

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday November 13, 2013

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

Barry Family Trust
Agricultural Rural Residential

Requests Subdivision Approval to create five (5)
Residential Building Lots on County Road east of
Strickler Road.

Item 2

Sign Law Amendment

Discussion.

Chairman Robert Sackett called the meeting to order at 7:30 p.m.

Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
Timothy Pazda
Gregory Todaro

2nd Vice-Chairman Paul Shear
George Van Nest

Planning Board Members absent: Vice-Chairperson Wendy Salvati, Richard Bigler, Steve Dale.

Town Officials Present:

Director of Community Development James Callahan
Junior Planner Jonathan Bleuer
Councilman Peter DiCostanzo
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Matt Hamann
David Lechner

Motion by Timothy Pazda, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on October 16, 2013, as written.

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

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Paul Shear, to **approve** the minutes of the meeting held on October 30, 2013, as written.

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

MOTION CARRIED.

Chairman Sackett explained the procedure for the meeting noting that Mr. Callahan will introduce each agenda item. The applicant will add any comments about the project he/she feels necessary. The Planning Board members will question the applicant. Anyone in the audience who wishes to speak on the project will be given opportunity at this point. The applicant will be asked to address the comments/questions from the audience, if he can. The Planning Board will then take action.

Item 1

Barry Family Trust	Requests Subdivision Approval to create five (5)
Agricultural Rural Residential	Residential Building Lots on County Road east of Strickler Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the south side of County Road between Strickler and Salt Roads. It is existing vacant land consisting of 27+ acres. The applicant is proposing to subdivide the property to create five (5) parcels containing five (5) plus acres each. Per the Subdivision Law the Planning Board has authority to review and approve such subdivisions.

Beverly Barry, executrix of the Barry Family Trust, is present. Ms. Barry noted that a full environmental study was done in May of this year showing that the property is fully developable, without any State Wetlands and it has since been surveyed into five (5) parcels.

Mr. Pazda noted that at this time no development is being discussed, just splitting the lots.

Karl Durr, of County Road, asked if the split is for residential purposes. Ms. Barry said yes. Mr. Durr said there is a large parcel on County Road that has a For Sale sign on it now; he asked if that is for this parcel. Ms. Barry said yes. Mr. Durr said there is a drainage problem to the east of the project site. He asked how the drainage will occur on the project site. Ms. Barry said Lot 2 has a drainage ditch that is visible almost to the road; she understands from the environmental scientists that this is

part of the drainage. The rest goes into the dip at the roadside. Chairman Sackett explained that when someone decides to build on these lots they need to get approval for a drainage plan from the Building Department. Mr. Callahan confirmed this. Mr. Shear noted that this meeting is not discussing improvements to the property it is only looking at approving the splits.

ACTION:

Motion by Timothy Pazda, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the EAF as prepared and to **issue** a Negative Declaration on the proposed Barry Subdivision located on the south side of County Road, east of Strickler Road. This Unlisted Action identifies the creation of five (5) acre lots in conformance with the Agriculture Rural Residential Zoning along existing road frontage with no infrastructure extensions proposed.

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

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Paul Shear, to **approve** the Barry Family Trust Subdivision located on the south side of County Road, east of Strickler Road subject to the following conditions:

1. Approved lots as identified in surveys dated 9/24/13 from Bissell Stone Associates.
2. Future construction subject to required permits from the United States Army Corps of Engineers for any Federal Jurisdictional Wetland disturbance.
3. Subject to Building and Engineering Department review and approval of any future construction on the lots.
4. Subject to Erie County Health Department review and approval on any future on-site sanitary facilities.
5. Subject to Erie County Department of Public Works review and approval on any future access points and drainage connections to County Road.

ON THE QUESTION:

Ms. Barry said she understands and agrees with the conditions. It is clarified that anyone building on the lots will have to abide by the above stated conditions.

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

MOTION CARRIED.

David Lechner, of 10305 County Road, asked if someone buys a lot can they divide it again as long as they meet the minimum lot size requirements. Deputy Town Attorney Steve Bengart said yes they can but only by coming back before the Board to request a split.

Item 2

Sign Law Amendment

Discussion.

DISCUSSION:

Jim Callahan noted that banner/flag signs have become a significant issue with enforcement as they have become commonplace by use of commercial entities. The Town is looking at controlling the permitting of such types of signs.

