

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday May 20, 2015

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

Elizabeth Allen/Frank Zivis
Agricultural Rural Residential

Requests Minor Subdivision Approval to create one (1) new residential building lot at 10825 Keller Road.

Item 2

Paul Shear
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot west of 8490 Stahley Road.

Item 3

Emerling Insurance
Commercial

Requests Development Plan Approval for a proposed office building at 9092 Main Street.

Item 4

Multiple Family Housing
Special Exception Use Permit Law Amendment

Discussion.

Item 5

Satellite, Antennas and Towers
Law Amendment

Discussion.

Chairman Robert Sackett called the meeting to order at 7:30 p.m. Chris Green led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
Timothy Pazda
Gregory Todaro
Jeffrey Buckley

Vice-Chairman Paul Shear
Richard Bigler
Steven Dale

Planning Board Members absent: Wendy Salvati

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:

Bill Kushman Frank Zivis Lowell Dewey

Chairman Sackett explained that in the absence of Planning Board member Wendy Salvati, Planning Board alternate member Jeffrey Buckley will participating in all discussions and voting on all agenda items.

Motion by Timothy Pazda, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on April 1, 2015, as written.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Steve Dale, to **approve** the minutes of the meeting held on April 22, 2015, as written.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Chairman Sackett explained that Jim Callahan will introduce each project. The Planning Board will discuss the project with the applicant. The public will then be invited to speak on the issue by addressing the Board. At the end of the public comment period, their questions may be answered, if germane to the project, by the applicant, the Planning Board or the Deputy Town Attorney.

Item 1

Elizabeth Allen/Frank Zivis
Agricultural Rural Residential

Requests Minor Subdivision Approval to create one (1) new residential building lot at 10825 Keller Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the south side of Keller Road, east of Salt Road.

It is an existing residential property located in the Agricultural Rural Residential zone. Per the Subdivision Law the Planning Board has final approval authority for minor splits.

Bill Kushman is present, he is the realtor for this property transaction. Frank Zivis is also present, he is the purchaser of the property. Mr. Kushman explained that Ms. Allen wants to retain the larger parcel of 370'. In the contract for the deal Mr. Zivis is responsible for the property split. Mr. Callahan noted that the Town has a copy of the contract.

ACTION:

Motion by Gregory Todaro, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Allen Minor Subdivision located at 10825 Keller Road. After thorough review of the submitted site plan and Short EAF it is determined that the proposed action will not have a significant negative impact upon the environment.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Mr. Pazda asked if the representative knew what Ms. Allen’s plan is. The representative said no.

ACTION:

Motion by Gregory Todaro, seconded by Paul shear, to **approve** the proposed Minor Subdivision at 10825 Keller Road to create one (1) additional residential building lot, subject to the following conditions:

1. Review and approval by the Erie County DPW for any future curb cuts.
2. Review and approval by the Town Building and Engineering Department for any future construction on the property.
3. Review and approval by the Erie County Health Department for any future on-site sanitary facilities.
4. Open Space and Recreation Fees on future building permits.

ON THE QUESTION:

Mr. Pazda asked if this is considered the first split of the parent parcel and there could be additional splits that fall within code. Mr. Callahan said yes. Mr. Todaro clarified that the frontage would have to be 150'.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Paul Shear recused himself and left the dais.

Item 2

Paul Shear
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot west of 8490 Stahley Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the north side of Stahley Road, east of Miles Road. It is an existing vacant property within Erie County Sewer District #5. Per the Subdivision Law the Planning Board has final review and approval authority on minor splits.

Paul Shear is present and noted that on the west side of the property there is approximately 20’ split out that is going to be turned over to the homeowner on the west because, currently, his (Mr. Shear’s) property abuts his neighbor’s driveway and includes all the trees that have been planted over the years. This will give his neighbor some privacy.

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 Shear Minor Subdivision located west of 8490 Stahley Road. After thorough review of the submitted site plan and Short EAF it is determined that the proposed action will not have a significant negative impact upon the environment.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Robert Sackett	Aye

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the proposed Minor Subdivision west of 8490 Stahley Road to create one (1) additional residential building lot, subject to the following conditions:

1. Review and approval by the Erie County DPW for any future curb cuts.
2. Review and approval by the Town Building and Engineering Department for any future construction on the property.
3. Review and approval by the Erie County Division of Sewer Management for any future sewer connections.
4. Open Space and Recreation Fees on future building permits.

ON THE QUESTION:

Mr. Shear understands and agrees with the conditions.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Robert Sackett	Aye

MOTION CARRIED.

Mr. Shear returned to the dais.

Item 3

Emerling Insurance
Commercial

Requests Development Plan Approval for a
proposed office building at 9092 Main Street.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the north side of Main Street, west of Thompson Road. It is an existing residential property located in the Commercial Zone. The project received a Negative Declaration under the State Environmental Quality Review Act and Concept Plan approval from the Planning Board on April 1, 2015. The applicant is present seeking final Development Plan approval on the project as conceptually approved.

