

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, September 23, 2015 at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town Officials present were Director of Community Development James Callahan, Junior Planner Jonathan Bleuer, Senior Building Inspector David Metzger, Confidential Secretary to the Supervisor Karen Jurek, Town Attorney Lawrence Meckler, Town Engineer Tim Lavocat, Director of Administration and Finance Pamela CuvIELLO, Planning Board member Paul Shear and Historic Preservation Commission Vice-Chairperson Carol Conwall.

Director of Community Development – James Callahan

Public Hearings:

Keepsake Homes - Andrew and Ronald Grimm 8196 County Road

Applicant is requesting to construct a 12-lot Open Space Design Development. The proposed site is located on the north side of County Road, east of Stahley Road on existing 7.24 acres of vacant land located in the Traditional Neighborhood District. An Open Space Design Development Overlay requires Town Board approval. The Planning Board recommended a Negative Declaration under State Environmental Quality Review Act and an Open Space Design Development Overlay approval for a 12-lot single family residential development. A Public Hearing is required to consider an Open Space Design Development Overlay.

Janice Carson 10589 Main Street

Applicant is proposing to sell vehicles at this location. The proposed site is located on the south side of Main Street, west of Ransom Road at existing commercial structure located in the TND Zone and within the Clarence Hollow Overlay. Currently there is an office building in the front and a vehicle detail operation to the rear operating under a Temporary Conditional Permit. In 2009, the Town Board took no action on a similar request for an automotive sales operation, requesting that the applicant clean up the property. The property has been improved since the 2009 request and the applicant is seeking consideration for an automotive sales operation. Per the Zoning Law the Town Board may consider automotive sales via a Temporary Conditional Permit. Details on display area and the number of vehicles should be addressed.

Russell Salvatore Jr. 6449 Transit Road

Applicant is proposing to demolish the existing residential structure and construct a new mixed use building with approximately 6700+/- square feet of commercial space and eight (8) residential multi-family apartments. The proposed site is located on the east side of Transit Road, north of Old Post Road in the Major Arterial Zone. A 2008 Master Plan 2015 amendment identified that the property should be identified in a Restricted Business Zone to guide future growth. Per the Zoning Law, the Town Board has final authority to amend the Zoning Map and to issue Special Exception Use Permits. The Planning Board has forwarded a recommendation to amend the zoning to Restricted Business per the approved Master Plan 2015 amendment from 2008 and to issue a Special Exception Use Permit on the project as designed. A recommendation under SEQRA is also a part of the Planning Board action.

Work Session items for consideration October 14, 2015:

Essex Greens at Waterford Phase II Final Plat

Applicant is seeking Final Plat approval for Phase II of Essex Greens at Waterford. This phase includes 27 patio home lots along private roads. The proposed site is located on the north side of Roll Road, east of Dana Marie Parkway within the Waterford PURD.

Town Attorney Lawrence Meckler

Town Attorney Meckler has three items to discuss in Executive Session regarding pending litigation and the employment history of an employee.

Town Engineer Tim Lavocat

The bids for the Parks Lavatory Facility Project and the Pole Barn addition project were opened on September 17th, this is the third time this project has been bid out. These are two separate projects but they are dependent on each other – the demolition of the existing parks shop and the construction of a new rest room facility and the construction of pole barn/shop addition by Parks office. The bids came in better than the first two openings (the rest room facility bid came in at \$237,000 and the pole barn addition bid \$120,000). Town Engineer Lavocat did not feel that the prices would come in any better than this. There is a bond in place for \$350,000 some of that money was used for the design of the building. With the bids in place, we are approximately \$30,000 under the base bid. Parks Department employees will be doing some of the work. We have to do asbestos abatement, demolition, site utilities, site prep and all the interior finishes and fixtures, finish electric and plumbing as well. The materials required for that portion of the contract which is not in the base bid total \$80,000. The Town Board would have to allocate up to \$80,000 from the General Fund Balance. Town Engineer Lavocat can move forward on both projects if the Town Board wishes to allocate these additional funds. Councilman Casilio stated that some of these funds could come out of the Parks Department budget, he will make the motion for additional funds. Asbestos abatement will be contracted out and will be included in the \$80,000 of additional funds. The Highway Department and Parks Department will work together on the demolition portion of the project to prepare the site for the contractor.

