

Excerpted from the Planning Board Minutes June 13, 2006

[2004-047] Kain Development Group, LLC – Proposed (16) lot subdivision, Longkill Road –Possible determination from preliminary public hearing held on February 14, 2006 and reconvened on April 11, 2006.

Mr. Frank Fazio, consultant for the applicant, presented a revised subdivision plan for the Board's review and listed the changes that have been made to the plan in an attempt to address comments offered by the Town Engineer, Board members, Mr. Kemper, and the public. **The plan has been reduced by two (2) building lots:** the plan now calls for the construction of sixteen (16) single-family residences. The road length has been reduced by 250 linear feet. The speaker explained that these changes will reduce the impacts to non-jurisdictional wetlands. He also stated that the ACOE has determined that wetlands to the north of the site are non-jurisdictional. **Fencing will be installed to protect Land Preservation Areas.** Utility easements that serve the Wassenaar residence have been field located and are indicated on the plan. A 75-foot wide easement has been provided to National Grid. The proposed sanitary sewer line will be extended along Parkside Trail: this will require the installation of a retaining wall along the stormwater management area that serves the park. **A trail connection from the proposed subdivision to Parkside Trail has been included on the plan.** Mr. Fazio presented a plan that illustrated existing conditions that produced substantial run-off to adjoining properties and a plan that illustrated post-development conditions. He concluded that post-development run-off would be less than pre-development run-off.

Mr. Kemper stated that this project last appeared before the Board on April 11, 2006. All additional letters received since the last meeting have been copied for the Board members' review. Sign-offs must be provided by the Saratoga County Sewer District and the Clifton Park Sewer District. A hook up fee will be assessed on each house prior to the issuance of a building permit. A sign-off must also be provided by the Clifton Park Water Authority. The proposed fencing along the wetland boundary must be illustrated on the plans. A Saratoga county Department of Public Works Work Permit must be provided. Plantings must be placed in and around the stormwater management area

Mr. Grasso commented that Clough, Harbour, and Associates reviewed the revised plans that were submitted by the applicant and found them, with the exception of a few minor technical issues, to be generally complete. He noted that the applicant has submitted a revised Long Environmental Assessment Form that appears to be accurately prepared. He also advised the Board that if the application receives preliminary approval, the applicant will submit plans to the NYS Department of Health and the NYS Department of Environmental Conservation for required approvals.

Mr. O'Brien provided the following comments on behalf of the ECC. The Commission reiterated the recommendations made at their February 7, 2006 review of this project, as follows: The following standard statements should be added to the plot plan:

- Federal jurisdictional wetlands have been identified on this site. The Town of Clifton Park Building Department shall be notified before undertaking any land disturbance activities in Federal wetlands.
- No salts, fertilizers, pesticides, or other materials may be used on this property where they will contaminate any wetland areas or surface water through runoff, leaching, or in any other manner which violates the New York State Environmental Conservation Law (ECL).
- The borders of all land that is to remain undisturbed shall be clearly marked on the site before site preparation begins. These on-site boundary markers shall remain until construction is completed and soils are stabilized.

- All erosion and water quality controls shall be put into place at the initial phase of site preparation and shall be maintained until all construction ends and soils are stabilized.
- The applicant will control fugitive dust and debris during the construction/demolition phase of the project.

The ECC strongly requests that the applicant perform a mature tree inventory. Based on those results, the Planning Board may consider increasing the number of trees required to be replaced to offset losses due to cutting and extensive backfilling that is proposed. The ECC recommends that a 50' no-cut buffer be created around the perimeter of the property. It was recommended that this area be conveyed to the Town of Clifton Park.

Mr. Bulger focused attention of the proposed land preservation areas, noting that the Town will be granted the right of enforcement. Mr. Pelagalli explained that the applicant will be required to include a note on the plans that establishes such authority. In response to Mr. Bulger's concerns regarding the off-site connection to the sanitary sewer and proposed trail connection, Mr. Grasso reported that engineering review of the project determined that both were adequately designed. Mr. Karam asked that the plan show that isolated wetlands – particularly those on Lot #10 – be included as Land Preservation Areas. Mr. Bulger reported that he had spoken with John Connell, representative of the Army Corps of Engineers. Mr. Connell expressed his satisfaction with the wetland delineation as depicted on the revised project plan.

Mr. Larkin stated his opposition to the issuance of a negative declaration for the application and the granting of preliminary approval, explaining that, in his opinion, environmental impacts had not been sufficiently evaluated and addressed. He submitted calculations regarding the potential impacts that the proposed tree removal would have on air quality. A copy of his calculations is attached to these minutes. He has concluded that the Planning Board does not have sufficient information to issue a negative declaration pursuant to SEQRA.

Mr. Bulger addressed the audience, speaking particularly the members of FOLK, stating that he appreciated all the input from area residents who had researched information and thoughtfully presented it to the Board. He pointed out that as a result of their efforts, the plan had changed significantly. He invited one spokesperson to speak on behalf of those opposed to the project.

Mr. Jeff Baker, legal representative for FOLK from the firm of Young, Sommer, LLC, recognized that the applicant has offered a "diminution" of the project, but questioned whether the application has met all SEQRA review standards. Labeling the comments included in the documents provided by the Board entitled "Comments from Kain Development Public Hearing: February 14, 2006" and "Comments from Kain Public Hearing: April 11, 2006" as "conclusionary" and "incorrect," he noted that no calculations regarding the site grading or the amount of fill to be brought to the site had been provided by the applicant. He argued that the Board had not considered potential drainage problems, the fact that the project is served by a single detention basin, loss of wildlife habitat, the value of wetland areas, and other potentially significant impacts to the environment and requested that the Board recommend the completion of an EIS. Though he stated his appreciation for the Board's efforts in offering comments in response to public concerns, he found the documents provided "no substitute for the strict, formal preparation of an EIS."

Mr. Bulger spoke in response, informing Mr. Baker that he disagreed with the statements expressed and that the Board believes that impacts and alternatives have been studied in-depth and to the Board's satisfaction. He further stated that the comments provided reflected the opinions of a majority of Board members and that the applicant has met all reasonable development standards. Mr. Karam addressed

Mr. Baker's comments, stating that all Board members diligently reviewed all comments and shared in the preparation of the documents presented to the public.

Mr. Russell recused himself from any comment and/or vote on this application.

Mr. Bulger moved, seconded by Mr. Karam, to establish the Planning Board as Lead Agency for this application and to issue a negative declaration pursuant to SEQRA. Ayes: Pace, Karam, Hughes, Bulger. Noes: Larkin. Abstained: Russell

Mr. Hughes offered Resolution #15, seconded by Mr. Karam, to waive the final hearing for this application and to grant preliminary approval conditioned upon satisfaction of the comments offered by Mr. Kemper, Mr. Grasso and the incorporation of the document entitled Comments from Kain Development Public Hearing: February 14, 2006 and Comments from Kain Development Public Hearing: April 11, 2006 in the negative declaration prepared by the Planning Board pursuant to SEQRA. Ayes: Pace, Karam, Hughes, Bulger. Noes: Larkin. Abstained: Russell