

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, December 5, 2012, at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 9:00 A.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, Assistant Planner Brad Packard, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat and Deputy Town Attorney Steven Bengart.

**DEC Officer – Michael Phelps**

Officer Phelps has received numerous complaints about hunting on town owned property off of Greiner Road. There is not much Officer Phelps can do if the property is not posted. A copy of NYS Trespass Law was distributed. Under the Conservation Law, the property has to be posted once a year. If you have a square piece of property, each corner has to be posted along with a sign in the middle or one sign every 640 feet – depending on the size of the property. The sign must bear the name of the owner, owners address and it must indicate what you don't want people to do on your property – in this case, "No Hunting, No Trapping." This way the property can be used recreationally. Once the property is properly posted for the year, you do not have to go out and continually post it even if a sign gets torn down, blown down or taken down or for whatever reason all the signs are gone, the property is considered posted for one calendar year from the date it was posted.

Once the property is properly posted, Mr. Phelps would need a deposition from the town indicating they want anyone caught hunting or trapping on the property arrested for trespass. If he receives a complaint of someone hunting on the property he can then issue an appearance ticket for local court and request the individual leave the property. Currently if someone is hunting on the property, Officer Phelps can ask them to leave but the individual can come back the next day because the penal law does not apply.

A Personal Service notice can be served to an individual in the name of the owner. A Personal Service notice is a notice in writing containing a description of the premises and a warning not to enter the property for purposes of hunting and trapping. Once the person is served the notice, if the person goes on the posted property, he can be issued a ticket for trespassing. The only problem with this is the only person affected by this is the person who was served the notice. Once a person is served notice, he cannot go back on the property as long as the Town owns the property.

Councilman Geiger stated that the property in question is owned by the Town but is leased to a farmer for farming. Officer Phelps stated that the town is the property owner and depending on what the lease says, the town can say what can and cannot take place on the property.

Deputy Town Attorney Bengart stated that the Recreation Advisory Committee's position per the Bond Act has always been that if you were able to use the property before for hunting, you could continue to use it as such. Officer Phelps stated that the Greiner Road property is not recommended for hunting, Beeman Creek is more viable.

Officer Phelps met with Supervisor Hartzell yesterday and basically the town owned property on Greiner Road has become a problem with hunters. People are hunting the back of the field and are shooting towards Greiner Road. You cannot shoot within 500 feet of a residence, a business, factory or a working farm building. You cannot shoot across a road or from a road.

Supervisor Hartzell stated that deer season ends in one week, he suggested meeting again with Officer Phelps in two weeks to determine what town owned properties in Clarence are problem areas, post those properties and leave the rest open. He would like to come up with some type of comprehensive plan for hunting season next year.

**Director of Community Development – James Callahan**

*Multiple Family Residential Overlay*

James Callahan distributed the final draft of the Multiple Family Residential Overlay as recommended by the Planning Board. It does have a Negative Declaration and is up to the Town Board for consideration.

Higher density housing in the form of multiple family housing shall not be considered an “as of right” use within any zoning classification, the Town Board shall determine the placement of such Multiple Family Overlay Zones based upon their design features and their impact upon the character and economic sustainability of the Town.

The intent of the Multiple Family Residential Overlay Zone is to provide design standards to ensure that multiple family residential development is properly integrated into the character of the Town by providing for preservation of valuable commercial property within the Town for development of commercial uses, preservation of Open Space, facilitation of interconnectivity between commercial uses and between multiple family and other residential uses where appropriate.

Multiple-Family Housing will only be allowed on properties within sewer districts as approved by the Town Board.

A map was distributed showing existing multi-family and commercial zones where multi family would be allowed (if the law was adopted). Minimum lot size for consideration of a Multiple Family Overlay Design shall be 5 acres which limits development to the Wehrle – Transit Road area and Transit Road near County Road. The Town Board has sole discretion; they do not have to over-lay anything. The beauty of this is that it is a zone; it is not a Special Exception Use.

The maximum unit density in a Commercial Zone will be determined based on entire parcel acreage.

Allowed density will vary according to size of multiple family units:

- 1) bedroom – 12 units per acre
- 2) bedrooms – 10 units per acre
- 3) bedrooms or greater – 8 units per acre

The Planning Board analyzed what variances have been granted in the past and identified that as the number that a private investor is going to be able to make a reasonable return on. The Town Board has the option to change the density numbers to make it more restrictive.

There are fewer options for multi-family in the Restricted Business Zone; five properties were identified on the map.

The restrictions for multi-family in a Traditional Neighborhood District include a maximum density of 4 units per acre; there shall be no more than 16 units on any land parcel. Multiple Family Overlay Design shall require a two (2) acre minimum lot size. Scale and design standards must be compatible with hamlet features as identified within the TND Zoning District. The opportunities for sewer, Traditional Neighborhood Districts on two acre lots would be restricted to Clarence Center (Leamer property) and two potential properties along Main Street in the Hollow.

The General Design Standards are carried over from the current Special Exception Use Permit requirements. It insures that the design meets minimum standards for unit size and design characteristics.

The Planning Board spent much time on whether or not to allow Multiple Family Residential projects on unsewered lots. The maximum load you can put on a private system that the Health Department under the authorization of the DEC allows is 10,000 gallons per day which would amount to 25 units regardless of lot size. A super majority approval of the Town Board shall be required for multiple family developments on unsewered lots in a Commercial Zone.

The Town Board, at its sole discretion may upon recommendation of the Planning Board allow multiple family development within commercial zones on land parcels less than five (5) acres. The requirements include:

1. The development must be a fully integrated mixed use (commercial use on ground level with apartment(s) overhead). Reserving land area for commercial uses is not permitted in this instance
2. Maximum multiple family development density will be six (6) units per acre
3. Buildings shall be limited to two (2) stories
4. A super majority approval of the Town Board is required

Councilman Kolber asked what the advantage is having an over-lay vs. a MFR zoning category.

