

Town of Clarence
Planning Board Minutes
Wednesday January 11, 2012

Work Session 6:30 pm

Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:30 pm

Approval of Minutes

Item 1

Corey Auerbach
Agricultural Floodzone

Requests Minor Subdivision approval to create one (1) new residential building lot at 9289 Tonawanda Creek Road.

Item 2

Spaulding Greens/Domenic Piestrak
Residential Single Family

Requests Preliminary Concept Review of Future Phases of Spaulding Greens Open Space Design Development.

Item 3

Clarence Center Overlay District

Preliminary discussion on design guidelines and proposed Overlay District Zoning within Clarence Center Hamlet.

Item 4

Sign Law

General discussion.

Chairman Al Schultz called the meeting to order at 7:34 p.m. Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz
Timothy Pazda
Paul Shear

Vice-Chairman Robert Sackett
George Van Nest
Gregory Todaro

Planning Board Members absent: Wendy Salvati, Richard Bigler

Town Officials Present:

Director of Community Development James Callahan
Planner Brad Packard
Councilman Peter DiCostanzo
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Nicholas W. Kubiszyn	Paul & Cheryl Hufnagel
Walter & Rita Grabowski	Matthew Druar
Michael D. Kuper	Marie E. Smith
Councilman Robert Geiger	Councilman Bernard Kolber
Brian & Dawn Seguin	

In the absence of Planning Board members Wendy Salvati and Richard Bigler, alternate member Gregory Todaro will participate in all discussions and vote on all agenda items this evening.

Motion by Paul Shear, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on December 14, 2011, as written.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Robert Sackett	Aye	Al Schultz	Aye

MOTION CARRIED.

Chairman Schultz explained that each agenda item will be introduced and discussed with the applicant. The Planning Board’s options will be made clear with each item. Prior to any decision or action, the public will be invited to speak on the item.

Item 1

Corey Auerbach Agricultural Floodzone	Requests Minor Subdivision approval to create one (1) new residential building lot at 9289 Tonawanda Creek Road.
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DISCUSSION:

Jim Callahan provided the background on the project stating the property is located on the south side of Tonawanda Creek Road west of Goodrich Road. It is existing vacant land consisting of 15.23+/- acres in the Agricultural Floodzone. The applicant is proposing to split the property to create two (2) lots; both are in conformance with the underlying Agricultural Floodzone Zoning. Per the Subdivision Law the Planning Board has final authority to approve minor subdivisions. Chairman Schultz said the Planning Board also needs to make a decision under the NY State Environmental Quality Review Act (SEQRA) on this project.

Corey Auerbach of Damon Morey, LLP is present on behalf of the petitioner and noted that the lots completely conform to the Town Code; they exceed standards for frontage and lot dimensions. There are no specific proposals at this time for any buildings on the lot although there is a concept for the north east lot. It is intended to become two (2) residential lots, each to accommodate a single-family home.

Robert Sackett asked if the applicant would request a variance. Mr. Auerbach said there is no intention to utilize a variance to accommodate anything other than what the code provides. Chairman Schultz explained that per the Code a new house would have to be built with a similar setback as those around it. There is a driveway that goes deep into the property, a variance was approved a while ago that

would allow a house to go back there, but Mr. Auerbach is saying that there is no intention to utilize such a variance.

Mr. Todaro noted that there are wetland areas to the east of the property that may require the applicant to obtain engineering approval. Chairman Schultz pointed out that any building will require approval from Erie County for sewers and for curb cuts.

Mr. Callahan explained that if a further split of this property was requested it would fall under a different category (a major subdivision) and would be reviewed at that time.

Nicholas W. Kubiszyn owns the three (3) lots adjacent to the north side of the project. He is concerned with where the drainage will go. He is also concerned with the driveway that was referred to; it is partially on his property in the back corner. He is not happy with the driveway being right next to his property. He asked if the applicant is going to leave trees on the back side of the property or will there be a berm put in. He wants to protect any future buyers of his lots from a view that they may not want to look at. Mr. Packard clarified that both lots are wholly within the 100 year floodplain and a potential Federal Wetland immediately east of the lots.

Brian Seguin asked how many houses are proposed and will the project affect the tax values of the homes in the area. Will the project affect the zoning in the area?

