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PLANNING BOARD

ROCCO FERRARO  
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PAUL PELAGALLI  
Attorney

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MEMBERS

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

(alternate) Jeffery Jones

April 12, 2016

Those present at the April 12, 2016 Planning Board Meeting were:

Planning Board: R. Ferraro - Chairman, Joel Koval – Vice Chairman, E. Andarawis, D. Bagramian,  
E. Ophardt, A. Neubauer, E. Prescott, J. Jones – alternate

Those absent were: None

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

Mr. Rocco Ferraro, Chairman, called the meeting to order at 7:11pm. All in attendance stood for the Pledge of Allegiance.

I. Minutes Approval – March 22, 2016

Mrs. Bagramian moved, seconded by Mr. Ophardt to approve the minutes of March 22, 2016 as written.

Ayes: all

Noes: none

Abstain: Prescott

The motion was carried.

II. Public Hearings

**2016-009 Carrier Special Use Permit (SUP) - 2 Family Residence**

*Applicant requesting approval of SUP per Section 208-16D.(3)[8] of Town Code to allow construction of a (2) family dwelling. Asking for approval for interested buyers of the property. , 1117 Rt 146A, Zoned: CR, Status: Preliminary Review with Possible Determination*

SBL: 257.-2-33.11

Mr. Ferraro explained the review and approval 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 the Planning Board would assume Lead Agency status for the project and issue a negative declaration as a “formality” which neither granted nor implied approval of the subdivision application. Should it be determined that additional environmental review is required, SEQRA discussions will be reopened and a decision rendered when deemed appropriate.

Mr. Ophardt moved, seconded by Mr. Andarawis, 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 7:13p.m. The Secretary read the public notice as published in the Daily Gazette on 3/29/2016.

### **Consultant/Applicant Presentation:**

Gerald Currier, owner of the parcel and Mike Satterly, prospective buyer, presented the project, requesting a special use permit for a 2-family residence on 3 acres in a CR zoning district. Mr. Currier explained that the subject lot was bordered on either side by HM zoning, and that a few years ago, 18 acres had been subdivided from a larger lot and donated to the nearby fire department. This project was last seen in concept on: 2/23/2016. Mr. Currier next stated that the parcel had been for sale for several years and this was the first prospect he had received and that it was contingent upon being able to build a 2-family residence on the property.

### **Staff Comments:**

#### **Environmental Conservation Commission**

The ECC issued a comment letter on 4/5/2016 stating:

- The ECC is concerned with the known location of the junk yard and alleged industrial dumping areas in close proximity to the proposed project location. The ECC notes that the project may have significant environmental impacts that are not fully disclosed in the Short Environmental Assessment Form and recommends that the Applicant complete the SEQRA long Environmental Assessment Form for Planning Board and ECC review.
- In filing of this revised plot plan, the ECC requests that the applicant relocate the deed restriction line to follow the wetland buffer to ensure protection of environmental sensitive areas.
- The ECC recommends that the project not intrude into the wetland buffer zone / LC Zone for the construction of the septic fill system. In the event any work in 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.

#### **Stormwater**

Scott Reese sent a memo dated 4/5/2016

- Erosion and sediment controls should be installed during construction of the home to prevent sediment laden runoff entering into the adjacent wetlands.

#### **Building and Development**

Steve Myers had no further comments

#### **Open Space, Trails and Riverfront Committee**

Roy Casper sent a memo which has been forwarded to all Planning Board members for their review.

## **Planning**

John Scavo offered the following:

- The applicant has added the four notes I previously requested at the February 23, 2016, Planning Board Meeting to the sketch plan. These notes should also be articulated for the record as conditions attached to the special use permit if a resolution to approve the SUP is put forth by the Planning Board for a vote.
- The applicant has provided evidence for the 500' mailing notifications, which were sent to neighboring properties on February 24, 2016.

### **Public Comment:**

Roy Casper, 8 Turnberry Lane, and member of Trails Subcommittee, asked for a 15' easement for future multi-use trail.

There being no additional public comment, Mr. Ferraro moved, seconded by Mr. Neubauer, to close the public hearing at 7:23p.m. The motion was unanimously carried.

### **Planning Board Review:**

Mr. Koval stated that he felt this was an appropriate location for a multiple family property, given the surroundings. Mr. Ophardt stated that he agreed but that he questioned why a side loaded garage would not be agreeable. Mr. Satterly stated that the lot is not suited well for a side loaded garage, and that he felt the design proposed would be an improvement to the area which he noted included a fire department, an asbestos remediation business and a junkyard. Mr. Satterly also stated that he estimated that about 11,000 lbs. of fill would be needed. Mr. Koval added that splitting the driveways would add a lot of costs to the project. Mr. Ferraro stated that Hamlet design was intended to encourage street appeal and that he felt the lack of a front entry shown on the plan was not adding to the street appeal. Mr. Satterly reminded the Board that across the street was a junkyard, next door was a firehouse and the other side an asbestos abatement business, and that he felt that his chosen design was more appealing than the surrounding environment. Mrs. Bagramian asked if landscaping might be added as a condition of the special use permit.

