

Town of Clarence  
Planning Board Minutes  
Wednesday November 21, 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**

Kittinger Furniture  
Commercial Zone

Requests Review and Recommendation on a  
proposed Light Manufacturing Operation at 4675  
Transit Road.

**Item 2**

Roxberry Subdivision Phase 2/Helenwood Dr Ext  
Residential Single Family Zone

Requests Preliminary Concept Review of a  
proposed Major Subdivision.

Chairman Al Schultz called the meeting to order at 7:31 p.m.

Brad Packard led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz	1 <sup>st</sup> Vice-Chairperson Robert Sackett
2 <sup>nd</sup> Vice-Chairman Wendy Salvati	Timothy Pazda
Richard Bigler	Paul Shear
Gregory Todaro	

Planning Board Members absent: George Van Nest

Town Officials Present:

Assistant Director of Community Development Brad Packard  
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

John DiPasquale	Duane Barwell
Cathleen Barwell	Henry Sicignano
Marion McLaughlin	Eileen Ballard
Jean Smith	

Chairman Schultz noted that in the absence of Planning Board member George Van Nest, alternate Planning Board 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 November 7, 2012, as written.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

**MOTION CARRIED.**

Chairman Schultz noted that the Planning Board will act as a recommending body for both agenda items this evening; the Town Board will take the final action. Brad Packard will introduce each item, the Planning Board will discuss the project with the applicant and before any recommendation to the Town Board, the audience will be invited to speak.

**Item 1**

Kittinger Furniture  
Commercial Zone

Requests Review and Recommendation on a proposed Light Manufacturing Operation at 4675 Transit Road.

**DISCUSSION:**

Brad Packard provided the background on the project noting that the project site is located at 4675 Transit Road in the rear of the Eastern Hills Mall. The property consists of approximately 2.82 acres of land area in the Commercial zoning district and is currently the site of an existing vacant commercial structure approximately 22,000 square feet in size. The applicant, Kittinger Furniture, is proposing to operate a light furniture manufacturing facility and in connection with the use construct a 9,550 square foot addition to the existing structure. This proposed action will ultimately require the issuance of a Special Exception Use Permit for both the allowance of a Light Manufacturing Facility as well as a cumulative structure total square footage of 31,750 square feet. Ultimately, this proposal will require an approval of the Town Board for the issuance of the Special Exception Use Permit. The applicant is present this evening and is seeking a recommendation of the Planning Board concerning the issuance of the necessary Special Exception Use Permit.

Ray Bialkowski, owner of Kittinger Furniture is present, along with the architect Bob Conway. Mr. Bialkowski said Kittinger Furniture has been in business since 1866 and has a reputable reputation for quality work. They are a light manufacturing small company located in the city of Buffalo. They will be a good neighbor. There is currently a Kittinger Furniture retail store located on Transit Road in Clarence.

Chairman Schultz said Kittinger Furniture produces a world class product and is a world class operation.

Mr. Pazda asked the applicant what is prompting the relocation of the business. Mr. Bialkowski said they have been looking for a facility for six (6) years. Five (5) years ago the retail portion of the

business was moved, at that point it was not feasible for the applicant to move the manufacturing business at the same time, so the lease was renewed. It is time for the move, the applicant will be purchasing the building, he would like to secure the company's future in Western New York. This location is ideal in relationship to the retail store. In addition, Mr. Bialkowski would like to create museum with regards to the history of the company. He thinks this location could possibly be a tourist attraction that will benefit the Town of Clarence and possibly the Eastern Hills Mall.

Mr. Todaro asked what the applicant does with the scrap wood pieces and the saw dust. Mr. Bialkowski said they are recycled.

Mr. Pazda asked if the proposed ventilation system is any different from the ventilation system in the existing building. Mr. Bialkowski said it is the same. Currently they are in a multi-tenant building and there are no complaints. That building consists of tenants that include a rehab facility, an architect, an occupational therapist, a company that makes candies for Wegmans and Tops.

Mrs. Salvati asked how the applicant plans on lighting the site. Mr. Bialkowski said he has not reached that point yet, but he will have lights within the parking lot. Mrs. Salvati said any lights are to be shielded. Mr. Bialkowski agreed. He will comply with the lighting standards.

