

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, June 13, 2012, 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 Patrick Casilio, Peter DiCostanzo and Robert Geiger. Councilman Kolber was absent. Other Town officials present were Deputy Supervisor Kathleen Hallock, Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, and Confidential Secretary to the Supervisor Karen Jurek, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith and Planning Board member Robert Sackett.

**Director of Community Development – James Callahan**

***Public Hearings:***

*Affordable Senior Housing of WNY – 8040 Roll Road*

Applicant is proposing to develop a 3-story senior apartment complex containing 125 units with associated parking and landscaping. The proposed site is located on the north side of Roll Road, east of Transit Road on existing vacant and residential property containing 9+/- acres in the Commercial and Residential Single-Family Zone. The Town Board recently approved a Master Plan 2015 amendment to allow for Commercial and Restricted Business Zoning on the property. Per the Zoning Law, the Town Board is the final authority for zoning amendments as well a Special Exception Use Permits required for multi-family housing in the Commercial and Restricted Business Zones. The Planning Board has forwarded a recommendation to proceed with the required Zoning Map amendments. A Negative Declaration under SEQRA was previously issued by the Town Board on the proposed zoning amendment. The Planning Board has approved the Concept Plan as amended. The Planning Board has forwarded a positive recommendation to issue the Special Exception Use Permit on the project as amended.

Town Law is set up so that any Special Exception Use Permit for any multi-family housing development means the Town Board has the final say and it does require super majority approval of the Town Board. It also requires review and approval by the Planning Board which has occurred at this point. The Town Board does have the right to deny if the Board feels the project is out of character towards the goals of the community. You cannot deny based on personal preference or something that has been reviewed under SEQRA that has identified that there is no significant impact. Bottom line you need a super majority by the Town Board for multi-family in a commercial zone with sewers.

*Duff's Famous Wings/Kurt Feather – Eastern Hills Mall 4545 Transit Road*

Applicant is seeking a Temporary Conditional Permit for outside dining at existing vacant restaurant space within existing shopping mall located in the Major Arterial Zone. Per the Zoning Law, the Town Board has final review and approval authority for Temporary Conditional Permits.

*The Valley Bar and Grill – 10651 Main Street*

Applicant is proposing an area for outside dining at existing restaurant located on the southwest corner of Main Street and Sawmill Road in the Clarence Hollow TND. Per the Zoning Law, the Town Board may approve outside dining with a Temporary Conditional Permit.

***Formal agenda items:***

*Kelly Marquart 6105 Salt Road*

Applicant is proposing to develop a single-family home and is requesting a secondary living unit be developed as part of the permit. The proposed site is located on the east side of Salt Road, north of Clarence Center Road on existing vacant parcel located in the Agriculture Rural Residential Zone. Per the Zoning Law, the Town Board may consider a secondary living unit with a Special Exception Use Permit. Applicant is aware of all the conditions associated with a Special Exception Use Permit including deed restrictions.

*Towne Mini 8230-8240 Main Street*

Applicant is seeking approval to develop an automotive sales/service operation which will require a Special Exception Use Permit from the Town Board. The proposed site is located on the northwest corner of Main Street and Westwood Drive on existing vacant property located in the Traditional

Neighborhood District and Commercial Zones. Per the Zoning Law, the Town Board has authority to issue Special Exception Use Permits for automotive uses. The Planning Board has approved the Concept Plan and forwarded a recommendation on the Special Exception Use Permit. A Negative Declaration under SEQRA was issued by the Town Board on the project. Truck access will be from Bryant & Stratton Way. A public hearing will be required to consider the permit.

*Niagara County Produce 8555-8615 Transit Road*

Applicant is proposing to construct a new facility. The proposed site is located on the east side of Transit Road, south of Tonawanda Creek Road at existing retail produce market located within the Major Arterial Zone. As the full build out will exceed 50,000 square feet, a Special Exception Use Permit as issued by the Town Board will be required. The Planning Board has approved the concept and forwarded a recommendation on the Special Exception Use Permit. A Negative Declaration under SEQRA has been issued on the project. A public hearing will be required to consider the permit.

*Excavation Permits – annual renewal*

- A. Buffalo Crushed Stone
- B. Emeritus Holdings
- C. 10000 Grand Corporation
- D. Lakeside Sod

All permit fees, bonds, tax receipts, DEC Permits and estimates are in order.

