

Town of Clarence
Planning Board Minutes
Wednesday June 6, 2012

Work Session 6:30 pm

Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:30 pm

Item 1

Craig Tierney
Residential Single Family

Requests a Master Plan 2015 Amendment to allow Restricted Business zoning at 9105 and 9125 Main Street.

Item 2

Frank Jurek
Agricultural Rural Residential

Requests a Master Plan 2015 Amendment to allow Industrial Business Park zoning at the southwest corner of Strickler and County Roads.

Item 3

Metzger Civil Engineering
Residential Single Family

Requests Concept Plan Approval and State Environmental Quality Review Act (SEQRA) Determination of a 4-Lot Open Development Area at 10976 Stage Road.

Item 4

Spaulding Green LLC
Residential Single Family

Requests Development Plan Approval of Phase 5 of Spaulding Green Open Space Design Subdivision.

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
Timothy Pazda
Paul Shear

Vice-Chairman Robert Sackett
Richard Bigler
Gregory Todaro

Planning Board Members absent: 2nd Vice-Chairperson Wendy Salvati
George Van Nest

Town Officials Present:

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

Other Interested Parties Present:

Peter Pucak	Scott Witter
Craig Tierney	Deb Popp
David Lechner	Frank Harris
Richard Van Buren	Mike Kohrer
Richard Pfentner	Sue Errick
Martha Zimmerman	Carolyn Haag
Neil Bopp	Steven Dorner
Susan Greene	William Hoffmeister
Tom Dabolt	James Andres
Michele Andres	Don Montgomery
Sylvia Montgomery	

In the absence of Planning Board 2nd Vice-Chair Wendy Salvati and Planning Board member George Van Nest, alternate Planning Board member Gregory Todaro will participate in all discussions and vote on all agenda items.

Jim Callahan will introduce each agenda item. The Planning Board will review the proposal with the applicant and explain what action the Planning Board can take. Before any action is taken, the public will be invited to speak on the project.

Item 1

Craig Tierney
 Residential Single Family

Requests a Master Plan 2015 Amendment to allow Restricted Business zoning at 9105 and 9125 Main Street.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is on the south side of Main Street at the intersection of Barton Road. It is existing residential property located in the Residential Single Family zoning classification. The applicant is requesting a Master Plan amendment to allow for a commercial zoning classification on the properties on the corners. This concept was introduced at the February 22, 2012 annual hearing for Master Plan 2015. Coordinated review on the State Environmental Quality Review Act has been completed with no relevant comments from involved agencies. The Planning Board is considering the proposed amendment and a recommendation to the Town Board. In this matter the Town Board is final approval authority for the Master Plan amendment.

The Planning Board decided that if one corner of Main Street and Barton Road was going to be looked at for a Master Plan amendment, the other corner should be looked at as well. There is currently a small business on one corner anyway.

Craig Tierney is present and explained he spoke with Bob Appleby who is the owner of 9125 Main Street. Mr. Appleby is on board with the request to amend the Master Plan and gave Mr. Tierney permission to speak for him at this or any other meeting regarding this issue. The Planning Board has also discussed this with Mr. Appleby with the same results.

Chairman Schultz said only something small can go on this property given its size. A small retail shop or office might work. The only people heard from on this proposal are the immediate neighbors who are concerned about what could go in there. Whatever would go in there would have to be reviewed closely and meet the code.

It is confirmed that if this amendment is approved and a project is then proposed, that project will have to come before the Planning Board for review and approval if it involves a change in occupancy or a building code occupancy change. It would also have to meet all the requirements for a commercial type applicant.

Debbie Popp, of 4440 Barton Road is against amending the Master Plan because of what happened with the business that went in behind her. Once that business went in her complaints were not taken seriously, even when it was at this stage she was told things that never occurred. She does not have a proper buffer; she can't open her windows in the summer because the lighting is in her sight line. She does not want to be enclosed with business in Clarence.

Chairman Schultz noted that any proposal would be subject to the same review and setbacks as any other commercial facility. The rear lot setback is a 45' greenbelt so there is nothing that could encroach any further into the residential zone, a building addition could not be put on to the south. The rear would be landscaped appropriately.

ACTION:

Motion by Gregory Todaro, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to **accept** as complete the Part 2 Environmental Assessment Form as prepared and filed for the Restricted Business zoning at 9105 and 9125 Main Street.

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

MOTION CARRIED.

