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Town of Clifton Park Planning Board
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PLANNING BOARD

DENISE BAGRAMIAN
Chairwoman

ROBERT WILCOX
Attorney

PAULA COOPER
Secretary



MEMBERS
Emad Andarawis
Eric Ophardt
Heather Fariello
Mario Fantini

Keith Martin
Lisa Westrick

Planning Board Minutes
June 11, 2024

Those present at the June 11, 2024 Planning Board meeting were:

Planning Board: D. Bagramian, Chairwoman, E. Andarawis, H. Fariello, E. Ophardt, L. Westrick

Those absent were: K. Martin, M. Fantini

Those also present were: J. Scavo, Director of Planning
S. Price, M J Engineering and Land Surveying, P.C.
R. Wilcox, Counsel
P. Cooper, Secretary

Ms. Bagramian, Chairwoman called the meeting to order at 7:00 p.m. All in attendance stood for recitation of the Pledge of Allegiance.

Minutes Approval:

Mr. Ophardt moved, seconded by Ms. Fariello, approval of the minutes of the May 14, 2024 Planning Board meeting as written. The motion was unanimously carried.

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Mr. Andarawis moved, seconded by Mr. Ophardt, approval of the minutes of the May 29, 2024 Planning Board meeting as written. The motion was unanimously carried. Ms. Fariello abstains from voting.

Public Hearings:

#2024-017 32 Wishing Well In-Law Apartment

SUP SBL: 276.16-1-6 Construction of In-Law apartment, 32 Wishing Well LN , Zoned: R1 – Residential Status: Final Applicant: Cory Fazioli, Consultant: N/A Last Seen On:05/14/2024

Ms. Bagramian 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. She 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.

Ms. Fariello moved, second 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.

Ms. Bagramian called the public hearing to order at 7:03 p.m. The Secretary read the public notice as published in the Daily Gazette on June 1, 2024.

Consultant/Applicant Presentation:

Michaela Corbett – wife of applicant and property owner, stated that they are looking for an in-law suite off their home. She stated it will be about 750 sf and will have its own HVAC system and kitchen and will be attached to the main home as required. She stated mailings have been sent and prof was uploaded to the portal Ms. Corbett stated that she poke to both of her neighbor and they are both fine with it as well.

Staff Comments:

John DeSimone, Fire Marshall issued a memo:

- Existing postal number will cover the in-law apartment. 32 Wishing well Lane.

Scott Reese, Zoning Administrator issued a memo stating:

- This proposal for an in-law apartment is permitted in the R-1 Zone with a Special Use Permit per Town Code 208-10 B. (10)(a)[7][a]. Before granting approval to any special use, the Planning Board shall determine whether the proposed special use will, among other things, satisfy the considerations listed under 208-79 E. (1) (a-k).

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- On May 7th, 2024, the ZBA granted an area variance for this parcel to have a 2' relief from the 10' side property line setback for this proposed in-law apartment.

John Scavo, Director of Planning issued a memo stating:

- The Saratoga Co. Planning Board offered a recommendation noting that the project will have no significant county-wide or intercommunity impact.

Professional Comments:

No professional comments.

Public Comments:

There being no public comment, Ms. Fariello moved, second by Mr. Andarawis, to close the public hearing at 7:07 p.m. The motion was unanimously carried.

Planning Board Review:

Mr. Ophardt stated that one of the criteria the Planning Board looks at when reviewing the code for a SUP is whether the proposed change fits in with the character of the surrounding community. He asked whether there were any other similar in-law apartments in the Wishing Well neighborhood. Ms. Corbett stated there may be one around the corner. Mr. Ophardt stated that he does not believe Ms. Corbett's request for an in-law apartment will start any trend, but he wanted to note that it was a Planning Board concern.

Mr. Andarawis stated the difference is an in-law apartment versus a 2-family is that the in-law is limited and the two families are not. Ms. Bagramian stated that the deed will be flagged so it would not be able to be sold as a two-family.

Mr. Andarawis offered Resolution No. 11 of 2024, seconded by Mr. Ophardt to waive the final hearing for this application for the 32 Wishing Well In-Law Apartment approval, and to grant preliminary and final special use permit approval condition upon satisfaction of all comments, provided by the Planning Department, Town Designated Engineer, and all items listed in the final comment letter issued by the Planning Department.