***Work Session items for consideration June 27, 2012:***

*Harris Hill Commons*

Applicant is proposing to develop an Open Space Design Subdivision consisting of 70+/- sub-lots on 62.73+/- acres. The proposed site is located on the west side of Harris Hill Road between Sheridan Drive and Greiner Road on an existing vacant parcel located in the Residential Single-Family Zone. The area is identified in a residential classification adjoining Sheridan Drive frontage located in a commercial classification. Per the Zoning Law, the Town Board has final authority to approve Open Space Design Developments. Formation of a sewer district to service the project is the principal issue. Isolation of the adjoining frontage on Sheridan Drive and Greiner Road is another factor in framing a comprehensive review of the proposed project. Referral to the Planning Board would initiate a formal review of the proposal.

*Main/Barton Master Plan 2015 Amendment 9105 and 9125 Main Street*

Applicant is seeking a Master Plan Amendment to allow for a commercial zoning classification on the two corner lots. The parcel is located on the south side of Main Street at the intersection with Barton Road on existing residential property located in the Residential Single-Family Zone. The area is currently identified as residential per the original map cover for the White Acres Subdivision approval. As stewards of Master Plan 2015, the Town Board has ultimate authority to amend the Future Land Use Map within MP 2015. The Planning Board has forwarded a recommendation to amend the Future Land Use Map at 9105 and 9125 Main Street to identify commercial zoning. As a part of the recommendation it is identified that a specific zoning classification would be considered at a future date under a separate application for a change in use on the property. Limiting factors associated with the future land use of the property include lot size and required setbacks to adjoining residential properties as well as the lack of public sewers.

**Supervisor David Hartzell**

The Town Board agreed to reimbursement Town Assessor Christine Fusco for the town portion of her cell phone.

There will be no morning Work Session on July 4<sup>th</sup>.

**Councilman Patrick Casilio**

Paving has begun at the intersection of Shimerville and Greiner Road intersection. There were delays tied to the metering control box for the over-head signal. The project is several weeks ahead of schedule. Supervisor Hartzell sent an e-mail to Charles Sickler last week inquiring as to whether or not a

small round-about could be considered in the future, Mr. Sickler is investigating that option with Erie County. Councilman Casilio felt that a round-about would have been the better option but at the time, Erie County was not sure how it would work.

Councilman Casilio received a voice-mail from a resident commending the town for taking down illegal signs littering the right of ways in the Town of Clarence. Councilman Casilio is requesting Town Attorney Meckler investigate a better Right of Way Sign Law. Town Attorney Meckler will have a draft for the Board to review by the next meeting.

Clarence Rotary welcomed home Honor Flight veterans Saturday night.

#### **Town Engineer Timothy Lavocat**

A motion was made at the May 23, 2012 meeting relative to payment for sanitary sewer easements at 6396 and 6400 Goodrich Road as part of the Keller Road pump station elimination project. The day after that meeting, one of the property owners withdrew from the agreement. Mr. Lavocat immediately contacted property owner who was still in agreement. The easement has been shifted 20 feet onto that one parcel for the same dollar amount originally agreed on. Councilman Casilio will rescind the motion of May 23, 2012 and adopt a new motion authorizing the execution of a 20 foot wide public sanitary sewer easement for the Keller Road pump station elimination project with payment of \$15,000 to Walter Wargala at 6400 Goodrich Road.

Town Engineer Lavocat is recommending the Town Board award the proposal to Nussbaumer and Clarke, Inc. to perform design services associated with the Brookhaven Drive sanitary sewer project.

#### **Councilman Peter DiCostanzo**

Colleen McCarragher is resigning her position as Youth Activities Leader RPT effective June 25, 2012. Councilman DiCostanzo will make a motion to post the position of Youth Activities Leader RPT at the rate of \$10.77 per hour.

Councilman DiCostanzo will make a motion to appoint Ryan Saenger to the position of Lifeguard PT Seasonal at a rate of \$10.28 per hour.

According to the Police Blotter, there have been several car burglaries. Residents should report suspicious activity to the police and keep their vehicles locked.