Board members then questioned the need for the front setback at 150' from the road. The members also discussed how to make it fit into a Hamlet. Mr. Koval stated that he felt the board was overreaching when dictating the design details of the façade adding that while it was abutting the Hamlet, this lot itself was not HM zoning. Mr. Pelagalli responded that Special Use permits do allow a Planning Board to attach conditions to ensure that the site fits into the character of the community.

John Scavo, Planning Director added that Town Code §208-79, which referred to special roads stating that the setback was 100' from the centerline of the road, therefore, the residence could be located somewhere between 40-50' from the edge of the property line rather than the proposed 150'.

Mr. Satterly stated that a basement would be impossible due to solid shale bedrock and that he

would look at where the best footprint would be on this challenging site, which would require a raised septic and with the fact that it was a busy roadway, they might prefer to set the house farther back.

Mr. Ferraro stated that he had reservations about the plan as proposed. Mr. Koval stated that the Town Code does not require side loading garages. Board members discussed the merits of changing the proposed houseplan. Mr. Jones asked if the home would be moved a little closer to the road than shown on the plan, would the builder be willing to use a side loaded garage or if there was some other kind of compromise that could be reached. Then he stated that he did not care personally but that he was trying to find the middle ground. Mr. Andarawis then expressed concern that the front door way was not visible from the street. Mrs. Bagramian stated she felt the new residence would be a big improvement to this location and that she would like to see a front door and some plantings added to the plan.

Mr. Ferraro also commented that a note be added on the plan indicating that the right-of-way was for a future trail as approved in the prior subdivision. Mr. Ferraro also asked for clarification about the concerns expressed by the ECC about dumping near to the site which Mr. Scavo noted had been abated and no further contamination has been indicated in well tests, and that public water was now available at this location so ground water would not be a problem. It was also discussed that wetlands delineation was done in the subdivision process and deed restrictions were made a few years ago.

Next, Mr. Pelagalli stated that as a matter of protocol, a special use permit and site plan approval could be decided at separate meetings, but that the board might want conditions to be attached to the SUP, so separating them might not be ideal.

Mr. Koval stated that the Planning Board is not an architectural review board for personal residences. Mr. Prescott said that he agreed with Mr. Koval. Next Mr. Koval informed the applicant that should he ask the Planning Board to come to a decision, and they proceeded to return a vote which resulted in the Planning Board rejecting the Special Use Permit, then the applicant would have to return with a completely new SUP application if he wanted to try again. Then Mr. Pelagalli advised that the applicant could also file an Article 78 proceeding through the courts, if he was not satisfied with the decision and felt there were grounds for seeking a review of the planning board decision. Counsel also stated that in denying a special use application, Planning Board members would have to clearly articulate their rationale for denial of the SUP.

Mr. Satterly expressed that he was dismayed about the tone of the meeting and he was surprised this project was going to take another meeting to be decided.

Mr. Koval suggested that the next submission should show a more complete site plan with the following possible modifications to the plan:

- 100' setback
- 2 street trees
- front door
- locate septic
- more detailed site plan
- front door

### **2016-001 Gunner 2 Lot Subdivision**

*Applicant would like to subdivide Lot 10 into 2 lots, 10 Castle Pines, Zoned: R-1, Status: Preliminary Review with Possible Determination SBL: 265.10-1-26*

Mr. Ferraro explained that this project was not a straightforward 2 lot subdivision. The applicant of the original 1994 subdivision in Castle Pines had been granted a waiver of the 18 lot requirement on a single road entry upon offering to build a water tower nearby and placing additional fire hydrants throughout this neighborhood, which greatly increased water pressure and added fire safety features to not only this neighborhood, but was a public benefit to a large number of residents in the area. In, addition, the builder reduced their original request of 64 homes down to 53 after much discussion and review.

Mr. Ferraro noted that he was reluctantly recommending a negative declaration on SEQR. Mr. Pelagalli explained that the only thing being addressed with a SEQR action was that the application as presented was ready to proceed for a determination not that there are no impacts, but that any which existed can be addressed as the board and professional staff contemplate their review. The Counsel stated that case law clearly distinguishes between environmental review and concerns related to health, safety and welfare which are considered outside of SEQR, within provisions of the Town Code

Mr. Koval moved, seconded by Mr. Ophardt, 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 8:18p.m. The Secretary read the public notice as published in the Daily Gazette on 3/29, 2016.

### **Consultant/Applicant Presentation:**

Ron LaBerge, Consultant, with Laberge Group, presented the project, a (2) lot subdivision in an R-1 zoning district. Mr. Laberge explained the differences to the grading plan since it was last seen. Mr. Laberge also explained that this would only add one lot to the subdivision and that it would fit within the first 18 lots of the street and that he would like that to be taken into consideration.

### **Staff Comments:**

#### **Environmental Conservation Commission**

The ECC held a meeting to discuss the project and issued a comment letter on 4/5/2016 stating:

- Given the extent of grading the ECC recommends that the applicant provide plantings that will enhance erosion control on the project site.
- 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.

#### **Building and Development**

Steve Myers issued a memo dated 4/4/2016 with the following comment(s):

- Ensure new lot meets 20,000sf minimum or variance will be required.

#### **Planning**

Mr. Scavo noted that some written comments from the public have been forwarded to planning

board members and were added to the file. Mr. Scavo also noted that prior minutes were also forwarded to the Planning Board members documenting issues from 1994 which were considered for approval of Knolltop.

