

Town of Clarence
Planning Board Minutes
Wednesday May 16, 2012

Work Session 6:30 pm

Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:30 pm

Item 1

John DiPietro
Agricultural Rural Residential

Requests Minor Subdivision Approval at 9925
Lapp Road to create one (1) new residential
building lot.

Item 2

Town Mini
Traditional Neighborhood District

Requests Preliminary Concept Review of a
proposed automotive sales/service operation at
8240 Main Street.

Item 3

Niagara County Produce
Major Arterial

Request an Action under the State Environmental
Quality Review Act (SEQRA) and Concept
Approval for development of a new facility at
8555 – 8595 Transit Road.

Chairman Al Schultz called the meeting to order at 7:30 p.m.

Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz	Vice-Chairperson Robert Sackett
2 nd Vice-Chairman Wendy Salvati	Timothy Pazda
George Van Nest	Richard Bigler
Paul Shear	Gregory Todaro

Planning Board Members absent: none

Town Officials Present:

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

Other Interested Parties Present:

Bill Wincott	Roy Ryer
Chuck Incorvia	David Reinecke
Dave Albert	Sandy Reinecke
Nancy Kelsch	John DiPietro
John Siefert	

Chairman Schultz explained the procedure stating that Jim Callahan will introduce each agenda item. The applicant and the Planning Board will discuss the project. It will be clarified what action is in front of the Planning Board for each item. Before any action is taken anyone in the audience is invited to speak on the project.

Item 1

John DiPietro	Requests Minor Subdivision Approval at 9925
Agricultural Rural Residential	Lapp Road to create one (1) new residential building lot.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the south side of Lapp Road, west of Strickler Road. It is an existing vacant parcel located in the Agricultural Rural Residential Zone. Per the Subdivision Law, the Planning Board has the authority to approve Minor Subdivisions.

John DiPietro is present and explained that he lives on the east side of the property.

Chairman Schultz said this will be the last split for this parcel. Mr. DiPietro understands. The Town Engineer will have to approve any proposed project for the site. The appropriate permits must be obtained. Mr. DiPietro is made aware of the Landscape Law that must be adhered to.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed DiPietro Minor Subdivision. This Unlisted Action involves a property split creating one new residential building lot in the Agriculture Rural Residential Zone. The proposed lot will meet minimum lot size requirements in this zone. After thorough review of the submitted survey and Environmental Assessment Form, it is determined that the proposed action will not have a significant negative impact upon the environment.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by George Van Nest, seconded by Paul Shear, to **approve** the DiPietro Minor Subdivision located at 9925 Lapp Road, as the final lot split for this parent parcel, with the following conditions:

1. Review and approval by the Town Building and Engineering Department related to any future building construction on the property.
2. Review and approval by the Erie County Department of Public Works related to future access drives/curb cuts for property development.
3. Review and approval by the Erie County Health Department related to any future on-site sanitary sewer facilities.
4. Future home construction subject to Open Space and Recreation fees.

ON THE QUESTION:

Mr. DiPietro understands that he will have to comply with all other laws that may be applicable to any development of the property, which includes the Landscape Law.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 2

Town Mini
Traditional Neighborhood District

Requests Preliminary Concept Review of a proposed automotive sales/service operation at 8240 Main Street.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is on the northwest corner of Main Street and Westwood Drive. It is existing vacant and former commercial use property located within the Commercial and Traditional Neighborhood District Zones. Per the Zoning Law the proposed use will require a Special Exception Use Permit (SEUP) as issued by the Town Board. The Planning Board will make recommendations to the Town Board on this project.

Lead designer Bill Wincott, of the DR Chamberlain Corporation, is present. He is proposing an approximate 11,000 square foot new sales and service building. Currently, the Mini franchise is located across the street but Town Mini is looking for more room. After a few revisions to the plan, the total greenspace is now 35%. There is a 45' buffer between the residences on the north side of the property.

Mr. Pazda asked where deliveries will take place. Mr. Wincott said all deliveries will be behind the plaza. There is an agreement with Mr. Morabito; the trucks will come in off of Bryant and Stratton

Road and go behind the plaza to the northwest corner. Mr. Shear said the driveway at the northwest corner of the plaza might need to be larger to accommodate fire apparatus if they need access to the property. Mr. Shear asked if this was a problem for the applicant and noted that the current driveway is about 15'-15 1/2'. Mr. Wincott said that area is basically open and he can make it as wide as the Board wants, even if he loses a parking space.

