

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday August 5, 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**

Russell Salvatore, Jr.  
Major Arterial

Requests Concept Approval of a proposed mixed-use project and a recommendation for a Special Exception Use Permit for the project located at 6449 Transit Road.

**Item 2**

Cobblestone Center Phase II  
Restricted Business

Requests amended Concept Approval of a proposed mixed-use project and a recommendation for a Special Exception Use Permit for the project located at 8584-8590 Sheridan Drive.

**Item 3**

McGuire Development  
Commercial

Requests Development Plan Approval of a proposed retail plaza with Tim Horton's Drive-Thru at 5989 Transit Road.

Chairman Robert Sackett called the meeting to order at 7:30 p.m. Deputy Town Attorney Steve Bengart led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett	Vice-Chairman Paul Shear	2 <sup>nd</sup> Vice-Chairperson Wendy Salvati
Timothy Pazda	Richard Bigler	Steven Dale Jeffrey Buckley

Planning Board Members absent: Gregory Todaro

Town Officials Present:

Director of Community Development James Callahan  
Junior Planner Jonathan Bleuer  
Deputy Town Attorney Steven Bengart  
Councilman Peter DiCostanzo (arrived at 8:40pm)

Other Interested Parties Present: Peter and Averil Worrall Robert Blood

Chairman Sackett noted that in the absence of Planning Board member Gregory Todaro, alternate Planning Board member Jeffrey Buckley will be participating in all discussions and voting on all agenda items this evening.

Motion by Paul Shear, seconded by Steve Dale, to **approve** the minutes of the meeting held on July 15, 2015, as written.

Jeffrey Buckley	Abstain	Steve Dale	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Abstain	Paul Shear	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Chairman Sackett explained the procedure for this evening’s meeting noting that Mr. Callahan will introduce each project. The applicant will have the opportunity to add to Mr. Callahan’s comments. The Board will discuss the project with the applicant. The audience will be invited to voice any comments, questions or concerns they may have. Depending on the nature of the issue, the applicant or the Board will then collectively address the issues the audience has risen. The Board will then take action as they see fit.

**Item 1**

Russell Salvatore, Jr.  
Major Arterial

Requests Concept Approval of a proposed mixed-use project and a recommendation for a Special Exception Use Permit for the project located at 6449 Transit Road.

**DISCUSSION:**

Jim Callahan provided the history on the project noting that it is located on the east side of Transit Road, north of Old Post Road. It is an existing former residential property located in the Major Arterial zone. The proposal is for the construction of a new mixed-use structure to accommodate 6,748 square feet of commercial store fronts and eight (8) residential units. The review will require an action under the State Environmental Quality Review Act (SEQRA), a zone change to Restricted Business and a Special Exception Use Permit (SEUP). The Town Board will be the Lead Agency on this review.

Michael Metzger, of Metzger Civil Engineering, is present along with the applicant, Russell Salvatore. Mr. Metzger said the property is five (5) acres in size zoned Major Arterial in the front and Residential Single Family in the back. They are only proposing to develop the front of the property at this time. It would be a single building that would contain 6700 square feet of retail space and eight (8) apartment units, two (2) of those units on the lower floor and six (6) on the upper floor. Originally, this project did not comply with the Town ordinance, but after the Town’s thorough review of the ordinance, changes were made and the project is now compliant with the Multi-Family portions of the code in the Restricted Business Zone.

Chairman Sackett noted that the SEQRA review for this project is for what is being proposed only. Should the applicant want to develop the back of the property it would have to go through another SEQRA review. The applicant understands this; there is no immediate interest by the applicant to

develop anything back there now. Chairman Sackett asked for confirmation that the most current drawing dated April 17, 2015 makes all other drawings on this project null and void. Mr. Metzger said that is correct.

Mrs. Salvati said the applicant did SEQRA for up to twelve (12) units, so he could come back and do an additional four (4) units in the back and still be under the original SEQRA review. If the applicant goes over the four (4) units or does something else they would have to come back for another SEQRA review. Mr. Callahan clarified that when the SEQRA was done in 2009 there was no formal action taken so if this project is approved tonight any future plan for the rear property would absolutely have to come back for full environmental review.

Chairman Sackett noted that the re-zoning is only for the front portion of the property, rear of the property is zoned Residential Single Family and will remain that way.

Mr. Shear said the Board received correspondence dated August 3, 2015 from the Floss Agency, which is located north of the applicant's property, indicating that they (the Floss Agency) have approval for a second building to the east of their current building. They want everyone on notice that this is a future potential addition to the area. This may effect what the applicants tenants look at out their rear windows. Mr. Metzger said he and his client are aware of that project. Chairman Sackett said there has been Concept Approval and environmental review for the Floss Agency's addition but no Development Approval has been found on the record.

Mr. Dale asked for details on how the applicant will handle storm water. Mr. Metzger said they would probably put in a surface pond somewhere on site probably towards the back of the property. He went on to explain that there is a pond at the back of the property but he does not know if it is available for use for this project. There is availability of storm sewers to the front. Mr. Dale asked about underground storage. Mr. Metzger said this is premature and they have not thought that through yet, but there are options.

Mr. Dale referred to the drawing and said there are 61 parking spaces required but the applicant is providing 44, he asked for an explanation. Mr. Metzger said that is correct and went on to say that he is asking for some "green relief" knowing that they have the ability to put more parking spaces on the property if they need it, but they want to minimize the amount of gray and keep it green as long as they can. Mr. Dale asked if the applicant is going to seek a variance for this. Mr. Metzger said he believes the Town Board can grant that relief. Chairman Sackett confirmed that is correct. Mr. Metzger said the additional spaces are marked on the drawing dated April 17, 2015 with dashed lines and are at the very back of the property.