Supervisor David Hartzell***Motions:***

- Announce that the Erie County Legislature has designated the annual 30-day time period which a landowner may request viable agricultural land be included into a certified agricultural district
- Accept bid for sealing and striping Town Hall, Library and Youth Bureau parking lots
- Approve an unpaid medical leave of absence to Highway Department employee Timothy Blakely
- Grant permission to Karen Jurek and Robin Sendlbeck to attend the Erie County Transportation Coordinators meeting on September 23, 2015 at 9AM
- Reschedule Discover Main Street Fun Ride for October 10, 2015

Councilman Bernard Kolber

Councilman Kolber has one Attorney-Client item he would like to discuss in Executive Session

Councilman Patrick Casilio***Motions:***

- Set Public Hearings to consider entering into Contracts with Fire Companies for Fire Protection for the Town of Clarence
- Award the Bid for Main Town Park Restroom Facility Project
- Award the Bid for Main Town Park Pole Barn Addition Project

Councilman Peter DiCostanzo

The joint Town Board/Planning Board meeting is scheduled for September 30, 2015.

Councilman DiCostanzo and Pam Cuiello met with the Town's new insurance health care provider LMHF (Labor Management Healthcare Fund). The meeting was very informative. It was suggested that Pam budget to the maximum for next year. They are also into Wellness and how to keep healthy which will control costs.

There is a morning Work Session scheduled for October 7, 2015. The Comptroller is sponsoring a Webinar from 10AM – 11:30AM regarding the Tax Cap. Councilman DiCostanzo suggested setting the Webinar up in the Town Board meeting room and everyone can be in on the conference.

Motions:

- Appoint Albert Weber as Assessor for the Town of Clarence
- Grant 1-year leave of absence to Albert Weber from Civil Service Real Property Appraiser Position
- Re-appoint Patricia LiBassi to Board of Assessment Review
- Post the position of General Mechanic with flex hours for the Parks Department

Councilman DiCostanzo has one item to discuss in Executive Session regarding the employment history of an individual.

Councilman Robert Geiger

Motions:

- Post the position of Youth Activities Leader PT-Seasonal for Youth Bureau
- Resolution in support of NFTA proposed route extension
- Authorize Supervisor to sign amended agreement regarding the Cell Tower located at 6221 Goodrich Road
- Appoint Melanie Arrison to the Conservation Advisory Board

Motion by Supervisor Hartzell, seconded by Councilman DiCostanzo to enter into Executive Session pursuant to § 105(1) D of the Open Meetings Law to discuss pending litigation; § 105(1) F the employment history of a particular person. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:28PM

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Geiger to adjourn the Executive Session at 6:50PM. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, September 23, 2015 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 7:30 p.m. Councilman Robert Geiger led in the pledge to the flag, followed by a moment of silence.

Members of the Town Board present were Councilmembers Robert Geiger, Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler and Town Engineer Timothy Lavocat.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to accept the minutes of the previous work session and regular meetings held August 26, 2015. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to accept the minutes of the morning work session held September 2, 2015. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell made the following announcement: As a reminder, the month of September 2015 has been designated by the Erie County Legislature as the Annual 30-day Period during which landowners may submit requests to include predominantly viable agricultural land into any existing certified agricultural district in accordance with Section 303-b of the New York State Agricultural and Markets Law. A public hearing on the submitted applications will be scheduled to consider all requests and the date will be announced. The Erie County Department of Environment and Planning will accept applications from September 1 through September 30, 2015 and the contact person is Elias Reden, Planner, with the Erie County Dept. of Environment and Planning at (716) 858-1911. Information and applications are also available from the Office of the Clarence Town Clerk and the Assessor's Office and on the Erie County Dept. of Environment and Planning website www.erie.gov/environment.