Mrs. Salvati said it is important for the applicant to screen the on-site lighting and look at effective ways to screen the lighting standards so there is no light shining backwards on the property next door. Mr. Wincott said his normal lighting layout has zero wash onto neighboring properties.

Robert Kahabka, of 8285 Ericson Drive, is concerned with two (2) curb cuts on Westwood Drive. He has lived in the neighborhood for 13 years and has found that a lot of people use Westwood Drive and Ericson Drive to avoid the corner of Main Street and Harris Hill Road. There are many speeders and stop sign runners. He thinks the people who visit the business should enter on Main Street, not Westwood Drive. This will create more traffic congestion than there already is and before you know it there will be a traffic control device there. He has no problem with Town Mini and wishes them luck.

The Kusz' live on Westwood Drive and agree with the concerns of Mr. Kahabka. They would feel better about the project if there were no driveways on Westwood Drive. The rush hour traffic backs up from Harris Hill Road to Westwood Drive. The Kusz' have lived on Westwood Drive for nine (9) years and everyone from car dealerships in the area takes their test drives down that road. There are children in the area and walkers and joggers, too.

Linda Toto lives on Westwood Drive and is happy to see the property will be converted to a nice building. Her major concern is the entrances and exits on Westwood Drive. She works for a car dealer on Main Street so she knows how busy it is. Test drives and service technicians will use Westwood Drive. There is a lot of traffic and noise from the public announcement systems. She thinks two (2) entrances on Main Street are sufficient.

Mr. Wincott said they originally proposed another entrance on Main Street but for the general public safety that would just create another vehicle that could be run into if you were coming off Westwood Drive. NYS DOT is trying to limit the number of entrances on main roads as it is not a safe practice to have. The rear access on Westwood Drive is designed to be a right hand turn only, so the cars in the rear of the lot don't have to travel through the lot where there will be doors opening and other vehicles traveling within the lot which could cause a safety issue. The number of vehicles accessing the site per day is low. The dealership has protocol in place in which their service technicians are not travel into the surrounding neighborhoods to test drive. The company really cannot tell a customer where he or she can or cannot drive.

Town Automotive owns the property.

Mr. Wincott said if the Board thinks it will help, they could make the front entrance right turn only. They would still prefer the two (2) driveways on Westwood Drive.

Wendy Salvati suggests relocating the driveway but the location she suggested is on property that is not owned by the applicant.

It is clarified that the guardrail which was on the plan has been removed and shown as such in the latest submitted plan.

Mr. Wincott said there is room for snow removal in the 45' buffer at the rear of the property.

Chairman Schultz said a storm water management plan for the site will need to be worked out with the Town Engineer. Mr. Wincott said there are two (2) wells on site and they have already been approved. He will work with the Town Engineer to meet requirements.

Landscape Committee review and approval is required for this project.

One reason for the curb cuts on Westwood Drive is so the product can be displayed along Main Street. Mr. Wincott said there will be no display of products on Westwood Drive. The parking spots along Westwood Drive are designated as employee parking. Chairman Schultz suggested landscaping along Westwood Drive to break up the parking; Mr. Wincott said that should not be a problem.

Mrs. Salvati asked the applicant to consider wrapping the berm that is at the back of the property around onto Westwood Drive to continue the visual barrier. She also suggested centrally locating the berm in the 45' buffer. It is currently proposed to be tight against the property line but if there is a heavy rain, storm water may run off to adjacent properties.

Chairman Schultz said the project has tremendous appeal to make the entrance closest to Main Street a right turn only, in and out, because of the concerns of the people on Westwood Drive; the curb cut to the north could be eliminated or made to be a right turn only as well.

Mr. Wincott said the northern exit is too small to be an in and out access, it will be an exit only and labeled as such.

Mrs. Salvati suggested a raised curb so people cannot turn left on to Westwood Drive.

Mr. Pazda asked for clarification on the northern driveway. Mr. Wincott said they will not send customer's to use the northern exit on Westwood Drive.

Mr. Sackett said he likes the right turn only at the large exit and at the service technician exit to the rear of the property. The access at the back of the property needs to be widened for fire apparatus access.

Mr. Callahan said an analysis of the Part II EAF was done which indicates there are no issues, so there is no Part III.

