

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday August 17, 2016

Work Session 6:00 pm
Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm
Approval of Minutes

Item 1

Davis Tiburzi
Traditional Neighborhood District

Requests an Action under the State Environmental Quality Review Act (SEQRA) and Concept Plan Approval for a proposed Mixed-Use Development at 6855 Transit Road.

Item 2

Wolf's Nursery
Agricultural Rural Residential

Requests a Clearing, Filling and Grading Permit for a proposed Wetland Area at 8400 County Road.

Item 3

Dominic Piestrak
Industrial Business Park

Requests Preliminary Concept Review of a proposed Public Storage Facility on the north side of Roll Road, east of Harris Hill Road.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Councilman Paul Shear led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chairperson Wendy Salvati
Steven Dale

1st Vice-Chairman Richard Bigler
Gregory Todaro
Jeffrey Buckley

Planning Board Members absent: Timothy Pazda

Town Officials Present:

Director of Community Development James Callahan
Assistant Director of Community Development Jonathan Bleuer
Councilman Paul Shear
Councilman Chris Greene
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Jason Wolf	Kathleen Daigler	Mary Daigler	Annette Pfentner
Dan Pfentner	Jay Christopher	Larry Engasser	Herbert Neiman
Mark Spoth	Eugene Jelonek		

Chairman Sackett noted that currently there is no Planning Board Alternate so there will be no one to fill-in for Timothy Pazda in his absence. Tonight will be a six (6) member Board; four (4) votes will be required to pass a motion.

Motion by Richard Bigler, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on July 20, 2016, as written.

Jeffrey Buckley	Aye	Steven Dale	Abstain
Gregory Todaro	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Chairman Sackett explained the protocol for the meeting. Mr. Callahan will provide the history on each agenda item. The applicant will be asked if he/she has further information to add to the discussion. The Board then has the opportunity to ask questions of the applicant relative to the project. Members of the audience are then invited to comment on the project. The applicant has the opportunity to address the comments made by the public. The Board will then take action.

Item 1

Davis Tiburzi
Traditional Neighborhood District

Requests an Action under the State Environmental Quality Review Act (SEQRA) and Concept Plan Approval for a proposed Mixed-Use Development at 6855 Transit Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the east side of Transit Road, north of County Road in the Swormville Traditional Neighborhood District. The applicant is proposing to develop a mixed-use project including commercial and multi-family residential units. The project was introduced to the Planning Board on June 15, 2016 and referred out for coordinated review under SEQRA. The applicant is present seeking Concept Approval and an Action under the State Environmental Quality Review Act. Because the proposal is Multi-Family Residential, the Town Board will have final approval authority for a Special Exception Use Permit and for the architectural style of the units.

Davis Tiburzi is present along with William Schutt of William Schutt and Associates.

Chairman Sackett referenced a document that describes the proposed buildings. That document was provided to the Board by the applicant and has been placed in the file. In the description each patio home is said to have a rear yard patio, is that within the footprint of the buildings. Mr. Tiburzi said probably not, it is about 8'-10' off the building. Chairman Sackett said the project is at 40% greenspace,

if the rear yard patios are added, where would the greenspace be located to make up for this? Mr. Tiburzi said he can work the patio into the existing parameters of the footprint of the building.

Chairman Sackett referenced correspondence received from St. Mary's relative to issues they have with the proposal. One issue is fire safety, this has been addressed by the turnaround in the back of the property. Another issue is surface water, this will be addressed in the Development Phase. The third issue is relative to the buffers to the adjoining land. There is a playground to the east of the project site, Chairman Sackett asked the applicant if he has any comments relative to buffers to the playground or to any other adjoining properties. Mr. Schutt said they want to provide an extensive buffer on the east side of the property, they will plant bushes on the back side of the turnaround. Mr. Schutt said it seems that the St. Mary's representatives are encouraging a landscaping buffer on the east property line, but are discouraging landscaping along the north property line. The applicant was planning on landscaping the north and south lines in a similar fashion. They will save as much existing vegetation as possible and will fill in any gaps with additional plantings.

In response to Chairman Sackett's question regarding the installation of a privacy fence, Mr. Schutt said they are willing to consider installing a privacy fence along the back of the property.

Mr. Schutt said he met with Father Yetter on Friday and they talked about discharging to the detention basin. Father Yetter said he was going to refer the matter to the building and grounds committee for further review. Mr. Schutt is also aware of additional parking on the church's site. He went on to say that they have the numbers and they know they can make it work. If it doesn't work out with St. Mary's they have a plan "B" in which they would discharge to Transit Road.

