

Town of Clarence
Planning Board Minutes
Wednesday February 29, 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

Northwoods Open Space Design Subdivision
Residential Single-Family

Public Scoping Document Consideration for an
Open Space Design Subdivision on the north side
of Greiner Road, east of Shimerville Road.

Item 2

Clayt Ertel
Agricultural Floodzone

Requests Minor Subdivision Approval to create
one (1) new residential lot at 9055 Sesh Road.

Item 3

Milton Kalnitz
Major Arterial

Requests a Change In Use from jewelry store to
tobacco shop at 5333 Transit Road.

Item 4

Joseph Ervolina
Traditional Neighborhood District

Requests a Change In Use from funeral home to
professional office use in the Clarence Center
Traditional Neighborhood District (TND) at 5895
Goodrich Road.

Item 5

Ron Grimm
Agricultural Rural Residential

Requests Development Plan Approval for a 4-lot
Open Development Area at 6491 Connor Road.

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

Councilman Robert Geiger led the pledge to the flag.

Planning Board Members present:

Vice-Chairperson Robert Sackett
Timothy Pazda
Paul Shear

2nd Vice-Chairman Wendy Salvati
George Van Nest
Gregory Todaro

Planning Board Members absent: Chairman Al Schultz, Richard Bigler

Town Officials Present:

Director of Community Development James Callahan
Planner Brad Packard
Councilman Peter DiCostanzo
Deputy Town Attorney Steve Bengart
Councilman Robert Geiger
Councilman Bernard Kolber

Other Interested Parties Present:

Karen Willyoung	Tim Ronald
Joe David	Dave Horbinski
Benito Olivieri	Nick Wells
Rob Meissner	Keith Pace
Kathy Pace	Helen Turyk
Mike George	Dorene Dibble

In the absence of Chairman Al Schultz, Vice-Chairman Robert Sackett will lead the meeting. In the absence of Planning Board member Richard Bigler, alternate Planning Board member Gregory Todaro will be participating in all discussions and voting on all agenda items.

Motion by Gregory Todaro, seconded by Paul Shear, to **approve** the minutes of the meeting held on January 25, 2012, as written.

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

MOTION CARRIED.

Vice-Chairman Robert Sackett explained the procedure for agenda items. Jim Callahan will introduce the project at which time the applicant and the Board will discuss the project. The public will be given the opportunity to voice their questions and concerns. The petitioner will have the chance to address any concerns the public may have. The Board will take action. It will be explained as to whether the Planning Board or the Town Board has approval authority on each project.

Jim Callahan read the following statement into the record: "The Planning Department worked with Emergency Management Officials on the update to the 2005 Multi-Jurisdictional Hazard Mitigation Plan as it relates to Land Use Laws and coordination with the Office of Planning and Zoning."

The Emergency Management Officials are well versed on all Local Land Use Laws.

Item 1

Northwoods Open Space Design Subdivision
Residential Single-Family

Public Scoping Document Consideration for an
Open Space Design Subdivision on the north side
of Greiner Road, east of Shimerville Road.

DISCUSSION:

Jim Callahan provided the history on the project. It is located on north side of Greiner Road, between Shimerville Road and Thompson Road. It is a proposed Open Space Design Subdivision. Previously, the Town Board has declared Lead Agency Status and, upon recommendation from the Planning Board, has issued a Positive Declaration under the State Environmental Quality Review Act (SEQRA). At this time the project sponsor has forwarded a draft scope of study for a pending Supplemental Environmental Impact Statement. The Planning Board is considering the content of this scope to determine whether it is acceptable. At this time, this document is identified as a draft. The comment period will remain open for a minimum of 30 days.

Timothy Pazda recused himself from the meeting.

Jeffrey Palumbo, of Damon Morey, is present with the applicant Fred Cimato. Mr. Palumbo said he thinks the submitted draft scope complies with the SEQRA regulations in every detail. The project consists of a 148-lot single family subdivision. The applicant has considered a number of different potentially significant impacts. This includes water resources, agricultural resources, historic and archeological resources, aesthetics, transportation and growth and character of the community. He understands that the purpose of this meeting is to add public input/concerns to the impacts listed in the draft scope.

Vice-Chairman Sackett referred to the draft scope page 2 section (F) Growth and Character of Community or Neighborhood where it talks about the impact on the capacity to the existing sewer system and need for creation or expansion of a sewer district. He asked if this means the applicant will document the number of taps available to him and his ability to get to those taps. Mr. Palumbo said yes.

Wendy Salvati clarified that there will be no decisions made on the scoping document at this meeting. The purpose of this meeting is to look at the draft the applicant provided and see what the Board agrees with or what can be strengthened or added to it. This document will guide the preparation of the Environmental Impact Statement for the project.

