

Clifton Park Planning Board Meeting, January 26, 2016
5 Dhara Court, Fence in LPA

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I'll be brief and only address those issues that have changed since the last appearance of this agenda item on November 10, 2015.

1. I still believe that the wood fence installed on the 5 Dhara rear property line is in violation of the Land Preservation Area conditions. However, the Town's engineer has ruled that the rear property line is not within the LPA.
2. The confusion regarding two subdivision maps has been resolved. There was a revision to the subdivision map on April 17, 2012 that adjusted the LPA on the Gendron (Wassenaar) boundary from 40 feet to 50 feet. Unfortunately, the Tree Clearing Plan provided by the builder used the original map that showed a 40 foot LPA. To be sure that the Town had the correct map, I FOILED the Planning Department for the map and received the proper (50 foot) map.
3. John Scavo has proposed a plan to ensure that the LPA conditions will be communicated to the homeowners. In a December 8, 2015 e-mail, John proposed that the Tree Clearing Plans will have the LPA restrictions noted and he will "require the building department as a condition of the certificate of occupancy to have evidence provided that the proposed deed for the parcel contains the specific LPA covenants and restrictions."

Summary:

1. The homeowner's built the existing wood fence without knowledge of the LPA restrictions. The wood fence is legitimate according the Town's engineer. I assume other homeowners in the Kain Preserve can build fences on their property lines. But if the fence is not "on" the property line, it would be in violation of the LPA restrictions.
2. I assume that 10 feet of the LPA on the Gendron side has probably been cleared since the builder used the outdated map for the tree clearing plan. Not much can be done to restore that area, but certainly, if tonight's request is approved, I hope the Board will require the new fence to honor the 50 foot LPA.
3. I hope the Board will endorse John Scavo's efforts to raise the awareness of the LPA restrictions to new homeowners. I also recommend that existing homeowners in the Kain Preserve be notified of the restrictions.

As for tonight's decision regarding a fence inside the LPA, I hope this does not set a precedent for other homeowners in Kain Preserve. Recall that without the LPA, the developer would have cleared the entire subdivision.

Thank you