

**Town of Clifton Park Planning Board**  
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Clifton Park, New York 12065  
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PLANNING BOARD

ROCCO FERRARO  
Chairman

ROBERT WILCOX  
Attorney

PAULA COOPER  
Secretary



MEMBERS

Emad Andarawis  
Eric Ophardt  
Ram Lalukota  
Andrew Neubauer  
Denise Bagramian  
Greg Szczesny

*(alternate)* Keith Martin

**Planning Board Minutes**  
**February 9<sup>th</sup>, 2021**

Those present at the February 9<sup>th</sup>, 2021 Planning Board meeting were:

Planning Board: R. Ferraro, Chairman, E. Andarawis, D. Bagramian, R. Lalukota, A. Neubauer, E. Ophardt, G. Szczesny  
Keith Martin – Alternate Member

Those absent were:

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

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

**Minutes Approval:**

Mr. Lalukota moved, seconded by Ms. Bagramian, approval of the minutes of the January 26<sup>th</sup>, 2021 Planning Board meeting as written. The motion was unanimously carried.

**Public Hearings:**

None

**Old Business:****2019-040 1267 Route 146 2 Lot Subdivision (Fleischman)**

Applicant proposes subdividing a .94 acre parcel with an existing dwelling into 2 parcels. 1 parcel will have the existing dwelling with a new proposed access to the soon to be dedicated Vista Court, 1267 Rt 146, Zoned: HM, Status: PB Final Review SBL: 270.8-5-4 To be reviewed by: N/A Consultant: Bethlehem Land Surveying Applicant: A. Fleischman  
Last Seen on: 10-27-20

**Consultant/Applicant Presentation:**

Jason Peterson - Bethlehem Land Surveying - Mr. Peterson stated that the applicant is trying to subdivide his property in half, the current home will be on one property and a two-family residence would be built on the second. Mr. Peterson stated that the property currently has access from Route 146 and that the rear of the lot has access to Vista Court. He stated that an easement is in place for the rear lot to enter and exit off of Vista court as an entry on Route 146 would be worrisome. Mr. Peterson stated that the current home, with the proposed subdivision, would have screening from Route 146. Mr. Peterson stated that he did look into a photo simulation model for the Board to see as they had requested but it was too costly to the applicant. He stated that if the applicant were to put in a small, raised berm it would look more like a raised septic bed or a family burial mound rather than a berm to provide for visually appealing screening. Mr. Peterson stated that the applicant is willing to put more screening into place and is open to Board feedback. He stated that the applicant would like to put up a 6 foot stockade privacy fence along Route 146 as well as plantings.

Mr. Michael and Ms. Ariel Fleischman - property owner - stated that this fencing is for screening and more importantly for them, also for safety purposes if the application is approved, since the rear yard would be along Route 146.

**Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 1/28/21 stating:**

- Variance for subdivision approved (#81260)

**Wade Schoenborn, Chief of the Bureau of Fire Prevention:**

1. No comment

**Scott Reese, Stormwater Management Technician issued a memo dated 2/4/21 with the following comments:**

1. No stormwater comments at this time

**The Environmental Conservation Commission held a meeting on 2/2/21 and issued a memo recommending:**

1. The ECC has no comments at this time.

**John Scavo, Director of Planning issued a letter dated 2/5/21 with recommendations he made:**

1. As previously mentioned, the Saratoga Co. Planning Board issued a recommendation noting the project would not have any significant county-wide or inter-community impacts.
2. NYS DOT supports the elimination of an existing curb cut onto NYS Route 146.
3. In accordance with guidance from the NYS Department of State, Division of Local Government Services, specifically from its Planning Boards Overview Course, Subdivision review regulates the design and improvements. It cannot – establish:
  - a. Minimum lot sizes.
  - b. Dimension requirements.
  - c. Control uses on the property.
  - d. Be used to regulate the style or design of buildings; or - be a substitute for health department review of sewer and water services.
4. The applicant has obtained a necessary area variance for relief from certain lot area requirements and this plan submittal appears to meet all other design and improvement criteria prescribed by Chapter 179 of the Clifton Park Town Code. Review elements within this Chapter include:
  - a. Lot configuration.
  - b. Landscaping.
  - c. Drainage.
  - d. Street Pattern & Access.
  - e. Utility Installation.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 10/23/20 had the following comments:**

**STATE ENVIRONMENTAL QUALITY REVIEW**

1. As per Comment 2 from our August 9, 2019 review, The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:

- a. Part 1.12b: Part I.12b – The applicant indicates that the proposed action is not within or adjacent to an area designated as sensitive for archeological sites. This response is inconsistent with a review of the DEC Environmental Assessment Form (EAF) Mapper, located at [www.dec.ny.gov/eafmapper/](http://www.dec.ny.gov/eafmapper/). The applicant should provide confirmation from the NYS Office of Parks, Recreation and Historic Preservation that the action is not within or adjacent to an area designated as sensitive for archeological sites to support their response or modify response.
- b. Part I.13a – The applicant indicates that no portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by federal, state or a local agency. A review of the DEC EAF Mapper indicates a discrepancy in this response. The applicant should provide documentation to confirm the presence or absence of state or federally regulated wetlands on or adjacent to the project site and modify response accordingly.
- c. No further comments at this time.

## SUBDIVISION PLAN

2. The applicant is currently scheduled to be on the September 1, 2020 ZBA agenda for the following variances:
  - a. 208-43.3(B)(a)(3) - Two-family dwellings: 3,000 gross square feet per acre.
  - b. 208-43.3(B)(5)/208-98 Front yard, Special setback lines to NYS Route 146 – 130 feet from centerline.
  - c. 208-43.3(B)(5) Rear yard - 30 feet.

The plan shall identify the variance(s) granted, date they were granted, resolution number and extent of relief granted.

3. As per Comment 6 from our August 9, 2019 and September 9, 2020 reviews, update the site statistics table to account for the special setback requirements from NYS Route 146 as defined in Section 208.98 of the Town's Zoning.
4. As per Comment 7 from our August 9, 2019 and September 9, 2020 reviews, update the site statistics table to reflect a 5' front setback for single family dwelling as defined in Section 208.43.3 of the Town's Zoning.
5. As per Comment 11 from our August 9, 2019 and September 9, 2020 reviews, provide notation on the plan as follows:
  - a. No Utilities shall be installed beneath the proposed driveways.
6. As per Comment 12 from our August 9, 2019 and September 9, 2020 reviews, provide information on the plans to indicate how potential sump pump laterals may be positioned which shall be in conformance with Section 86-7(A)(6) of the Town Code.
7. As per Comment 14 from our August 9, 2019 and September 9, 2020 reviews, provide notation on the plan indicating that all work within the State right-of-way is subject to a highway work permit obtained from the NYSDOT (driveway, culvert, water service, sewer).
8. As per Comment 15 from our August 9, 2019 review and September 9, 2020 reviews, the submitted information indicates the project is proposing to connect to an existing water main(s) within proximity to the parcel. These mains are owned and operated by the

Clifton Park Water Authority (CPWA). It is recommended that the Town be furnished with documentation that the CPWA is willing and capable of providing potable water to the project.

9. As per Comment 16 from our August 9, 2019 and September 9, 2020 reviews, the submitted information indicates the project is proposing to connect to an existing sewer main(s) within close proximity to the parcel. These mains are owned and operated by the Saratoga County Sewer District No. 1 (SCSD). It is recommended that the Town be furnished with documentation that the SCSD is willing and capable of providing sanitary sewer service to the project.
10. Since the applicant is proposing to subdivide the property and make future improvements to Lot 2, we suggest that the following sentence be added to the plan: Lot 2 will be subject to additional regulatory review for compliance with Town Zoning at a future point in time when development of this parcels is considered.
11. A shared driveway access and maintenance agreement will be required. A copy of the agreement/easement should be furnished to the Planning Board' legal counsel for review.
12. The applicant shall provide written responses to all technical comments provided by Town staff and consultants as part of the next submission.

### **Public Comments:**

No public comments.

### **Planning Board Review:**

Mr. Martin asked for clarification that tonight the Board is either approving the subdivision or not. Mr. Ferraro stated that this was correct and that duplexes are permitted under the HM code and does not need a special use permit. He also noted that the Zoning Board of Appeals, as a condition of the area variances granted, required that both lots shall only be used for residential proposes. Mr. Scavo agreed with Mr. Ferraro's comment. Mr. Martin stated that he does not have concerns about the subdivision but stated the area currently has a large berm along Route 146 on either side of this property. He stated that he feels that the fence instead of a berm would be disruptive to the look of the area.

Mr. Ophardt stated that he feels a 6 foot vinyl fence would be an appropriate buffer. Mr. Martin stated that safety is important and needs to be weighed out with aesthetics. Mr. Ferraro stated that he would like to see more landscaping than just a fence.