Mrs. Salvati referred to the rendering and said the applicant was going to take the three center dormers and replace with a bell tower or a cupola. Along the second story where there are three windows depicted, the center window will come out and replaced with a half circle window and that is where the signage will be. The applicant concurred. Mrs. Salvati asked if the doors out front are a secondary entrance to the business, Mr. Tiburzi said yes and they will be French doors, the primary entrance for the businesses will be around back.

Chairman Sackett asked if the living units are rental or for sale. Mr. Tiburzi said the patio homes will be for sale, the living units above the commercial component will be rentals.

There is no one present from St. Mary's Church to address the Board with comments or concerns regarding the project.

Kathleen Daigler, of 8055 Stahley Road, voiced her concern regarding traffic. She said it is horrible and you can't get out onto Transit Road from Stahley Road during rush hour traffic, nor can you get out with church traffic. She asked how this project will impact the traffic on Stahley Road from County Road to Smith Road. She asked if the area at the end of the plan will come out onto St. Mary's property. She is also concerned with lighting. There are kids in the parking lot all hours of the day and night. There is a security issue for those who live on Stahley Road. She is also concerned about the additional parking the church wants to put in.

Mr. Schutt said there is no plan for a connection to St. Mary's property through the turnaround nor in any other direction. He believes there will be a negligible impact to traffic. The project is geared towards empty nesters so there will not be a traffic pattern that follows normal 9-5 go to school/work type of traffic. The project is designed to be a low-impact project, the tenants are not going to be high-volume

tenants. As far as lighting, there would be low-level decorative lighting where the patio homes are and likewise where the commercial buildings are, there is no need for high light standards. Mr. Tiburzi said they will be Colonial style lamp posts, shielded and dark sky compliant. Mrs. Salvati asked if there will be lighting on the back of the commercial structures. Mr. Tiburzi said there will be some lighting so the steps will be visible.

Chairman Sackett noted that during the coordinated review process the Board sent the plan to NYS DOT and their comment was, "The additional traffic generated by this development will not have a significant impact to traffic on the State Highway system."

Chairman Sackett noted that the diagram shows possible access to the lot to the south, this allows the possibility for cross access. Mr. Schutt agreed, but clarified there is no cross access to St. Mary's property.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed mixed use project located at 6855 Transit Road. This Unlisted Action involves the development of commercial and residential uses on 2.00 +/- acres in the Swormville Traditional Neighborhood District. 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.

Jeffrey Buckley	Aye	Steven Dale	Nay
Gregory Todaro	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the Concept Plan for the proposed mixed-use project located at 6855 Transit Road as per the submitted site plan from William Schutt and Associates dated August 15, 2016, with the following conditions:

1. Site lighting to be shielded and dark sky compliant to eliminate glare/spill to adjoining land uses.
2. Turn-around on the east side of the project to be code compliant and acceptable to the Fire Chief.
3. Subject to Landscape Committee review and approval of a Landscape Plan prior to Development Plan approval.
4. Subject to Open Space and Recreation Fees on Building Permit issuance.

ON THE QUESTION:

The applicant agrees with and understands the conditions.

Mr. Bigler noted the discussion about fencing between the playground on the east side and the turnaround area for emergency vehicles. It is clarified that the fencing is an agreed to item for the Landscape Plan. Mr. Tiburzi said yes.

Jeffrey Buckley	Aye	Steven Dale	Nay
Gregory Todaro	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** to the Clarence Town Board approval of a Special Exception Use Permit and the architectural style of a multiple family residential use as a part of a mixed-use project as per the submitted site plan from William Schutt and Associates dated August 15, 2016. The architectural style shall be as described by the applicant and identified by submitted examples of similar buildings, with the architectural drawings showing all four (4) sides of the structures.

ON THE QUESTION:

Mr. Todaro referenced the design plan of the patios and noted it needs to meet the code which indicates the ratio of 40/60 greenspace.

Mrs. Salvati said the proposed architectural style of the buildings has been submitted. The applicant should be ready to discuss the details with the Town Board at their meeting. Elevations will be reviewed at the Development Plan stage.

Chairman Sackett said the architectural recommendation includes the documentation provided to us this evening.

Jeffrey Buckley	Aye	Steven Dale	Nay
Gregory Todaro	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 2

Wolf's Nursery
Agricultural Rural Residential

Requests a Clearing, Filling and Grading Permit for a proposed Wetland Area at 8400 County Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the south side of Lapp Road, east of Transit Road in the Agricultural Rural Residential zone. The applicant is proposing to create a wetland as mitigation to the Dockside Village project in Amherst. The applicant is seeking a Clearing, Filling, Grading Permit to construct the wetland area and has permitting in place from the Army Corp of Engineers and the NYS DEC.