Motion by Supervisor Hartzell, seconded by Councilman Casilio that upon the recommendation of Highway Superintendent, James Dussing, the Town Board accepts the bid from Autumn Paving Incorporated of Amherst, NY, to crack seal, seal and stripe the Town Hall, Library and Youth Bureau parking lots for an amount not to exceed \$10,105.00.

On the question, Supervisor Hartzell said Autumn Paving Inc. was the lowest responsive bidder for all three parking lots.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to approve an unpaid medical leave of absence to Highway Department employee Timothy Blakely from September 24, 2015 until such time as a determination is made on his pending application for a New York State Disability Retirement.

On the question, Supervisor Hartzell said the granting of this request is due to extreme, extenuating circumstances for Mr. Blakely, who has a current application for disability retirement pending with the New York State retirement system. Mr. Blakely is subject to the provisions of Article 22 – section 22.2 of the Town of Clarence Blue Collar Unit Contract. Any future requests by Mr. Blakely or any other persons in the future will be taken on a case-by-case basis at the discretion of the Town Board. The Town Board is not creating a precedence setting policy by granting this request.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to grant permission to Karen Jurek and Robin Sendlbeck to attend the Erie County Transportation Coordinators Meeting on Wednesday, September 23, 2015 at 9:00 a.m. at the Cheektowaga Senior Center to discuss the Going Places/Transportation Program.

On the question, Supervisor Hartzell said this meeting notice was e-mailed to Karen Jurek on September 21, 2015 that is why the motion is being done at this meeting. The only expense will be for mileage.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to approve the rescheduling of the following special event as follows:

Discover Main Street Fun Ride:

Date: Saturday, October 10, 2015 – 8:00 a.m. until 12:00 noon

Number of persons expected to attend: Approximately: 100-200+/-

Route: – as per the submitted route map.

On the question, Supervisor Hartzell said this event was originally scheduled for September 12, 2015 but cancelled due to the rain. All appropriate authorities will be notified and a Certificate of Insurance is on file in the Town Clerk's Office for the Town of Clarence. The applicant will obtain any permits they may need from Erie County and New York State for use of their highways, if applicable.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said he received a letter from the Historic Preservation Commission including a recommendation resolution to designate 10375 Main Street as a local historic landmark. It represents a 20th Century Colonial Revival Cape Cod. It is the former home of Thomas Todoroff, a Broadway playwright and screenwriter who was raised in this home. It is located near the Clubhouse and Historic Museum and fronted by iconic fieldstone walls.

Supervisor Hartzell recognized Alayne Donner who was present from the Chamber of Commerce.

Motion by Councilman Casilio, seconded by Councilman Geiger to set Public Hearings to be held on October 28, 2015 to consider entering into contracts with the fire companies for fire protection in the Town of Clarence for the year 2016 as follows:

7:50 pm	Clarence Center Volunteer Fire Company for an amount not to exceed (One-year Contract)	\$ <u>836.00.00</u>
7:55 pm	East Amherst Fire Department (Three year contract-2016, 2017, 2018)	
	2016	\$ <u>274,640.00</u>
	2017	\$ <u>280,133.00</u>
	2018	\$ <u>285,736.00</u>
8:00 pm	Harris Hill Volunteer Fire Company (Two-year contract-2016 & 2017)	
	2016	\$ <u>742,000.00</u>
	2017	\$ <u>746,015.00</u>
8:05 pm	Rapids Volunteer Fire Company (Three year contract-2016, 2017, 2018)	
	2016	\$ <u>42,549.00</u>
	2017	\$ <u>43,400.00</u>
	2018	\$ <u>44,268.00</u>
8:10 pm	Swormville Volunteer Fire Company To consider amending the 2014-2016 multi-year contract between the Swormville Fire Company, Inc. and the Town of Clarence for the year 2016 term only to reduce the contract amount to reflect the New York State 2016 tax cap rate of .73% over the funds received for the year 2015 To the new rate amount of	\$ <u>224,090.00</u>

On the question, Councilman Casilio said the Swormville Fire Company, Inc. has a three year contract that includes the years 2014, 2015, and 2016 that was approved in 2013 with a yearly increase of 2% for 2014, 2015 and 2016. New York State has a tax cap rate of .73% for 2016 and the Fire Company has agreed to reduce the contract amount for the 2016 year term of the contract to comply with the tax cap rate as required by the State.