James Callahan stated that we want to encourage commercial growth. With a MFR zoning category, you would have to specify where multi-family would be allowed within the town. The over-lay gives the Board discretion to over-lay on any property or not, rather than identify it up front. The overlay offers flexibility and gives the Town Board the ultimate authority. Assistant Planner Brad Packard stated that if the Town Board were to create a separate MFR zoning district, you would have to proactively select sites throughout the community and zone them. You cannot create the zoning designation and not have land available. You would also have to amend the zoning map to include multi-family zoning somewhere.

Councilman Kolber biggest concern is along Main Street. James Callahan stated that under the proposed over-lay, multi-family would not be allowed unless you had a five acre, sewerred parcel. The over-lay is a zoning classification and the Town Board has sole discretion.

Councilman Kolber stated that he would feel more comfortable with a MFR Zoning category vs. an over-lay. Mr. Callahan stated that the Planning Board researched this intensely and recommends the overlay. It offers the most flexibility and still gives the Town Board sole discretion. Councilman Casilio concurred.

Councilman Kolber stressed that he still would like to see an actual MFR Zoning category, when a developer proposing to develop a multi family housing looks at our map he can be directed to the MFR Zones. Mr. Callahan stressed that if you look at the map, there are very limited opportunities for multi-family.

Town Attorney Meckler stated that the over-lay protects the Board and the Town from having a developer challenge them in court. The entire discretion is with the Town Board. The beauty of this is that it does not commit the Board to anything in the overlay except as the Town Board sees fit.

Councilman Casilio stated that he would like to discuss making changes in the density section of the proposed overlay draft. Further discussion on the over-lay will continue at the Work Session this evening. Town Engineer Lavocat stated that he would like to see the section regarding Exceptions – Unsewered Lots removed from the proposed overlay draft.

Supervisor Hartzell met with Parks Security. Supervisor Hartzell said “Parks Security is a good force; we are trying to make it a great force.” Security will decrease their hours in the winter and increase them during the summer months. Our grant writer is working on obtaining grant money for a security vehicle, bullet proof vests, night vision equipment and electric golf carts.

Councilman Geiger displayed pictures of the snowflakes being put up along Main Street. The Christmas lights will not be strung across Main Street, you need two dedicated poles with a 40” clearing between the primary wires to be able to do this.

The senior van has been stenciled and the running boards are being installed.

#### **Aflac – supplemental insurance**

Supervisor Hartzell has looked around for supplemental cancer insurance to offer town employees. It would not involve a lot of paper work for the accounting department and does not cost the tax payers.

A representative from Aflac distributed information explaining the different benefits offered. Regular health insurance pays the doctor and the hospital, Aflac pays employees directly. Aflac has been around since 1955, they will pay claims within one week. Aflac tries to cover all those things that regular health insurance does not cover. Most people do not realize that if you are ill or injured and are in the hospital almost 50% of your costs are not medical related. You still have to pay your mortgage, rent, car loans, food etc. if you can't work, those bills don't get paid. Aflac tries to cover the co-pays, deductibles, daily living expenses etc.

Aflac's policies are portable, if an employee buys a policy and then leaves employment, they can take the policy with them at the same rate. Aflac's rates never go up. They may change policies or add different policies in which case they give that person the opportunity to keep their old policy at the same rate or they can buy the new policy and get the loyalty rate. Their policies are guaranteed renewable for life. Aflac will never drop you no matter how many times you make a claim.

Signing up with Aflac is relatively easy. The Board would sign on with Aflac and allow an Aflac representative to meet with town employees to discuss the various plans. The employees would choose what plans they want and the premium will be deducted from their pay. Once a month the town would submit payment. Most of their policies are pre-taxed so at the end of the year the town gets a tax break because you will be paying less FICA.

The policy most people take is the accident policy; it pays in many different ways and pays on top of no-fault, disability, workers compensation and on top of your own health insurance. It also pays whether you have a pre-existing condition. The cost of this plan is \$5 per week. The supplemental insurance is completely voluntary for those employees wishing to sign up. Whatever rate you take your policy out at today, is the rate you will pay forever.

Councilman Casilio said that before the town moves forward with this, he would like to talk to Labor Attorney Heather Giambra; he does not want to be setting a precedence. Supervisor Hartzell stated that Ms. Giambra was contacted. Town Attorney Meckler stated that informational packets could be made available to town employees giving them the opportunity to take advantage of the insurance or not. The town is not paying for the insurance, it is up to the individual employees to decide whether or not they want the coverage, the premium would come out of their pay. Most towns offer Aflac to their employees. Councilman Casilio said that he did not want to see this as part of any union negotiations.

Supervisor Hartzell would like to offer this supplemental insurance to town employees; it does not cost the taxpayers any money. A notice could be inserted in town employees paychecks letting them know what is available and who to contact.

Councilman Geiger suggested looking at what other companies have available. Director of Administration and Finance Pam Smith stated that several different representatives from Aflac have contacted the Town throughout the years. There has not been any interest from the employees so Pam never moved forward with it. More interest has been generated now because of the cancer policy Aflac carries.

Pam Smith stated that in the past in speaking with the labor attorney she was advised that if the town did offer this supplemental insurance we would have to open the contract and the Town Board at that time was not willing to do that. Councilman Casilio stated that before the Town moves forward with this, he would like to contact our labor attorney for her input and advice.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to adjourn the Executive Session at 11:00 AM. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 11:00 AM.

Darcy A. Snyder, Deputy Town Clerk

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Deputy Town Clerk