ACTION:

Motion by Gregory Todaro, seconded by Timothy Pazda, Pursuant to Article 8 of the Environmental Conservation Law, to **recommend the Clarence Town Board issue a Negative Declaration** on the proposed Master Plan 2015 Amendment for the property at 9105 and 9125 Main Street. This Type I action involves a change to the Future Land Use Map within Master Plan 2015 such that the property at 9105 and 9125 Main Street will be converted from Residential to Commercial. After thorough

review of the proposed amendment and both Part 1 and Part 2 of the Environmental Assessment Form, including a coordinated review among involved agencies, it is determined that the proposed action will not have a significant impact upon the environment.

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

MOTION CARRIED.

ACTION:

Motion by Paul Shear, seconded by Gregory Todaro, to **recommend** to the Clarence Town Board that Master Plan 2015 be **amended** as follows: that the Future Land Use Map be amended such that the property at 9105 and 9125 Main Street is converted from Residential to Commercial. This action would amend Master Plan 2015 and the Future Land Use Map only, the specific property zoning of 9105 and 9125 Main Street will be determined at a later date and will require a public hearing of the Clarence Town Board. Any Change in Use requested in relationship with a rezoning request will separately require review and approval as per Town Code.

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

MOTION CARRIED.

Item 2

Frank Jurek Agricultural Rural Residential	Requests a Master Plan 2015 Amendment to allow Industrial Business Park zoning at the southwest corner of Strickler and County Roads.
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DISCUSSION:

Jim Callahan provided the history on the project. The property is located at the south side of County Road, west side of Strickler Road. It is existing agricultural property located in the Agricultural Rural Residential zone. The applicant is requesting a Master Plan Amendment to allow for the extension of the Industrial Business Park zone to the Strickler Road corner. This concept was introduced at the annual public hearing on Master Plan 2015 held in February 2012. Coordinated review under the State Environmental Quality Review Act (SEQRA) has been completed. Several comments have been received from involved agencies. The applicant is present seeking a recommendation on SEQRA and on the project amendment.

Scott Witter, engineer with William Schutt & Associates, is representing the applicant.

The coordinated review was sent to the NYS DEC, the Army Corp of Engineers, Erie County DPW, the State Historic Preservation Office and other agencies. There were no significant comments received. However, Erie County and NYS DEC identified that there are wetlands on the project site, but that is a project specific issue. There are a number of comments from residents concerning traffic, buildings along Strickler Road, view sheds and the quality of life for the residents living along

Strickler Road. The resident on the corner of Strickler and County is concerned about what this will look like from his view. When the Planning Board did the Environmental Assessment form Part II all the resident concerns were identified. The Planning Board tried to find a way to mitigate the concerns in the way they wrote the Part III.

Mr. Sackett noted that the Part II and Part III that was prepared included a 300' conservation easement coming from Strickler Road going west so the view shed will be maintained and to provide a buffer between the Industrial part of County Road and the rural part of Strickler Road.

Frank Harris is a 40 year resident of Clarence and lives at 6395 Strickler Road. Mr. Harris said there is nothing industrial from Main Street to Lapp Road. He asked what will happen to the property values to the people who live on Strickler Road. People have invested between \$3-\$5 million dollars in their property, this is a non-developed piece of land, the Town is going to jeopardize the investment those people already made with a buffer that the Board says is adequate. He does not agree with this.

Tom Dabolt, of 6814 Strickler Road, asked what type of buffer would be installed. There is no commercial land in that area.

Sue Errick, of 6739 Strickler Road, said a buffer will not keep the traffic from increasing; it will be astronomical.

Bill Hoffmeister, of 6606 Strickler Road, asked how the applicant plans on controlling the water. When the bridge was put in at the corner there were many problems with springs all over in that area, they could not stop the water. There is a lot of snow that blows up in there, how will the run-off be handled, there are no sewers there. There is bedrock at the creek base; the water flushes out through there because there are so many springs in the area. How will the septic systems handle this and will they pollute the creek? Will the residents in that area now have to worry about sewers?

Jim Andres, of 6485 Strickler Road, is a lifetime resident of Clarence and has been building up his assets all his life. He does not want to lose the value of his home.

Dave Lechner, of 10305 County Road, said this project is more than just a corner of property. He is concerned that it will affect the quality of life and the property values in the surrounding area. He has owned property all his life and has benefited greatly from industrial property. He submits a signed petition of 28 signatures of those residents on Strickler Road and County Road opposing the proposal. The petition is on file. This road is entirely an agricultural residence; there is no other industrial property on this road. There is no shortage in the Town of Clarence to accommodate the scope of this business plan. If the rezoning goes through and the business plan fails, the zoning is already done; this would become very valuable property to someone. Mr. Pazda explained that this meeting is not to discuss the rezoning of the property; it is to discuss an amendment to the Master Plan. To rezone the property would take a separate step and a completely different process. The applicant is requesting an amendment to the Master Plan to allow for Industrial Business Park zoning there, if this were to happen, the second step would be to discuss zoning changes.