Councilman DiCostanzo said Clarence Center and Harris Hill have the biggest numbers, but that is because their districts are entirely within the Town. The others are only a portion in the Town. It was said not to exceed these numbers. People should be ready to negotiate on these numbers because we will not meet the cap with 3% increases.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to adopt the following resolution:

RESOLVED, that after holding an open competitive public bid the, the Clarence Town Board awards the Main Town Park Restroom Facility Project to Algaier Construction Corp., Inc of Clarence Center, New York in an amount not to exceed \$237,000; and be it further

RESOLVED, that the Supervisor is authorized to sign and enter into an agreement with Algaier Construction Corp., subject to review and approval of the Town Attorney's Office.

On the question, Councilman Casilio said this is to be funded from Capital Project 1401 and General Fund.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to adopt the following resolution:

RESOLVED, that after holding an open competitive public bid the Clarence Town Board awards the Main Town Park Pole Barn Addition Project to Parco Building Systems, Inc. of Newfane, New York in an amount not to exceed \$119,638; and be it further

RESOLVED, that the Supervisor is authorized to sign and enter into an agreement with Parco Building Systems, Inc. subject to review and approval of the Town Attorney's Office.

On the question, Councilman Casilio said this is to be funded from Capital Project 1401.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to adopt the following resolution:

WHEREAS, Christine Fusco is retiring from the position of Assessor for the Town of Clarence effective September 30, 2015, before the expiration of her term of office creating a vacancy; and

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board hereby appoints Albert Weber to the position of Assessor for the Town of Clarence to fill the unexpired term of Christine Fusco to be effective October 1, 2015 and ending September 30, 2019 at the rate of \$70,000 through December 31, 2015.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to grant a one year leave of absence to Albert Weber from the Civil Service Real Property Appraiser position effective October 1, 2015 to accept the appointment to the position of Assessor for the Town of Clarence.

On the question, Councilman DiCostanzo said the leave of absence will continue on a yearly basis and be granted at the Annual Organizational meeting of the Town of Clarence.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that upon the recommendation of Assessor Christine Fusco, Patricia LiBassi is re-appointed to the Board of Assessment Review for a 5-year term at the budgeted rate of pay commencing October 1, 2015 through and including September 30, 2020. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to post the position of General Mechanic with flex hours for the Parks Department at Step 1 of the Blue Collar Union Contract Salary Schedule. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo thanked Christine Fusco for her years of service as Town Assessor. She did a great job for us, along with the many extra hours helping the Town of Lancaster.

Motion by Councilman Geiger, seconded by Councilman Casilio to post the position of Youth Activities Leader PT-Seasonal for the Clarence Youth Bureau. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Casilio to appoint Melany Arrison to an opening on the Conservation Advisory Council effective September 24, 2015 with a term to expire on December 31, 2016.

On the question, Councilman Geiger said this is to fill an opening left by Lynn Merckel.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Casilio to approve the following resolution:

WHEREAS, The Niagara Frontier Transit Authority (NFTA) currently provides regular bus service between the University Station in Buffalo and the Eastern Hills Mall in Clarence with stops along Main Street as well as to the ECC North Campus; and

WHEREAS, there is an effort by various business, labor and community groups as well as the Brother of Mercy Campus and Harris Hill Nursing Facility proposing that the NFTA extend this bus route beyond Eastern Hills Mall to provide service to other businesses and organizations in the Town of Clarence; and

WHEREAS, this route extension would help residents without independent means of transportation to access shopping, recreational and social opportunities, provide service to Main Street and Transit Road business for employees and expand employment opportunities in the suburbs.