ACTION:

Motion by Robert Sackett, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to **accept** as complete the Part 1 EAF on the proposed Towne Mini Development at 8240 Main Street as prepared by William Schutt & Associates.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Robert Sackett, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law and based upon the accepted Part 1 EAF, to **accept** the Part 2 Environmental Assessment Form as prepared and recommend a Negative Declaration on the proposed Towne Mini Automotive Sales/Service Facility at 8240 Main Street. This Unlisted Action involves the construction of a new automotive sales and service operation on previously disturbed property within Erie County Sewer District #5. After thorough review of the submitted EAF and site plan, including modifications to address neighborhood concerns associated with traffic flow, it is determined that the proposed action will not have a significant negative impact upon the environment.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Mrs. Salvati asked for clarification on the reasoning behind two curb cuts on Westwood Drive. Mr. Wincott said the second curb cut will be used by vehicles in the rear of the lot to help alleviate traffic within the lot which can cause a safety concern. Those who use the rear of the lot could be service technicians or other employees. The curb cut will be exit only and right out only. Mr. Pazda asked what will prevent people from turning left anyway, which may be more dangerous. Mr. Wincott said there will be directional signs but no one can control what people do. There is not going to be a lot of traffic using the northern driveway.

Chairman Schultz thinks this is a good use for the site. It will go smoother for the applicant if the northern curb cut is eliminated, however, Chairman Schultz thinks it makes sense for that curb cut to be there because it helps internal circulation and makes the site work safely.

Mr. Van Nest said the Planning Board has to make a thorough and comprehensive decision on good planning and part of that is to balance concerns about traffic safety with the site plan. If keeping the northern exit is going to help internal circulation it is not going to make a difference whether it adds 25 cars 100' to the north or 25 cars 100' to the south.

ACTION:

Motion by George Van Nest, seconded by Paul Shear, to **approve** the Concept Plan as submitted by William Schutt and Associates and dated 5/9/2012 with the following conditions:

1. North and south access drives to Westwood Drive are to be restricted to right out only to ensure that access down Westwood Drive to the north is eliminated.
2. Delivery trucks must utilize Bryant & Stratton Way and the Main - Transit Plaza for deliveries. No use of Westwood Drive for delivery of vehicles will be allowed as a condition of approval.

- 3. The northern buffer is to be a combination of landscaping, fencing and berms to protect the adjoining residential neighbors. Final landscape design to be reviewed and approved by the Landscape Committee.
- 4. Lighting to be dark sky fixtures to ensure zero spill on adjoining residential properties.
- 5. Subject to the issuance of a Special Exception Use Permit by the Town Board.
- 6. Subject to Planning Board approval on Development Plans, requiring that all regulatory agency and departmental approvals and permits are in order.
- 7. Subject to Open Space and Recreation Fees.
- 8. Bryant and Stratton Way access be opened up to 24' to accommodate fire safety equipment.

ON THE QUESTION:

Mrs. Salvati asked that #1 in the motion be amended to include the condition that appropriate signage is required on the site indicating no left turns onto Westwood Drive and for the northerly access it should indicate exit only. Mr. Bigler said the motion should also include the condition that the berm at the rear of the property is to wrap around the northeastern corner of the property. Mr. Van Nest agreed to amend the motion; Mr. Shear agreed to second the amended motion.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Paul Shear, seconded by George Van Nest, to **recommend** approval of a Special Exception Use Permit to allow for an automotive sales/service facility based upon the approved Concept Plan with conditions as noted.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 3

Niagara County Produce
Major Arterial

Requests an Action under the State Environmental Quality Review Act (SEQRA) and Concept Approval for development of a new facility at 8555 – 8595 Transit Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the east side of Transit Road, south of Tonawanda Creek Road. It is an existing produce market located in the Major Arterial zone.

Chairman Schultz noted that the project itself does not require any extra permits, but the size of the proposal does. The Planning Board has the authority to approve the project with a recommendation of a Special Exception Use Permit to the Town Board.

Michael Metzger is representing the applicant.

Mrs. Salvati asked about the amount of parking and if the applicant needed all those spaces. Can some be land-banked? Mr. Metzger said currently there are approximately 200 parking spaces. The current building is approximately 52,000 square feet in size; they will be going to approximately 86,000 square feet, which includes the greenhouse. There are 343 parking spaces on the plan; this is as few as the applicant could possibly live with. There is no over-spill area, they don't want people parking on Transit Road, anyone who comes in to the site has to fit on site.