Elizabeth Holmes, of Barklay Damon, is present on behalf of Dockside Village LLC. Jason Wolf, of Wolf's Nursery is also present. Ms. Holmes said they are here on a referral from the Town Board who has already conditionally approved the project subject to the Planning Board's review of the project. Dockside Village has obtained state and federal permits in order to fill wetlands on a parcel on Transit Road. There was a wetland mitigation plan submitted along with the permit which indicates that two (2) basins of 7.5 and 8.5 acres of wetlands are to be created. They will be surrounded by a low lying berm which maintain the hydrology of the wetland and will be saturated in Spring and Fall. There will be a 100' buffer along the northwest and south property line. There is no need for a buffer along the east property line because it is adjacent to freshwater wetlands CC-48 which is regulated by the NYS DEC. Ms. Holmes said there will be no adverse impact on surrounding properties. The ideal construction of the wetland is in the dry season with seeding to occur in September. They would like to get moving on this project.

Chairman Sackett asked if the applicant is aware of the Town Engineer's letter dated August 1, 2016. Ms. Holmes said yes they are aware of that letter. They sent the required information to the Engineer's Department and have since received their approval of the SWPPP as of August 10, 2016.

Mrs. Salvati noted that the SEQRA was conducted by the Town of Amherst, they were lead agency and they issued a Negative Declaration. Ms. Holmes said they received permits from the NYS DEC and the Army Corp of Engineers with regards to the Amherst project.

Joe Neiman, lives at 8400 County Road, and said the parcel was originally 40 acres from the previous property owner. When he purchased the property las year he purchased 11 acres. He clarified where his property is on the aerial that is on display. Mr. Neiman asked how the applicant plans to access the property, he assumes from Lapp Road. He would like to see the location of where they are going to create the water storage. Will the property be deemed Wetlands forever? Who owns the property? Going forward does it get turned over to NYS? Does Dockside continue to own it, can they resell it? He wants to understand what happens with the property in the future.

Annette and Dan Pfentner are present. The current house they live in is 8375 Lapp Road, they are building a house at 8385 Lapp Road. She is concerned with the impact this project will have to her property and she takes offense to the statement that there is no impact to the surrounding area. She knows there will be a major mosquito problem, West Nile virus mosquitoes are in a lot of the waters in Erie County. This project will add stagnant water to the area. She wants this issue to be looked at.

Mark Spoth lives at 8345 County Road and has farmed the property for 53 years. He referred to the map and said he farms the property from Lapp Road out to Transit Road. He asked why there isn't wetlands going into an area that will be more cooperative to wetlands. He said manmade wetlands do not work. Clarence's good farmland is going to be turned into a swamp. The Town of Amherst gained \$100,000 in tax base, the Town of Clarence lost tax base. Why are we taking the Town of Amherst's wetlands and bringing them into Clarence? The Board should ask more questions. Wetlands is a certain soil type. What they are creating here is potholes in the clay. Wetlands has water running through it slowly all the time, it does not dry out. This project promotes cattails, mosquitoes and frogs. There are 1000 acres of wetlands on the north side of Lapp Road, this is where they should create better wetlands, in wetland areas. Mr. Spoth said USDA has a program to make wetlands better. He asked who will maintain the wetlands. He also asked if there was a water flow study done on the creek. Who maintains the berm were the water flows over on to the farm, what happens when that plugs up or the berm gives way and floods the whole farm.

Larry Engasser, of 8334 County Road, asked why they are taking dry land and turning into a swamp land. He is concerned with mosquitoes. How deep will the hole be? Will this be a safety issue for children?

Chairman Sackett noted that many of the questions that were asked are the purview of the DEC and the Army Corp, the Board relies on their expertise.

Ms. Holmes said Dockside Village will continue to own the property. It will be monitored by the DEC and the Army Corp for 5 years. After 5 years the property owner continues to monitor the property. A wetland mitigation plan was submitted with the permit application and was approved by the DEC and the Army Corp of Engineers. Ms. Holmes suggested any concerned citizen can review the mitigation report as it goes through all the issues as to why this parcel is suitable for the creation of a wetland. One reason this parcel is suitable is because it is adjacent to an existing wetland. The wetlands are completely isolated and the potholes are between one (1) and three (3) feet deep, so there is no concern for children falling into them. The wetlands will only be flooded for the Spring and Fall, it will not be a continued swamp. All of the concerns are addressed in the Wetland Mitigation report submitted by Don Wilson.