Mr. Bigler asked about truck traffic at the site. Mr. Bialkowski said the hours of operation are from 7:00am to 3:30pm, Monday thru Friday. At the current location he is receiving 2-4 trucks a week; receiving for the retail store is minimal.

Mr. Shear noted that the existing building will be used for manufacturing and storage. He then asked what the additional 9550 square feet building will be used for. Mr. Bialkowski said one-third of that building will be used for receiving and storage of products. It would also be staged as a shipping area. Mr. Shear said he had the chance to look at the dust collector system and the paint booth system, he asked if these systems will be in the existing building or are they separate. Mr. Bialkowski said they will be separated from the finishing building; however there will be some type of connectivity between the buildings.

Mr. Bialkowski said there will be no basement therefore no basis for blasting. At this point, nothing will happen behind the building. The loading dock is in the front of the building. There will be no outside storage.

A resident voiced her concern regarding the traffic.

Mr. Bialkowski said they are a light manufacturing business with 15 employees who arrive between 7:30am and 8:00am and leave between 3:30pm and 4:00pm every day. He believes the traffic impact will be minimal to nil.

Duane Barwell, of 8155 Sheridan Drive, voiced his concern about the project having an environmental impact such as fumes and paint smells. He hopes he will be able to sit in his backyard without any issue.

Jean Smith asked if the shipping will be on the right side towards the residential. Mr. Pazda clarified that the shipping area will face the Mall parking lot. Ms. Smith wondered which access point the applicant will be using since there are three possible access points for the site. It is unknown at this time.

Sean Hopkins is representing the property owner of the adjacent project to the east of this project site. They support the redevelopment of this site but ask that the loading facility be moved to the opposite side of the site away from his project site and the existing residential neighbors. They also wish to discuss a greenspace buffer, vegetation or berming between the two sites. That could be accommodated by moving the parking spaces in front of the buildings.

Chairman Schultz said there are three questions regarding this project: noise, fumes and dust. There is no traffic issue because the proposed operation has 12 employees and three trucks a week behind a mall.

Mr. Bialkowski said his company has done extensive research on their own to prove to the Board that they are in compliance with all regulations of the Federal and New York State Government. They have done extensive research on noise and odor at their current location. They can be within 10' of their spray booths and have absolutely no odor bearing on them.

Mrs. Salvati asked if the applicant has to have permits from the DEC for emissions. Mr. Bialkowski said they are too small and fall below the criteria that require emissions permits from the DEC.

It is noted that the structure is 400' from the nearest neighbor.

Mr. Sackett noted that the filtration system at the current location filters out 99.43 % of the paint and lacquers and solid particles. When the Planning Board members visited the current location they observed the quality of the air and found it to be consistent with a residential environment; they were outside.

Kathleen Barwell said you can be breathing in the fumes without actually smelling it.

Duane Barwell is concerned about inspections being performed on the outside of the facility as well. He suggested the applicant be given a permit for one year to operate business at this site and then see what happens; you can't go by their internal studies.

Mr. Bialkowski contacted agencies to obtain professional advice and reports. In one environmental report it is noted that the applicant is emitting less than 1% of what they are allowed to emit. The report is on file in the Planning Office and is available to the public.

Chairman Schultz noted that none of the materials being emitted is a known or suspected carcinogen; they have all been tested.

The EPA regulates the applicant to have filtration of 98%, the applicants system is 99.4%.

Mr. Shear noted that the applicant provided the Planning Board members with decibel meters to check the noise level both inside and outside the building on the site visit. They conformed to very acceptable levels of noise. The Planning Board members did not encounter any dust coming out of the dust collector systems, there is dust in the air inside the building. There were no issues with odors noted at the site. Mr. Shear was quite comfortable with the results they saw.

Mr. Pazda asked about the discussion between the applicant and Mr. Hopkins, because if there was a decision made between them it would mean nothing until it comes before the Planning Board. Mr.

Bialkowski said there were not decisions made during the visit with Mr. Hopkins, just discussion. Mr. Pazda asked if the applicant needs all the parking that is shown on the plan. Mr. Bialkowski said yes and reminded the Board that the current parking is existing blacktop, he is not adding parking, he is just using the current lot size as it exists today. Mrs. Salvati said there are 30 parking spaces and 15 employees. Mr. Bialkowski said those spaces are needed to support the retail business and the representatives from out of the country.