The Planning Director offered the following:

- In accordance with §179-25(H) of the Town Code:  
Where a residential subdivision is proposed with more than 18 dwelling units, two means of access must be provided, except in extreme circumstances where the Board may waive the requirements. Wherever practical, said entrances should be at least 300 feet apart.  
[Amended 6-28-1993 by L.L. No. 11-1993]
- It appears the applicant cannot meet this requirement with 50+ houses already constructed within a subdivision that has only one means of access onto Kinns Road. In order for the subdivision to move forward the Planning Board will have to waive the requirement for the proposed additional dwelling unit.

**Professional Comment:**

Joel Bianchi, MJ Engineering issued a letter on 4/8/2016 with the following comment(s):

- As noted in Comment 5 of our January 22, 2016 review, provide notation on the plan as follows:
  - No Utilities shall be installed beneath the proposed driveways.
- As noted in Comment 6 of our January 22, 2016 review, provide information on the plans to indicate how a potential sump pump lateral may be positioned which shall be in conformance with Section 86-7(A)(6) of the Town Code.

**Public Comment:**

Jim Klein, 9 Castle Pines across from location has several concerns:

- Severe slope drainage swale points to his house across street
- Driveway location
- Blind curve
- One entrance only
- Setback requirements on triangular lot hard to meet

Ann Slutzky, 7 Castle Pines

- Moved in 2000
- Vegetation to control erosions was very small
- Now large trees would be wiped out
- Impact to her property
- Character of neighborhood
- Safety of a driveway on a blind curve
- Limit of homes on a one access neighborhood

Richard Floyd, 10 Castle Pines

- As the owner of the property, he wants to build a home in their neighborhood that is easier to age in and sell the original home they currently reside in
- Drainage will be addressed by the engineers

Marie Floyd (aka Gunner) 10 Castle Pines

- She stated she is a gardener and that she wants to put in retaining walls and a terraced garden to make this a beautiful site.

There being no additional public comment, Mr. Ferraro moved, seconded by Mr. Ophardt, to close the public hearing at 8:34 p.m. The motion was unanimously carried.

### **Planning Board Review:**

Mr. Koval stated that he had asked for the grading plan, bulk requirements and the original minutes from 1994. Then he commented that he felt at first that this should be an easy subdivision. Then, he stated that he studied the minutes which show that the subdivision was approved only after the number of lots was reduced to the total number of lots that have been built as of today. Mr. Koval remarked that the planning board had a clear intent and that the benefit of the water tower enabled a waiver of the 18-lot requirement but that this further subdivision was not going to confer any kind of benefit to the Town and he felt that a significant reason does not exist to grant the waiver once again.

Other board members noted that they had a similar impression after reviewing the minutes and that the original board limited sites where there would be steep slopes and limited site lines. Mr. Ophardt added that the number of lots arrived at was carefully and reasonably planned. Mr. Ferraro also stated that allowing this lot to be further subdivided might set a precedence for others in this neighborhood which would compromise the rational basis for the limit placed on the number of lots allowed with the original Knolltop Subdivision by the past Planning Board.

Mr. Koval moved, seconded by Mr. Andarawis to grant a waiver to the standard limit of 18 homes in a subdivision on a road with a single outlet.

Ayes: none

Noes: all

The motion to grant the waiver was not approved.

Board members present noted that without approval to grant the waiver, they felt that they could not grant any further subdivision on this road, while it was still restricted to having a single access point. The 2-lot subdivision was not approved.

### **2015-035 Kramer SUP - 2 Family Residence**

*Applicant requesting approval of SUP per Section 208-16D(3)(a)[8] of Town Code to allow construction of a (2) family dwelling. TDE: N/A, Mac Elroy Rd, Zoned: CR, Status: Revised Preliminary review with Possible Determination SBL: 258.-2-4*

### **Consultant/Applicant Presentation:**

Bob Kramer, owner of the parcel, stated that his project was last seen September 2015, and he presented the project stating that he has changed the plan, adding the wetland delineations and buffers which were not shown on the prior plans.

### **Staff Comments:**

## **ECC**

- Given the extent of grading the ECC recommends that the applicant provide plantings that will enhance erosion control on the project site.
- 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.

## **Stormwater Management**

Scott Reese issued a memo on 4/5/2016 with the following comment:

- Erosion and sediment controls should be installed during construction of the home to prevent sediment laden runoff entering into the adjacent wetlands.

## **Building and Development**

Steve Myers issued a memo dated 4/4/2016 with the following comment(s):

- Wetland delineation now shown on plans. Proposed house appears clear of wetland and buffer. Septic evaluation will be done with plan submittal. Poor soils and high groundwater may affect septic location. Still unknown if neighboring property has a well and if it will affect septic location.
- Property is zoned R-1 which allows two family residences with approval by SUP.