Chairman Schultz noted that the full build-out of the property will be 2 single family homes, one on each lot, Mr. Auerbach confirmed. Chairman Shultz said there will be no changes in zoning. The houses will be built using the same general setback as existing homes on surrounding lots. This property is in a floodzone so any work that is proposed must be reviewed and approved by the Town Engineer, the law requires that any new project not negatively impact drainage in the surrounding area. The applicant will not use the existing driveway, but will have a different curb cut in a different location. Mr. Auerbach does not know if the existing driveway will be removed since this is only at the Concept Plan stage.

ACTION:

Motion by George Van Nest, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Auerbach Minor Subdivision located at 9289 Tonawanda Creek Road. This Unlisted Action involves a minor subdivision to create an additional lot in the Agricultural Flood Zone. After thorough review of the submitted survey, Short Environmental Assessment Form (SEAF) and project file, it is determined that the proposed action will not have a significant negative impact on the environment.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Robert Sackett	Aye	Al Schultz	Aye

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, to **approve** the minor subdivision, located at 9289 Tonawanda Creek Road, per the submitted proposal, to create one new lot in the Agriculture

Flood Zone in conformance with underlying zoning requirements and subject to the following conditions:

1. Review and approval of the Town Engineer per the Flood Damage Prevention Local Law, on any future construction on the property.
2. Review and approval of the Town Building and Engineering Department related to any future building construction on the property.
3. Review and approval of the Erie County DPW related to any access drives/curb cuts related to future property development.
4. Review and approval of the Erie County Health Department related to any future on-site sanitary sewer facilities.
5. Any future construction subject to Open Space and Recreation Fees.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Robert Sackett	Aye	Al Schultz	Aye

MOTION CARRIED.

Item 2

Spaulding Greens/Dominic Piestrak
Residential Single Family

Requests Preliminary Concept Review of Future
phases of Spaulding Greens Open Space Design
Development.

DISCUSSION:

Jim Callahan provided the background on the project. It is located on the east side of Goodrich Road, south of Clarence Center Road and north of Greiner Road, adjacent to the previously conceptually and Development Plan approved Spaulding Greens Open Space Design Development. The applicant is proposing to further develop the Open Space Design Concept by adding properties adjoining the current Conceptual Approval.

Chairman Schultz noted that the Planning Board will be a recommending body for all phases of this project; the Town Board will make all decisions.

Dominic Piestrak is present and explained that a traditional neighborhood with an alleyway is proposed for Site A. The intention is for walkability to the Clarence Center Area. Mr. Piestrak said he is trying to do a 90' buffer but there will be at least a 75' buffer, so all the trees will remain that backup to Kamner Drive. There is a private driveway proposed that would service the alleyway and the garages. The houses would vary in size, some will be on 60' lots and others will be on 50' lots and they will be closer to the street.

Mr. Shear asked if the center front street will have sidewalks, Mr. Piestrak said yes. The rear, where the alleyway is, will be the garage entrances and trash collection. Mr. Shear asked if there is sufficient area to turn a vehicle around in. Mr. Piestrak said yes, the driveway goes around and empties back onto the court. On the upper part of the map, Mr. Piestrak pointed out a 45' green area that will be

maintained by a Homeowners Association. The snow will be put on the eastern portion of the site. Fences will be deed restricted.

Mr. Van Nest said this is an interesting concept and the Board needs a chance to evaluate it.

Mr. Sackett said this proposal amends the whole concept of Spaulding Green. Mr. Piestrak said he is adding to the concept, not changing it. Mr. Sackett asked if this proposal will be sewerred, Mr. Piestrak said yes it will be in Sewer District #2 which currently has problems.

Site B is a patio house project that would consist of four-plexes that range from 1200-1800 square feet in size. There will be patio houses with walk-outs that would be in the price range of \$500,000. There would also be houses that range from 1300-2100 square feet on 50' x 100' lots. All other areas will remain untouched. The neighbors to the east will have a 50' buffer.

Chairman Schultz asked if the lot size, the building size and the density meet the Residential Single Family Code. Mr. Callahan said these issues will have to be verified through the Open Space Design Law.

Ken Zollitsch of Greenman Pedersen said there will be 32 lots in Site B and 45+/- in Site A.

Mr. Pazda asked how the additional homes will affect issues like traffic and sewers.

Mr. Callahan explained that the proposal to amend the concept is subject to environmental review and will have to take place before the amendment is approved.

Mr. Piestrak said originally the impact statement regarding the sewer was on 500 homes, the project is below that number. Mr. Callahan explained that the Clarence Hollow Pollution Abatement identified 500 homes.