Mr. Lalukota asked if it was possible for there to be some tree plantings as well as the fencing behind it to better screen the property.

Mr. Ferraro stated that he would like to see a small berm and trees on the outside of the fencing. He stated he would like to see the berm closest to Route 146. Mr. Scavo stated that he thinks that

a 2 to 3 foot berm instead of a 12 foot berm with plantings to break up the fence line would be more appealing. Mr. Scavo shared an image of such landscaping treatment on the Zoom Screen for all to see. Mr. Andarawis stated that he agrees with Mr. Ferraro's comment on landscaping and a berm with the fence.

Ms. Fleischman stated that a small berm similar to what Mr. Scavo showed on the Zoom Screen would not be a problem if that is what the Board would like to see. She stated that if a berm were to be put, it would not line up with the existing surrounding berm. Mr. Ferraro stated he knows it would not line-up, but it would visually fit better along the roadway than just the fence with a few plantings.

Mr. Martin thanked the applicant for taking into consideration the Boards suggestions regarding the landscaping.

Mr. Ferraro stated that per section 208-43.3 of zoning base and bulk requirements in the HM zone for a two family units, he noted that it allows up to 3,000 square feet per acre of land and his calculations put the entire building at 1,374 square feet after the subdivision. He stated that in the application, it states that the gross square footage of the new duplex would be 1,620 square feet so he is unsure of where the additional square footage is coming from. He then stated that 657 square feet including a garage for each side of the duplex seems limiting. Mr. Scavo stated that he spoke to Mr. Myers and he will be looking into it, Mr. Scavo stated that Mr. Myers was ok with the footprint of the building. Mr. Scavo stated that there may be a difference in garage space vs. living space but Mr. Myers stated he is willing to work with the applicant on the project. Mr. Ferraro asked if the 3,000 feet includes the garage space or if this is what is accounting for the discrepancy. Mr. Scavo stated that the garage is not considered a habitable space and is not included in the livable space of the square footage.

Mr. Ferraro asked if a 10 foot easement would be needed for a possible trail and if there could be one along with this approval for a future possible trail network along Route 146. Ms. Fleischman asked if there was a 10 ft. easement if it would change their setbacks by ten feet. Mr. Ferraro stated it would not and would still be a part of the property. Mr. Scavo stated that this is correct and they would still own the property. Mr. Scavo stated the tradeoff would be that the applicant would not have to pay a one-time parkland fee. Mr. Ferraro would like to see this as a condition of approval. Mr. Fleischman agreed to this. Mr. Scavo stated that the parcel already has a 10 ft. easement for a public water lateral so the new easement would also be where the existing easement is already located. Mr. Scavo stated that sometimes the town would need just a temporary construction easement for room to maneuver construction equipment and once construction is completed, the town would repair the disturbances made.

Mr. Peterson asked if the easement is given and the fence is put in, would the fence have to be removed for construction of the trail, and where would the fence go? Mr. Scavo stated that the

town would remove the fence and then replace it after the construction is completed where the applicant desired the relocation to be.

Mr. Ophardt offered Resolution # 02 of 2021, second by Mr. Szczesny, to waive the final hearing for this application for the 2 lot subdivision at 1267 Route 146, and to grant preliminary and final subdivision approval conditioned upon satisfaction of all comment provided by the Planning Department, Town Designated Engineer, and all items listened in the final comment letter issued by the Planning Department.

**Conditions:**

1. A ten foot easement given to the Town of Clifton Park on the south end of the property along Route 146.
2. Landscaping along Route 146 shall include a small berm with trees and a fence behind the plantings to screen from the roadway.

**Roll Call:**

R. Ferraro - Yes  
 E. Andarawis - Yes  
 D. Bagramian - Yes  
 R. Lalukota - Yes  
 A. Neubauer - Yes  
 E. Ophardt - Yes  
 G. Szczesny - Yes

**Old Business:**

**2020-038 Robertaccio 6 Lot Subdivision**

Applicant proposes subdividing the 84.21 acre lot into 6 residential lots creating a cul-de -sac with 5 of the lots to be for larger estate lots with at least 5 acres of land, Hubbs Rd, Zoned: CR, Status: PB Revised Conceptual review SBL: 258.-1-6.2 To be reviewed by: MJE  
 Consultant: EDP Applicant: M. Robertaccio Last Seen on: 9-9-20

Mr. Andarawis stated he would be recusing himself from this application due to his residence being in proximity of the application

**Consultant/Applicant Presentation:**

Joe Dannible - EDP - Mr. Dannible stated that the applicant Michael Robertaccio is in the meeting and is able to answer questions if needed. Mr. Dannible showed on the zoom screen the map of the property and stated it was about ¼ mile to the west of Round Lake Road. He stated it

is on 84 acres of land with about half of the land being constrained with wetlands. Mr. Dannible stated that this land is allowed 14 residential lots per the one dwelling for 3 acres of unconstrained lands calculation, and noted the applicant is asking for 6 at this time. Mr. Dannible stated that all the lots will have private wells and septic, and will be on a cul de sac that will become a public roadway. Mr. Dannible stated that the roadway will intersect with Hubbs Road and give access to 5 of the 6 lots. He stated one of the lots will have a driveway coming off of Hubbs Road as well. Mr. Dannible stated that all of the lots meet the subdivision code and Lot 6 will be deed restricted due the CR subdivision requirements. Mr. Dannible stated that there would be stormwater management for the roadway with fire apparatus access as shown on the plan being presented tonight. Mr. Dannible stated that he is unsure about a comment made that Lot 1 is a keyhole lot as the width of the property is 80' which is required and at the front yard setback it is 467' and should not be considered a keyhole. He stated the EIS Mapper showed that there is an archaeological site in the area.

Mr. Ferraro asked about the home fronting Hubbs Road and that the frontage on Hubbs is only 40 feet. Mr. Dannible stated that the code specifies the lot width is taken at the front setback and is significantly larger than 80'. Mr. Ferraro stated that the setback is still behind another property. Mr. Dannible stated that this is where it is measured and is within CR code and has been done this way on other properties. Mr. Ferraro stated that Mr. Myers stated this is a keyhole lot and would need to be reconciled with him as the Chief Zoning Officer for Clifton Park. Mr. Ferraro also suggested moving the property frontage to the cul de sac.

### **Staff Comments:**

#### **Steve Myers, Director of Building and Development issued a memo dated 1/28/21 stated:**

- Plan states minimum lot size is 40,000 sf. Property is in the CR zone and the minimum lot size is three acres. Lot #5 needs to be revised
- Lots #1 and #6 will require emergency vehicle turnarounds within 100' of houses per the NYSFC
- Viable water source and septic design will be required prior to the issuance of a building permit. If the well on Lot #3 is located in the wetland boundary, permits from NYSDEC will be required. Are 50' wetland buffers voluntary? They appear to cross driveways. If approved they need to be clearly delineated.
- A full SWPPP is required
- Lot #1 is a keyhole and a 50' setback for the main structure is required on all sides
- Lot dimensions are required.

#### **Wade Schoenborn, Chief of the Bureau of Fire Prevention:**

1. Specify dimensions and construction of the fire department turn arounds within 100' of houses

**Scott Reese, Stormwater Management Technician issued a memo dated 2/4/21 with the following comments:**

1. When plans progress, provide total area of disturbance. If more than 5 acres will be disturbed, a FULL SWPPP will be required and stormwater management areas will need to be set aside for this subdivision.
2. The well location on Lot 3 should be moved out of the 100' DEC Adjacent Area.

**The Environmental Conservation Commission held a meeting on 2/2/21 and issued a memo recommending:**

1. Per Town code there must be a minimum of 25% of unconstrained land deeded in permanent open space, either public or private. The applicant should indicate by shading on the plan where the open space will be permanently preserved (208- 16.E(3)). ECC recommends that the planning board require proof of preservation in perpetuity of the permanent open space as part of the subdivision approval.
2. The ECC recommends that the Lot 1 driveway be situated in the proposed access road right of way to minimize disturbance to the land.
3. Applicant should clarify if the well on Lot 3 is an existing or planned well, located in the 100' adjacent area NYSDEC buffer area.

**John Scavo, Director of Planning issued a letter dated 2/5/21 with recommendations he made:**

1. The applicant has revised the original application from 2 to 6 lots to identify the future disposition of the parcel in accordance with the CR Zoning Requirements.
2. This subdivision appears to be an unlisted action pursuant to SEQR since it does not meet the Public Health Law requirement for a Realty Subdivision, which states:  
The sale, rental or offer for sale or lease of any tract of land, under one ownership or common scheme, which has been subdivided into five (5) or more residential lots, designated by metes and bounds, each comprising of five (5) acres or less within any three (3) year period. The common phrase used is the "5, 5, 3 Rule."
3. A referral of the Preliminary Subdivision Plan is required to be made to the Saratoga Co. Planning Board for a recommendation back to the Town Planning Board in accordance with GML §239(m)&(n).
4. The applicant should confirm if the proposed well location for Lot #3 will require a permit from NYS DEC to be within the 100' NYS DEC Adjacent Area to a State Regulated Wetland.