Chairman Schultz noted that for this proposal the Planning Board is a recommending body for the Special Exception Use Permit and the size of the building. This is an allowed use.

**ACTION:**

Motion by Timothy Pazda, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** a Negative Declaration on the proposed Kittinger Furniture Site Plan and Special Exception Use Permit located at 4675 Transit Road. This Unlisted Action involves construction of a new building and a change in use to a Light Manufacturing Operation in the Commercial Zone. After thorough review of the submitted site plan and supporting documentation, including a short EAF, it is determined that the proposed action will not have a significant negative impact upon the environment.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

**ACTION:**

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the site plan and architectural style of the proposed Kittinger Furniture proposal located at 4675 Transit Road as per site plans and designs as submitted by Conway Architects dated 10/29/12, with the following conditions:

- a. All exterior vents for dust collection, exhaust and air handling shall be designed so as to face west and south away from residential areas.
- b. Subject to review and approval by the Town of Clarence Building Department on the new building and renovations to the existing building.
- c. Subject to review and approval by local regulatory agency and utility companies related to utility extensions/connections.
- d. Subject to Landscape Committee review and approval on the final landscape plans for the site.
- e. Subject to Open Space and Recreation Fees.

f. Conditioned upon final Special Exception Use Permit approval by the Clarence Town Board as to the light manufacturing operation and the cumulative size of the structures on site exceeding 30,000 square feet.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

**ACTION:**

Motion by Robert Sackett, seconded by Gregory Todaro, to **recommend** to the Clarence Town Board that a Special Exception Use Permit be issued to Kittinger Furniture Company to allow for the light manufacturing operation and cumulative structures over 30,000 square feet at 4675 Transit Road with the conditions as identified in the site plan approval by the Planning Board.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Chairman Schultz noted that the Building Inspector was at the site the same time the Planning Board members were and found it to be in full compliance, all appropriate approvals will need to be obtained.

**Item 2**

Roxberry Subdivision Phase 2/Helenwood Dr Ext Residential Single Family Zone      Requests Preliminary Concept Review of a proposed Major Subdivision.

**DISCUSSION:**

Brad Packard provides the history on the project noting that the site is located at the end of the existing residential public road known as Helenwood Drive and is adjacent to the rear of the Eastern Hills Mall. The property consists of approximately 7.8 acres of land area in the Restricted Business zoning district and is currently vacant property. The applicant, Eliot Lasky with Regency Builders, is proposing to extend the existing Helenwood Drive right of way to service eleven (11) additional residential single family building lots, ultimately terminating in a cul-de-sac. This proposed action would be considered an Unlisted item as per the State Environmental Quality Review Act (SEQRA). The applicant is present this evening and is seeking Preliminary Concept Plan review as well as the solicitation of Lead Agency status and the initiation of a coordinated review under SEQRA as per the Planning Board in association with local regulations.

Sean Hopkins, of Hopkins Sorgi, LLC is present along with Kevin Myszka. Mr. Hopkins said that he thinks the neighbors would prefer a residential project in this area as opposed to a commercial project. This project has been referred by the Town Board to the Planning Board. The applicant has informally met with the Executive Planning Board on two (2) occasions. Mr. Hopkins said one issue is that the

code notes that there cannot be a double frontage lot unless it is deed restricted; the applicant is willing to do this. Lot 11 would have a deed restriction and the house would face Helenwood Drive, which would be consistent with the other homes on Helenwood Drive. Landscaping would be planted on the back portion of that lot. Another issue pertained to the cul-de-sac in which the Town Code states that the length of a cul-de-sac cannot be more than 1500 feet as measured by the closest intersection. The code also states that a cul-de-sac cannot have more than 12 residential lots. The length of the cul-de-sac that will be created because of the proposed extension will be 1454 feet; however the allowed number of lots will be exceeded when added to those already existing on Helenwood Drive. Dave Metzger presented this plan to the Fire Chiefs Committee last Thursday evening. An e-mail has been received stating that the Fire Chiefs are fine with this layout without the need for additional paved emergency access to the site with one caveat: there is greenspace between the cul-de-sac and Helenwood Drive that the chiefs asked be left as greenspace in case emergency vehicles ever need to use it to access the site. The applicant has no problem with this. There is another issue which pertains to wetlands. There are wetlands on the project site. The project site is directly adjacent to a large parcel that is owned and maintained by the WNY Land Conservancy, the applicant is proposing to create wetland mitigation on that site in exchange for allowing minimal impacts on the three (3) lower lots. The Land Conservancy has provided a letter saying that arrangement is acceptable. Permits from the DEC and the Army Corp of Engineers are required.