Roll Call:

D. Bagramian - Yes
E. Andarawis - Yes
E. Ophardt - Yes
H. Fariello - Yes
K. Martin - Absent
M. Fantini - Absent
L. Westrick - Yes

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Ayes _____5_____

Noes: _____0_____

The resolution is carried.

Mr. Ophardt moved, second by Ms. Westrick, to waive the final hearing for this application for the site plan review of 32 Wishing Well In-Law Apartment, and to grant preliminary and final site plan approval conditioned upon satisfaction of all comments provided by the Planning Department, Town Designated Engineer, and all items listed in the final comment letter issued by the Planning Department.

Ayes: __5__

Noes: __0__

The motion is carried.

Old Business:

#2023-024 Parkway Music Building Expansion Site Plan

SBL: 266.3-2-10 1,218 sf building expansion, 1777 Us Rt 9 , Zoned: B4A - Highway

Business/Restricted Retail Status: Preliminary Applicant: Parkway Music LLC - Matt Hatfield,

Consultant: Lansing Engineering, PC – M. Robertson Last Seen On: 09/26/2023

Consultant/Applicant Presentation:

Mike Robertson, Lansing Engineering, stated he is here to reintroduce this back to the Board and get feedback. He stated that the project is located at 1777 Route 9 and is about 1.03 Acers and zoned B-4a. He stated the applicant is proposing to expand the existing building to the north and would be 1,218 sf and 2 stories. He stated the addition would be used for a stock room area and to create office, storage and extra showroom area. He stated that this would help Parkway Music reach the current demands of the industry. Mr. Robertson stated the expansion would cause a net loss of 4 parking spaces to a total of 52 spaces. Mr. Robertson stated that they would use existing access and existing water and sewer hookups and stormwater would continue to be managed on site.

Staff Comments:

John DeSimone, Fire Marshall issued a memo:

- Existing Postal Number to remain for addition. 1777 US Route 9 Clifton Park, NY 12065

Scott Reese, Zoning Administrator issued a memo stating:

- Applicant should add the approved area variance from Town Code Chapter 208-50.3F: 35% greenspace required/31% available/4% variance granted.
- Proposed addition appears to meet all current zoning area variances granted for this property

John Scavo, Director of Planning issued a memo stating:

- I have no additional comments, my prior comments have been satisfied.
- The Saratoga Co. Planning Board offered a recommendation noting that the project will have no significant county-wide or intercommunity impact.
- The Type II Action list under SEQR notes that construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities; Based on this information, if the Planning Board declares the project as a Type II Action SEQR is considered complete. The Saratoga Co. Planning Board offered a recommendation noting that the project will have no significant county-wide or intercommunity impact.

Professional Comments:

Walter Lippmann, P.E. of MJ Engineering in a letter had the following comments:

STATE ENVIRONMENTAL QUALITY REVIEW

1. No additional comments.

SITE PLANS

2. No additional comments.

Public Comments:

No public comment.

Planning Board Review:

Ms. Bagramian asked if the applicant would still be in the parking ratios if the spaces are taken away. Mr. Robertson stated they will lose 4 spaces and it will not reach the minimum and the original approval was 56 stalls which were still below code at 66. Ms. Bagramian stated that they sell items and people leave. Mr. Robertson stated this is true and since COVID lessons are done remote so there is no need for teacher and student parking. Matt Hatfield with Parkway Music stated they ended up converting the lesson space into online shipping and receiving and the parking lot is mainly for the employees now so he feels they can have fewer spots.

Mr. Andarawis asked if the Board can make the decision to waive the parking mandates. Mr. Scavo stated the Board can waive parking and if they cannot meet parking then it is them that lose business.

Mr. Ophardt moved, second by Ms. Westrick, to establish the Planning Board as Lead Agency for this application, a Type II action and to issue a negative declaration pursuant to SEQRA.

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Mr. Andarawis moved, second by Ms. Fariello, to waive the final hearing for this application for the site plan review of Parkway Music Building Expansion Site Plan, and to grant preliminary and final site plan approval conditioned upon satisfaction of all comments provided by the Planning Department, Town Designated Engineer, and all items listed in the final comment letter issued by the Planning Department. Conditions:

Ayes: 5

Noes: 0

The motion is carried.