Mr. Wolf said the portion of the waterway there is not a regulated ditch, it is a tributary to a regulated one, which is why there was no study done. This information is indicated in the reports.

Chairman Sackett explained that the Board also relies on the expertise of the Town Engineer concerning the adjoining property to oversee any adverse effects the project may have on it.

With regards to the mosquito concern, Ms. Holmes spoke with Mr. Wilson and he said in light of the current condition of the property, it is a fallow agricultural field, there would be no change in terms of the habitat on the property.

Mr. Wolf said there was a designated stock pile on the property, however there is no longer a designated stock pile, all excavated materials are going to be hauled to the Amherst site for Dockside Village. No woods will be disturbed and all remaining topsoil will not leave Clarence.

ACTION:

Motion by Richard Bigler, seconded by Jeffrey Buckley, to **approve** the Clearing, Filling and Grading Permit to Wolf's Nursery to allow for the construction of a wetland on the south side of Lapp Road as per the submitted drawings from Wilson Environmental Technologies dated July 17, 2015 and as per the permits from the US Army Corps of Engineers and the NYS Department of Environmental Conservation, with the following conditions:

1. All conditions of the Town Engineer as identified in a letter dated August 1, 2016.
2. All topsoil to remain on the property.

ON THE QUESTION:

The applicant understands the conditions and agrees to them.

Jeffrey Buckley	Aye	Steven Dale	Aye
Gregory Todaro	Nay	Wendy Salvati	Nay
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 3

Dominic Piestrak
Industrial Business Park

Requests Preliminary Concept Review of a proposed Public Storage Facility on the north side of Roll Road, east of Harris Hill Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the north side of Roll Road, east of Harris Hill Road. It is a proposed extension of Harris Hill Road and consists of approximately 29 acres in the Industrial Business Park Zone. The applicant is proposing a public storage facility and is present to introduce the project to seek coordinated review under the State Environmental Quality Review Act.

Dominic Piestrak is present.

Chairman Sackett asked if it is the applicant's intent to build the road to Town standards. Mr. Piestrak said there is a designated wetland to the north so a road cannot be built through it. Mr. Callahan said there are projects to the north that identified the wetlands within their review. Mr. Piestrak said the proposed road would stay a private road; it would not be built to Town specifications.

Chairman Sackett asked for confirmation that the property that goes to Newhouse Road has been sold. Mr. Piestrak said he believes it has been sold to a person who wants to turn it into a horse ranch.

Mrs. Salvati said there are other locations on the property, Mr. Piestrak said he put the proposed facility off the road because he does not think it enhances Clarence at all, but looking at the alternatives he had no choice. Mrs. Salvati said there are three other locations on this property that could be developed, so the potential exists that other uses can be put on the site, she asked if there is an intention to do other things on the property. Mr. Piestrak said if he lives long enough. Mrs. Salvati said you cannot go to Newhouse Road, but there is a property next to this that has a crossing over Gott Creek, is there the potential that Mr. Piestrak's driveway could be continued around and connected to the Marfurt property so he can create a "u". Mr. Piestrak said he talked to Bill Marfurt 10 years ago and he was unwilling to do anything like that, currently it is not a feasible option. Mrs. Salvati noted that the proposal is for the road to go out and create a four-way intersection at Harris Hill Road. There is currently a private driveway there, Mrs. Salvati asked if the applicant will have an easement to cross that driveway and connect to the Harris Hill intersection. Mr. Piestrak said he has access to the east as well. He believes he can work with the property owner of the private drive to establish an easement.

Chairman Sackett said at the end of the 30 days, Concept Plan Approval will be the next phase, he suggested the applicant submit an architectural rendering of what the buildings will look like prior to the Concept Plan stage.

Mr. Bigler asked if there is any development planned for the parcel to the east that goes out to Roll Road. Mr. Piestrak said he has no plans for that parcel.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency status and commence a coordinated review among involved agencies on the proposed public storage use located on the north side of Roll Road, east of Harris Hill Road in the Industrial Business Park Zone. This Unlisted Action involves the development of a public storage facility.

ON THE QUESTION:

As details of the project may have long range impacts related to road and sewer infrastructure, the Town is seeking detailed analysis/input from involved agencies.

Mrs. Salvati noted that architectural elevations are required.

Jeffrey Buckley	Aye	Steven Dale	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye
Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting adjourned at 8:05 p.m.

Carolyn Delgato
Senior Clerk Typist