Mr. Pazda relayed a concern from absent Planning Board member Wendy Salvati. For prior precedent there was an expansion for development proposed for Dana Marie Drive which is similar to what is being proposed on this project; however it was denied due to the conflict of community character. Mr. Pazda said this needs to be looked at to be sure the Board is consistent.

Chairman Schultz noted that the open space for Site B is in Site A.

Mr. Piestrak said there would be one Homeowners Association to cover the entire development. His intention is to run the bicycle path to the north. Site A will connect to Sewer District #2, the problems in that district need to be resolved first. Site B goes to the Heise-Brookhaven Sewer line. The Planning Board will need assurance from the Town Engineer that the taps are there. Chairman Schultz does not want to approve a Concept Plan conditional on obtaining sewer agreements; he would like to get the agreements first. Mr. Piestrak is aware that if the sewer problem is not solved, he will not get approval for the subdivision.

Mr. Pazda noted that originally the applicant was using the area in Site A as open space. Mr. Piestrak said that is incorrect, that property was acquired since the original concept was submitted.

Vince Salvatore lives next to project site A, his property is just west of the entry way. He is concerned that the applicant is putting in a cityscape into a landscape that has been rural and suburban. He thinks

the plan is too dense. Project site A is vastly different than the rest of the layout. Mr. Salvatore is also concerned with the increased traffic that the project will generate and the possibility that Clarence Center Road will become a four (4) lane highway and at that point it will jut into his property.

Walter Grabowski, of Kamner Drive, has lived in Clarence for 50 years. He explained that years ago the project site was an orchard, then a gladiola field, then a corn field and then a soy bean field, the land is fertile and important to the eco-system as it is home to much wildlife. If it is destroyed the animal's habitat would be taken away. The trees are beautiful in the area; they are so close together, that if you take one down you will have to remove them all. He does not want to see it destroyed. He is also concerned with the traffic.

Paul Hufnagel, of 9715 Clarence Center Road, is concerned with the west side of the project where all the snow is going to be. He currently has drainage problems in his backyard, that snow is going to end up there. He has seen built up properties in the other phases of this project because the property is wet, he is afraid this will exacerbate the problem and then his property will be classified as wetland and he won't be able to live there anymore. He heard 50'-60' frontage on the proposed lots, he believes there is a frontage requirement in the Town and they are generally wider than 50'-60'. His other concern is that everything is being taken care of by a Homeowners Association, is this truck traffic coming into mow lawns or will there be on-sight services? Areas like the alleyway have to be plowed with small snow plows; will the Town be required to do this?

Matt Druar, of 5934 Kamner Drive, asked what the objective is to having the roads connect if there are no houses being placed on it. All he can see is more traffic, that traffic does not need to be there because they can just go down Clarence Center Road.

Vince Salvatore wanted to make the Board aware of the wetland flags that have recently been placed around the perimeter of his property and all throughout the project site.

Mr. Grabowski noted that there is a high pressure gas line 3' below surface and only 500' away from the site that goes to the UB Campus.

Carol Salvatore noted that she had to obtain insurance when she bought her house because there were "gyp" mines below her home; she was told these mines were all over. She is curious to see how these mines affect the project and the drainage. 27 years ago she chose to stay in Clarence because of the open air and the fields, had she wanted to live in a cityscape she could have.

Mr. Piestrak said the Federal Government is encouraging a walkable community; this design fits the environmentalist's desires today. He bought the property 25 years ago, there are wetlands on it and he knows that an archeological study needs to be done. He has discussed this with the Army Corp of Engineers who indicated it should not be a problem.

Mr. Van Nest thinks this is an interesting project; the Planning Board needs to determine what level of review is required. He noted that the property owner has the right to develop his property consistent with the Town and State Law. The Planning Board's job is to make sure development is consistent with those standards.

ACTION:

Motion by George Van Nest, seconded by Paul Shear, to **table** the project to allow the Planning Board time to evaluate the density and then be in a position to move forward with SEQRA review as appropriate.

ON THE QUESTION:

Chairman Schultz said one of the first items the applicant needs to address is to obtain assurance that the project can connect to sewers.

Mr. Todaro said clarification on the Concept needs to be noted, does the concept plan need to be re-submitted or is this project an addendum to the original?

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Robert Sackett	Aye	Al Schultz	Aye

MOTION CARRIED.

Item 3

Clarence Center Overlay District

Preliminary discussion on Design Guidelines and proposed Overlay District Zoning within Clarence Center Hamlet.