Old Business:

#2023-032 Ushers Knob Business Park Site Plan

SBL: 259.-2-70 Proposed the construction of a business park consisting of ten (10) 4,800 sf multi-use flex buildings, Ushers Rd Rear, Zoned: B1 - Business Non Retail 1, Status: Preliminary w/possible final determination Applicant: 1743 Route 9 LLC , Consultant: EDP Last Seen On: 05/29/24

Consultant/Applicant Presentation:

Joe Dannible, EDP, stated he is here tonight on behalf of the applicant and is here tonight with Peter Belmonte and looking for approval. He stated that the application is for 10 multiuse buildings each being 4,800 sf and 190 parking spaces. He stated that at the last meeting everything was set but the Board wanted to give the ECC a chance to review the geotechnical report. He stated that they have looked at all the comments and questions from the report and MJE comments. He stated that the geo tech has no concerns with the report findings and no flags were raised with MJE as long as recommendations are followed that were made and long term inspections of the areas are done.

Staff Comments:

The Environmental Conservation Commission and issued a memo recommending:

- The ECC has provided a response to the geotechnical report that is attached to the document section of this application. The ECC encourages the Planning Board members to visit the site, if they have not already done so.

John Scavo, Director of Planning issued a memo stating:

- Any approval and SEQR determination for a Negative Declaration should be conditioned that all construction operations dealing with earthwork and foundations be inspected by an experienced geotechnical engineer to ensure that the design requirements are fulfilled in the actual construction

Professional Comments:

No new professional comments.

Public Comments:

James Ruhl, 168 Wooddale Drive, stated he a member of the ECC. Mr. Ruhl asked if there would be a public hearing on this as he feels there needs to be one especially with the information provided by the ECC and the geo-tech report.

Planning Board Review:

Ms. Bagramian stated she is satisfied with the results of the application and feels comfortable with the professionals sign offs.

Mr. Ophardt asked whether each proposed building will need to have its own its foundation designed by a geotechnical engineer, and whether a settlement monitoring plan will be in place.

Mr. Dannible stated that when footings are done there will be a capacity test done as a part of the building permits and the SWPPP is being proved as protocol for DEC and annual reports with this that are mandated will be sent to the town and is covered under the geo-tech report. He stated that streams at the bottom of the slopes would be included here as well.

Mr. Ophardt stated that all building settle, and he was concerned about what effect this would have on the unconsolidated soils on the northwest side of the site. Mr. Dannible stated they would be bringing the footing further into the ground to stabile the slope.

Mr. Andarawis stated the ECC report has recommendations on the report that the soil should be inspected every spring and he has concerns of this being looked at forever and he does not know what the actions are if there is a concern 10 years from now. Mr. Dannible stated the annual inspections for the stormwater would be ongoing and the action would be if the stream is meandering to the site a geo-tech is called in to see if mitigation is necessary they will complete the work. Mr. Andarawis asked what the mediation would be. Mr. Dannible stated that sheeting or piles could go into the slope to help stabilize it but he is not a geo-tech so he is unsure of the entire situation.

Mr. Ophardt stated he had the same concerns. Mr. Dannible stated 3 engineering firms and geo-techs have looked at the site and they say it is buildable.

Ms. Westrick asked where snow removal and storage would take place as it was talked about at the last meeting and they talked about banked parking as well. Mr. Dannible showed on the map storage areas for snow storage and if it needs to be removed it will and some parking may be used if needed. Ms. Westrick asked if there was anything substantial to help avoid vehicles from going down the slope. Mr. Dannible stated they could consider a wing curb. Ms. Westrick stated that a visual measure would be helpful as well to keep the plows from pushing snow down it as well. Mr. Dannible stated they could do a curb. Mr. Andarawis agreed. Mr. Ophardt suggested a

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guide rail as well for visual. Mr. Dannible stated there are wooden rails near here and he could extend it.

Mr. Andarawis asked if this would be a phased build for if they are looking to do construction all at once. Mr. Dannible stated they are looking for a waiver to build it all at once. He stated that if there was a phase it would be a 2 phase plan. Ms. Bagramian stated that she feels they may fill up fast.

