

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday April 6, 2016

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

Charles Kelkenberg
Agricultural Rural Residential

Requests Minor Subdivision Approval to create three (3) new residential lots at 10650 Keller Road.

Item 2

Greg Ribbeck
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot at 5920 Shimerville Road.

Item 3

Peter Kruszynski
Agricultural Rural Residential

Requests Minor Subdivision Approval to create one (1) new residential building lot at 6510 Salt Road.

Item 4

Zoe's Restaurant
Major Arterial

Requests Approval for Site Plan and Façade updates at 5701 Transit Road.

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

Councilman Paul Shear led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chairperson Wendy Salvati
Gregory Todaro

1st Vice-Chairman Richard Bigler
Timothy Pazda
Steven Dale

Planning Board Members absent: Jeffrey Buckley

Town Officials Present:

Director of Community Development James Callahan
Assistant Director of Community Development Jonathan Bleuer

Councilman Paul Shear
Councilman Chris Greene
Councilman Robert Geiger
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Charles Kelkenberg Greg Ribbeck Peter Kruszynski Joe Kruszynski
Dave Sutton Alex Pozantidis

Motion by Gregory Todaro, seconded by Steve Dale, to **approve** the minutes of the meeting held on March 9, 2016 as written with the following correction:

-Condition #4 under agenda item #1 be corrected to read “waste tire disposal”.

Steve Dale Aye Gregory Todaro Aye
Timothy Pazda Aye Wendy Salvati Aye
Richard Bigler Aye Robert Sackett Abstain

MOTION CARRIED.

Chairman Sackett explained the protocol for the meeting noting that Mr. Callahan will provide the background on each project. The applicant will then have the opportunity to add comments for the project. The Board will ask questions on the project. The audience will be invited add comments and/or questions regarding the project. The applicant will be asked to answer any questions he can. The Board will take an action.

Item 1

Charles Kelkenberg
Agricultural Rural Residential

Requests Minor Subdivision Approval to create three (3) new residential lots at 10650 Keller Road.

DISCUSSION:

Mr. Callahan introduced the project noting that it is located on the north side of Keller Road, west of Salt Road. It is an existing residential property located within the Agricultural Rural Residential zoning District. Per the Subdivision Law, the Planning Board has final approval authority for this Minor Subdivision.

Charles Kelkenberg is present and explained that he is representing the property owner who lives in Florida. The property owner owns the house that is on the property but wants to sell it and build a new one for himself on lot B. He lives in Florida most of the time, but will be moving back here.

Chairman Sackett explained that the Town Engineer asked the Planning Board to advise the applicant that whenever over an acre of land is disturbed a Storm Water Permit is required. Therefore it would be necessary to have a Storm Water Permit for the whole lot, which would then apply to all three (3) of the lots that are being developed. Mr. Callahan clarified that the Storm Water Pollution Prevention Plan is only needed if there is over an acre of physical land disturbance. Mrs. Salvati noted that the Town Engineer said typically if it is a three (3) lot split, or more, there will be a disturbance of more than one

(1) acre. They want to have this done prior to having lots developed. She suggested the applicant contact the Town Engineer’s office.

Chairman Sackett referred to the aerial view of the property and noted there is a secondary structure on the lot line on lot B. There cannot be a secondary structure without a primary structure and it cannot be on the lot line. Chairman Sackett asked how the applicant will address this. Mr. Kelkenberg said it that structure doesn’t fall down before they get to it, it will be removed. It will be torn down prior to any development.

Mr. Bigler voiced his concern about the trees on the lots and along the creek. The trees are protected along the creek but he asked what the intent is for the remainder of the trees. Mr. Kelkenberg said as far as he knows the trees will not be touched, the houses will be built on the front part of the property within 100’ of the road.

Mr. Pazda asked Mr. Callahan if there is a problem with lot A and lot B with the driveway being so close to the proposed lot B. Mr. Callahan said this will not create a problem it can be adjusted. Mr. Kelkenberg said that driveway goes to the barn in the back, the driveway to the house is over further by the house.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Short Environmental Assessment Form as submitted and prepared and to **issue** a Negative Declaration on the proposed Minor Subdivision located at 10650 Keller Road in the Town of Clarence. This Unlisted Action involves a minor subdivision of land to create three (3) new residential building lots in conformance with the Agriculture Rural Residential Zone. After thorough review of the submitted site plan and Environmental Assessment Form it is determined that the proposed action will NOT have a significant negative impact upon the environment.