Mrs. Salvati referred to the draft scope page 2 Aesthetic Resources and said it is important that the applicant provide analysis on view sheds and how they will change with the project. Site line diagrams or visual simulations would be helpful particularly from Greiner Road and the Country Club Drive area.

Mrs. Salvati also thinks there should be a cumulative impacts section added to the draft scope as there are other projects being developed at the same time as this one. The cumulative impacts section should include traffic, impacts to the school district and impacts on public utility systems. The draft identifies four (4) intersections that should be looked at, Mrs. Salvati said three (3) intersections should be added, they are: Roll Road and Harris Hill Road, Greiner Road and Harris Hill Road, and Shimerville Road and Clarence Center Road.

Vice-Chairman Sackett noted that the Planning Board will not be approving anything on this agenda item this evening; they are only opening up a 30 day comment period and once an item has been noted it will go into the study.

Ismet Hallac, owner of 8990 Greiner Road, said that green space distribution properly and fairly is important. 65% of his property adjoins the development. He points out the green space buffer that adjoins his property; however, to the north end of his property has no buffer. He is asking for the same amount of buffer space all around his property. Mr. Hallac said a future benefit might be to have a museum in this area.

Timothy Ronald, of 5275 Shimerville Road, referred to lots 1-4 and 142-148 on the plan. He would like to see a little more green space on some of those homes in that area.

The scoping document is available to the public and there are copies available at this meeting.

ACTION:

Motion by Paul Shear, seconded by Gregory Todaro, to **accept** the draft scope as prepared by Damon Morey on behalf of the applicant, Cimato Brothers Construction, and circulate the draft scope to involved agencies. The public comment period on the draft scope will remain open for 30 days to receive all relevant comments on the draft scope before finalizing.

ON THE QUESTION:

Deputy Town Attorney Steve Bengart clarified that the motion is to accept the draft for further review.

Paul Shear said the Planning Board welcomes any comment from the public during the 30 day comment period. The scope should include an analysis of the number of equivalent dwelling units proposed against the total number available through the Heise-Brookhaven Trunk Sewer as well as an analysis of the extension of a Town Sewer District to service the project area and the relationship to the sewer priority areas and the Master Sewer Plan as identified within the Master Plan 2015. All comments that were made this evening will be included in the scope.

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

MOTION CARRIED.

Timothy Pazda returned to the meeting.

Item 2

Clayt Ertel
Agricultural Floodzone

Requests Minor Subdivision Approval to create one (1) new residential lot at 9055 Sesh Road.

DISCUSSION:

Jim Callahan provided the background on the project. It is located on the south side of Sesh Road, east of Northfield Road. It is existing vacant land. Per the Subdivision Law the Planning Board has final authority on Minor Subdivisions.

Joseph David, of Realty USA, and Kit Burr, owner of the property, are present. Mr. David said his intent is to create one (1) additional building lot. Per a survey by Bissell Stone, dated October 20, 2011, the two (2) lot sizes would be 175’ frontage by 2493’ depth, which equals approximately 20 acres; the second lot would be 175’ frontage by 2120’ depth, which equals approximately 15 acres. Mr. David provided a copy of the survey, job # 55918 dated October 20, 2011, for the Planning Board to review.

Mrs. Salvati noted that there is a small piece of property in the middle of the parcel that is outlined in red shown on the power point presentation. She wanted to confirm that the lot is never to be subdivided. Mr. David said that is correct.

Mr. David explained that currently there is one lot under contract, and interest in the other lot. The setback of the houses will be similar to those of the surrounding properties as set forth in the law.

It is clarified that the action before the Board this evening is to approve the two (2) lots to the west of the property.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Ertel Minor Subdivision. This Unlisted Action involves the subdivision of land to create one additional agricultural lot in the Agriculture Flood Zone. After thorough review of the submitted site plan and short environmental assessment form it is determined that the proposed action will not have a significant negative impact upon the environment.

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

MOTION CARRIED.

ACTION:

Motion by George Van Nest, seconded by Wendy Salvati, to **approve** the minor subdivision located at 9055 Sesh Road to create one (1) new lot in the Agriculture Flood Zone subject to the following conditions:

1. Review and approval of the Town Engineer/Flood Plain Administrator related to any future development of the property or construction on the property.
2. Review and approval of the Building Department related to any future building construction on the property.
3. Review and permitting approval from involved regulatory agencies, including but not limited to the Erie County Health Department, U.S. Army Corps of Engineers, NYS Department of Environmental Conservation, for any future land disturbance.
4. Subject to open space and recreation fees.