Mr. Andarawis stated that it seems like there are risks to the site at the cost of the applicant and there seems to be mitigation in place. He stated that monitoring can see problems before they happen increases his comfort.

Mr. Ophardt added that an incident at the site may potentially expose the Town of Clifton Park to liability, but the applicant's mitigation plan made he more comfortable as well.

Ms. Fariello stated that after a significant storm an inspection would need to be done as well. Mr. Dannible stated that this should be done but needs more guidance as to what significant would be.

Mr. Ophardt moved, second by Ms. Fariello, to establish the Planning Board as Lead Agency for this application, an Unlisted action and to issue a negative declaration pursuant to SEQRA.

Mr. Ophardt moved, second by Ms. Westrick, to waive the final hearing for this application for the site plan review of Ushers Knob Business Park, and to grant preliminary and final site plan approval conditioned upon satisfaction of all comments provided by the Planning Department, Town Designated Engineer, and all items listed in the final comment letter issued by the Planning Department.

Conditions:

1. Slope inspections to be done annually in addition to after a 100 year storm event according to the SWPPP.

Ayes: 5

Noes: 0

The motion is carried

New Business:

None

Discussion Items:

Wood Road GEIS, updated presentation discussion. Referred by the Town Board.

Joe Dannible, EDP, stated he is here on behalf of DCG and they have a request to Town Board to amend the Wood Road corridor finding statement and the relation to the Karner Blue Butterfly habitat. He stated the applicant owns the parcels on Wood Road and have been before the Board for subdivisions and Site Plans. He stated 3B is pending DEC approval and has been approved by the Board. He showed a map of the area known to be a butterfly habitat. He stated in 2012 as part of the Ushers Road program they are indicated was permanently protected by open space for this animal. He stated surveys have been done and no butterflies have been found on the site since 2006 and no frosted elephants have been found since 2012. He stated the area has gone through a change where the habitat is no longer suitable for either animal and has been documented as part of the GEIS. Mr. Dannible stated that since 2012 the habitat protection plan has been in effect. Mr. Dannible stated that a report has been filed and DEC has reviewed the report and agrees there is no longer viable habitat for the butterflies and no butterflies found ah they will no longer have jurisdiction over the land. Mr. Dannible stated he would like the GEIS amended to reflect that these areas no longer provide habitat for the species and to remove the deed restrictions that are in place for them as well. Mr. Dannible stated that in addition to removing the restrictions the applicant is going to look into developing the land consistent with the other parcels in the corridor. Mr. Dannible stated there is a case study along the National Grid power lines that has habitat on and is no longer viable for the butterflies and is not being cared for an has been abandoned. He stated micro populations don't support a larger population like the Albany Pine Bush Preserve. He stated the Town Board has asked the applicant to come before the Planning Board for recommendations on this proposal and the Tow Board is established as lead agency. He is here for recommendations tonight.

Ms. Bagramian asked if the agency that looked at National Grid site looked at this site. Mr. Dannible stated he does not believe so. Ms. Bagramian stated she would feel more comfortable if they did look at this site as well as MJE. Mr. Scavo stated the Town Board has reached out to MJE about this but they have not gotten a response. Ms. Bagramian stated she would like both agencies to look at them. Mr. Dannible stated they are not looking to hide anything and DEC has found no suitable habitat as well.

Mr. Ophardt asked Mr. Dannible if DCG could provide the Town of Clifton Park with a copy of the NYS DEC letter stating they concur with their finding that the site is no longer habitable for the Karner Blue Butterfly.

Mr. Dannible stated that if it has not been provided but he will for the Planning Board to review. Mr. Wilcox stated that if the state agency has made a determination then it is on the state and gives relief to the Town.

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Mr. Scavo stated that when a site plan does come to the Board a part of SEQR is to look at this as well. He stated that this would not change how the Board would look at the SEQR review.

Ms. Bagramian asked if there is a chance for them to make a return. Mr. Dannible stated that this is annual for the butterflies here and is not a every 7 year process so if the larva cannot eat off the plants they are not present.