## **Planning**

Mr. Scavo explained that merging parcels and a lot line adjustment that would have to be done so that 3 lots will be consolidated so the end result will be two buildable lots. The Planning Director also offered the following:

- My previous comments requesting the delineation of wetlands and associated buffers be shown on the site plan have been satisfied.
- The prior submittal (Special Use Application) had no reference to a proposed “subdivision” as shown on the current site plan submittal. It appears the lots can be reconfigured and merged as an administrative review of a lot line adjustment application. The applicant will need to provide the Town with the completed lot line adjustment application packet and review fee. Also, any back taxes owed on either parcel must be paid up by the property owner in order for Saratoga County to record any approved lot line adjustment mylar. A Lot Line Adjustment Application is attached for your use.
- As part of the lot-line adjustment review process, Sheryl Reed, Chief of the Fire Bureau will assign a 911 address to the parcel.

## **Public Comment:**

None

## **Planning Board Review:**

Mr. Ophardt asked whether the applicant had decided on the façade for the residence. Mr. Ferraro showed the rendering which had been offered at the earlier meeting September 9, 2019. Mr. Scavo stated that the elevation submitted for the record could be attached as a condition to the Special Use Permit and Site plan. Mr. Kramer stated that he would want to build what was shown without the dormers and with

clapboard siding rather than stucco. Then Mr. Kramer showed a picture which he stated he had taken on his cell phone of a building in Ballston Spa. Board members discussed again whether they felt that the review of the aesthetics was a reasonable condition to attach to a Special Use Permit. Mr. Koval felt that within the R-1 zoning, a two family was allowed by right and that looking at the design of someone's home was not reasonable. Mr. Pelagalli stated that a 2-family dwelling was not out of character with MacElroy Road as there are several multiple dwellings on McElroy. Mr. Ferraro suggested that the Town Board might need to revisit the code for Special Use Permits for two family residences and consider permitting them by right, without a special use permit, in certain parts of the Town, which would simplify the process.

Mr. Scavo read the definition of Special Use Permit from New York State Town Law Section 274-b, 1  
The term "special use permit" shall mean an authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.

Then he reminded those present of the Town Code of Clifton Park:

208-79 (E) Standards for special use permits:

(1) Before granting approval to any special use, the Planning Board shall determine whether the proposed special use will, among other things, satisfy the following considerations:

(a) That the use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts.

Mr. Scavo further noted that within the CR zone and Hamlet Mixed Use, the Western Clifton Park GEIS design guidelines could be applied, but not within R-1.

Mr. Pelagalli stated that the Planning Board must address the impact and then it could apply reasonable conditions and attach them to Special Use Permits.

Mr. Koval offered Resolution #6 of 2016, seconded by Mr. Prescott, to waive the final hearing for this application and to grant preliminary and final approval of the special use permit, conditioned upon satisfaction of the comments offered by the Planning Board, Planning Department, and Town Designated Engineer, including: submitting the plans for a sewer connection, appropriate fencing to delineate the wetlands, and a photo of an existing model, as it was shown on 4/12/2016 for approval to the Planning Director prior to the stamping of the Special Use Permit.

Roll Call

Ayes: D. Bagramian, E. Andarawis, E. Ophardt, A. Neubauer, E. Prescott, J. Koval, R. Ferraro

Noes: None

Resolution passed.

Mr. Ophardt moved, seconded by Mr. Neubauer to approve the site plan conditioned upon satisfaction of the items listed in the resolution being submitted and approved by the Planning Director prior to the stamping of the site plan. All members were in agreement, and the motion was unanimously carried.

IV. New Business

## **2016-018 Hockford SUP- 2 Family Residence**

*Applicant requesting approval of SUP per section 208-16D(3)[8] of Town Code for (2) family dwelling in a CR zone, 254 Sugar Hill Rd, Zoned: CR, Status: Concept Review SBL: 282.-1-12*

Mrs. Lee Hockford, property owner, stated that she has sent 500 ft notices and and was told that the public hearing would be held at first meeting in May. Mark Bergeron, 62 Van Vranken Road, Clifton Park stated that he had been working with Mrs. Hockford to convert the existing one family house into a two family house, adding that all changes would be internal and no modifications to the footprint would made.

### **Staff Comments:**

#### **Environmental Conservation Commission**

The ECC issued a comment letter on 4/5/2016 stating that.

- The ECC recommends the Planning Board request a deed restriction of any development activity in the wetland and wetland buffer. In addition, the wetland buffer should be marked with split rail fencing and or signage.
- 2. The placement of a two family home in a CR zone violates the spirit of the western zone code. The ECC recommends that the Planning Board deny this application and require the applicant to provide a plan which adheres to the intent of the CR zone as per section 208-16 A. The character of the neighborhood has been single family homes along MacElroy Road.

#### **Building and Development**

Steve Myers issued a memo dated 4/4/2016 with the following comment(s):

- CR zone allows two family residences with approval of SUP.
- Building plans to be evaluated for code compliance separately from SUP review and possible approval.
- Work stopped was on going without any approvals.
- No actual plot plan with submittal to verify setbacks.

#### **Planning**

John Scavo offered the following:

- The applicant has provided a letter by a licensed P.E. that the existing septic is satisfactory to accommodate the proposed 2-family modification.
- A site plan showing the existing structure and accessory use and modifications made to the property should be submitted at the time of preliminary plan consideration.
- The following notes should be added to a site plan for future consideration:
  - This parcel is located in an area where aviation activity occurs. Such activity may include, but is not limited to periodic noise, vibration, hours or operation, and other associated activities. A study describing this impact in detail is available for inspection in the offices of the Albany International Airport.
  - Clifton Park is a Right to Farm Community. Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, noise, smoke and vibration associated with farming practices.