Mr. Metzger said the applicant has discussed SEQRA matters with the Army Corp of Engineers, the NYS DEC and the NYS DOT. Two (2) variances have been granted by the Zoning Board of Appeals for the project which allowed the building to be moved slightly further south in order to save a 20' strip of wetlands.

Mr. Metzger said the area was identified as a potentially archeological sensitive area. The applicant hired an archeologist to perform a complete study of the site and issue it to the State Office of Parks and Historic Preservation. February 2012 the applicant obtained a letter with a complete sign-off; the State is satisfied. A full wetland delineation was done on both the Federal and State wetlands. The applicant has obtained a jurisdictional determination on the Federal Wetlands from the Army Corp of Engineers and a jurisdictional determination on the State Wetlands from the NYS DEC. The limits are set and confirmed by the State and the government. The applicant has reduced the size of the building therefore reducing the impact on the wetlands from 4 acres to 1.9 acres. The DEC and the Army Corp are both processing the applications.

Because there are traffic issues in the area, the applicant hired a traffic consultant to perform a study. The proposal is not a new project; it is an existing site, so the proposed improvements for access to the site and traffic flow will be an overall improvement upon what is there today. An entrance to Tonawanda Creek Road will be provided; this will benefit those customers coming from the north and east as they will not have to access Transit Road to get to the market. Currently, there is one large curb cut along the building on Transit Road, this is dangerous and has caused many accidents. That curb cut will be eliminated and will become greenspace. There will only be one curb cut off Transit Road and it will be on the northern end of the parcel. This will allow more decision and reaction time for motorists exiting the site. There will also be one curb cut on Tonawanda Creek Road. The traffic

consultant and the NYS DOT have both acknowledged making these improvements is going to make a better situation in the overall traffic handling in the area.

Mr. Metzger said the project has 50% greenspace, the requirement is 25%. The project doubles most of the minimum setbacks that are required by the Code. They have a minimum amount of wetland impact and a maximum amount of preservation. The access on Tonawanda Creek Road has been kept as far to the west as possible to keep the impact to the neighbors minimal. The residential neighbors have a large buffer due to the preservation of the wetland.

Mr. Callahan spoke with Ed Rutkowski of the DOT regarding the traffic study, Mr. Rutkowski received the study and had no comment; there would be no significant impact. The standard letter was received from the Department of Public Works regarding the proposal.

Chairman Schultz asked what the study showed as the impact on Tonawanda Creek Road. Will there be more cars travelling Tonawanda Creek Road than there currently are? Mr. Metzger said the Level of Service (LOS) at Transit Road and Tonawanda Creek Road is an "F", this will not change. The access to the site was also studied under all conditions and determined that it would operate at a Level of Service "A".

Truck traffic comes in from the north and south and deliveries are made in the morning. They will enter and exit the site from the Tonawanda Creek Road access.

Roy Ryer, of 8086 Tonawanda Creek Road, has lived there over 30 years and said the intersection at Millersport and Transit has always been a concern of his, there have been a lot of accidents there. He thinks this proposal is a good move to take some traffic away from that intersection.

Linda Critelli lives on the property that borders the eastern boundary of the project site. She is concerned with the egress on Tonawanda Creek Road and the amount of traffic that she imagines it will create. There will be more traffic on Tonawanda Creek Road and that road has collapsed twice since she moved there in 1993.

Helen Mulkel has lived on Tonawanda Creek Road for 50 years and she goes to the market a lot. She takes the back roads to get to the market because to go out to Transit Road is horrendous. She would appreciate a driveway on Tonawanda Creek Road.

Chairman Schultz noted that the line of sight is poor when exiting the project site now.

Ann Spears, of 8215 Tonawanda Creek Road, has lived on this road all her life. She is in favor of having the access road onto Tonawanda Creek Road. It is very dangerous making left hand turns off Tonawanda Creek Road. For the safety of all those to the east, they want this access to the market. She does not think there would be more traffic because of this proposal, she knows of people who use Tonawanda Creek Road now so they can avoid Transit Road.