Lowell Dewey, partner with C & S Engineers, is present and said they have been to the DOT with their plans and they are ready to issue a curb cut permit, however they (DOT) are slow in acting. The storm water goes to the rear, with detention in the front and then drain to a groundwater recharge well. They have been to the Health Department for the septic system and they have talked to Tim Lavocat at length about the site. Mr. Dewey’s understanding is that Mr. Lavocat is satisfied with all plans. They have added a sidewalk, which was requested by the Planning Board. Mr. Dewey pointed out the “overburden stone” shown on the plan. They know rock is near the surface, when they break up the rock to put in the foundation, they would use that area to stack the stone for a low wall, which the Planning Board asked for. A stone wall will be built just north of the sidewalk on the property. The applicant’s plan is to have the lower half of their building stone, so the stacked stone wall would be low in order for the bottom of their building to be seen. They don’t want to block the sign nor detract from the looks of the building. The stacked stone wall will probably be 2’ tall, it will extend the length of the building from the new sidewalk.

Mr. Shear referred to landscaping or a stone wall to protect/hide the parking area. He suggested the applicant go with landscaping and obtain landscape approval from the Landscape Committee. Mr. Bleuer said the Landscape plan was submitted to the Planning and Zoning office. Mr. Dewey provided the plan CS-105 to the Planning Board members to view the landscaping plan which shows the intent to put shrubbery to block the visual impact of the parking from the street.

Mr. Dale referred to the stormwater retention basin which will be located in the front of the property. Mr. Dewey pointed out on the plan where the basin will be and noted that it will be dry between storms. No water goes to the DOT, there is no storm sewer up front. Mr. Dale asked if the stormwater detention basin screened. Mr. Dewey said yes, the wall is there, along with two (2) trees. The basin will be two (2) and half to three (3) feet deep, it will be easy to mow. The wall will be about 7’-8’ from the driveway. Mr. Dale asked if the applicant could extend it any closer to the driveway. Mr. Dewey said that is their preference because the sign will be there and they want to leave that view open.

Chairman Sackett noted “c” on the document in the presentation and suggested it include “collision/body repair, auto detailing and fuel”.

Mr. Dale said he remains against this, he thinks the code remains too vague. He would like to see the permitted uses specifically enumerated to the list he passed out in the work session. He is afraid this will lead to an inconsistency of deliberation in the future.

ACTION:

Motion by Paul Shear, seconded Timothy Pazda, by pursuant to Article 8 of the Environmental Conservation Law, to **recommend** a Negative Declaration on the proposed Zoning Law Amendment related to conditions associated with the Multiple Family Housing Special Exception Use Permit (Chapter 229-126 of the Code of the Town of Clarence). After thorough review of the draft law and the Short EAF as prepared by the Town Planning Department, it is determined that the proposed action will not have a significant negative impact upon the environment.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

ACTION:

Motion by Paul Shear, seconded by Gregory Todaro, to **recommend** to the Clarence Town Board adoption of the proposed Zoning Law Amendment related to conditions associated with Multiple Family Housing in the Restricted Business Zone as finalized by the Planning Board on 5/20/15, including the additional auto use limitations as proposed by the applicant.

ON THE QUESTION:

Chairman Sackett clarified the added auto use limitations noting that they are: no collision, no body repair, no auto detailing and no sale of fuel, this is specifically with reference to §2(c) (3).

Jeffrey Buckley	Aye	Steve Dale	Nay
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Item 5

Satellite, Antennas and Towers
Law Amendment

Discussion.

DISCUSSION:

Mr. Callahan explained that the Satellite, Antennas and Towers Local Law §173 was originally adopted in 1997 in response to numerous applications related to satellite towers. The Law was silent as to wind energy conversion systems with only a tower height limitation of 60’ identified, throughout all zones. In the last several months the Town has received numerous applications for wind turbines with tower heights that exceed the 60’ limit. The Zoning Board of Appeals has been hearing variance requests for height variances with no formal basis in local law to guide their decision making. Based on the number of variance requests the Town Board referred a proposed law amendment to the Zoning Board on April 29, 2015. The Planning Board Executive Committee has worked on several iterations of a local law amendment. The draft is ready for public discussion.

Chairman Sackett said the Planning Board feels there is some degree of urgency for this law because of the petitions to the Zoning Board of Appeals. They don’t feel the Zoning Board of Appeals should be making code but because of the inadequacy of the code, due to current technology, the Planning Board feels they need to make a recommendation to the Town Board so they can update the code to match the current technology. The Town Board will have a hearing and make a decision on what the Planning Board recommends.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** a Negative Declaration on the proposed Amendment to Chapter 173 of the Code of the Town of Clarence. After thorough review of the draft law amendment and the Short EAF as prepared by the Town Planning Department, it is determined that the proposed action will not have a significant negative impact upon the environment.

Jeffrey Buckley	Aye	Steve Dale	Aye
Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Paul Shear	Aye
Robert Sackett	Aye		

MOTION CARRIED.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, to **recommend** to the Clarence Town Board adoption of the proposed amendments to the Satellite, Antennas and Towers Local Law (Chapter 173 of the Code of the Town of Clarence) as finalized by the Planning Board on 5/20/15.

ON THE QUESTION:

Chairman Sackett noted that there were no changes made to this proposed amendment this evening. Copies of both proposed code amendments are available in the Planning and Zoning Office.

Jeffrey Buckley Aye
Gregory Todaro Aye
Timothy Pazda Aye
Robert Sackett Aye

Steve Dale Aye
Richard Bigler Aye
Paul Shear Aye

MOTION CARRIED.

Meeting adjourned at 8:06 p.m.

Carolyn Delgato
Senior Clerk Typist