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board supports this route extension and calls upon the NFTA to review the request for this expanded route which it believes would not only help meet the employment needs of local employers, but would also help residents, especially low-income and the senior population without independent means of transportation to access shopping, recreational and social opportunities; and be it further

RESOLVED, that the Clarence Town Board directs the Town Clerk to forward a copy of this resolution to the Niagara Frontier Transit Authority.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Casilio to authorize the Supervisor to sign the Amended Agreement for the installation of conduit for an upgrade along the Engineering Building to the Cell Tower Site located at 6221 Goodrich Road subject to Town Attorney approval. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger congratulated Daniel Gamin on receiving 11 blue ribbons for his apples at the Erie County Fair.

Councilman Geiger announced that the Scarecrow Festival is on Saturday, September 26th at the Farmer's Market.

Town Clerk Nancy Metzger said we received a Notice of Highway Closure from the County of Erie stating that a portion of Goodrich Road from County Road to Lapp Road will be closed from Thursday, September 22, 2015 through Friday, October 2, 2015 or until complete. The purpose is to mill/overlay and widen/strengthen the shoulders. This is the first phase of the roadwork on Goodrich Road.

Public Participation

Paul Lucas said in regard to the NFTA bus route, he has gone up and down Main Street to see if people were interested in having buses come out past Main and Transit. He found out businesses were having an issue keeping employees because of how far they had to walk. He gathered ten pages of signatures of people interested in having the route extended.

Councilman Kolber said the Town Board is in favor of it, however, it is not our decision to make.

Supervisor Hartzell said a decision should be coming in the next month or so.

Mr. Lucas said there are also Clarence residents who would like to have transportation to job opportunities or places of interest in the city. He found one gentleman on Transit who works at Lowe's and walks to his second job at Dunkin Donuts.

Councilman Casilio said he has been working on this with Councilman Geiger. He sees the people get off at Main and Transit and walk down to Walmart to work. He hopes that will be part of the discussion also.

Mr. Lucas said it is an unsafe situation for many.

Another resident said she and half of their group here tonight are Clarence residents and some are from Buffalo as well. She thanked the Board for passing this resolution.

Violet Oldenski, Vice Chair of the Board of Directors of the Clarence Senior Center said a large part of our population is seniors who have lived in the Town and supported our businesses and schools. It becomes more difficult for them to drive especially in the winter. We have the senior van and rural transit, but there is limited use. It would be nice to have a smaller bus go to the Brothers of Mercy, the library, town hall and senior center. There are many businesses and neighborhoods in between to have access to. People would not have to rely on others for a ride.

A Public Hearing was held to consider an Open Space Design Development for a 12-Unit Subdivision at 8196 County Road. James Callahan said the location is the north side of County Road east of Stahley Road within the Traditional Neighborhood Zone and Erie County Sewer Dist. No. 5. The Planning Board has forwarded a recommendation on the project.

Andrew Grimm of Keepsake Homes and owner said they instituted about eight items recommended by the Boards. They created a 10ft. buffer zone next to lot #12. The road was moved more toward the east property line. A 10 ft. tree preservation and landscaping with monuments was created along the west property line. They added additional 15 to 20 evergreens to supplement the existing separation and landscape. They offset lots 1 and 2. The fire hydrant is shifted to one side of the road and included no parking signs. They worked with the DEC and Army Corp of Engineers for wetland application approvals. Erie County said there are no impacts to the traffic.

Supervisor Hartzell said he sat in on meetings and they show great flexibility in working with the Town.

Councilman Kolber said in the open space developments, they take out the wetland segment and do not consider it in the calculations. It still complies with that removed.

James Callahan said the density in a Traditional Neighborhood District is higher. They did take out the wetlands and hydro soil area and included the 200ft. setback in the calculations. It is all factored in to the 12 lots.

Speaking to the subject:

Sumnesh Mathur said he recently moved to Rivera Way and wanted to know if there is any tree buffer between the two developments.

Councilman Casilio pointed out there is a 150 ft. buffer.

Councilman Kolber said it is owned by a separate owner.