5. The 100' adjacent area to a state regulated wetland should also note, "Land Conservation District – LC Zone)." Pursuant to §208.69.2, transportation systems which include water are permitted uses within the LC Zone.
6. Pursuant to the density standards set forth in §208-16(b) of the Town Code:  
Development on 10 acres or more. A parcel consisting of 10 acres or more may be developed at a density of one residential dwelling unit per 10 acres, provided there is at least one acre of unconstrained land available to accommodate a residential use, including any required well and septic system. In lieu of development at said density, such parcel may be developed at a density not to exceed 0.33 unit per acre of unconstrained land, provided 50% of the area of the development site is designated as permanent open space.
7. The applicant should add the following calculation to the site statistics table:
  - a.  $43.72 \text{ Acres} \times .33 = 14.42 = 14 \text{ dwelling units.}$
  - b. 42.10 Acres Designated as "Permanent Open Space" of which 21.05 Acres is Unconstrained.
8. The applicant should clearly demarcate the 42.10 acres of permanently protected open space. As plans progress to preliminary design, the applicant should provide proof of preservation in perpetuity of the permanent opens space for the sites in private ownership in accordance with §208-16(F) of the Clifton Park Town Code.
9. As long at the residential density threshold is not exceeded, the applicant is correct in noting that the minimum land area (lot size) per dwelling is 40,000 square feet with no municipal water and sewer – Per §208-16(E)(5)[d] of the Town Code.
10. Prior to the issuance of a building permit, a plot plan for each individual lot shall be submitted to the town. The plot plan shall include percolation tests certified by a professional engineer and a sanitary sewer design approved by a professional engineer. The building inspector is required to be present at the conducting of all percolation tests.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 2/5/21 had the following comments:**

**STATE ENVIRONMENTAL QUALITY REVIEW**

1. 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. Under a

coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:

- a. Town of Clifton Park Planning Board: site plan approval
- b. NYS Dept of Environmental Conservation – permit coverage under stormwater SPDES, identification of threatened and endangered species and wetlands
- c. NYS Office of Parks, Recreation and Historic Preservation – identification of cultural or historic resources

Additional agencies may be identified by the Town during its review of the project.

## SHORT ENVIRONMENTAL ASSESSMENT FORM

The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:

2. Part I.12b - Part I.12.b – The applicant indicates that the project site is not located within or adjacent to an area designated as sensitive for archeological sites on the NY State Historic Preservation Office (SHPO) archeological site inventory. This response is inconsistent with a review of the DEC Environmental Assessment Form (EAF) Mapper, located at [www.dec.ny.gov/eafmapper/](http://www.dec.ny.gov/eafmapper/). The applicant should change the response in the SEAF and provide a “no effect” letter from SHPO to confirm the presence or absence of archeologically sensitive resources.
3. Part I.13a - The response indicates that a portion of the site or lands adjoining the site of the proposed action, contains wetlands or other waterbodies regulated by a federal, state or local agency. In future submissions the applicant will need to provide documentation to confirm the presence or absence of state or federally regulated wetlands on or adjacent to the project site. The applicant should also include a 100’ wetland buffer on future site plan submissions.
4. No further comments at this time. Additional comments may be forthcoming as the project advances.

## SITE PLANS

5. The project is located within the Town’s Conservation Residential District (CR). The proposal for single family homes is a permitted principal use within the CR District as noted in Section 208-16(D)(1)(b) of the Town’s Zoning.
6. The applicant is proposing to create six new lots from one existing lot that has a total area of 84.21 acres. The proposal follows the development option outlined in Section 208-16(E)(2)(b) of Town’s Zoning where the density may not exceed 0.33 units per acre of unconstrained land, provided 50% of the area of the development site is designated as permanent open space. In reviewing the submission, there will be 42.10 acres of permanent open space (50%) and there is 43.72 acres of unconstrained land, yielding a maximum number of 14 lots. With the proposal of six lots, the proposal appears to meet the requirements of Section 208- 16(E)(2)(b) of the Town’s Zoning. Should additional constrained lands be identified as the application progresses, the number of proposed lots may be reduced.

7. The applicant shall identify ownership of the proposed open space, a requirement of Section 208-16(E)(3)(c) of the Town's Zoning. If held in private ownership, preservation in perpetuity shall follow the requirements of Section 208-16(F) of the Town's Zoning.
8. The Town's Chief Zoning Officer has determined Lot 1 is a Keyhole lots. Pursuant to Section 208-86 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.
9. Confirm that the proposed road has adequate site distance based upon the posted speed limit of Hubbs Road.
10. Any new access proposed onto Hubbs Road is subject to the review and approval of the Town of Clifton Park Highway Department.
11. All lot grading shall be such that drainage is directed away from the homes and towards lot lines and ultimately to an approved drainage course as required by Section 86-7(A)(5) of the Town Code. In order to demonstrate conformance to the stated regulations, an overall project grading plan must be developed for review.
12. There may be a need to provide a drainage culvert at the new road to support existing drainage along Hubbs Road. The applicant will need to coordinate with Clifton Park Highway Department for any such improvements. If required, show the location, size and materials of construction.
13. The applicant proposes to service the lots with an on-site septic system. The proposed septic system shall be designed by a New York State licensed professional engineer and conform to the requirements of the New York State Department of Health (Section 208-91) for review and approval by the Town Building Department.
14. Subsequent submissions shall include the septic system percolation and test pit results.
15. The proposed well location on Lot 3 appears to be down gradient from the proposed Septic system location, therefore per NYSDOH Appendix 75A the horizontal separation distance from the well to septic system shall be 200 feet.
16. The well on Lot 3 appears to be located with the NYSDEC 100' buffer, any permits and approvals from NYSDEC shall be provided to the Town.
17. Section 208.16 E(12) of the Town Zoning indicates no residential dwelling or wastewater disposal system shall be placed within 50 feet of a wetland meeting federal jurisdictional requirements. The septic system on Lot 5 appears to encroach the 50' buffer.
18. The project does not have access to a public water supply, with all lots being serviced by on-lot wells for drinking water. Section 507.2 of The New York Fire Code (2020) allows the fire code official to approve the use of NFPA 1142, in rural and suburban areas in which adequate and reliable water supply systems do not exist. The applicant shall discuss with the Town's emergency response agencies whether NFPA 1142 will be applied to the project.
19. The Short Environmental Assessment Form indicates a total disturbance of 0.91 acres. Show limits of disturbance limits on plan and a narrative. Any disturbance between 1 and 5 acres will require the preparation of a Basic Stormwater Pollution Prevention Plan (SWPPP) pursuant to Part III.B of the general permit.
20. The concept plan indicates that a NYSDEC wetland extends onto the parcel with the 100-foot adjacent area extending into the development area of the project. Provide boundary validation by NYSDEC.

21. Subsequent plans shall show the Town's LC location and boundaries which are defined by Section 208-69.1 of the Town's Zoning.
22. Subsequent submissions shall include the metes and bounds of the affected lots and right-of-way. This plat shall be prepared by a surveyor licensed to practice in the State of New York.
23. Provide notation on the plan as follows:
  - a. No Utilities shall be installed beneath the proposed driveways.
  - b. Any work required within the Town right-of-way shall be subject to any permitting from the Clifton Park Highway Department (roadway, culvert, etc.).
24. Identify the date and by whom the wetlands shown were delineated. Verify if any wetlands are under the jurisdiction of the USACOE.
25. 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.
26. Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

### **Public Comments:**

Anthony LaFleche - 21 Wheeler Drive - Mr. LaFleche asked that on the map, if the light green areas indicated the buildable parts of the property. Mr. Dannible stated that it did not, it indicated the potential lawn areas of the lots, but the smaller map in the corner of the screen shows the constrained and unconstrained lands. Mr. LaFleche asked if Lot 1 could be fronting off the cul de sac instead of Hubbs Road. Mr. Dannible stated that it is the preference of the applicant to have lot 1 with direct frontage onto Hubbs Road. He noted that Lot 1 then can be developed before the roadway or other homes proposed are constructed. This would also give frontage to Lot 6 as well for the same reason. Mr. LaFleche asked if the roadway could first act as a temporary drive then be converted as the application progresses. Mr. Dannible stated that this a preference of the applicant. Mr. LaFleche asked how far from the roadway are lots 3, 4 and 5. Mr. Dannible stated that the minimum front yard setback is 25 feet and that the homes are representative and not in the actual places that they would be constructed, and would be determined at the time of building permit for each. Mr. LaFleche asked if the lots are not constrained, to push the homes back as far as possible. Mr. Robertaccio stated that his plan is to try to put the homes as far back as they can. He stated he likes his privacy and is planning to live here as well. Mr. LaFleche asked for an easement on the property line on Hubbs Road for a possible future trail. Mr. Dannible stated they can investigate it, but a lot of the frontage is constrained wetlands.