Residents can obtain pool passes Saturday, June 16<sup>th</sup> from 9AM – 3PM at the Town Hall. The town pool is tentatively scheduled to open June 17<sup>th</sup>.

#### **Councilman Robert Geiger**

Councilman Geiger will make a motion authorizing the Supervisor to enter into and sign an agreement with Rotella Grant Management to provide grant writing services to the Town of Clarence for a term of 6 months.

Clarence Hollow Association is hosting a concert at Asa Ransom House on Thursday, June 21, 2012; rain date will be June 28, 2012.

There will be a ribbon cutting at the Clarence Farmers Market at 11:00 AM on Saturday, June 16, 2012.

Councilman Geiger received a “thank-you” from the 5<sup>th</sup> grade class at Ledgeview Elementary School for reading to them.

Councilman Geiger has been in contact with Richard and Patricia Freeman to keep them informed relative to the intersection of Shimerville and Greiner Road.

Motion by Supervisor Hartzell, seconded by Councilman DiCostanzo to enter into Executive Session pursuant to § 105(1)C of the Open Meetings Law to discuss information relating to current or future

investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed. Upon roll call – Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Casilio, Supervisor Hartzell; Noes: None. Absent: Councilman Kolber. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to adjourn the Executive Session at 6:54 PM. Upon roll call – Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Casilio, Supervisor Hartzell; Noes: None. Absent: Councilman Kolber. Motion carried. No action taken.

The Work Session reconvened at 6:54 PM.

Town Attorney Lawrence Meckler distributed copies of the existing Grass, Weeds and Plant Growth Law which was adopted in 2009. §155-4 requires every owner of any parcel of real property located in the Town of Clarence shall cut, trim or otherwise remove or cause to be cut or trimmed or otherwise removed all grass, weeds or plant growth in excess of 10 inches. Code Enforcement is charged with the responsibility to enforce this article. Councilman Casilio felt that this is a lengthy and time consuming procedure for our Code Enforcement Officers who should be doing building inspections. Town Attorney Meckler stated that the law has “teeth.” Councilman Casilio felt that the town was not exercising the requirements of this law. Councilman Casilio would like to see court held during the day for these offenses because that is when Code Enforcement is working.

Town Attorney Meckler referenced §155-9B – The cost of labor, machinery and materials of the Town or the cost of services of an independent contractor – the town has hired an independent contractor. In addition, a surcharge of 25% of the cost for independent contractor or \$150, whatever is greater, to reimburse the Town for the cost of supervision and administration. The said cost and surcharge shall be levied upon the property or premises which are the subject of the enforcement action and shall be collected in the same manner as Town taxes and assessments. §155-10 the penalties for offenses are \$250 or by imprisonment for a period not exceeding 15 days for each offense. Town Attorney Meckler stated that this is the maximum amount allowed by law to impose for this offense. Town Engineer Lavocat stated that everyone that has been put on notice up until now has cut their lawn. The Town has not actually used the independent contractor yet. Town Attorney Meckler did not feel the law could be improved upon. Administratively, you need to provide due process. Councilman Casilio stated that this all came about because of an angry resident complaint about a neighbor’s grass that grew to 11 inches; she did not feel Code Enforcement was doing their job.

Town Engineer Lavocat will be ready to report at each meeting the number of instances and what follow-up measures were taken and how many lawns the Town has had to maintain.

Supervisor Hartzell stated that he would like to explore the possibility of the Town of Clarence bike path connecting to the Town of Lancaster. He was not sure if it is possible, but what he would like to do is connect a bike path down Ransom Road with the path in the Town of Lancaster. Supervisor Hartzell will meet with Town of Lancaster Supervisor Dino Fudoli tomorrow. Depending on how that meeting goes, Supervisor Hartzell will then contact Erie County to see if Ransom Road could be striped for a bike lane. Ultimately, Supervisor Hartzell would like the paths to connect in Amherst as well; you could start in the Town of Lancaster, ride through Clarence, Amherst and eventually downtown on the bike path.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to adjourn the Work Session at 7:10 PM. Upon roll call – Ayes: Councilman Geiger, Councilman DiCostanzo, Councilman Casilio, Supervisor Hartzell; Noes: None. Absent: Councilman Kolber. Motion carried.

There being no further business, the Work Session adjourned at 7:10 PM.