Steve Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Wendy Salvati, to **approve** the minor subdivision located at 10650 Keller Road to create three (3) new residential building lots in the Agriculture Rural Residential Zone with the following conditions:

1. Review and approval by the Erie County Department of Public Works for access from Keller Road.
2. Review and approval by the Erie County Health Department for future on-site sanitary facilities.
3. Review and approval by the Town of Clarence Building and Engineering Department for future building permit applications.
4. Review and approval by the Town Engineering Department on any required Storm Water Pollution Prevention Plan approval for land disturbance greater than one (1) acre.

5. Open Space and Recreation Fees.

ON THE QUESTION:

Mr. Bigler suggested adding condition #6: the existing secondary structure on lot B is to be removed prior to any future development. Mr. Pazda agreed to add this condition to the Motion, as did Mrs. Salvati.

Mr. Kelkenberg understands and agrees with the motion.

Steve Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 2

Greg Ribbeck
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot at 5920 Shimerville Road.

DISCUSSION:

Mr. Callahan introduced the project noting that it is located on the west side of Shimerville Road, north of Roll Road. It is an existing agricultural property located in the Residential Single Family zone. Per the Subdivision Law the Planning Board has final approval authority for all minor subdivisions.

Greg Ribbeck is present and explained that he will leave a 25’ strip of property for permanent access to the rest of the property. Chairman Sackett asked if the applicant planned on deeding it to one of the adjacent properties. Mr. Ribbeck said it will be deeded to the property to the west. The driveway is part of the property to the north, it is part of the parent parcel.

ACTION:

Motion by Gregory Todaro, seconded by Steve Dale, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Short Environmental Assessment Form as submitted and prepared and **issue** a Negative Declaration on the proposed Minor Subdivision located at 5920 Shimerville Road in the Town of Clarence. This Unlisted Action involves a minor subdivision of land to create one (1) new residential building lot in conformance with the Residential Single Family Zone. After thorough review of the submitted site plan and Environmental Assessment Form it is determined that the proposed action will NOT have a significant negative impact upon the environment.

Steve Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Wendy Salvati, to **approve** the minor subdivision located at 5920 Shimerville Road to create one (1) new residential building lot in the Residential Single Family Zone with the following conditions:

1. Review and approval by the Erie County Department of Public Works for access from Shimerville Road.
2. Review and approval by the Erie County Health Department for future on-site sanitary facilities.
3. Review and approval by the Town of Clarence Building and Engineering Department for future building permit applications.
4. Review and approval by the Town Engineering Department on any required Storm Water Pollution Prevention Plan approval for land disturbance greater than one (1) acre.
5. Open Space and Recreation Fees.

ON THE QUESTION:

Mrs. Salvati suggested adding a sixth condition: the annexation of an approximate 25’ wide section of land to the property immediately to the west of the subject property. Mr. Todaro agreed to add this condition to the Motion.

Mr. Ribbeck said he understands and agrees with the conditions.

Steve Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 3

Peter Kruszynski
Agricultural Rural Residential

Requests Minor Subdivision Approval to create one (1) new residential building lot at 6510 Salt Road.

DISCUSSION:

Mr. Callahan introduced the project noting that it is located on the east side of Salt Road, north of Keller Road. It is existing agricultural property located in the Agricultural Rural Residential Zone. Per the Subdivision Law, the Planning Board has final approval authority for minor subdivisions.

Peter and Joe Kruszynski are present. Chairman Sackett asked about the pathway to the east. Mr. P. Kruszynski explained that they lease the property behind the current property, it is about 30 acres in size, the pathway is for machinery to access that property. Mr. Pazda made certain the applicant understood that by doing this, they won’t be able to develop that rear property. The applicant is aware.

ACTION:

Motion by Steve Dale, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Short Environmental Assessment Form as submitted and prepared and **issue** a Negative Declaration on the proposed Minor Subdivision located at 6510 Salt Road in the Town of Clarence. This Unlisted Action involves a minor subdivision of land to create one (1) new residential building lot in conformance with the Agriculture Rural Residential Zone. After thorough review of the submitted site plan and Environmental Assessment Form it is determined that the proposed action will NOT have a significant negative impact upon the environment.