Chairman Sackett said some of the issues might be the 100' separation, the 30 day limit and the zones.

Mr. Pazda asked if the \$50.00 fee is good for every flag or is it good for the property. Mr. Callahan said the fee would be for every flag. Mr. Pazda asked how to distinguish between these types of flags and the American flag. Chairman Sackett said there is a separate provision for patriotic flags; there will be no conflict between the two.

A-Frame signs have been allowed in the Traditional Neighborhood District on an annual permit as long as they are brought in and out on a daily basis. The thought is to open it up to other zoning classifications keeping the same conditions which include keeping the sign outside the right-of-way, brought in and out every night and an annual fee. Currently, the fee is \$100.00 in the Traditional Neighborhood District.

Currently, the Town does not allow LED signs in the Traditional Neighborhood Districts, however over the last several years there have been several variances granted because the LED technology provides a clean and neat look for changing the gas prices. The thought is to open up the Traditional Neighborhood District to allow LED signs, and based on those variances and other discussions it makes sense to allow the LED technology into the TND for gas prices only.

There has been some confusion regarding the wording in the current non-conforming sign law, which includes the following: "A nonconforming sign may not be rebuilt except in conformity with the regulations for the district in which it is located."

It is suggested that the above paragraph be replaced with: "All signs that are nonconforming by reason of size, height, location, illumination or changeable copy must be removed or brought into compliance at such time as the sign is replaced or the property changes use. A nonconforming sign may only be altered by new face content, updated lighting or changeable copy in conformance with current code. Any changes to exterior dimensions would constitute a rebuild, and therefore be subject to conformity with regulations for which the sign is located."

Chairman Sackett said there are a lot of non-conforming signs in the Town because they pre-existed the current Sign Law. So the question is what change represents a significant change in order to force them to comply with the present law. The present law says a non-conforming sign may not be rebuilt except in conformity with the regulations for the district. But what does rebuilt mean? If the size, height, illumination or location is changed it is considered a significant change. But if it is just a new face or a changeable copy and the same business, you can use the same sign.

The following paragraph would remain in the Sign Law: “A nonconforming sign representing a use that has ceased for a consecutive period of 24 consecutive months may not be altered, rebuilt or resumed unless in conformity with this chapter.”

Deputy Town Attorney Steve Bengart voiced his concern regarding the wording in the first paragraph and wondered if “is replaced or the property changes use” should be changed, because in fact a ceasing of use for a period of 24 months is what is being referred to, will this create a conflict that will have to be fixed later. Chairman Sackett said it is for any change in use, and if it is dormant that’s a different change in use. The 24 months talks about the fact that it has been dormant for 24 months and the use may go from a barbershop to a barbershop; Mr. Van Nest said the applicant would have to go before the Board anyway in that case. Deputy Town Attorney Steve Bengart said when the last amendments were made to the Sign Law, the theory and discussion that was had was not to overburden a property owner in requiring them to change a sign until the business/building sat vacant for 24 months or the sign became dilapidated. He thinks this suggested amendment may put an onus on a property owner.

Mr. Callahan explained that from the 1990’s to the recent 2009 adoption of the amended Sign Law there has been an evolution where the law went from allowing 20’ signs in the Commercial zone to 12’ and it was also identified that it should be a monument sign. Monument signs are not 12’ high, they are closer to the ground, so the proposed amendment would bring the requirement of the monument sign into more realistic terms, dropping the height requirement to 6’. Chairman Sackett said presently people accomplished the 12’ by putting a monument sign on two (2) poles.

ACTION:

Motion by Paul Shear, seconded by Gregory Todaro, to **table** for 30 days the proposed amendments to Chapter 181, Sign Law, to allow for public comment and discussion to be included in the final draft for referral to the Town Board.

ON THE QUESTION:

Mr. Pazda said the 6’ monument creates a barrier so the Board will have to ensure that it is kept out of the right-of-way. Mr. Callahan clarified that the sign is required to be 10’ off the right-of-way. The Board would have to be mindful of a monument sign creating a site-line problem when reviewing a submission.

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

MOTION CARRIED.

Meeting adjourned at 8:02 p.m.

Carolyn Delgato
Senior Clerk Typist