Darcy A. Snyder,  
Deputy Town Clerk

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, June 13, 2012 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:30 p.m. Pledge to the flag was led by the Clarence High School Girls Varsity Softball Team, followed by a prayer read by Supervisor Hartzell.

Supervisor Hartzell congratulated the team who recently won the state championship.

Members of the Town Board present were Councilmembers Patrick Casilio, Peter DiCostanzo, Robert Geiger and Supervisor Hartzell. Councilman Bernard Kolber was absent as he is attending his son's graduation at Nativity of the BVM School. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, Town Engineer Tim Lavocat, Asst. Planner Brad Packard and Sr. Building Inspector David Metzger.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held May 23, 2012. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to grant a Special Event for a Block Party to Kathy Lopian to be held on West Point Drive on July 4, 2012. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Councilman Casilio said he received a compliment from a resident for the extra effort we have been doing to pick up signs in the right-of-ways. The Town Security Department has been doing a pretty good job. We are also looking at some possible revisions to the law.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to rescind the motion of May 23, 2012 relative to payment for sanitary sewer easements on 6396 Goodrich Road and 6400 Goodrich Road as part of the Keller Road Pump Station Elimination Project. On the question, Councilman Casilio said the second property owner previously involved withdrew from the agreement offer. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger that the Clarence Town Board hereby authorizes the execution of a 20-foot wide public sanitary sewer easement for the Keller Road Pump Station Elimination Project with payment of \$15,000 to Walter S. Wargala, 6400 Goodrich Road, Clarence Center, New York. On the question, Councilman Casilio said that easement will be large enough to allow us to move forward with the project. We should save approximately \$35,000 per year by eliminating the pump station. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to award the proposal to Nussbaumer and Clarke, Inc. to perform design services associated with the Brookhaven Drive Sanitary Sewer Project in an amount not to exceed \$20,300 in accordance with their proposal dated June 7, 2012. On the question, Councilman Casilio said the Nussbaumer and Clarke proposal was the lowest responsive proposal received. This project is to be funded from Capital Project 55. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Councilman DiCostanzo said the pool is scheduled to open on June 17, 2012. Pool passes are being issued at the Town Hall on Saturday from 9:00 a.m. to 3:00 p.m. with payment to be made by cash or check.

Councilman DiCostanzo said he would like to remind people to lock their cars at night. Residents all over are getting items stolen from their vehicles.

Councilman DiCostanzo said the home show will be held in Spaulding Greens this year from August 4<sup>th</sup> through 19<sup>th</sup>. More information will be coming out.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to post the position of Youth Activities Leader RPT – Provisional at the rate of \$10.77 per hour. On the question,

Councilman DiCostanzo said Colleen McCarriagher is resigning her position as Youth Activities Leader effective June 25, 2012. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Supervisor Hartzell to appoint Ryan Saenger to the position of Lifeguard PT Seasonal effective June 14, 2012 at the rate of \$10.28 per hour subject to receipt of all pre-employment paperwork and pre-employment requirements being met. On the question, Councilman DiCostanzo said this appointment is being made as Elizabeth Costanzo has accepted a position elsewhere. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio 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 Main/Barton Master Plan 2015 Amendment. This Type I Action involves a change to the Future Land Use Map within Master Plan 2015 for the corner lots at the intersection of Main Street and Barton Road from the current residential classification to a commercial classification. After thorough review of the proposal and the Environmental Assessment Form, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Councilman DiCostanzo congratulated the girls' softball team again, as they are the first state champion team title to win. There have been individuals, but this is the first team.

He added that Cat Peters also won the state title in golfing.

Councilman Geiger congratulated Andrea Kimbriel, editor of the Clarence Bee who won second place honors statewide from the New York Press Association for coverage of local government and Clarence Town news.

Councilman Geiger announced that the Clarence Hollow Association is holding a concert on Thursday, June 21<sup>st</sup> at the Asa Ransom House titled "The Beatles Play the Hollow".

There will be a ribbon cutting at the Farmer's Market on Saturday, June 16<sup>th</sup> at 11:00 a.m.