Steve Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Steve Dale, seconded by Gregory Todaro, to **approve** the minor subdivision located at 6510 Salt Road to create one (1) new residential building lot in the Agriculture Rural Residential Zone with the following conditions:

1. Review and approval by the Erie County Department of Public Works for access from Salt Road.
2. Review and approval by the Erie County Health Department for future on-site sanitary facilities.
3. Review and approval by the Town of Clarence Building and Engineering Department for future building permit applications.
4. Review and approval by the Town Engineering Department on any required Storm Water Pollution Prevention Plan approval for land disturbance greater than one (1) acre.
5. Open Space and Recreation Fees.

ON THE QUESTION:

The applicant understood and agreed with the conditions.

Steve Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 4

Zoe's Restaurant
Major Arterial

Requests Approval for Site Plan and Façade updates at 5701 Transit Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on east side of Transit Road, north of Roll Road. It is an existing restaurant located in the Major Arterial Zone. The property currently has two (2) commercial buildings, the applicant is proposing to re-locate the restaurant to the southerly building. The application was referred by the Town Board for review and approval of the site plan and architectural style.

Dave Sutton, of Sutton Architecture, is present and explained they would like to re-locate an existing restaurant on the same parcel. His client has entered into an agreement to lease the property in which his restaurant currently exists and the 3,000 square foot building to the south on the same parcel. One of the reasons they agreed to lease both buildings is to solve a parking congestion problem. It also allows them to do some substantial improvements, both to the interior and exterior of the restaurant. There will be a small vestibule addition at the front of the southern building along with a defined covered patio enclosure, as well as a freezer/cooler equipment addition off the back. Mr. Sutton referred to the site plan and said there were concerns regarding the existing layout, condition and the flow of the parking lot. Per the request of the Planning Board Executive Committee, the applicant redesigned the plan to try to maintain or minimize the amount of blacktop space and redefine the parking situation. By eliminating the existing awning, which is outdoor seating at the existing restaurant, they were able to free up some of the congestion in the parking and justify the parking space to get a better flow. Currently they are required to have 40 parking spaces, 39 of those spaces are adequate in the front of the building and just alongside. There is existing gravel parking which is for employee parking only. By putting the employees in a designated area it frees up the parking for customers, has a better flow and less congestion. Mr. Sutton referenced the two (2) curb cuts and said because the property is being leased and the buildings are to exist, the landlord is not willing to allow the applicant to close off one of those ingress/egresses. The applicant discussed the possibility of a one-way in and a one-way out, however due to the nature of the width of the curb cuts Mr. Sutton has concerns with that design, however he and the applicant are willing to entertain that idea. The new layout, regardless of curb, allows for a much better flow and addresses some of the concerns regarding safety. They are introducing substantial greenspace at the street, there were parking spaces that projected on to the right-of-way and onto the sidewalk, this was a safety concern for pedestrians as well as an aesthetic concern. They will refurbish the existing stonewall and add some plantings as well as define the parking spaces and the greenspace area with this overall improvement. Mr. Sutton thanked the committee for their input in redesigning the site.

Mr. Pazda asked about the dumpsters. Mr. Sutton said they will be behind the building and enclosed, this cleans up the visibility from Transit Road, and also provides a nice flow for customer and employee parking. They will re-stripe the hard surface of the lot. The gravel portion of the site was striped but with the winter plowing, it needs attention and will probably be re-striped. The front part of the parking lot will be sealed and patched as needed along with all new striping.

Mrs. Salvati thanked the applicant for coming back with a re-designed plan. She suggested using salt-tolerant species for the landscaping that is out front at Transit Road.

Mr. Dale asked if the applicant is willing to duplicate the landscape bed and the 24' stone wall on the portion of the property to the south, to make it an entrance-way. Mr. Sutton said he is not sure they want to duplicate the stone wall, he would like to put some landscape enhancement there. He went on to explain that behind the stonewall is not as visually appreciated, the reason the stonewall existed is because there were to parallel parking spaces behind it and the wall was actually meant to protect those

spaces. He will focus his attention on landscaping in that area. Mr. Dale asked if however the applicant changes the existing landscaping and wall will it be duplicated on the other side. Mr. Sutton said they would like to have a cohesive plan on either side of the curb cuts as well as in the middle.

Mr. Todaro asked if there is any change in lighting at the site. Mr. Sutton said there is no intention for any changes in lighting, they are not introducing any lighting at this point. If there are deficiencies identified by the Board or the Town the applicant will address them.