Mr. Andarawis asked if the regulation for how much was to be protected has not given a chance for it to succeed since the 90s anyway. Mr. Scavo stated the 20+ years of monitoring the micro populations the migration has changed and highways may possibly be interfering as well as pesticides. Mr. Scavo stated that there is green space required in this zone so there could be a wildflower mix in the area to help with other pollinators. Mr. Andarawis stated that the surrounding sites look like they do based on this from the past so it then would change the overall look and the site may have worked better if had been known from the beginning of development. Mr. Dannible stated they would have changed but they could have ended up with a large building instead of several smaller ones like they have now.

Ms. Fariello stated the applicant would like to build on the land if the amendment is made. Mr. Dannible stated that there would be required green space but it would ultimately be developed.

Ms. Bagramian asked the size of the National Grid parcel. Mr. Don McElroy stated it is 3.21. Mr. McElroy stated that he spoke to Saratoga Planning and they stated that they stopped monitoring the site a few years back.

Mr. Andarawis stated he has a concern with un-deed restricting land and feels that from a Planning Process, the Board make decisions and make sure that we are careful backtracking and not all are created equal but feels it may open it up to others. Mr. Dannible stated this was restricted to protect a habitat which is unlike subdivisions. Mr. Wilcox stated this is why they rely on DEC and their statement is that the habitat is not viable for the endangered species and goes off the State agency recommendations.

Ms. Bagramian asked how long they have been monitoring the site. Mr. Dannible stated since 1999.

Ms. Fariello asked if the land has been developed yet. Mr. Dannible stated that there is some on 3A and 3B and 3A has been constructed. Mr. Dannible stated that they may come back for a modification on 3A and maybe 3B but it is such a small area.

Mr. Ophardt asked if the buildings would be repositioned if this is amended. Mr. Dannible stated the biggest benefit would be if there was a user with a high demand for parking but that may be the only way they would change this.

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Mr. Dannible stated that he would submit more information for MJE to look at. Mr. Ophardt stated DEC recommendations. Mr. Scavo stated that this Board can hold a public hearing and open it up to a full Planning Board meeting if they see fit. Ms. Bagramian stated that the Town Board has to have a public hearing so she feels that MJE should review this and make the public and her more comfortable with the possible amendment.

Mr. Andarawis asked if there are other areas in Town that are protected for the butterflies. Mr. Scavo stated that he Town has a map for the GEIS potential habitat areas. He stated that the populations that exist are closer to the airport and no re-introductions have been spoken about yet. Mr. Dannible stated they have spoken to the DEC about re-introduction to the site in 2016 and they said they do not plan to re-introduce this. Ms. Fariello asked for this in writing. Mr. Dannible stated that this was stated in 2016 and they can asked for something else.

Mr. Wilcox asked if the DEC has said what size area is needed to maintain a species. Mr. Dannible stated that he can explore more with the DEC. Mr. Dannible stated that if they want a flight study done it would have to be done now as they fly in May and June. Mr. Andarawis asked if they could look at studies of re-introduction and what size sites they would be looking for.

Ms. Bagramian stated she feels this is good timing for MJE to go out and check anyway.

Ms. Westrick asked if this would open the door for land 2 acres or less that is protected due to habitat and the Town go out and evaluate them. Ms. Bagramian stated this would be a case by case basis as each parcel is unique. Ms. Westrick stated she feels this could be a threshold for others to come in and where the Board should make a line. Ms. Bagramian stated that DEC has said it is not viable so others would have to have the same or similar documentation that supports the case. Mr. Wilcox stated that with each site they would have to provide the proper documentation like a Sate letter and each would be looked at alone. Mr. Dannible stated that this site does not have blue lupine and that is key for the site.

Ms. Bagramian asked the applicant to double check with the migration in peak and asked the applicant to address the concerns that were spoken about tonight so the Planning Board can make their recommendation. Mr. Wilcox asked the applicant to ask the DEC what size land is needed for it to be deemed viable as well. Mr. Dannible stated they will monitor the butterflies this time and the next migration and do the home work and come back in August with more information for the Planning Board.

Mr. Ophardt moved, seconded by Ms. Westrick, adjournment of the meeting at 8:32 p.m. The motion was unanimously carried.

The next meeting of the Planning Board will be held as scheduled on June 20, 2024.

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Respectfully submitted,

Paula Cooper

Paula Cooper, Secretary