Mr. Pazda said this project has not been sent out for coordinated review yet so any preliminary comments the applicant receives would not be looked at. Mr. Hopkins would rather receive input early on in the process. Mr. Pazda said he is not comfortable with this project and he will not vote to send it anywhere because the number of homes is being exceeded. He thinks the project could be redesigned to meet the code.

Chairman Schultz noted that the comment from the Fire Chiefs Committee is not a formal recommendation/determination.

Jean Smith voiced her concern regarding blasting, this area is solid rock. She is also concerned with the greenspace that was discussed becoming cleared. Mr. Shear said the applicant indicated on the Part I EAF that there will be no blasting. Ms. Smith said that would be impossible.

Stan Levine, of 4695 Helenwood Drive, is concerned with his neighbor having Helenwood Drive on both sides of their property. He is also concerned with density and the vehicle traffic that goes with that.

A resident said her grandfather owned all that land back there but lost it because of taxes in the depression; she has the last two (2) acres of this property. The Town "ok'd" a city right next to her, they are there day and night and traffic keeps coming onto her property looking for the other horseshoe. She had a bad accident at Sheridan and Transit Roads. The Town keeps taking away the green and bringing in more traffic and more people, more cars, more pollution. It is no joke. She is trying to hang on to the last two (2) acres that her grandfather owned.

Mr. Hopkins addressed the concern with clearing the greenspace and noted that the entire area would not be cleared and it would never be paved, they are not proposing it for vehicular access. They want to preserve as much of the vegetation as possible. Mr. Hopkins asked that the Board commence the coordinated review under SEQRA. There is a possibility that blasting may be required, the applicant needs to look further into that.

Mr. Pazda suggested the applicant turn this site into two (2) cul-de-sacs. Mr. Hopkins said he doesn't think the existing homeowners would want that.

Chairman Schultz said this is a transition zone in which houses are going to be built; it might be a problem for a commercial zone behind it.

Mr. Shear noted there is an issue with a double frontage lot, an issue with too many lots on a cul-de-sac and now there is a question with the EAF Part I where it is indicated there will be no blasting. With these three issues, Mr. Shear is reluctant to move in any direction with this project until the issues are re-examined.

Mr. Sackett has no intention of approving/recommending the Concept Plan because he does not like that the number of proposed lots on the cul-de-sac exceeds what the law allows. Nor does he have any intention on voting for the environmental review.

Chairman Schultz would like to see a formal review by the Fire Advisory Board.

Mrs. Salvati asked for clarification on what an emergency access means. Is it a place to drag a fire hose across it or is it an alternative means of escape during a fire?

Chairman Schultz said the environmental issues are local. The traffic will be an issue within the neighborhood, but adding 12 houses will not impact the traffic on Sheridan Drive so much.

Mr. Pazda said if the project is sent out for coordinated review it is assumed that it is moving forward and that is not the case at all.

**ACTION:**

Motion by Timothy Pazda, seconded by Robert Sackett, based on the concerns and questions the Planning Board members discussed this evening, the plan should be re-drawn to fit the code.

**ON THE QUESTION:**

Chairman Schultz asked if it would suffice to have a formal review by the Fire Advisory Board saying that aspect of the code is met in intent or should the motion remain as stated. Mr. Pazda wants the motion to remain as is.

Mr. Shear would like to see the EAF Part I amended to reflect the changes discussed. Timothy Pazda accepts this as part of the motion and it is seconded by Robert Sackett.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Nay		

MOTION CARRIED.

Meeting adjourned at 8:50 p.m.

Carolyn Delgato  
Senior Clerk Typist