- Since the project is within Saratoga County Agricultural District #2, the application has been sent to the Saratoga County Planning Board for a recommendation.

**Public Comment:** None

**Planning Board Review:**

Mr. Ferraro stated that an in-law apartment could be a condition of the SUP. It was explained that then it would always need to be occupied by a family member. Mrs. Hockford noted that she would prefer if it was declared as a two-family with two separate dwelling units, and separate utilities.

The Planning Board found the project generally acceptable and made the following recommendations for the applicant to consider for their next submittal application:

- Site plan to be reviewed
- Public hearing to be held at next meeting.

**2016-019 Brickhouse Pizza and Grille**

*Site plan application to replace the awning with hard top over outside deck, 54-58 Clifton Country Rd, Zoned: TC2, Status: Form Based Code Review with possible determination SBL: 271.-3-47.122*

Ms. Jacqueline Murray, a representative for the owner of the building known as Brickhouse Pizza and Grille, presented the project, which she described as a repair without any expansion of the building footprint. Ms. Murray explained that the original vinyl roof was destroyed by weather and that a new metal roof was proposed which would match the existing copper on the rest of the building. Mr. Murray added that the cupola would have a light placed in it, but all other lighting would remain the same. Next, the representative stated that all spills and drainage will be handled on site so as not to pollute the pond.

**Staff Comments:**

**Environmental Conservation Commission**

The ECC issued a comment letter on 4/5/2016 stating that:

- The ECC recommends that the Planning Board to have the applicant to use a work plan that is protective of the pond during construction.
- The applicant should demonstrate how the proposed design prevents pollution of the pond during operations.
- The ECC is concerned about the potential for pollution of the pond during operations from cleaning of floors and bar surfaces, washing of glasses and disposal of food waste. The applicant should provide a plan in regards to protecting the pond and the environment during the operation of the facility over the pond.

**Building and Development**

Steve Myers issued a memo with the following comment(s):

- Replacement of fabric cover over deck with standing seam metal roof.
- Structural evaluation of change will be conducted once plans submitted if change approved.

## Planning

John Scavo offered the following:

- The applicant should provide a notation on the plan that the open area, hard canopy is for seasonal dining proposed and will not be enclosed without additional review and approval by the Town of Clifton Park.
- Per the image below the proposed hard canopy should match the existing metal roof not only in material but also color (image below shows existing cloth canopy cover).



- The applicant should note if there are exterior lights to be installed within the hard canopy structure beyond what the existing cloth structure had.
- As noted by Steve Myers, Director of Building and Development, if approved by the Planning Board, the applicant under the building permit application will have to provide documentation to the structure integrity of the deck and concrete footings to accommodate the additional weight load of a hard canopy.

**Public Comment:**None

### Planning Board Review:

Mr. Neubauer asked if it was in the plans to enclose the structure or make any other changes. Ms. Murray replied that these plans were strictly to repair a pre-existing canopy and make it stronger than before.

The Planning Board agreed that this was a Type II Action under SEQRA, therefore no environmental impact was required.

Mr. Prescott moved, seconded by Ms. Bagramian to approve the site plan conditioned upon satisfaction of all comments offered by the Planning Board, Planning Department and Town Designated Engineer as outlined in a Final Review Letter by the Planning Director prior to the stamping of the site plan. All members were in agreement, and the motion was unanimously carried.

### **2016-022 Fairchild II Subdivision of Lots 1,4,8,10,12**

*Subdivision of 1 and 4 Fairchild to create a separate lot for 4 Fairchild on which the Helping Hands building is located. Subdivision of 8 and 10 Fairchild out of 1 and 4 Fairchild so they are on a separate lot. 12 Fairchild will be reduced in size to accommodate the subdivisions created for 4,8 and 10, 10-16 Fairchild Square, Zoned: L 1, Status: Concept Review SBL: 259.0-2-84.1*

Ms. Jacqueline Murray, presented the conceptual subdivision plan and explained that the applicant would need to seek a variance from the Zoning Board of Appeals if the Planning Board indicated that the concept was acceptable. Ms. Murray then explained that Lot C contains Buildings 8&10. Lot 2 was part of Fairchild II and was proposed to subdivide so that Helping Hands would be on one lot, Warehouses 8&10 to be on one lot and the remaining area would be divided into two more lots to facilitate financing, and future marketability. Next, Ms. Murray noted that all area requirements were met, including greenspace and buffers and that no changes were proposed to the existing buildings. Further, she stated that one setback line for Buildings 8&10 would need to be changed which would necessitate the Zoning Board of Appeals review. Ms. Murray then stated that the Common Area maintenance would be amended within the Declaration Agreement for this new configuration.

Mr. Ferraro asked whether that would address all the maintenance needed on the sidewalks, parking and other common areas. Mrs. Murray stated that was included in the Declaration of Restrictive Covenants was a commercial version of a residential agreement and that it would be available for review.