Terry Finn said the property just referred to is his. His home is at the front and will be only about 15 ft. from the road. He has gone through a two year nightmare with Rivera Green. The stuff they did to his family and his property is unbelievable. There was no respect for anyone's property. He has no reason to believe he will not go through it again with this development. There is currently quite a drop in elevation where the road is going to go. If they are raising it up, where will the water go? It will run down to his home. The road is now right along his property.

Mr. Finn said people do not think that there is going to be a traffic issue, but Stahley Road is only 500 feet away and he will now have a road coming out on both sides. He does not think it is fair that no one cares about the long term resident already there. He is very concerned about the drainage on his property. It would have made much more sense for them to have the access road off of Stahley Road on property that they owned.

Supervisor Hartzell suggested that he come in and talk to the Town Engineer next week.

Councilman Casilio said we do not generally allow water to drain on to another property.

Town Engineer Tim Lavocat said that is correct. We do not have the drawings yet. He would be happy to sit down with Mr. Finn once he has the information.

Mr. Finn said he does not think a lot of the neighbors are thrilled about this.

Councilman Kolber said he would like to know what the grade change is going to be. It could make his situation much worse.

With no one else speaking to the subject, motion was made by Supervisor Hartzell, seconded by Councilman Casilio to close the public hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said he has questions for the applicant about how much they are raising the grade and what drainage mitigation measures there are to prevent water from flowing onto other properties.

Wes Stone from Bissell said he also worked on Rivera Green and the work they did there should have stopped a lot of the water from draining onto the other property. They will do the same thing pipe it to the ditch and through. They are not going to dam it up.

Councilman Kolber said the natural water flow is to the northwest to Ransom Creek.

Mr. Stone said they are going to change the grade about three feet or so. They have not gotten that far yet. He believes they can work everything out to keep the water flowing.

Councilman Kolber said he does not want to see problems. He asked why they did not go through the lots on Stahley Road.

Mr. Stone said the sewer is deeper on County Road.

Councilman Kolber said the lots were sold in the last few years and it might have made a better project.

Councilman Casilio said the grade next to Mr. Finn's house is going to be at grade level as it is now. It is going to be raised three feet back in the cul-de-sac.

Mr. Finn said it would have been better off of Stahley Road.

Motion by Supervisor Hartzell, seconded by Councilman DiCostanzo that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, a Negative Declaration is issued on the proposed Grimm/Keepsake Homes Open Space Design Development. This Unlisted Action involves the development of a 12 lot subdivision in the Traditional Neighborhood District and within Erie County Sewer District #5. After thorough review of the submitted site plan and Environmental Assessment Forms and upon recommendation from the Planning Board it is determined that the proposed action will not have a significant negative impact upon the environment.

On the question, Councilman Kolber said that after looking at the impacts, there is the potential for a significant impact on the neighbors that are there. He thinks that needs to be addressed and you cannot issue a negative declaration.

Upon roll call – Ayes: Councilmembers Geiger, DiCostanzo, Casilio and Supervisor Hartzell; Noes: Councilman Kolber. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Geiger to adopt the following resolution:

RESOLVED, that after a public hearing duly held on September 23, 2015, and after all interested parties having been heard, the Clarence Town Board approves an Open Space Design Overlay for the proposed Grimm/Keepsake Homes 12 lot subdivision as per the conceptually approved design from Bissell Stone Associates dated October 3, 2014, with the following conditions:

1. Final Landscape Plan approval by the Landscape Committee
2. The rear (west and south property lines) of Lots 1-7 shall be designated as open space and protected by a conservation easement and defined by placement of permanent monuments.
3. "No Parking" signs are to be installed on the hydrant side of the road.
4. Subject to Open Space and Recreation Fees on future building permits.

On the question, Councilman Kolber said he has concerns and thinks it is premature. He does not like the road so close to the neighboring property. He does not believe it was planned properly when there was ownership of the properties on Stahley Road. The placement of the road on the one side of the property close to the neighbor is not right. He does not like not knowing what the grade changes are going to be.

Upon roll call – Ayes: Councilmembers Geiger, DiCostanzo, Casilio and Supervisor Hartzell; Noes: Councilman Kolber. Motion carried.