Don Montgomery, of 6495 Strickler Road, wanted to reiterate the multiple accidents and fatalities that have happened at Strickler and County Roads. He foresees the entire block being changed to Industrial zone and he does not think that is good for the property values nor the safety of the residents.

Steven Dorner, of 6790 Strickler Road, is concerned with the lighting of the project. He does not want to black his home windows out because a business park goes up in the neighborhood.

Chairman Schultz explained that the 300' buffer was a suggestion that came from the Board trying to mitigate the concerns of the neighbors. The nature of the buffer would be enhanced natural area; enhanced with additional plantings and/or trees. Erie County Department of Public Works said nothing about extra traffic. Drainage has to be managed by an engineered drainage plan under approval of the Town Engineer who is the storm water management manager in Clarence. The Planning Board is aware of the concern with home values in the area as well as the concern with traffic accidents that have occurred. The lighting standards of the Town will not allow any new building to light up the neighbor's property.

Chairman Schultz noted that if this area is not amended in the Master Plan there is no way anybody could put anything there. He asked Mr. Witter what he thought of splitting the lot and making it 300'/300'; instead of extending the Industrial Business Zone all the way, extend it halfway. Mr. Witter said he will propose this question to the applicant to see how they feel about it.

ACTION:

Motion by Richard Bigler, seconded by Paul Shear, to **table** the acceptance of the Part II and Part III of the Environmental Assessment Form to re-assess the potential impacts.

ON THE QUESTION:

Mr. Pazda asked for clarification on how the concern of surrounding property values will be addressed. Deputy Town Attorney Steve Bengart said the majority of the Board needs to feel this is a significant enough impact to require further study.

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

MOTION CARRIED.

Item 3

Metzger Civil Engineering
Residential Single Family

Requests Concept Plan Approval and State Environmental Quality Review Act (SEQRA) Determination of a 4-Lot Open Development Area at 10976 Stage Road.

DISCUSSION:

Jim Callahan provided the background on the project. The property is located on the north side of Stage Road east of Schurr Road. It is existing vacant land located in the Residential Single Family zoning classification. The applicant is proposing to develop a 4-lot Open Development Area on a portion of the land. A coordinated review has been completed under SEQRA with several comments from involved agencies.

Michael Metzger, of Metzger Civil Engineering, is representing the applicant. During the SEQRA review one item that was identified to be addressed by the applicant was the archeological study. A Stage I study was done which recommended a Stage II study. A Stage II study was done which recommended a Stage III study in three (3) areas. It identified two (2) of those areas that were recommended for study were clearly outside the limits of this development. The third area contained about a foot and a half incursion into the project boundaries so the property lines were tweaked but still providing building lots that comply with the Zoning Ordinance and the Open Development Area Law. This plan was sent to NYS Office of Parks, Recreation and Historic Preservation for their input. They have subsequently issued a letter stating they have no concerns with the project as presented, which is the project before the Board. The letter is on file.

Chairman Schultz noted that the roadway is owned by the applicant and will require a Homeowners or access agreement for the residents and the two (2) people on either side of that roadway. Mr. Metzger said there are no easements in place but the applicant is willing to grant easements to those people so they can continue to use the roadway to access their driveways. If a new driveway is constructed those people would be granted an easement for that as well and they will not be responsible for its maintenance.

Chairman Schultz noted that the County will not let the applicant use the storm water management system along Stage Road. The Town Engineer asked if the applicant could drain the other way and the applicant said that should not be a problem. The archeological areas need to be fenced off during construction.

Ms. Verdi Korte is one of the residents whose driveway would be impacted by this development. She is concerned about the landscaping and wants significant landscaping between her property line and the concrete barrier that marks the road. There are mature trees in that area now. The neighbors have spent a significant amount of money and done a significant amount of landscaping on the other side of the road for a construction company to come through and do anything to those. She also wants some kind of a buffer zone between what is being built behind her. If the water will not be routed towards the road to hook up to the County storm system, what assurance does she have that the water will be routed back the other way and will not affect her and her neighbor's property. There are several other developments in Clarence; do we really need another 4 house development in the million plus dollar range?