### **Planning Board Review:**

Mr. Ophardt asked about Lot 6 and the 40' frontage; he asked if the road would be a public roadway and if so why would 40' be required. Mr. Dannible stated it would be a public roadway but in the initial subdivision, Lot 1 would be built along with another lot, when a second phase is

started then lots 2, 3, 4, and 5 would be developed. He stated that Lot 6 would already be developed and has a driveway coming down through the area. Mr. Dannible stated that when the roadway is built, he would like no disruption to the existing driveways and keep direct access to the phase 1 lots.

Mr. Ferraro asked where the proposed driveway for lot 6 would lead to if the roadway is not there. Mr. Dannible stated that it would run parallel to the roadway until the roadway and right of way is put into place. Mr. Ferraro stated that he still has concerns about the keyhole lots and if it is not yet determined, then there is a question to the subdivision plan and if any wetlands would be impacted when developing lot 6. Mr. Dannible stated that there would be no wetland disturbance as the plan now is shown and if changes need to be made then a permit from the AC would be needed or plans would have to change to accommodate a keyhole lot as they are not permitted.

Mr. Ophardt asked about the Highway Superintendent, Mr. Dahn Bull's, input to the cul de sac as he feels that Mr. Bull wanted to limit the amount of new cul de sacs constructed. Mr. Scavo stated that in addition to wetland constraints present on the parcel, the CR zoning's density requirements makes this difficult to interconnect to roadways in a traditional neighborhood grid pattern. He also stated that the Highway Superintendent is given agenda items to review and comment on if he so choose to.

Mr. Neubauer stated that he has the same concerns as Mr. Ferraro about the keyhole lot. He stated that other layouts need to be considered. Mr. Martin seconded the comment by Mr. Neubauer. Mr. Dannible stated that according to his understanding of a keyhole lot that this is not one. He stated that this lot is located behind another lot and has access to the roadway. Mr. Dannible stated that moving the driveway would not change the septic, well, or the layout of the home. Mr. Dannible stated that this does not change the density of the subdivision or the character of the subdivision. He also noted that it does not affect the proposed locations for the homes with the subdivision. Mr. Ferraro stated that it does affect the land clearance and expressed concern that the proximity of the driveway to the proposed intersection of the subdivision roadway is close as well. Mr. Robertaccio stated that if the Board would like he can allow a crossover easement from lot 1 to lot 6 to allow for one curb cut and then lot 1 could tie into lot 6 driveway until the cul de sac is built. Mr. Robertaccio stated that if he were to move forward with development and cannot secure funds to finish the project for lots by constructing the cul de sac, Lot 1 would not be possible, under the plans proposed phasing. Therefore, he needs his home with an access as well as lot 1. Mr. Martin stated he would like to see one curb cut.

Mr. Ferraro stated that for the next submission he would like to see clear delineation of the wetlands. Mr. Ferraro stated that 50% of the land must be open space and 25% unconstrained land and he would like this shown on the map and to find out if the open space will be privately

owned or not. Mr. Ferraro stated as the plan progresses he would like to see the constrained land be identified by signage and/or split rail fencing.

Mr. Ferraro stated that he would like input from the Open Space and Trails Committee for this application as well. Mr. Scavo stated he would reach out to Ms. Viggiani.

### **Old Business:**

#### **2020-054 Parkside Covenant Church Addition**

Applicant proposes constructing a 9,876 sf building addition with 29 new parking spaces on the north side of the existing church to be used for a daycare/preschool and office space. A new stormwater retention area will be constructed at the Northwest end of the new building.

Original Church plan had 29 Parking Spaces banked, 14 Jarose Pl, Zoned: R-1,

Status: PB Preliminary Review                      SBL: 277.16-2-19                      To be reviewed by: MJE

Consultant: ABD                      Applicant: Starpoint Church                      Last Seen on: 11-24-20

Mr. Ferraro stated that comments made by the public in writing, either in email or letter form, have been distributed to the Planning board members prior to the meeting for review and consideration.

Mr. Ferraro then asked Mr. Scavo to provide an overview on how religious institutions are viewed under the authority of local zoning regulations. Mr. Scavo stated that there is information located on the US Department of Justice website titled, Religious Land Use and Institutionalized Persons Act (RLUIPA). Mr. Scavo stated that this is a federal law that protects religious institutions from unduly burdensome or discriminatory land use regulations. He stated this was passed by Congress in 2000 because it was found that land use and zoning regulations were often burdening religious congregations to exercise their faith, which is a constitutional violation. Mr. Scavo stated that RLUIPA bars land use regulations that impose a substantial burden on religious exercise unless the government can show compelling interest in restriction but then needs to give the least constraining. Mr. Scavo stated that the website has examples of this that can be reviewed as well.

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

Roscoe Lily - Pastor - Pastor Lily stated that there was a letter written by Parkside or One Church from November 16, 2021 stating that the existing church was in jeopardy of being insolvent in the first quarter and that Starpoint Church is looking to purchase the church from One Church to avoid a property foreclosure. Pastor Lily stated that Ms. Jarose, the former property owner, had donated this property to be a spiritual one and this would help to keep it as she had wished. Pastor Lily stated that he would like to clarify that this application is not to build a daycare or preschool. He stated that Starpoint Church is not looking to expand the daycare that is currently operated by One Church. He stated that in his church children do not go to church

with their parents but have their own age appropriate worship area and this is what the building is being proposed for and the purchase of this property is dependent on this approval. Pastor Lily stated that the children would be attending at the same time as their parents so this would not increase traffic. He stated that the church already has a 300 person occupancy which would fit the need of Starpoint Church for the adult population. Pastor Lily stated that this proposal is not to build a preschool business or daycare business but to build a place of worship for children and to have office space for pastoral staff.

Mr. Ferraro asked if the current daycare would continue to operate. Pastor Lily stated that the daycare currently has 25 students who are enrolled as part of One Church not Starpoint. He stated that Starpoint does not currently have a daycare or afterschool care affiliated with them, but if the community would like to see this continue or not see this as a benefit to the community then Starpoint would consider either terminating or continuing the service for the community. Mr. Ferraro asked if Starpoint would purchase from One Church but then continue the daycare services by renting out the space. Pastor Lily stated that One Church would be dissolved and hopefully the patrons of that church would join Starpoint and if the daycare were to be seen as a benefit to the community then Starpoint would consider continuing the service. Pastor Lily stated that he does not want to be a hindrance to the neighbors in the surrounding community. Pastor Lilly also clarified that the term “daycare” is misleading since the service offered is a before and afterschool wrap-around program.

Luigi Palleschi - ABD - Mr. Palleschi stated at the last meeting building elevations were shown and that since then, the lot lines to the north have been adjusted and that test pits were completed on 1/27/2021. Mr. Palleschi stated that they are still proposing stormwater infiltration basins and the building addition with parking on the north side of the project has not changed since the last meeting. Mr. Palleschi stated that there has been additional handicapped parking added near the new proposed building and the aisle width has been widened to 24’ for the southern entrance to allow for circulation. Mr. Palleschi stated that the north parking has a hydrant added and is shown on the Zoom screen map. He stated that the building addition is going to be sprinklered but access to the rear of the building was still needed, so with the addition of the hydrant it allows for the hose line to go around the building, and a “T” turnaround was put in to allow room for a fire truck to access the side of the building. He stated that due to fire access there is a decrease in parking to 150 spots, the existing sewer connection will remain, and a new lateral will be added to the main to service the proposed building. Mr. Palleschi stated that a new water lateral will be added as well. Mr. Palleschi stated that the plan for landscaping is to match the existing landscaping and he can attach this for future submittals.

**Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 1/28/21 stating:**

- Proposal is to construct a second connected building larger than the existing
- There are no parking setback requirements in the R-1 zone so the 10' proposed by the lot line adjustment is up to the planning board to determine if it sufficient
- Building signage shall be applied for to the Building Department and is not to be part of this submission
- Modification to the existing SWPPP should be required for the entire site due to the unique conditions and in place practices (high water table, adjacent wetlands, infiltration trenches along existing building and dry wells). Refer to the original site plans for drainage issues not addressed in this submittal
- Has DEC and ACOE approved the ABD "delineation"?
- What are the ECC comments?
- A more comprehensive breakdown of the new building will be required to determine occupancy classification, separation, egress etc.
- A new hydrant will be required within 100' of the fire department connection
- Section 503.1.1 of the fire code allows the code official to increase the 150' dimension. We do not have to allow the increase. From where the truck is shown in exhibit A it is approximately 340' to the rear of the building connection so not viable even if approved. First the access road shall be modified to provide full turning access since it does not currently. Second a turnaround at the rear of the building will be required to ensure access to both the new and existing building (the turning template does not appear to fit the current roadway).
- Ensure the new parking areas have a minimum 26' drove aisle as required
- The handicapped parking spaces need to be more evenly divided between the two buildings or additional space(s) provided to the new building.