Motion by Councilman Geiger, seconded by Supervisor Hartzell to authorize the Supervisor to enter into and sign an agreement with Rotella Grant Management for professional services as a Consultant to provide grant writing services to the Town of Clarence for a term of six months beginning June 14, 2012 through December 14, 2012, at a cost not to exceed \$1,800 per month, the month of June to be prorated from June 14, 2012, subject to review and approval of the Town Attorney. Said agreement to be renewed for an additional six-month term by mutual consent of both parties. On the question, Councilman Geiger said Rotella Management is the current grant writer for the Town of Amherst and will be an independent contractor. At the end of the six-month period, the services provided will be reviewed. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Kelly Marquart requests a Public Hearing to consider a Special Exception Use Permit for a secondary living unit at 6105 Salt Road. James Callahan said the location is the east side of Salt Road, north of the Peanut Line consisting of a vacant parcel in the Agricultural Rural Residential Zone.

Kelly Marquart was present.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to set a Public Hearing for July 11, 2012 at 7:45 p.m. to consider a Special Exception Use Permit for a secondary living unit at 6105 Salt Road. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

A Public Hearing was held to consider adoption of a Local Law to amend the Code of the Town of Clarence, Chapter 229 – Zoning: Attachment 3 – Zoning Map, rezoning property identified as 8040 Roll Road from Commercial and Residential Single Family to Restricted Business in conformance with Master Plan 2015 to accommodate a senior housing project. James Callahan said the property is located on the north side of Roll Road, east of Transit Road consisting of a 9+/- acre parcel. Per the 2011 amendment to the Master Plan, the parcel is

recommended to be classified as commercial and restricted business. A Negative Declaration under the SEQRA was issued by the Town Board in 2011. The Planning Board forwarded a recommendation to approve the zone change.

Mark Collins was present representing Clover Construction, the applicant.

Speaking to the subject:

Darryl Remsen asked how a negative declaration was established under the SEQRA review with the traffic situation on Transit Road.

James Callahan said this project went through two separate reviews. One was for the Master Plan amendment, which was approved in December 2011. The second was for the specific project review, also approved in December 2011. NYS Department of Transportation and Erie County Department of Public Works were among the involved agencies and both commented that there was no significant impact associated with senior housing. This type of occupancy does not generate an impact on traffic.

Mr. Remsen said he would like to look at the documents. James Callahan said they are available in his office.

Mr. Callahan said the Planning Board has done a thorough review and analysis with multiple public hearings and this is the final action. Comments from residents and all involved agencies were reviewed.

Mr. Remsen said Councilman Kolber raised an issue with this. James Callahan said that was regarding a change in density in the Zoning Law, which did not happen. This is to change the zoning to an additional 180 ft. of commercial space and 300 ft. of restricted business. The project provides a 300 ft. buffer to the adjoining residential single family development.

Mr. Remsen said he believes that there will be a traffic impact with 135 units.

Mr. Callahan said it was a concern that was thoroughly reviewed.

Supervisor Hartzell said there is no IDA pilot for this project.

William Schuster said the Master Plan was enacted because previous boards were powerless to what was considered uncontrollable development. It was approved to maintain the rural character of the town. He does not think this one project will compromise that, it is all the others that could follow. You could open a door that you cannot close. If you wanted to increase the density for the Transit Road corridor only, that may be acceptable. He believes that we should proceed with caution.

Councilman Casilio said he believes that there is a big enough buffer on this plan to separate it from the residential area. He believes it phases back from Transit Road to the residential area in a good way.

Councilman DiCostanzo said we are addressing just this particular project and not changing the rules for the entire town.

Supervisor Hartzell said every project has to come before the Town Board. We are looking at this project, but that does not mean we are in favor of putting apartments all over the Town. We hear your concerns.

Joseph Kleinmann said he would like to go on record that he is opposed to the rezoning and prefers that it remain residential.

Dorothy Gerstner said she owns this property and built here 53 years ago because of the rural setting. She never came to the Town to complain about all the new development all around her. She does not believe it will generate that much traffic. The traffic is coming from Kippen Drive and Loch Lea. She has been trying to sell this property for four years and cannot afford to keep paying the taxes. It is a good fit and has a nice 300 ft. buffer. She would like to stay in her home and do some updating and remodeling.

Councilman Casilio said the 300 ft. buffer is very generous.

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. Absent: Councilman Bernard Kolber. Motion carried.

