlands were also located on the westerly side of Vischer Ferry Road, Mr. Casper, Chairman of the Trails Subcommittee of the Open Space, Trails, and Riverfront Committee, asked that the applicant provide a 15' easement for possible installation of a future trail segment or roadway improvements. Mr. Rabideau stated that the applicant would supply the requested easement in lieu of a parkland fee, though he argued that installation of a multi-use pathway on the property would not be viable due to the topographical changes and physical constraints found on the site. Mr. Ferraro stated that even though trail construction may not be practical, the easement should be provided for future improvements.

Mr. Scavo stated that, should the Board determine that an easement is required, it would be necessary for the Board to formally waive the parkland fee of \$1,250 per lot and incorporate language regarding the waiver in the Notice of Decision.

Board members did not comment positively or negatively on this application.

Mr. Koval moved, seconded by Mr. Prescott, adjournment of the meeting at 9:55p.m. The motion was unanimously carried. The next meeting of the Planning Board will be held as scheduled on February 9, 2016.

Respectfully submitted,

Janis Dean, Secretary

Notice of Decision

Resolution #2 of 2016

Special Use Permit Approval

At a meeting of the Planning Board held at the Town Hall of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on January 26, 2016 there were:

Present: R. Ferraro, Chairman, E. Andarawis, D. Bagramian, J. Koval, A. Neubauer,
E. Ophardt, E. Prescott
J. Jones – Alternate Member

Absent: None

Mr. Neubauer offered Resolution #2 of 2016, and Mr. Andarawis seconded, and

Whereas, an application was made to this Board by Kasselmann Solar, LLC for approval of Special Use Permit #81069 to permit the installation of a ground mount solar PV array on the Lands of Nick M. and Sonia Matri located within the CR zoning district at 43 Ashdown Road pursuant to Section 208-16D(3)[22] of the Town Zoning Code;

Whereas, the Planning Board was established as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA on January 26, 2016, and

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on January 26, 2016;

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

Now, therefore, be it resolved that Resolution #2 of 2016 Special Use Permit #81069 to permit the installation of a ground mount solar PV array in the back yard of the property owned by Nick M. and Sonia Matri located within the CR zoning district at 43 Ashdown Road pursuant to Section 208-16D(3)[22] is granted approval conditioned upon the following restrictions: that the equipment height be limited to 10' and that the size of the array not exceed 500 SF.

Resolution #2 of 2016 passed 1/26/2016

Ayes: Ophardt, Andarawis, Bagramian, Prescott, Neubauer, Koval, Ferraro

Noes: None

R. Ferraro, Chairman