**Wade Schoenborn, Chief of the Bureau of Fire Prevention:**

1. Provide a fire hydrant within 100' of the fire department connection
2. Provide fire apparatus access to within 150' of all portions of the building
3. Provide fire apparatus turn around at the rear of the building
4. Provide adequate fire apparatus turning radius at the first entrance going to the north side of the building
5. Provide 26' drive aisle in new parking areas

**Scott Reese, Stormwater Management Technician issued a memo dated 2/4/21 with the following comments:**

1. Provide the existing stormwater system sizing for the post-development drainage area 1B.
2. Provide updated test pit and percolation tests for the existing and proposed stormwater management areas.
3. The proposed Stormwater Management Area should be protected by fencing for its close proximity of a child care area

**The Environmental Conservation Commission held a meeting on 2/2/21 and issued a memo recommending:**

1. In keeping with the recommendations and goals of the Town Comprehensive Plan, the Applicant should retain existing vegetation to the maximum extent practical and/or the use landscaping and grading to provide visual and auditory buffering between the project and adjacent roadways or other properties.
2. Please provide a concept landscape plan as part of the approval process.

**The Trails Subcommittee submitted the following comments for the Planning Board to consider in its decision making:**

**Jennifer Viggiani, Open Space Coordinator:**

**John Scavo, Director of Planning issued a letter dated 2/5/21 with recommendations he made:**

1. The Saratoga Co. Planning Board issued a letter noting the project would not have any county-wide or inter-community impacts.
2. The applicant should be aware that the Planning Department received multiple inquiries from residents within 500' of the church property once notification letters were sent by the applicant. The concerns were specific to impacts on neighboring properties by the expansion of the intensity of the uses within the church property. It is the Town's position that the church is allowed to include daycare and Sunday school worship based on the federal Land Use Provisions of the Religious Land Use and Institutionalized Persons.

The following is a Statement of the Department of Justice on the Land Use Provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA) and provides a rational basis for such interpretation:

RLUIPA provides that "religious exercise" includes any exercise of religion, "whether or not compelled by, or central to, a system of religious belief." Thus, a county or municipality cannot avoid the force of RLUIPA by asserting that a particular religious activity is something that a religious group merely wants to do rather than something that it must do. For example, a town could not claim that Sunday school classes are not religious exercise because they are less central to a church's beliefs or less compulsory than worship services.

RLUIPA also specifies that "the use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise . . ." This provision makes clear that religious exercise under RLUIPA includes construction or expansion of places of worship and other properties used for religious exercise.

Courts have held that "religious exercise" covers a wide range of activities, including operation of various faith-based social services facilities; accessory uses such as

fellowship halls, parish halls and similar buildings or rooms used for meetings, religious education, and similar functions; operation of a religious retreat center in a house; religious gatherings in homes; and construction or expansion of religiously affiliated schools, even where the facilities would be used for both secular and religious educational activities.

3. The project is an Unlisted Action pursuant to SEQR.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 2/5/21 had the following comments:**

STATE ENVIRONMENTAL QUALITY REVIEW

1. No further comments at this time.

SHORT ENVIRONMENTAL ASSESSMENT FORM

2. No further comments at this time.

SITE PLANS

3. The southwest parking lot drive aisle indicates 17 feet, per Town Code Section 208-7A the drive aisle should be a minimum of 22 feet. If space is an issue, consider angled parking with one-way access.
4. The proposed ADA parking spaces are located adjacent to a flush curb sidewalk. If the accessible route is located in front of the parking spaces, install wheel stops to keep vehicles from reducing the clear width of the accessible route below 36 inches.
5. As noted in Comment 11 of our November 20, 2020 review, based on the date of the delineation and/or prior USACOE/NYSDEC correspondence, the wetlands may require a re-delineation if the validation has expired. ABD's evaluation should be verified by a wetlands specialist.
6. Section 503.1.1 of the International Fire Code (IFC) requires an approved fire apparatus access road be provided for every facility, building or portion of a building and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measures by an approved route around the exterior of the building, however the fire code official is authorized to increase this dimension when equipped with automatic sprinklers. The applicant is proposing 300 feet, however based on Exhibit A there are sections of buildings that are not within 300 feet. This should be reevaluated and discussed with the Fire Chief.
7. With the extension of the southerly parking lot, the fire apparatus road will exceed 150 feet in length, therefore per Appendix D of the 2020 NYS Fire Code a turnaround should be provided.
8. Continue the turning template of the emergency vehicle into the northerly parking lot.
9. Identify if the existing pole light in the southwest parking lot will be removed or relocated.

10. Applicant has indicated the plans will be submitted to Clifton Park Water Authority (CPWA) for review and approval. Any action on the application should be conditioned upon receipt of plan approval from CPWA.
11. Applicant has indicated the plans will be submitted to Saratoga County Sewer District (SCSD) for review and approval. Any action on the application should be conditioned upon receipt of plan approval from SCSD.
12. Provide in-situ percolation tests in the proposed stormwater locations to demonstrate the location indicated is feasible.
13. Additional silt fence should be installed on the north side of the property as the grades drain towards adjacent property.
14. Sheet 3 of 4, provide stockpile area on plans.
15. Sheet 4 of 4 include detail for the “No Parking” signage for the accessible aisles.
16. All accessible signage shall be revised to include the “dynamic” accessible symbol pursuant to New York Executive Law §101.
17. Infiltration practices shall never serve as a sediment control device during site construction phase. Consider placing sediment control basin prior to infiltration basin.
18. Provide notation on the Sheet 2 of 4 indicating that “Upstream construction shall be completed and stabilized before connection to a downstream infiltration facility. A dense and vigorous cover shall be established over the contributing pervious drainage area before runoff can be accepted into the facility”.

### **Public Comments:**

Mr. Ferraro stated that there have been letters submitted to the Planning Board for review and the public if they would like to comment should focus on what the Planning Board has the ability to review and not repeat what they may have previously offered in writing.

Alan V. Burke - 13 Jarose Pl - Mr. Burke read from a letter submitted to the Planning Board from the Neighbors of Sunset Woods. Mr. Burke asked what denomination of religion separates children from parents for worship. Pastor Lily stated that many modern churches do this, the church is interdenominational, and stated that this proposed addition is not for a daycare or after school facility, but building for Sunday services for children of parents that attend the church. Mr. Burke asked if the new building would only be used for Sunday services. Pastor Lily stated that it may be used on other days such as Easter Saturday, Christmas Eve, Christmas, and does not differ from other churches. Pastor Lily stated that they do have a recover group that meets on Monday evenings as well. Mr. Burke asked about weddings and funerals and if they would be held on the premises and on days not in use by Sunday services. Pastor Lily stated that yes it would, as these are a part of spiritual life, it would be uncommon but not to be ruled out for use. Mr. Burke stated that the second entrance shows a diagram of a fire truck entering and that school busses need to turn there as well and as it is shown the turn radius of the vehicles will not fit. Mr. Ferraro stated that the entrance is to code. Mr. Wilcox stated that the diagram shows one in and one out for traffic flow. Mr. Burke stated that this daycare is not a blessing to the

community and that residents knew that there would be a church built but this is now being expanded and he feels it is too large to be in a residential area. He stated that this would affect the values of the homes in the area as well.

Rose Sopok - Resident - Ms. Sopok stated she has concerns with the traffic on the road and with the first driveway and asked for it to be modified so that it can go out to Grooms Road as the traffic is dangerous. Mr. Ferraro stated that the highway department does not favor multiple curb cuts on a main road. Mr. Scavo stated that the peak turns on Sundays would likely cause conflicting turning movements with its proximity to Jarose Place. Mr. Scavo also stated that the traffic warrants that are required to be met for an installation of a traffic signal are not present, and the county does do traffic studies in the corridor approximately every 3 years. Ms. Sopok stated that parents coming in and out in the evening are traveling at increased speeds and do not take 90 degree turns, rather they cut across opposing drive lanes at an angle, and it is hard to police as the daycare can only ask the parents to slow down. Mr. Scavo states that the stop sign to Grooms and Jarose may warrant installation a stop bar. The stop bar would provide a visual reminder of roadway alignment, vehicle positioning for turning movements, and other important driver responsible tasks. Mr. Scavo stated that he can talk to the highway department about possibly installing one even absent of this project if the conditions currently warrant the treatment.