A Public Hearing was held to consider a Temporary Conditional Permit for an automotive sales operation at 10589 Main Street. James Callahan said the location is the south side of Main Street, west of Ransom Road consisting of an existing commercial building. The applicant is proposing to display vehicles for sale in the parking area.

Janice Carson said she would like to sell cars at her property. She has been here before, but was denied.

Councilman Geiger asked if she could display the cars in the back with none in the front.

Ms. Carson said she can if the Board says she has to.

Councilman DiCostanzo said this Board is not real receptive to car sales in that area.

Councilman Casilio suggested she try selling from the back for the first one year permit and see how it goes.

Councilman Kolber complimented her on the improvements to the building.

Janice Carson said she can use the other office in the front or she has one in the back.

She asked how far back the cars would have to be. The tenant uses spaces in the front. She was thinking along the fence. There has been detailing of cars for many years at this location and she never had a problem.

Councilman Casilio said he is envisioning starting at the fence line and going back.

Janice said there are other car sales in the area.

Speaking to the subject:

Jean O'Connell said she is a resident and business owner of a property near this location. She is the president of the Hollow Association, although she is speaking only on behalf of herself and not the board. They have worked long and hard in the Hollow to make it a better place to bring businesses with foot traffic. In her opinion she does not see this as a place for another car dealership. Before you know it, we will become the Hollow with car sales. She understands she owns the building and would like to see it rented for another purpose. We have made great strides in the last four years to bring it back. She does not believe this is an appropriate use in the Hollow.

Councilman Casilio said as a compromise she could put the cars beginning where the garages are about 40 feet from Main Street. It would not change the look of the area.

Janice Carson said she wants to sell cars there. They are all nice and her building is in great shape. She does not see how it will change the look of the Hollow.

Councilman Casilio said she has improved her building and got rid of vehicles on the site.

Councilman DiCostanzo said we give them the permit and they do not abide by the conditions.

Supervisor Hartzell said there is no enforcement.

Councilman DiCostanzo said he would be fine with it if they are toward the back.

Councilman Kolber said once you open the door, how do you tell the next person no.

Councilman Casilio said she made an effort to clean up her building and he would like to make an effort to have a compromise for the Hollow Association and her.

Supervisor Hartzell said the proposal on the table is she can start the display where the two buildings diverge from the lower roof on back.

With no one else speaking to the subject, motion was made by Supervisor Hartzell, seconded by Councilman Casilio to close the public hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to approve the following resolution:

RESOLVED, that after a public hearing duly held on September 23, 2015, and after all interested parties having been heard, the Clarence Town Board grants a Temporary Conditional Permit to the applicant, Janice Carson/The Car Factory, for the display and sale of automobiles at 10589 Main Street subject to the following conditions:

1. Permit good for one (1) year.
2. No more than five vehicles to be displayed in the rear of the building.
3. No signs/banners, open hoods, etc.
4. The vehicles must be behind the drop to the second level of the building.

Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider rezoning 6449 Transit Road from Major Arterial to Restricted Business. James Callahan said the property is located on the east side of Transit Road north of Old Post Road consisting of vacant residential property in the Major Arterial Zone. The applicant proposes to demolish the existing home and construct a new mixed use building for store fronts and eight residential units. The proposal will require a change in zoning from Major Arterial along the Transit Road frontage to Restricted Business. This change in zone is in conformance with the 2008 amendment to the 2015 Master Plan.

Michael Metzger, engineer for the applicant said the parcel is just under 5 acres with Major Arterial zoning in the front and Residential Single Family at the rear. They are proposing 6,700 sq. ft. of retail space and eight apartments. The second floor would have six apartments and two on the lower floor along with the retail space. His client developed this concept after the amendment to the Master Plan to downsize the zoning in this area. The Town has modified the Restricted Business classification to allow low-scale retail uses in addition to the residential component. It is also in compliance with the Multi-Family law. It appears to be consistent with the Town's view of this area. The Planning Board made a recommendation for approval of the rezoning and the Special Exception Use Permit.

Councilman Kolber asked what the setback from Transit Road is.