Mr. Pazda asked what is being done with the existing building. Mr. Sutton said it will be maintained and used for storage and overflow by his client. Again, the only reason for leasing the adjacent building is to secure the parking and the whole parcel. There is no intended occupancy or use other than the support to the restaurant. Mr. Sutton is aware of the fact that if the building becomes occupied in the future it would become a change in use and at that point a parking consideration would be re-evaluated based on that use. Mr. Pazda asked if anything will be done to the building once the awning comes down, will the applicant be required to fix it up, re-paint it or refurbish it. Mr. Sutton said once the awning comes down they will take whatever measures necessary to do any repairs or clean up any deficiencies the awning may have created.

Chairman Sackett asked where landscaping will be added. Mr. Sutton said their primary focus is to add greenspace to the front along Transit Road. On the north and the south side of the curb cuts they will take away 5' of paved area, which is in the right-of-way, and another 8'-9' which is on their property, this will provide a 13'-14' greenspace buffer. The north property line will be defined better and that green space will be established. The three (3) spots that are at the back of the building of the existing restaurant will be defined greenspace. The remaining areas shown on the plan are current or existing greenspace. Chairman Sackett noted that the landscaping will need to be delineated, including but not limited to size, type and number of plantings, when the plan goes before the Landscape Review Committee. That plan will also need to be stamped by a Landscape Architect. If there is work to be done in the right-of-way the applicant would need to get permission from the NYS Department of Transportation. Mr. Sutton understands.

Mr. Pazda asked about cross access. Chairman Sackett said the applicant indicated that as far as they are able and to the extent of their authority they are agreeable to cross access. Mr. Sutton concurred and went on to say they will work with the adjacent property owner for a cross access agreement when that parcel gets developed. It is noted that the applicant leases the property, he does not own it.

Mr. Sutton explained that a small vestibule will be added as well as a covered porch for outside seating. The vestibule addition will be a cultured stone. The red colored existing brick is in great condition and will be taken down and re-installed. The proposal is to paint the brick the color that is show on the rendering. The other three (3) sides of the building will be existing CMU (concrete masonry unit) and will be painted accordingly to match the design scheme. All the trim work will be a wood-look material. There are some openings on the outside of the building that will be patched in and in-filled with CMU.

Mrs. Salvati asked if there is lighting on the back of the building that the applicant will be moving into. Mr. Sutton said the back of the building is not lit now. By code, there must be an emergency light in the back. There will also be some low level security wall pack lighting, which is identified in the architectural plans. Those lights would have the appropriate deflector shields and dark sky standards. It is not site lighting, they are wall packs.

Chairman Sackett noted that the Planning Board can approve the façade but not the outside dining. The outside dining is the purview of the Town Board. The Board will be approving the site plan and the architectural design of the building.

Mr. Pazda wants to know how close in color will the new building be to the old one. He asked the applicant if he thinks it would behoove him to paint the old to match the new. Mr. Sutton said the reason for the color selection for the new building is to compliment the old building, there will be some cohesion between the two (2) buildings. There are no major improvements planned for the building they are leaving, that will be a secondary building.

ACTION:

Motion by Wendy Salvati, seconded by Richard Bigler, to **approve** the amended site plan and architectural style of the proposed property rehabilitation at 5701 Transit Road as per the submitted site plan and elevations from Sutton Architects dated 4/4/16, with the following conditions:

1. Review and approval by the Landscape Committee on required landscaping for the property upgrade prior to issuance of Certificate of Occupancy including enhancements along Transit Road frontage.
2. Review and approval by the Building and Engineering Department on the required permits for property renovations.
3. Open Space and Recreation Fees.
4. The applicant agrees to make every effort to enable ingress and egress to the adjoining property to the north.
5. Dumpsters will be properly enclosed as required by code.
6. Any new building lighting installed on the rear of the building shall be dark sky compliant with the appropriate shielding.
7. *It is recommended that the Town Board issue approval for the proposed outside dining.
*this condition was subsequently removed from the motion.

ON THE QUESTION:

Deputy Town Attorney said there is more information that goes into a hearing for approval of outside dining such as number of tables, lighting, sound, etc. None of this information was discussed this evening so a recommendation should probably not be made.

Mr. Bleuer suggested recommending the style/architecture of the awning/patio space, not the use of the space but the space itself.

Mrs. Salvati agreed to remove condition #7 from the motion, Mr. Bigler also agreed.

Mr. Sutton understands the removal of condition #7. He understands and agrees with the conditions.

Steve Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting adjourned at 8:20 p.m.

Carolyn Delgato
Senior Clerk Typist