### **Staff Comments:**

#### **Environmental Conservation Commission**

The ECC and issued a comment letter on 4/5/2016 recommending:

- If the area is going to be subdivided into multiple lots and under different ownership, what entity will be responsible for the stormwater management and storm conveyances? The applicant shall demonstrate on how maintenance of common access will take place.
- Although the notes on the plans indicate that no access to Mapleline Road is allowed, a proposed lot line for numbers 4, 8 and 10 Fairchild Square that fronts Mapleline Road implies that access is available. In the event that these lots are sold to a third party there would be an interest in using these access points for driveway unless deed restricted.
- The applicant should demonstrate that the green space requirements are met for each lot as proposed.

#### **Building and Development**

Steve Myers issued a memo dated 4/4/2016 with the following comment(s):

- Proposal appears to require several setback variances as a result (rear setback for #8 & #10 front and side setbacks for #4 for parking)

#### **Planning**

John Scavo offered the following:

#### **Professional Comment:**

Joel Bianchi, MJ Engineering issued a letter on 4/8/2016 with the following comment(s):

Those in **BOLD** were emphasized at the meeting.

State Environmental Quality Review

- Based upon our 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. Note that in our review

of the application material, we find no other interested or involved agencies associated with the proposed subdivision.

#### Short Environmental Assessment Form

- **No comments**

#### Subdivision Plan

- The project resides within the Town's L1, Light Industrial District. Since the application does not include additional uses beyond what has been previously approved, **it has not been reviewed against the requirements of Section 208-64 of Town Zoning.**
- Based upon the proposed lot configurations and Section 208-65 of the Town's Zoning, the following bulk lot deficiencies appear to exist:
  - **Section 208-65(A) requires a minimum width of the lot at the front building line** to be 150 feet. It is unclear from the submitted plan if the minimum lot width is being provided for Lot 4 and Lot 8/10 or where this width would be measured due to the irregular shape of the noted lots.
  - **Section 208-65(B) requires that buildings, parking areas, including maneuvering areas, stormwater retention areas and other site amenities that are an integral and necessary part of the use shall not occupy more than 60% of the total lot area.** The plans do not indicate whether this criteria is being satisfied. It is noting no physical modification to the site is being proposed. Notwithstanding, state the required/provided bulk lot requirement for consistency.
  - **Section 208-65(B) requires 40% green space.** The plans do not indicate whether this criteria is being satisfied on a per lot basis.
  - **Section 208-65(E)(2) requires a 25-foot rear and side yard setback.** Lot 8/10 shows the future (approved) buildings will be within the noted setback.
- **Lot 4 and Lot 8/10 are proposed as keyhole lots.** Pursuant to Section 208-86(A0 of the Town's Zoning, 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. Keyhole lots shall not be created for any use other than a single-family dwelling. It is understood that these lots are being created for financing purposes and do not change the nature or configuration of the uses previously approved. The Town has previously considered and approved keyhole lots for this project (referencing Lot 5) under the same set of circumstances.
- **An existing or proposed easements associated with access or utilities or maintenance agreements specific to roadways or utilities shall incorporate, benefit and assign responsibility to the applicable newly created lots.**
- 911 emergency response addresses need to be obtained from the Town and included on the filed subdivision plat.

#### Public Comment:

Roy Casper, 8 Turnberry Lane presented photos to the Planning Board

- Pedestrian circulation plan
- Sidewalks
- Berm could be graded for a sidewalk to Mapleline Road

#### Planning Board Review:

Mr. Koval noted that the circulation plan was reviewed extensively in the past with other site plan and subdivision review. Mr. Casper explained that the Trail Subcommittee felt this was an opportunity

to gain better access to Mapleline Dr. and the trail on VanPatten Road. Ms. Murray added that the slope that has been put on the approved site plan is what the applicant must adhere to. It was also noted that neighbors spoke out at the previous reviews and made it clear that they did not want any new connections (pedestrian or vehicular) between the residential and the commercial zones. Planning board members indicated that they did not feel inclined to ask for any site design changes at this point in time.

The Planning Board found the project generally acceptable.

### **2016-020 Boni 9 Lot Subdivision**

*Subdivision of a parcel into 9 single family residential lots with related infrastructure, storm sewer systems and utilities. Storm water will be managed on site with the use of NYSDEC approved practices, 309 Miller Rd, Zoned: R-1, Status: Concept Review SBL: 276.-2-34.2*

Jason Dell with Lansing Engineering, presented the project, a proposed 9 lot subdivision on 12 +/- acres in an R-1 zoning district. Mr. Dell stated that the property was located at 309 Miller Road and contained 1 acre of DEC wetlands, 2.58 acres including the required wetland buffers. Next, he noted that a variance for minimum 30,000 sf. lot size was granted by the Zoning Board of Appeals. Finally, Mr. Dell stated that the lots would be on septic systems and serviced with public water.

### **Staff Comments:**

#### **Environmental Conservation Commission**

The ECC issued a comment letter on 4/5/2016 stating that:

- The ECC recommends the Planning Board request a deed restriction of any development activity in the wetland and wetland buffer on lots 2 – 7. In addition, the wetland buffer should be marked with split rail fencing and or signage.
- Due to the proximity of the proposed home on lot 4 to the wetland buffer the ECC recommends that lots 4 and 5 be combined.
- The ECC notes that the proposed house on lot 2 is also in close proximity of the wetland buffer zone and should be considered for relocation.