Mr. Metzger said it is 135 ft. from center of the road and aligns with the existing Floss building next store.

Councilman Casilio asked if there were plans for the rear of the property. He also asked if it can be developed.

Mr. Metzger said they do not have any plans at this time.

James Callahan said the rear is restricted to the Single Family Zoning. There are also wetlands.

With no one else speaking to the subject, motion was made by Supervisor Hartzell, seconded by Councilman Geiger to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Board, the Clarence Town Board issues a Negative Declaration on the proposed Rezoning, Demolition and Special Exception Use Permit located at 6449 Transit Road. This Type I Action involves rezoning in conformance with Master Plan 2015 from Major Arterial to Restricted Business, the demolition of a structure constructed prior to 1950, and the issuance of a Special Exception Use Permit to allow for development of a mixed use building. After thorough review of the submitted site plan and Environmental Assessment Forms and upon recommendation from the Planning Board, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to adopt the following resolution:

RESOLVED, that after a public hearing duly held on September 23, 2015, and after all interested parties having been heard, the Clarence Town Board approves the rezoning from Major Arterial to Restricted Business as per the described portion of the property located a 6449 Transit Road. This action is in conformance with Master Plan 2015 and The Future Land Use Map with Master Plan 2015.

Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider a Special Exception Use Permit for a mixed use building at 6449 Transit Road. James Callahan said that with the change in zoning, a Special Exception Use Permit is required for the mixed use building.

Michael Metzger was present for the applicant.

With no one speaking to the subject, motion was made by Councilman Casilio, seconded by Councilman Kolber to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to adopt the following resolution:

RESOLVED, that after a public hearing duly held on September 23, 2015 and after all interested parties having been heard, the Clarence Town Board approves a Special Exception Use Permit to allow for the development of a mixed use building at 6449 Transit Road that includes 8 units of multiple family housing and 4 commercial store fronts as per the approved concept plan from Metzger Civil Engineering dated April 17, 2015 and the submitted elevations from Sutton Architects dated September 23, 2015 subject to the following conditions:

1. Subject to Landscape Committee approval prior to Development Plan.
2. Subject to Open Space and recreation Fees.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to approve the following uses: Clubhouse Applications - A. Cub Scout Pack 563 Wolf Den 2015 – 2016 monthly meetings; B. Cub Scout Pack 563 Bear Den 2015 - 2016 monthly meetings; C. Ski Club Foundation – September 24, 2015; D. Clarence Girl Scouts – October 25, 2015; E. Clarence Hollow Association – December 14, 2015; Legion Hall Applications – A. Girl Scouts Book Exchange – March 8, 2016; B. Girl Scout Troop #30943 – 2016 monthly meetings; and Nature Center – A. Cub Scout Pack #563 – September 27, 2015; B. Clarence Middle School – October 16, 2015. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of September 24, 2015 are approved for payment: General Fund - \$235,247.42; Highway Fund - \$113,510.76; Water District - \$1,425.01; Fire Protection Districts - \$307.92; Drainage District - \$557.28; Lighting Districts - \$563.12; Sewer Districts - \$304.00; Capital Fund - \$11,347.00; and Trust & Agency 203 - \$14,919.00 for a total amount of 378,181.51. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Heather Malone asked what the Town does to enforce conditions of car sale operations. What if the one approved tonight on Main Street does not comply? She asked if there is follow-up.

Councilman Casilio said they get written up and the cars disappear and then sometimes they reappear.

Councilman Kolber said they are reviewed as the permits expire and we usually rely on complaints.

Councilman Casilio said the Planning Department responds to all complaints.

Jean O’Connell said she has a new member on her board who is going to have the job of patrolling the Hollow for violations. They are going to be much more vocal about anyone who is violating the code.

Supervisor Hartzell thanked Chris Fusco for the excellent job she has done on behalf of the Towns of Clarence and Lancaster. She was one of the best department heads to serve the Town of Clarence. We appreciate everything she has done.

There being no further business, Supervisor Hartzell adjourned the meeting at 9:00 p.m.

Nancy C. Metzger
Town Clerk