DISCUSSION:

Jim Callahan explained that this is property within the hamlet area of Clarence Center. The Planning Board is reviewing the concept of creating an Overlay District with Design Guidelines to service the Clarence Center Hamlet. The draft Zoning Code amendment for the Overlay and the draft Design Guidelines have been prepared for discussion.

Chairman Schultz explained that the request to look at the Clarence Center Overlay District came from the Town Board and they will take the final action on the item. The basic codes that affect this district are the Traditional Neighborhood District (TND), Commercial and Residential codes. The proposed changes will be made available to the public. Mr. Shear has volunteered to go through the draft with a few Clarence Center residents. The Overlay District is an area where there will be certain architectural standards and certain reviews by a Community Protection Control Board.

Mr. Shear said the intent is to have a review committee that looks at what potentially gets altered or built within the Hamlet of Clarence Center to be sure that what moves forward in the Town is consistent with what we have now. Concerns include example situations such as a developer who purchases 2 lots, levels the homes and builds something there, perhaps a shopping center.

Vince Salvatore likes this idea. A review is good so development doesn't change the area too much.

Chairman Schultz explained there will be a 3-5 member Community Protection Board, members will be from Clarence Center. They will look at anything that is proposed in the Hamlet and advise the Board. He explained that the residents wanted a "tighter" TND.

Paul Hufnagel asked if this would ever be construed as putting deed restrictions on any of the lots. Chairman Schultz said no.

Mr. Van Nest thinks this is a fine idea, on paper. His practical concern is that projects are developed in the real world. Although he appreciates the value of the aesthetics, the architecture and keeping those features consistent throughout a community, he looks at some of the proposed recommendations/requirements and he sees dollar signs and time. He wants to be cautious that the Town does not go in a direction that makes it too difficult or makes it too costly for property to be developed or redeveloped.

Bernie Kolber speaks on behalf of himself not the Town Board. Done properly, this should be a protection but not onerous. He thinks there should be two (2) separate overlay districts, one for the hamlet and one strictly for the TND area.

Mr. Todaro said the committee should consist of representatives from both the business and residential aspects.

ACTION:

Motion by Robert Sackett, seconded by Gregory Todaro, to **table** the draft Clarence Center Overlay Code and Design Guidelines for further review.

ON THE QUESTION:

The draft documents will be further reviewed by the Planning Board and by a small group of Clarence Center Residents, coordinated by Paul Shear as a Clarence Center Resident and member of the Planning Board.

Once finalized, the draft documents will be submitted to the Town Board to initiate SEQRA review prior to public hearing and approval.

Copies of the draft are available in the Planning and Zoning office. If anyone wants to comment on any part of the draft they should get their comments to Mr. Callahan or Mr. Shear. A document will be drawn up with all comments and concerns listed.

Mr. Pazda pointed out that the review is open to all members of the public.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Robert Sackett	Aye	Al Schultz	Aye

MOTION CARRIED.

Item 4
Sign Law

General Discussion.

DISCUSSION:

Jim Callahan provided the background on the agenda item explaining that the current Sign Law was adopted on September 23, 2009. At that time it was discussed that a review should occur at some point in the near future. It is a good policy to review the permits issued, variances granted and denied over the life of the new law to determine if any changes, updates or tweaks are necessary moving forward.

Chairman Schultz explained that this is a legislative matter so any decision will be made by the Town Board; the Planning Board is a recommending body for this matter.

Bernard Kolber, on behalf of himself, is concerned with the LED sign issue; how will these be reviewed? There are lights on some signs that are almost blinding at night, this should be addressed. The current Sign Law is not frontage dependent and he thinks it should be.

Chairman Schultz said the Board will look at the signs that went to the Zoning Board of Appeals, this includes LED signs.

ACTION:

Motion by Timothy Pazda, seconded by George Van Nest, to **table** any action regarding the current Sign Law, pending detailed review and further discussion by the Planning Board.

ON THE QUESTION:

It is the Planning Board’s intent to review the law with regard to sign permits granted and denied over the two years since the law was enacted. They will also analyze the variances requested and denied or granted by the Zoning Board of Appeals to determine whether technical adjustments may be in order. Final action on any changes will be a Town Board decision, acting on Planning Board recommendations.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Robert Sackett	Aye	Al Schultz	Aye

MOTION CARRIED.

Chairman Schultz thanked Councilman Geiger and Councilman Kolber for their attendance and participation in the meeting.

Meeting adjourned at 9:01 p.m.

Carolyn Delgato
Senior Clerk Typist