#### **Building and Development**

Steve Myers issued a memo dated 4/4/2016 with the following comment(s):

- All required variances approved.
- Septic systems for each lot will be evaluated once submitted.
- All other R-1 zoning requirements appear to be met.

#### **Planning**

John Scavo offered the following:

- The subdivision as proposed meets the criteria for a realty subdivision pursuant to NYS Public Health Law. Therefore, the action should be classified as a Type II action in accordance with SEQRA Requirements.
- The project will require review and approval from NYS DOH for the on-lot septic system designs.

- Lead agency coordination review letters will have to be prepared and sent to all involved agencies if the Planning Board chooses to seek lead agency.
- The project indicates the dwellings will be serviced with public water through the Clifton Park Water Authority (CPWA). The applicant will need to provide a water system design report to the CPWA and provide documentation to the Planning Board that CPWA is willing to provide potable water to the project.
- A 60' right-of-way to the Town of Clifton Park should be obtained at the end of the proposed cul-de-sac for a future through street and utility extension.
- The project does not appear to impact regulated wetland at this conceptual level of review. A formal wetland delineation will be required with a jurisdictional determination from NYS DEC.
- Since the project is within the boundaries of Saratoga County Consolidated Agricultural District #2 a referral to the Saratoga County Planning Board for a recommendation is required.
- Additional comments will be prepared as additional plan details become available for review.

**Professional Comment:**

Joel Bianchi, MJ Engineering issued a letter on 4/8/2016 with the following comment(s):  
General Comments

- The project proposes to service each new lot with public water from the Clifton Park Water Authority via extending a new public water main throughout the project. The applicant shall provide the Town documentation of the CPWA's ability and willingness to service the project with potable water. Any action on the subdivision application should be conditioned upon receipt of plan approval from the CPWA.
- The extension of public water mains to the project is subject to NYSDOH plan approval and potentially the NYSDEC for the taking of additional water. As part of the project's regulatory review, the applicant will have to apply for the referenced plan approvals. Any action on the subdivision application should be conditioned upon receipt of plan approval from the NYSDOH and/or NYSDEC for the additional taking of water.
- The applicant proposed to service each lot with individual on-site septic systems. The required field testing shall be witnessed by appropriate staff of the NYSDOH as well as a technical review and approval completed by the NYSDOH for the on-site septic systems.
- The project will disturb more than 1-acre of land. As such, it will be subject to the NYSDEC Phase II Stormwater Regulations and General Permit GP-0-15-002. The submitted full environmental assessment form indicates that 5.9 acres of disturbance will result from the project. Therefore, a full SWPPP will be required that addressed water quantity and quality controls. As the project proceeds through the Town's regulatory review process, a fully conforming SWPPP shall be provided for review.
- The concept plan indicates that NYSDEC Wetland N-29 extends onto the parcel with the 100-foot adjacent area extending into the development area a few of the lots. The boundary of the noted wetland shall be validated by the NYSDEC with the need for the entire site to be evaluated for unmapped regulated wetlands.

#### State Environmental Quality Review

- Based upon a review of the proposal, it is considered a realty subdivision under Environmental Conservation Law (ECL) Part 74. In accordance with 10 NYCRR Part 97 in the NYSDOH regulation implementing SEQRA (Article 8 of the ECL), Section 97.14(b)(2)(ii) requires that a realty subdivision be classified as a Type I action.
- Assuming the Clifton Park Planning Board is to request Lead Agency status under SEQRA, a coordinated review is required for Type I actions. Under a coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:
  - Clifton Park Water Authority – public water supply plan approval.
  - NYS Dept of Health – realty subdivision approval and public water supply plan approval.
  - NYS Dept of Environmental Conservation –permit coverage under stormwater SPDES, identification of threatened and endangered species, potentially taking of additional water, impacts within a wetland buffer area
  - NYS Office of Parks, Recreation and Historic Preservation – identification of cultural or historic resources.
  - Saratoga County Planning Board – 239m referral due to the parcel’s proximity to Agriculture District No. 2.
  - United States Army Corps of Engineers – potential joint permit application for disturbances within the NYSDEC wetland 100-foot adjacent area.

#### Full Environmental Assessment Form

- Under Part B, include the NYSDEC and the US Army Corps of Engineers as additional agency having permit jurisdiction.
- Under Part D.2.c.ii, additional information must be furnished to substantiate the response that the existing water district is capable of servicing the project (see also Comment 1).
- Under Part D.2.m., the response indicates that the action will not produce noise that will exceed existing ambient noise levels during construction, operation or both. It is typical that, at a minimum, during construction, equipment will generate noise that may exceed base line ambient noise levels. Please confirm response is correct.
- Under Part E.2.o, the response indicates the site does not contain any species of plants or animals that are listed by the federal government or NYS as endangered or threatened. A majority of Saratoga County has been determined to potentially include the Indiana Bat or Northern Long Eared Bat, both of which are federally listed endanger species. Confirm the response provided is correct.

#### Subdivision Plan

- The project is located within the Town’s Residential I District (R-1). The proposal for single family homes is a permitted principal use within the R-1 District as noted in Section 208-10(B)(2) of the Town’s Zoning. Based upon a review of the proposed lot configurations, they appear to meet the minimum bulk lot requirements as identified in Section 208-11 of the Town’s Zoning for the R-1 District, noting that a variance appears to have been granted permitting a minimum lot size of 30,000 s.f.