Mr. Ferraro read from the chat box from Ms. Kori-Ann Taylor - Ms. Taylor asked if there are any plans to increase the size of the LED sign. Pastor Lily stated that he had not given thought to this yet. Ms. Taylor spoke in the meeting and stated that the sign was across from her home and that it is very bright and disturbing. Mr. Scavo stated that even though this is not considered in the site plan it is good information to touch on and Mr. Scavo can pass along alternative information to the applicant and look into other mitigation measures.

Lauren Gay 17 Jerones Place - Ms. Gay stated that she feels that this project is adding more pavement and building and less green space. She states that with the increase in pavement that there should be more landscaping as well. She stated that she, as well as other residents have seen the patron numbers decrease and stated she is not familiar with the new church and their numbers and their ability to sustain this financially. She stated that she would like some sort of assurance that there would be no increase in the childcare business but in the church patron numbers only. Mr. Ferraro stated that the church has an occupancy of 300 people. He stated a SUP has been given for the daycare in 2002. Mr. Scavo stated that laws are in place for a review if the daycare were to wish to expand.

Anthony LaFleche - 21 Wheeler Drive - Mr. LaFleche asked if the church owns the home fronting Grooms road. Mr. Palleschi stated it does currently belong to the church and Pastor Lily stated that it is the intent to purchase that property as well. Mr. LaFleche asked if an easement

extension could be granted on Grooms Road to hook-up with the Moe Road trail. Mr. Scavo stated that he believes there is already an easement in place there.

### **Planning Board Review:**

Mr. Ferraro asked if the office portion of the building would be rented out. Pastor Lily stated that it would not be, the offices are for church use only and that the daycare will only continue if not seen as a burden to the community. Mr. Ferraro stated the capacity of the church would not increase and that the daycare is not expanding but has been previously approved for use and with the laws in place there are limitations in the review and this is not used for a business but is a church that is changing hands. Mr. Ferraro asked if there is a purpose set for the home fronting Grooms Road. Pastor Lily stated that there is no intent yet for this property. Mr. Ferraro asked Mr. Scavo if there is a change in use if it would have to come before the Board. Mr. Scavo stated that it could be knocked down for another residential home and would not be required. However, for any use beyond a single family home, it would need additional Town approvals.

Ms. Bagramian asked if there are plans to put in a playground area anywhere. Pastor Lily stated there is not a plan for a playground. Ms. Bagramian requested a detailed landscaping plan for the next submission. Mr. Palleschi stated that he has landscaping photos and Mr. Ferraro also reinforced the need for a landscaping plan. Ms. Bagramian stated she would like to see elevations of the front and the side of the building so that she can get a feel of what it would look like from Grooms Road, she also asked for a lighting plan. Mr. Palleschi stated that there are no changes other than one downward lighting in the new parking area closest to Grooms Road. Ms. Bagramian asked what the normal operating hours would be. Pastor Lily stated that Sunday morning would be the service times and Monday thru Thursday would be typical 8:30 a.m. - 4:00 p.m. for office hours.

Mr. Neubauer asked the applicant to display the renderings of the proposed building. Mr. Palleschi showed on the Zoom screen the elevations of the new building with the old building attached. Mr. Neubauer stated the existing building has articulation of stone and portico as well as a reverse gable on the facade. Mr. Neubauer stated that the proposed building does not have these features and stated he feels it is obtrusive to the homes across the street and renderings need work. Mr. Martin stated he agrees with Mr. Neubauer's comments and that the building looks unwelcoming to the area as currently proposed. Mr. Neubauer clarified that the building does not have to match exactly the church but it has to fit in. Ms. Elizabeth Foiene-Delgrosso, pastoral aide and a resource to the design team and contractor stated that the design can be modified to soften the look and the design team is already having such discussions with the architect. She stated that the stone will be kept and the other features are being looked at to soften the building.

Mr. Ophardt asked about the IFC requirements around the building and the fire code. Mr. Palleschi showed on the Zoom screen the building with the “T” turnaround. Mr. Palleschi stated that from the nose of the fire truck 300 feet can be reached around the building. Mr. Palleschi stated that the building will be sprinklered and the building hose reach is less than 300 feet, he stated that the truck can move all the way to the rear of the parking lot and reach further if needed. Mr. Palleschi stated that the front of the building is greater than 26 foot to allow for the truck aerial apparatus to be able to drop the outriggers. Mr. Ophardt stated that he feels this needs to be looked at more, Mr. Palleschi stated that he is willing to look into it with the Fire Chief. Mr. Ferraro stated that the building is sprinklered, so concerns with access should be addressed and expressed his desire to see impervious areas minimized if the access requirements are met. Mr. Palleschi stated it will be reviewed with the proper individuals. Mr. Ferraro stated that if there are some other measures that need to be taken then stormwater needs to be reevaluated. Mr. Palleschi stated he is comfortable with the stormwater management in place but feels accommodations to this should not be a problem. Mr. Ophardt asked if the applicant would be receptive to the daycare growing to maximum capacity in the future as it is a good location. Pastor Lily stated that he was under the impression that this daycare is a blessing to the community but due to comments made tonight he is going to reevaluate it. Mr. Palleschi stated that if the daycare would expand that the applicant would need to come back to the Board as it would be a change to the SUP.

Mr. Neubauer stated that there are situations where there is a pre-existing non-conforming use; this is a preexisting use in conformance granted previously by both Site Plan and Special Use Permit. Mr. Neubauer stated that his understanding that this addition is not a daycare and that the applicant has made it clear that this is not an expansion of the daycare and the church will take into consideration the feelings of the immediate neighbors. Mr. Neubauer stated he feels that there is a need for afterschool programs in the area.

Mr. Andarawis stated that parking is driven by the need for fire access and this needs to be kept in mind. He stated that the number of parking spaces was not a limitation, and that there is a lot of pavement being added in this proposal and should not be added, if it's not needed. He asked if the southwest corner of parking could be banked until it is deemed that it is needed. Mr. Palleschi stated that he can review this with the Pastor. Mr. Ferraro stated that there is a difference from what is required by the law and what is desired by the applicants and this needs to be looked at.

Mr. Ferraro stated he would like to see EV parking stations on the site plan.

**New Business:**

**2021-006 Pasquariello Waite Rd 2 Lot Subdivision**

Applicant proposes to subdivide a 94.27 acre parcel into two separate parcels. Parcel 1 shall be 7.40 acres and parcel 2 shall be 86.87 acres to be retained by the owner, 587 Waite Rd, Zoned: B-5, Status: PB Concept Review SBL: 270.-1-72 To be reviewed by: MJE  
 Consultant: EDP Applicant: A. Pasquariello

Mr. Neubauer recused himself from this application.

**Consultant/Applicant Presentation:**

Joe Dannible - EDP - Mr. Dannible showed on the Zoom screen the map of the application. He stated that it is at the intersection of Route 146 and Waite Road. Mr. Dannible stated that a subdivision was done about a year ago and is now back to further subdivide. He stated that the subdivided parcel will be for commercial use and will have frontage on Route 146. He stated the parcel has wetlands but has unconstrained lands that would be utilized. Mr. Dannible stated the remaining land in the subdivision is a part of the PDD that has been in front of the Board previously. He stated that 7.4 acres was not included in the PDD and is zoned B5 Corporate Commerce. He stated that this parcel will have public sewer and water. He stated the owner has been paying sewer debt and will have access to the sewer services and there is a water main and hydrant at the front of the property. Mr. Dannible stated that at this time there is no plan to build but is an opportunity to in the future, and the site plan that would come with it would be consistent with the B5 zoning.

**Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 1/28/21 stating:**

- Dimensioned site plan needs to be provided. Unknown lot frontage for both lots
- Wetlands shown do not match county mapping

**Wade Schoenborn, Chief of the Bureau of Fire Prevention:**

1. No comment

**Scott Reese, Stormwater Management Technician issued a memo dated 2/4/21 with the following comments:**

1. No stormwater comments at this time.

**The Environmental Conservation Commission held a meeting on 2/2/21 and issued a memo recommending:**

1. The applicant shall clarify the land to be included in the proposed PDD including the designated amount of wetlands and unconstrained land prior to submission to the Planning Department and Town Board.

**John Scavo, Director of Planning issued a letter dated 2/5/21 with recommendations he made:**

1. A referral to the Saratoga Co. Planning Board for a recommendation on the proposed subdivision is required, due to the proximity of State Route 146.
2. This project is located in the Corporate Commerce Zone GEIS study area, and therefore, must comply with the findings statement. In order to initiate SEQR review of the application, the findings statement should be reviewed by the applicant's consultant and a narrative should be provided that indicates how each finding statement item either applies and is being addressed or does not apply. The DGEIS and FGEIS can be reviewed by clicking on the following Dropbox Link:

<https://www.dropbox.com/sh/m6ba74unvbt2azn/AABH8U1JYertNuff4eUKfpOa?dl=0>

3. Pursuant to Page III-19 of the Corporate Commerce FGEIS, "With infill development that is expected to be between Route 146A and Tanner Road, it is recommended by CDTC that a connector road linking individual parcels be considered." The applicant should add a note on the subdivision plan that states, "Future site plan development should include provisions for access connections to adjoining properties."
4. As identified in the Corporate Commerce Zone's GEIS, there are significant areas of wetlands expected on the project site. These should be identified by field delineation at the time of site plan review.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 2/5/21 had the following comments:**

**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. Under a coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:

- a. Town of Clifton Park Planning Board: Subdivision Plan approval
- b. Saratoga County Planning: 239m referral due to location along NYS Route 146
- c. NY State Historic Preservation Office (SHPO): correspondence with SHPO to ensure no archeologically sensitive resources on project site

Additional agencies may be identified by the Town during its review of the project.