Tom Critelli, of 8061 Tonawanda Creek Road, said the applicant indicated that they need 300 parking spaces, so if there are 300 cars coming out onto Tonawanda Creek Road where are these cars going to go? The intersection is dangerous and there are accidents all the time. 300 cars in and out of the site every hour will cause more accidents and traffic problems. He is also concerned with the drainage. There is a lot of black top on the site, where are the drainage and the heavy rains going to go to? Where will the applicant pile the snow?

Chairman Schultz said the conclusion of the traffic study is that the proposal wouldn't make it any worse than it is now but it will make it better. The drainage will have to be an engineered drainage plan and it will be better than it is now. The snow removal is also part of the engineering design. The pond up front on the property is part of the storm water management system. Any drainage plan in the Town of Clarence has to meet the storm water management regulations under the State Law; there is no option. The drainage plan must be designed so that it doesn't allow more water to go off the site than what is currently going off the site.

John Siefert, of 8490 Tonawanda Creek Road, has lived there all his life. He said the Dorr family runs a nice business at the Niagara County Produce Market. The driveway proposed for Tonawanda Creek Road will add to the safety of the entrance. He does not think there will be that much more traffic utilizing Tonawanda Creek Road.

David Kelsch, of 8056 Tonawanda Creek Road, he owns property that is straight across from the proposed entrance for the market. He is concerned with the impact on the intersection. He commends the project but said the traffic between the proposed entrance and Transit Road will back up and stop. A traffic light would answer many of the problems.

Gary Gorenflo, owner of 8655 Transit Road, Belnap Heating is occupying the property currently. He is concerned with traffic. He has employees that are trying to get in and out of the business using that intersection. He would like to see a traffic light installed.

David Albert of Tonawanda Creek Road is concerned with the maintenance of the road. There used to be a 2' shoulder on the road, there is no longer a shoulder at all. There is a big pothole that needs to be fixed. Who will maintain the road and why don't they maintain it now? Planning Board members suggest Mr. Albert call the Erie County Highway Department for maintenance issues as Tonawanda Creek Road is a County road. Mr. Albert said he and his neighbors have called the county numerous times with no success.

Mrs. Salvati said the parking lot lighting needs to be dark sky compliant.

ACTION:

Motion by Robert Sackett, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 2 and Part 3 Environmental Assessment Form on the proposed expansion/redevelopment of the Niagara County Produce Facility located at 8555-8595 Transit Road as prepared.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Niagara County Produce Facility located at 8555-8595 Transit Road. This Type I Action involves the expansion/redevelopment of the existing retail produce market. After thorough review of the submitted site plan and Environmental Assessment Form, including coordinated review with comments and modifications from the NYSDEC, NYSDOT, ECDPW, USACOE, ECHD and Town of Amherst, it is determined that the proposed project as modified will not have a significant negative impact upon the environment.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by George Van Nest, seconded by Paul Shear, to **approve** the Concept Plan, as prepared by Metzger Civil Engineering and dated March 22, 2012, for the proposed expansion/redevelopment of Niagara County Produce located at 8555-8595 Transit Road, subject to the following conditions:

1. Conditions of the approved part 3 EAF must be achieved with final design.
2. Required permits as necessary from the NYSDEC, ACOE, NYSDOT, ECDOH, ECDPW.
3. Development Plans subject to Planning Board review and approval after required Engineering Department and Regulatory Agency approval.
4. Final Landscape Plan approval by the Landscape Committee.
5. Easement access to the adjoining residential property to be reviewed and accepted by the Town Attorney's Office.
6. Subject to Open Space and Recreation Fees on the new construction.
7. Subject to a Special Exception Use Permit as issued by the Town Board for building size in the Major Arterial Zone.

ON THE QUESTION:

Deputy Town Attorney Steve Bengart is not sure the Town needs to concern itself with the easement between the private owners. Chairman Schultz said it is not an issue now because Mr. Dorr owns the adjoining property and has an interest in the project. However, the property may be sold in the future and a potential buyer may want to see an easement.

Mrs. Salvati said parking lot lighting is to be dark sky compliant.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Robert Sackett, seconded by Timothy Pazda, to **recommend** approval of a Special Exception Use Permit for building size in the Major Arterial Zone to allow for the redevelopment of the Niagara Produce property per the approved Concept Plan.

Paul Shear	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Robert Sackett	Aye
Al Schultz	Aye		

MOTION CARRIED.

Meeting adjourned at 9:00 p.m.

Carolyn Delgato
Senior Clerk Typist