Chairman Schultz explained that the development will require review and approval by the Landscaping Committee prior to any construction including the roadway.

Peter Pucak, of 4725 Schurr Road, thinks routing the water north will increase the amount of water to come through. The water naturally drains north in this area. Chairman Schultz explained that the storm water management system will be engineered and approved by the Town Engineer who is the Town's storm water management coordinator. Mr. Pucak asked for clarification on the archeological study. Chairman Schultz noted that an archeological study is done as part of the SEQRA review. There have been no artifacts found on the project site; however there have been small artifacts such as shards of pottery found near the wetlands.

Mr. Pazda asked who owns the landscaping that Ms. Verde Korte was referring to that is near the concrete barrier. The trees that are on the edge of the property are actually on Mr. Metzger's client's property. There are significant trees along the property line that Mr. Metzger will preserve. There is enough space for the road to go in without removing the trees.

Mr. Todaro asked if the existing concrete swales will remain. Mr. Metzger said it depends on their condition.

Mr. Metzger explained that the natural flow of the drainage is north, then east.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **accept** as complete the Part 2 Environmental Assessment Form as prepared and filed.

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

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Stage and Schurr Road 4-Lot Open Development Area. This unlisted action involves the development of a private road subdivision intended to service 4 new single family housing units. After thorough review of the proposed action and both Part 1 and Part 2 of the Environmental Assessment Form, including a coordinated review among involved agencies, it is determined that the proposed action will not have a significant impact upon the environment.

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

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the Stage and Schurr Road 4-Lot Open Development Concept Plan as detailed on the site plan submitted by Metzger Civil Engineering labeled as Concept Plan CP-1 and dated March 8, 2012 subject to the following conditions:

1. Proposed private road is to be designed and constructed to Town standards as per the Clarence Town Engineer.
2. The proposed private water service must be designed and implemented in accordance with all specifications as per the Erie County Water Authority and Clarence Town Engineer.
3. As per Town Code, fire protection shall require an eight-inch waterline and hydrant be provided to any principal use planned to be serviced by said Open Development private road located more than 600 feet from an existing fire hydrant.

- 4. Applicant must provide a Home Owner’s Agreement for the review and approval of the Town Attorney’s Office and said approved agreement must be filed prior to the issuance of building permits.
- 5. Applicant must provide sufficient evidence as per and subject to review and approval of the Town Attorney’s Office of an agreement to allow access to proposed Open Development private roadway for those 2 directly adjacent residents currently utilizing the project site as the primary vehicular access and driveway to their residences.
- 6. Prior to beginning construction, applicant will be responsible for securing Highway Work Permits as required and approved by the Erie County Department of Public Works.
- 7. Prior to filing a Notice of Intent to commence construction, applicant will be responsible for securing a State Pollutant Discharge Elimination System (SPDES) permit as per the New York State Department of Environmental Conservation (NYSDEC).
- 8. Applicant must design and provide a drainage and storm water management plan for the review and approval of the Clarence Town Engineer; specific review and approval of the Erie County Department of Public Works will be required for any use of the existing Stage Road drainage system.
- 9. All final development plans and any construction activity must be inclusive of measures to protect the archaeologically sensitive areas as identified by the New York State Office of Parks, Recreation and Historic Preservation.
- 10. Approved Landscape Plan will be required.
- 11. Any housing units constructed in association with this Open Development will be subject to Open Space and Recreation fees at the time of Building Permit issuance.

ON THE QUESTION:

Deputy Town Attorney Steve Bengart suggested amending condition number 4 to read: “Applicant must provide a Home Owner’s Agreement for the review and approval of the Town Attorney’s Office and said approved agreement must be filed in the Erie County Clerk’s Office with a copy provided to the Town Attorney’s Office.”

Deputy Town Attorney Steve Bengart suggested amending condition number 5 by adding: “Which agreement once reached and approved by the Town Attorney’s Office must be filed in the Erie County Clerk’s Office with a copy to the Town Attorney’s Office.”

Timothy Pazda agreed to amend his motion to include the above suggestions by Deputy Town Attorney Steve Bengart. Richard Bigler agreed to second the amended motion.

Chairman Schultz noted that the Landscape Committee will want to review the landscape particularly the trees that are on the site prior to any construction activity.

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

MOTION CARRIED.