The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:

1. Part I. 12b – The applicant indicates that the project site is not located within or adjacent to an area designated as sensitive for archeological sites on the NY State Historic Preservation Office (SHPO) archeological site inventory. This response is inconsistent with a review of the DEC Environmental Assessment Form (EAF) Mapper, located at [www.dec.ny.gov/eafmapper/](http://www.dec.ny.gov/eafmapper/). The applicant should change the response in the SEAF and provide a “no effect” letter from SHPO to confirm the presence or absence of archeologically sensitive resources.
2. No further comments at this time. Additional comments may be forthcoming as the project advances.

#### SUBDIVISION

3. The project is located within the Town’s Corporate Commerce District (B-5). The proposal does not discuss any improvements on the lands to be subdivided. If and when a proposed use is contemplated, further review may be warranted.
4. Lacking an actual use being proposed on the proposed parcels, the Board may consider requesting notation be placed on the plat indicating that subsequent development on the parcel may be subject to additional regulatory review for compliance with Town Zoning and other applicable standards.
5. The subdivision plat shall show the two proposed lots in their entirety.
6. The submitted information indicates the project is proposing to connect to an existing water main(s) within proximity to the parcel. These mains are owned and operated by the Clifton Park Water Authority (CPWA). It is recommended that the Town be furnished with documentation that the CPWA is willing and capable of providing potable water to the project.
7. The submitted information indicates the project is proposing to connect to an existing sewer main(s) within close proximity to the parcel. These mains are owned and operated by the Town of Clifton Park Sewer District and Saratoga County Sewer District No. 1 (SCSD). It is recommended that the Town be furnished with documentation that the CPWD and SCSD is willing and capable of providing sanitary sewer service to the project.
8. Provide notation on the plan as follows:
  - a. No Utilities shall be installed beneath the proposed driveways.
  - b. Any work required within the State or Town right-of-way shall be subject to any permitting from the NYSDOT and Clifton Park Highway Department (driveway, culvert, water service, sewer).
9. Provide the building setback lines for each lot shown.
10. Identify the date and by whom the wetlands shown were delineated.

11. Subsequent submissions shall include the metes and bounds of the affected lots and right-of-way. This plat shall be prepared by a surveyor licensed to practice in the State of New York.
12. 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.
13. Considering this plan is conceptual in nature, subsequent comments will be provided with a preliminary plan submission.

### **Public Comments:**

Anthony LaFleche - 21 Wheeler Drive - Mr. LaFleche asked the applicant if the right of way is similar to the earlier Fleischman application, what is the existing ROW for this application on Route 146. Mr. Scavo stated that he can look into the easements and ROWs in place for this application. Mr. LaFleche asked if the current sewer and water lines would be a part of a current easement for trails. Mr. Ferraro stated that this would have to be looked into for the future development of the parcel.

### **Planning Board Review:**

Mr. Ferraro stated that he has not received any comments about future trails from the Open Space Trails Committee, but would like to see what they feel about the possible trails easements.

Mr. Andarawis asked the applicant about the cross access easement and requested future submissions show them on the map so the Board is aware of such for the future. Mr. Dannible stated that if the PDD were to move forward the parcel would be surrounded by land dedicated to the town of Clifton Park and the potential would not be available for cross access. Mr. Andarawis asked if the previously subdivided land could be cross accessed. Mr. Dannible stated that the first land that was subdivided would have an access road from Route 146 and the road could continue and cross through the current subdivision to Waite Road.

Mr. Ferraro stated that he has concerns with the cross access and that having an application for a subdivision, done incrementally without considering the relationship to the adjacent parcels makes it difficult for the Board to evaluate. Mr. Ferraro stated that the recommendation from the previous GEIS that was done for the Commerce Park was to only have right handed turning onto Route 146, and that a left hand turn off Waite Road would be problematic. He noted that this development pattern site by site is not showing the full traffic plan or impact. Mr. Dannible stated that this parcel does not front Tanner Road and they cannot get access through wetlands or the National Grid Utility Corridor, so this property only has access to Route 146 and Waite Road. He stated that the NYS DOT can grant full access curb cuts to Route 146. Mr. Ferraro asked if there are access easements ever granted by National Grid to allow for the road to cross that easement. Mr. Dannible stated that they can try to get an easement but there are power lines

running over the easement and wetlands in the area that could be problematic. Mr. Ferraro asked if the subdivision is creating a problem that would not exist if the land would not be subdivided, and perhaps this needs to be looked at. Mr. Dannible stated that densities of parcels in the B5 zones were established and that each property is paying tax for anticipated sewer use at a prorated rate for future use, he stated that taxation is based on the build out of each lot and the Pasquarello piece is one of the largest contributors to the annual debt service and is set to provides substantial build out as was to be expected within the GEIS. Mr. Dannible stated within the GEIS there are no recommended improvements to Waite Road or Route 146 but lane widening mitigation are discussed from Tanner Road to Vischer Ferry Road. Mr. Dannible stated that a build out to Tanner Road is impossible for this applicant to achieve based on location and constraints. Mr. Dannible stated that the applicant could choose not to subdivide the land and build numerous commercial buildings on this site with direct access. Mr. Ferraro stated he appreciates the applicant's proposal but the GEIS recommendations are to restrict the accessibility along Route 146 and have access to the Commerce Park off Tanner Road instead. Mr. Ferraro stated the problems need to be addressed that could impact access from Route 146. Mr. Dannible stated that the build out has always been the same and will be if the parcel is subdivided or not. Mr. Ferraro stated the GEIS needs to be looked at more thoroughly to see if something was missing from it in relation to access issues. Mr. Scavo stated that Table 2-3 of the FGEIS shows full build-out for the Board to review. He also stated that there is a projected build-out as well for the Board to also review.

Mr. Andarawis stated that the allocations of build-out were based on larger parcels but it doesn't imply to where on the parcel it could happen, such as around wetlands or the power lines. He stated that the location of the parcel being carved out needs to be looked at in relation to the larger parcel as a whole. Mr. Dannible stated that he can look into the GEIS as Mr. Andarawis had stated to find discrepancies and what can be done to mitigate it.

### **New Business:**

#### **2021-007 Northeast HVAC Solutions Expansion**

Applicant proposes a 3,500 SF building expansion to their existing office. The addition will consist of a 3 bay garage and 1,500 SF office space on the second floor. Applicant proposes utilizing an existing unused curb cut on NYS Route 146 and abandoning the existing shared access with the adjacent property. The parking lot will be expanded with 14 additional spaces,  
 898 Rt 146, Zoned: B-1, Status: PB Concept Review SBL: 271.-4-20  
 To be reviewed by: MJE Consultant: EDP Applicant: Flanders Group LLC

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

Joe Dannible - EDP - Mr. Dannible stated that this application is located on Route 146 about ¼ miles to the west of the Route 146 and Moe Road intersection. He stated that that parcel has 2 access points with shared access and another curb cut onto Route 146. Mr. Dannible stated that they have been talking to DOT to be able to utilize the single curb cut and the DOT seems to be fine with the access as long it is modified to conform to current commercial standards. Currently the parcel is .46 acres and to gain .25 acres of land to expand the garage and 1500 square feet of office space on the second floor. Mr. Dannible stated it is the intent to keep the proposal in character with the residential area that it is in currently. He stated that intent is to keep the residential frontage that would include the three car garage. Most of the parking will be in the rear and the additional land will allow for an additional 14 parking spaces. Mr. Dannible stated that an application for variances from the Zoning Board have been submitted as the building would exceed the maximum square footage limit and that the adjacent properties to this property exceed this same zoning requirement. The second variance would be for the parking setback as it is not allowed to have parking within 30 feet of the center line of Route 146. Mr. Dannible stated that in 2008, a variance was granted to expand the site to within 105 feet of Route 146 and are now looking for the same variance for parking. He stated there are only a few parking spaces on the side of the building, and most is to the rear. Mr. Dannible stated that green space is at 53% and the septic will be expanded to sewer running along the roadway. He stated that the applicant is looking at discontinuing the shared driveway with 900 Route 146 but will provide pedestrian connectivity between the two parcels.