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

Resolved, that after a public hearing duly held on June 13, 2012 and after all interested parties being heard, the Clarence Town Board adopts Local Law No. 2 of the year 2012 amending the Code of the Town of Clarence, Chapter 229 – Zoning: Attachment 3 – Zoning Map, rezoning property identified as 8040 Roll Road from Commercial and Residential Single-Family to Restricted Business in conformance with Master Plan 2015 to accommodate a senior housing project. This local law shall become effective upon filing with the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

A Public Hearing was held to consider the request for a Special Exception Use Permit for Senior Multiple-Family Housing at 8040 Roll Road. James Callahan said with the zoning change that was just approved, the Planning Board has forwarded a recommendation on the concept plan and recommends that the Town Board grant a Special Exception Use Permit with conditions.

Speaking to the subject:

Joseph Kleinmann asked for clarification on the density of the project.

James Callahan said this is the design to include 135 units for senior housing with a 300 ft. setback.

Mr. Kleinmann asked if they considered a lower structure.

James Callahan said it is in conformance with the zoning by meeting the maximum height requirements. If you have a lower profile, it spreads on to the open space. It saves 70% open space with three stories. You would lose the 300 ft. buffer area. The development plan still needs to go through the Planning Board to work out the detail of the site design. Everyone will be notified when that is scheduled.

Dorothy Gerstner said when she looks at the houses out her windows, they are pretty high. She does not believe that the apartment building is much higher than that. She would rather have the three stories and keep more green space.

James Callahan said the landscape committee has not looked at this yet. That will happen with the development plan review.

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. Absent: Councilman Bernard Kolber. Motion carried.

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

RESOLVED, that the Clarence Town Board, after a public hearing duly held on June 13, 2012, and after all interested parties being heard, grants a Special Exception Use Permit for Senior Multi-Family Housing at 8040 Roll Road, subject to the following conditions:

1. Based upon the design submitted by C & S Engineers dated April 19, 2012.
2. Landscape committee review and approval of the entire parcel prior to any site construction commencing.
3. Sidewalks will be provided along the north/south driveway and to extend west along Roll Road to connect to the existing sidewalk.
4. Site lighting is to be dark sky fixture with no spill on adjoining properties.
5. Subject to appropriate fees.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

A Public Hearing was held to consider the request for a Temporary Conditional Permit for outside dining for new restaurant, Duff's Famous Wings, at Eastern Hills Mall. James Callahan said the location is within the Eastern Hills Mall consisting of an existing vacant space.

The applicant said they would like to add an outdoor seating area for eight tables. The area will be closed in with a black iron fence. They will keep the existing awning and the tables

in front of it will have umbrellas for shading. They will have speakers for background music and no live entertainment.

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

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

Resolved that the Clarence Town Board, after a public hearing duly held on June 13, 2012, and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Kurt Feather, for outside dining at Duff's Famous Wings, a new restaurant located at 4545 Transit Road in the Eastern Hills Mall, subject to the following conditions:

1. The Temporary Conditional Permit is granted for one year.
2. Hours of operation: Monday through Saturday 11:00 a.m. to 12:00 a.m. and Sunday 11:00 a.m. to 10:00 p.m.
3. Outdoor seating not to exceed 8 tables and 32 seats.
4. No live entertainment permitted.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

A Public Hearing was held to consider a Temporary Conditional Permit for outside dining for the Valley Grill at 10651 Main Street. James Callahan said the location is the southwest corner of Main Street and Sawmill Road in the Clarence Hollow Traditional Neighborhood District. The applicant is seeking a permit for outside dining at the existing restaurant.

Jason Krull said he will put in a temporary barricade inside of the area where a sidewalk would be. He would like to place 4 – 6 tables. There will be no live outdoor music.

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

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

Resolved that the Clarence Town Board, after a public hearing duly held on June 13, 2012, and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Valley Grill, for outside dining at an existing restaurant located at 10651 Main Street, subject to the following conditions:

1. The Temporary Conditional Permit is granted for one year.
2. Hours of operation: Monday through Sunday 11:00 a.m. to 12:00 a.m.
3. Outdoor seating not to exceed not to exceed 6 tables and 24 seats.
4. No live entertainment permitted.

Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Towne Mini requests a Public Hearing to consider a Special Exception Use Permit for an automotive sales/service operation at 8240 Main Street. James Callahan said the location is the northwest corner of Main and Westwood consisting of a vacant parcel in the Commercial and Traditional Neighborhood Zoning classification. The Planning Board has forwarded a recommendation on the site plan. A Negative Declaration was issued by the Town Board.

Bill Wincott, DR Chamberlin was present representing the applicant.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to set a Public Hearing for July 11, 2012 at 7:50 p.m. to consider the request from Towne Mini for a Special Exception Use Permit for an automotive sales/service operation at 8240 Main Street. On the question, Councilman Casilio said that they have a revised drawing with some changes to it. He appreciates everything they did. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Niagara County Produce requests a Public Hearing to consider a Special Exception Use Permit for a structure in excess of 50,000 sq. ft. at 8555-8595 Transit Road. James Callahan said the location is the east side of Transit, south of Tonawanda Creek Road consisting of an existing produce market in the Major Arterial Zone. The applicant is proposing to reconstruct the facility. The Planning Board has approved the concept. A Negative Declaration has been issued. This permit is required due to the size of the building.

Al Hopkins of Metzger Engineering was present. Mr. Hopkins said this has been through the Planning Board review and the environmental review and they are ready to move to the next step in the process.

Councilman DiCostanzo said this project has been reviewed by many agencies.

Councilman Casilio said he believes it will greatly improve that intersection and make it a lot safer.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to set a Public Hearing for July 11, 2012 at 7:55 p.m. to consider the request for a Special Exception Use Permit for a structure in excess of 50,000 sq. ft. at 8555-8595 Transit Road. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

James Callahan said the following have submitted applications, fees, DEC permits, bonds, insurance certificates and estimates for removal for the Annual Renewal of Excavation Permits: A. Buffalo Crushed Stone; B. Emeritus Holdings; C. Lakeside Sod and D. 10000 Grand Corporation. We have only received the standard complaints with Buffalo Crushed Stone, but they are very responsive and deal directly with the citizen.

Motion by Councilman Geiger, seconded by Councilman DiCostanzo to grant a one-year Excavation Permit to the following applicants as all required bonds, tax receipts, NYSDEC Permits, estimated removal amounts and associated fees are in order:

1. Buffalo Crushed Stone, 8615 Wehrle Drive
2. Emeritus Holdings, 10051 Wehrle Drive
3. 10001 Grand Corporation, 10001 Wehrle Drive
4. Lakeside Sod, 6660 Goodrich Road

On the question, Councilman Geiger said this is an annual renewal permit and all applicants must comply with conditions as established by NYSDEC and the Town of Clarence Excavation Law. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Howard Melancon said in regard to the low-flying plane on Memorial Day, he believes a group came to the Town for permission to hold the parade. He asked if anyone came in to ask for a permit for a plane to fly 400 ft. from the ground. He believes that there should have been a public hearing, especially after what this town went through. Whoever is responsible should think twice before flying so low in residential areas.

Supervisor Hartzell said the pilot is from Clarence Center. The Board did not receive any complaints.

Town Attorney Lawrence Meckler said he sure that they would have had to get approval from the FAA

Mr. Melancon asked if the Board could find out if they had approval.

Councilman Casilio said the American Legion sponsored the parade and they organized the flyover also. He did not think it was that low. Planes fly over his house every day that he believes are lower than that.

Town Attorney Meckler said we can make sure they had FAA approval, but it is not something that could be approved by the Town Board.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to grant approval for the following: Clubhouse Applications - A. Erie County Federation of Republican Women – June 19, 2012; B. Town of Clarence Youth & Recreation Departments – Oct. 18 - 20, 2012; Legion Hall Applications – A. Albert Weber – Dec. 30, 2012; and Park Pavilion Special Requests – A. Town of Clarence Youth & Recreation Departments – Oct. 17 – 20, 2012. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of June 7, 2012 are approved for payment: General Fund - \$81,404.61; Highway Fund - \$8,489.63; Water District - \$35,318.43; Capital Fund - \$2,062.90; Aquatic Growth District - \$1,035.00; and Trust & Agency 203 - \$30,850.06 for a total amount of \$159,160.63. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.

There being no further business, Supervisor Hartzell adjourned the meeting at 8:38 p.m.

Nancy C. Metzger  
Town Clerk