Item 4

Spaulding Green LLC
Residential Single Family

Requests Development Plan Approval of Phase 5
of Spaulding Green Open Space Design
Subdivision.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located east of Goodrich Road and north of Greiner Road as an extension of Meadowglen Drive. It is in the Spaulding Green Open Space Design Development. The applicant is present seeking Development Plan Approval on the extension as designed. The Engineering Department has reviewed and approved a design specification and that has been received, Phase 5 represents 21 sublots.

Ken Zollitsch, of Greenman Pedersen, Inc., is present along with Susan Green, representing Spaulding Green. Mr. Zollitsch explained that this extension will consist of 21 single family lots. The original horseshoe shape of the design has been changed to a court shape to allow for more contiguous open space to the north in that area. The court shape also pulls back the living spaces from the buffer area. Lots 337-339 had to be shifted due the DEC buffer for the wetland delineation. The applicant is now proposing a connecting road that will go to Greiner Road; they felt it was important to have another access for emergency vehicles.

Chairman Schultz noted that the lot count required by the Town Board was 380; the Planning Board was assured by the applicant that the lot count remains the same. He and Mrs. Salvati like the interconnectivity between phases. Chairman Schultz also likes the green space on the outside a group of houses so everyone can enjoy it.

Mr. Todaro said a conservation easement must be denoted in the loop on the left to avoid that area from becoming a dumping ground for grass clippings.

Mr. Bigler asked what the applicant planned on using to monument the conservation areas behind lots 331 and 336. Mr. Zollitsch said the applicant may use something like caps on top of stakes at property lines; the property owners would be made aware of where their property ends when they purchase the lot. The conservation area will be owned by the Home Owners Association.

Susan Green has read the list of conditions and has no problems with them.

Mr. Zollitsch said the original lot total of 380 is based on the original acreage, which does not include the added exception lots.

Michael Corin is a resident of Lancaster but is looking to move. Spaulding Green has attracted his attention. He asked if the conservation areas are monumented will the Home Owners Association be responsible for enforcement. Deputy Town Attorney Steve Bengart said he envisions the Town of Clarence being responsible for enforcement as well as the Home Owners Association. Mr. Callahan noted that a lot of the area is designated wetlands so there are other agencies that would be responsible for enforcement as well.

ACTION:

Motion by Robert Sackett, seconded by Gregory Todaro, to **approve** the Development Plans for Phase 5 of the Spaulding Greens Open Space Design Subdivision, including the construction of 1,270 +/- lineal feet of Meadowglen Drive and 300 +/- lineal feet of Glenview Drive and including required wetland remediation and retention ponds as per the development plans as submitted by Greenman-Pederson Inc. dated April 30, 2012 subject to the following conditions:

1. Phase 5 is to include 21 buildings lots and all required amenities and is to be constructed in conformance with the requirements and conditions of the approved Concept Plan and all conditions as required by the Town of Clarence in the Development Plan Approval Checklist for Major Subdivision Review have been received and accepted by the Office of Planning and Zoning as complete.
2. Prior to construction, the applicant must secure both public and private improvement permits subject to the review and approval of the Clarence Town Engineer.
3. Maintaining of all baseline requirements and guidance as identified in the Final Table of Facts as prepared and approved by the Planning Board on June 17, 2008.
4. Required easements subject to approval of the Town Attorney's Office as guided by the Spaulding Greens Conservation Area and Easement map as previously approved. Monuments shall be placed to identify conservation areas.
5. An inventory of necessary sewer tap allocation as designated by the Town Engineer and as required throughout the Spaulding Greens Open Space Design Subdivision. It is expressly understood that regardless of Development Plan modifications, the total lot yield for the project area as identified in the original Spaulding Greens Concept Plan approval will not exceed 380 housing units upon full development of said project site and the applicant must continually provide a lot yield verification plan throughout project development.
6. Sidewalks to be installed as required by Concept Plan approval and as specified within the Development Plans.
7. Approval of this Development Plan in no way implies agreement on the behalf of the Board for the consideration of amendment to any future Development Plan application or phase.
8. Construction hours shall be limited to 7:00 am to 7:00 pm Monday through Saturday only.
9. All appropriate fees to be paid, including but not limited to PIP, Open Space Fee per lot, and any required stewardship fees, if applicable, at time of easement filing.

ON THE QUESTION:

Chairman Schultz noted that the Town Engineer has approved these plans. The Recreation Fee has been waived because the applicant has agreed to install a recreational trail. Dominic Piestrak recently met with the Army Corp of Engineers on site to discuss the trail.

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

MOTION CARRIED.

Meeting adjourned at 8:55 p.m.

Carolyn Delgato
Senior Clerk Typist