**Staff Comments:**

**Steve Myers, Director of Building and Development issued a memo dated 1/28/21 stating:**

- Variances will be required for building size and setback
- Change of occupancy will need planning approval (adding storage occupancy to B-1).
- Other comments may follow with a more detailed submission.

**Wade Schoenborn, Chief of the Bureau of Fire Prevention:**

1. No comment at this time

**Scott Reese, Stormwater Management Technician issued a memo dated 2/4/21 with the following comments:**

1. No stormwater comments at this time.

**The Environmental Conservation Commission held a meeting on 2/2/21 and issued a memo recommending:**

1. For aesthetic reasons the ECC recommends that the garage bays be accessible to the rear or the western portion of the proposed structure. This will preserve the existing residential character of the structure to the maximum extent.

**John Scavo, Director of Planning issued a letter dated 2/5/21 with recommendations he made:**

1. A referral of the Site Plan is required to be made to the Saratoga Co. Planning Board for a recommendation back to the Town Planning Board in accordance with GML §239(m)&(n).
2. A NYS DOT Curb-Cut Permit will be required to re-establish the driveway that was previously present at the site.
3. In accordance with §208-33(D) of the Town Code, “Architecture. The architectural design of a rehabilitated or newly constructed building shall be consistent with designs compatible for residential dwellings.” The existing structure accomplishes that. The applicant should provide material type and elevations of the proposed building with the addition that should match the existing architectural style.
4. Town Code §208-33 (C) states, “Landscaping. Landscaping shall be in accordance with similarly associated with residential dwellings, i.e., lawn area and trees and shrubs and other plantings to maintain a residential character.” As plans progress, the applicant should provide a detailed landscaping plan that minimizes visual impacts with strategic plantings to intermittently break-up the building’s mass, viewed from NYS Route 146.

**Professional Comments:**

**Walter Lippmann, P.E. of MJ Engineering in a letter dated 2/5/21 had the following comments:**

**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. Under a coordinated review, involved / interested agencies to be engaged may include, but is not necessarily limited to the following:

- a. Town of Clifton Park Planning Board: Site Plan approval
- b. Saratoga County Planning: 239m referral is required due to the location along NYS Route 146.

The applicant has submitted Part 1 of the Short Environmental Assessment Form (SEAF). Based upon our review of the submitted Part 1 SEAF, the following comments are offered:

1. No comments at this time. Additional comments may be forthcoming as the project advances. SITE PLAN
2. The project resides within the Town’s B-1 Zoning District. In our review of Section 208-32(A)(4) of the Town’s Zoning, the proposal to expand an existing professional office is a permitted principal uses within the B-1 Zoning District.

3. In our review of the concept plan submitted, it appears that there are instances where the bulk lot requirements are not satisfying the minimum requirements set forth in Section 208-33 and 208-35 of the Town's Zoning. The potential lot deficiencies identified are as follows:
  - a. Section 208-33(B) of the Town Zoning indicates that no preexisting building(s) shall be rehabilitated or remodeled or new building(s) constructed on a vacant lot to a size greater than 12% of the lot size, with no single building to have a maximum square footage exceeding 4,800 square feet. With a 0.88 acre parcel, the maximum total square footage is 12% of the lot, or 4,600 s.f., which the plan does exceed. Applicant has identified a variance is warranted.
  - b. Section 208-35(D)(4) requires a 10-foot buffer area along the side and rear yards for the purpose of screening from adjoining properties. While the concept illustrates buffers greater than what is required, this shall be confirmed as part of the detailed site design and grading. There may be a need to supplement with landscaping to maintain screening with adjacent properties.
  - c. Variances were granted based on the existing parcel of SBL 271.-1-20, additional variances maybe required for the additional acquired property.
  - d. It appears the conveyance of lands from Travis Mitchell to Ferguson Group result in the parking on the Mitchell property to not meet the 25' side setback requirement.

These matters shall be confirmed by the Chief Zoning Officer of the Town.

4. The plan shows 14 new parking spaces and 15 existing, 8 more than what is required pursuant to Section 208- 99 of the Town Zoning (1 space/300 SF). Advise as to the need for the additional spaces proposed. If possible, spaces above the required should be considered for banking to reduce excess parking that may not be necessary.
5. Subsequent submissions shall provide the required amount of ADA parking spaces. With 29 spaces provided, two (2) ADA compliant parking spaces will be required.
6. If the project proposes any utility improvement work within the State right-of-way, the work will be subject to the review and approval to the NYSDOT. The applicant shall coordinate with the regional office of the NYSDOT and obtain permitting in advance of construction.
7. The project is proposing to be serviced with public water from the Clifton Park Water Authority. 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 application should be conditioned upon receipt of plan approval from the CPWA.
8. The project is proposing to be serviced with public sewer from the Saratoga County Sewer District. The applicant shall provide the Town documentation of the SCSD's ability and willingness to service the project with public sewer. Any action on the application should be conditioned upon receipt of plan approval from the SCSD.
9. The proposed expansion also includes the conveyance of land from the adjacent property. The Town will need to determine how this will be handled.
10. Subsequent submissions should include architectural renderings of the building along with identification of materials of construction.

11. Provide the proposed driveway radii on the plans meeting NYSDOT design requirements to ensure the existing curb cut width is adequate. Any widening of the curb cut should be reviewed and approved by the NYSDOT.
12. The current plan proposes a new building and parking expansion with an anticipated area of disturbance of less than 1-acre. Therefore, the scope of work is not subject to GP-0-20-001 and the NYSDEC Design Manual. As such, a drainage analysis shall be provided to demonstrate that there will be no increase in runoff under the proposed developed conditions of the site. Should stormwater management facilities be required to mitigate increases in site runoff, subsequent plans submission shall show their location along with supporting construction details.
13. The following comments are relative to the site plan and its conformance to the International Fire Code (IFC). The Town Fire Official shall have final authority on the applicability of these comments to the proposed site layout:
  - a. If the proposed building is to be provided with an automatic sprinkler, show the location of the fire department connection to ensure they are reasonably accessible.
  - b. Section 912.2 of the IFC requires a fire hydrant to be located within 100-feet of the building's fire department connection. It is not clear from the plans where the closest hydrant to the site is or where the fire department connection may be. Additional hydrants may be necessary.
  - c. Show or note the location of any required Knox Box associated with the building.
  - d. The fire apparatus access road on the concept plan appears greater than 150 feet in length so a turn-around will be required to meet Section 503.2.5 of the IFC. Also, if the building is greater than 30 feet in height, an aerial fire apparatus access road will be required meeting the requirements of Appendix D, Section D105 of the 2020 Fire Code of New York State (FCNYS).
  - e. Provide a turning template analysis for the largest emergency vehicle that may respond to an event at the site.
14. Considering the plan submitted is conceptual in nature, we will reserve further comments until more detailed plans and reports are submitted. Subsequent submissions shall include information as outlined in Section 208- 115 of the Town zoning specific to lighting, erosion control and stormwater management to fully assess the design and its compliance to the applicable standards.

### **Public Comments:**

Anthony LaFleche - 21 Wheeler Drive - Mr. LaFleche asked the applicant why the applicant doesn't want to use a shared driveway anymore. Mr. Dannible stated that the owner has a separate business that he wants to accommodate with access to the front of the garage with larger box trucks coming in and out of the property.

### **Planning Board Review:**

Mr. Andarawis asked if the access of the garage could be from the rear of the property. Mr. Dannible stated the biggest problem with the garage to the rear of the building would inhibit

maneuverability of the large trucks such as UPS vehicles, and to make it work, additional parking would have to be taken away from the building.

Mr. Ferraro asked for the landscaping plan and the facade renderings for future submittals. Mr. Dannible stated that the landscaping is taken into considerations, and with the carriage house garage doors, this would look like a large estate residential lot.

Mr. Neubauer stated he agrees with the comments made by the ECC and Mr. Andarawis about putting the garage doors in the back. He stated he understands the complexity, but would like to see if it could be an option. He stated that the B1 zoning was created for residential look of the business along Route 146 and this will not be a larger commercial structure but having the garage facing the road, then it would still be undesirable.

Mr. Ferraro would like to see the land clearing plan for the site on the next submission and stated that he agrees with the other Board member's comments. Mr. Ferraro stated that he would like to see EV charging stations provided on this site.

Mr. Dannible asked if the Town would have any issues with a garage attached to a commercial building. Mr. Scavo stated that he does not believe so as he is taking the cars that are already parked there and moving them to a structure.

**Discussion Items:**

None

Mr. Szczesny moved, seconded by Mr. Neubauer, adjournment of the meeting at 11:40 p.m. The motion was unanimously carried.

The next meeting of the Planning Board will be held as scheduled on February 23<sup>rd</sup>, 2021.

Respectfully submitted,

**Paula Cooper**

Paula Cooper, Secretary