- Section 179-26(A) of the Town's Subdivision Regulations requires that the owner shall offer to the Town, Class A, B, money in lieu of land or a combination of the three. The plan submitted suggests no land will be offered as part of the project. The Town will need to review the proposal for what appears to be an offer of payment in lieu of for public land to ensure it is acceptable.
- Section 86-6(E)(5) of the Town Code requires that street lighting be provided at the intersection of subdivision streets and an existing arterial or collector street. Subsequent plans may need to show a street light at the intersection with Miller Road, if deemed appropriate for the existing setting.
- There should be consideration of providing connectivity to Lands of Pelliccia. This may require extending the cul-de-sac closer to the shared property boundary with a future connection that links neighborhoods (existing or future).
- The proposed point of access to the project appears to provide adequate site distances for entering and exiting. Notwithstanding, there should be indication on the plan what the required and provided turning site distances are based upon the posted speed limit of Miller Road.
- The concept plan shows one area set aside for stormwater management. Given the conceptual nature of the plan, the type of practice has not yet been determined. The applicant should be aware that the Town prohibits the use of a P-5 practice and in the event it is determined that the P-5 practice is the only viable option, supporting materials will need to be submitted to the Town for review before it will be deemed acceptable for use. As the project proceeds through the Town's regulatory review process, it is urged that the applicant meets with the Town's Stormwater Management Officer to review any proposed green infrastructure practices to avoid those that may be deemed undesirable.
- Prior to approval or filing of the subdivision plat with the Saratoga County Clerk, the appropriate 911 emergency response numbers must be obtained for and assigned to each lot created and placed on the filed plat.
- Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

**Public Comment:**

David West, 10 Harold Drive, abutting neighbor, stated that he felt the quality of well water on their property was poor and asked if it would be possible to bring the water line down to their homes.

Discussion ensued and it was stated that any additional water line would have to be at the expense of the residents, and that they would need to come to an agreement with the developer about extending the water line. Mr. Scavo explained that there were limitations to where water could be run at this location because of the wetlands, and that any waterlines would need to be run on a public right of way.

Roy Casper, asked if a trail could be located over the waterline or a right-of-way granted for a future trail, and a trail easement along Miller Road Lot 1.

Anthony Lafleche 21 Wheeler Dr. asked if the cul-de-sac could be designed to make sure

traffic would flow well if it was connected later on.

**Planning Board Review:**

M. Neubauer asked if the Setbacks for Lot 1 and 2 could be better aligned so one is not looking at the back of the other. Planning board members also suggest that the driveway for Lot 4 was awkward, and lots 2, 3 and 4 might be adjusted and the stone path behind houses 3 & 4 needed to be addressed in the preliminary submittal plans. Concern was also expressed that the existing configuration of lots and the placement of the homes on several of the lots, in particular Lots 2, 4, & 5 were very close to the wetland buffer.

The Planning Board found the project generally acceptable and made the following recommendations for the applicant to consider for their next submittal application: reconfiguring of lots, delineate the buffer, adding a right-of-way for future road connection and trail at the end of the cul de sac, and a possible water line extension to be addressed between neighbors and Town.V. Discussion Items – none

Mr. Koval moved, seconded by Mr. Ophardt to close the planning board meeting at 11:13PM. The motion was unanimously carried.

Author's note: Resolution #3 of 2016 was not used and will remain blank.

Next meeting: April 26, 2016

Next submittal date: April 18, 2016 (for 5/10 meeting)

Respectfully submitted,

Meg Springli

**NOTICE OF DECISION**

**Resolution #6 of 2016**

**Preliminary and Final Approval**

At a meeting of the Planning Board of the Town of Clifton Park, Saratoga County, New York, held at the Town Office Building, One Town Hall Plaza, on April 12, 2016, there were:

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

Absent: None

Mr. Koval offered Resolution #6 of 2016, and Mr. Prescott seconded, and

Whereas, an application has been made to this Board by the Town of Clifton Park, for approval of a Special Use Permit consisting of a two-family dwelling;

Whereas, pursuant to Section 276 of the Town Law, a public hearing was advertised and was held on September 9, 2015;

Whereas, the Planning Board was granted status as Lead Agency for this application, an unlisted action, and a negative declaration was issued pursuant to SEQRA on September 9, 2015;

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

Now, therefore, be it resolved that the final hearing for this application is waived and that the Special Use Permit entitled Kramer SUP consisting of a two- family dwelling at MacElroy Road is granted preliminary and final approval conditioned upon a sewer connection being added, fencing to delineate the wetlands, and a photo of an existing model, as it was shown on 4/12/2016, being sent to the Planning Director. Also, applicant must comply with conditions outlined per a final comment letter based upon satisfaction of the comments offered provided by the Planning Board and professional staff.

Resolution #6 passed unanimously

Ayes: Mrs. Bagramian, Mr. Andarawis, Mr. Ophardt, Mr. Prescott, Mr. Neubauer, Mr. Koval, Mr. Ferraro.

Noes: None

Rocco Ferraro,

Chairman