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

MOTION CARRIED.

Item 3

Milton Kalnitz
Major Arterial

Requests a Change In Use from jewelry store to tobacco shop at 5333 Transit Road.

DISCUSSION:

Jim Callahan provided the history on the project. It is located on the east side of Transit Road in a Commercial zoning classification. The property is an existing Commercial use, previously approved as a jewelry store. Per the Zoning Law the Planning Board has the authority to approve this Change In Use.

Brian Kalnitz is representing his father, Milton who is in Florida until tomorrow. Milton Kalnitz has been in business for over 40 years as owner of a tobacco shop on Main Street in Snyder, NY. Unfortunately, there was a fire at the business in December 2011 and he has been forced to relocate to this Transit Road location. The business is an old-fashioned tobacco shop and will sell items that include pipes, tobacco, lighters and cigars. They will not sell perishable items; it will not be a Hookah Bar. The building on Transit Road is larger than the building Mr. Kalnitz had in Snyder. Vice-Chairman Sackett asked if the nature of the business would change due to this location having a larger building. Mr. Kalnitz said no.

Mrs. Salvati thinks this use is perfect for the structure.

Mr. Pazda asked if the long leg of property at the back of this parcel is the old paper street that existed years ago. Mr. Callahan explained that the original owner of that entire area left that access point for whatever reason and it was never changed.

Mr. Todaro asked if the applicant planned on making any changes to the building. Mr. Kalnitz said no, then noted that there are only plans to panel/paint the walls on the inside of the structure and restore some fixtures. There will be no remodeling or structural changes. There is more than sufficient parking. The property will be leased.

Mr. Pazda asked what the hours of operation will be. Mr. Kalnitz said the hours will be 9:00 am to 9:00 pm.

ACTION:

Motion by Gregory Todaro, seconded by Timothy Pazda, to **approve** the proposed change in use from jewelry store to tobacco shop at 5333 Transit Road with the following conditions:

1. Review and permit approval from the Building Department for renovations and occupancy.
2. Landscape Committee approval on any upgrades to the landscaping.
3. Any signs will require separate review and approval from the Sign Review Committee.

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

MOTION CARRIED.

Item 4

Joseph Ervolina
Traditional Neighborhood District

Requests a Change In Use from funeral home to professional office use in the Clarence Center Traditional Neighborhood District (TND) at 5895 Goodrich Road.

DISCUSSION:

Jim Callahan provided the history on the project noting that the property is located on the east side of Goodrich Road, north of Roll Road. Per the Zoning Law the Planning Board has authority to approve such changes in use.

Nick Wells is representing the architect and construction manager on the project. Mr. Wells explained that the existing building was a funeral home, which is considered assembly; they would like to switch over to a business. The second floor was a residential apartment and will remain as such. They will remove two (2) sets of stairs that did not comply with the NYS Building Code and replace them with one (1) set of stairs for emergency egress for the residential area on the second floor. They are providing a two (2) hour separation between the first floor business and the second floor residential area. There will be no exterior improvements done to the building, it will remain the same. There will be less people in and out of the building than the funeral home had.

Rob Meissner, a partner at Cornerstone Capital, he has been in business approximately twelve (12) years in Cheektowaga, NY and is looking to move to Clarence Center. Mr. Meissner explained that there will be three (3) office rooms and two (2) conference rooms and a reception area. His company will meet clients at this location.

Vice-Chairman Sackett asked if signage for the business has been planned. Mr. Meissner said it has not been discussed yet although he does want signage. He is advised that a sign will have to be

approved by the Sign Review Board; he is instructed to see Mr. Packard in the Planning and Zoning Office to discuss the procedure.

ACTION:

Motion by George Van Nest, seconded by Gregory Todaro, to **approve** the change in use from Funeral Home to Professional Office Use with the following conditions:

1. Review and Permit Approval from the Building Department related to interior renovations and occupancy.
2. Landscape Committee Approval on any upgrades to the landscaping on the property.
3. Any signs will require separate review and approval from the Sign Review Committee.

ON THE QUESTION:

Mr. Shear clarified that the second floor will be a rental unit.

There will be no lighting changes to the exterior of the building.

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

MOTION CARRIED.

Item 5

Ron Grimm
Agricultural Rural Residential

Requests Development Plan Approval for a 4-lot
Open Development Area at 6491 Connor Road.

DISCUSSION:

The applicant is not present.

ACTION:

Motion by Wendy Salvati, seconded by Paul Shear, to **table** agenda item #5 until the applicant can be present at the meeting.

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

MOTION CARRIED.

Meeting adjourned at 8:10 p.m.

Carolyn Delgato
Senior Clerk Typist