There are no side elevations. Mr. Pazda asked for details on the side elevations. Mr. Metzger said his client would like the building to be four sided brick but that may be too expensive. If it is not brick it will be a type of aesthetically pleasing stucco. Mr. Salvatore said he will do brick on three sides and if his budget allows four sides he will definitely do it. The building will be sprinklered.

Mr. Pazda asked for details on the apartments. Mr. Metzger said the two (2) units on the lower floor will be just over 1400 square feet each. The six (6) units on the upper floor will be anywhere from 1450-1700 square feet each. Mr. Pazda wants to see what the back of the building will look like. Mr. Metzger assured him that at Development Plan Phase they will provide more detail.

Chairman Sackett suggested that when the applicant goes before the Town Board, he should have a concept of the elevation.

Mr. Pazda referenced one of the requests in which the zoning would be changed from Major Arterial to Restricted Business at that address as per the approved Master Plan Amendment. He asked for clarification on this issue. Mr. Callahan explained that along the property's frontage is it zoned Major Arterial to a depth of 300' from the center line, it has been zoned this way since 1970. The recommendation based on the 2008 Master Plan Amendment to the Future Land Use Map is to make that section Restricted Business. Mr. Pazda said, for the record, this is a downzoning. Chairman Sackett said it is "right-zoning."

Bill Kline lives on Morningwood Drive and said there is a private pond and you can't have the storm water go there. He is concerned with drainage from apartments and mixed business usage going into the private pond. The pond is to the east of the project site.

Peter Worrall of 8120 Old Post Road said the level of the private pond varies. When it is at its highest level and if it were to then get higher it would back up onto Mr. Worrall's property. In April 2013 there was a discussion about this same development and at that time it was confirmed that the area to the east of where the building will take place is a wooded area and cannot be developed because it was between the houses on Old Post Road and Clarherst. He would like confirmation that the area cannot be developed with any kind of development.

Alan Mann of Clarherst Drive said his property abuts the back of the project site. He has grave concerns about development of that back lot and would like to hear what the process would be for it to be developed. He asked if there has been a study done for the increased traffic on Transit Road due to this project.

Kevin Turner lives on Center Lane. He is a student of architecture at the University of Buffalo. He works at the business that is adjacent to the project site. He wants to reiterate the aesthetics of the building and the elevations that were brought up, he suggested the applicant explore options. He is concerned with increased traffic.

Mr. Metzger said the hard engineering has not yet been done on the project. He does not know anything about the pond but if the pond is not available for use, they do not need it and they can go through the storm sewer out on Transit Road. When the engineering is complete for this project it will not increase the water flow from this site to any adjacent property. Mr. Metzger said this is a must by Town and State regulations.

Mr. Callahan said the area on the east end of this project site is zoned Residential Single Family, and that will not change. The only use that could go there is one (1) single family home, however that is limited by access so that would be up to the person who owns the property to have proper access. There was a study done that showed an isolated wetland, how that will impact a project Mr. Callahan does not know, it could be a barrier. Mr. Callahan said without knowing the acreage, the only way to develop the property might be an Open Development, which states a two (2) acre minimum per house. Potentially, it would be a very small number of houses with limited access. Mr. Metzger stated that the applicant has no plans to develop that portion of the property at the present time. Chairman Sackett noted that the applicant should have Concept drawings of the elevations when they go before the Town Board for their decision. He also noted that any Development Approval would need a Landscape Committee review in which a buffer may be recommended.

Chairman Sackett also noted that Transit Road is a State road and a coordinated review was conducted in which Department of Transportation (DOT) was asked for comments. The DOT had no comments relative to the impact of this particular property. Other involved agencies have informed the Town that the project seems to be compliant with any safety concerns there may be.

Mr. Pazda referred to the comment made by a resident regarding no development in the back of the project site because it is a wooded area. Mr. Pazda clarified that the code limits what can and cannot go there but being wooded is not one of those limitations. Mr. Callahan added: only if that woodland is wetland.

Mr. Pazda asked the applicant for details on the 75’ parcel of land to the south of the project site. Mr. Salvatore said it was not owned by the gentleman who thought he owned it, that gentleman owns only the front portion of that property. Mr. Salvatore said they discussed cross access through that parcel. The plan shows a stub road for this access and Mr. Salvatore agreed that he is willing to have cross access when the need arises. He may acquire the back portion of that parcel to the south if they were to develop the back of their property but right now they do not need it.

**ACTION:**

Motion by Timothy Pazda, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** a Negative Declaration on the proposed mixed use building located at 6449 Transit Road in the Town of Clarence. This Type I action involves the demolition of a structure built prior to 1950 and the construction of a 2-story mixed use building in the Restricted Business Zone. After thorough review of the submitted site plan and EAF, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment.

**ON THE QUESTION:**

It is noted that this project went to the Clarence Historic Preservation Commission for their review and input. Their determination was that it was not significant.

Jeffrey Buckley	Aye	Steve Dale	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Wendy Salvati, to **recommend** a change in zone from Major Arterial to Restricted Business at 6449 Transit Road as per the approved Master Plan amendment in 2008 to the Future Land Use Map.

**ON THE QUESTION:**

This represents the first 500’ of the property from Transit Road going east, it is not the whole property that the Planning Board is recommending to be re-zoned.

Jeffrey Buckley	Aye	Steve Dale	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Wendy Salvati, to **approve** the Concept Plan for a mixed use building at 6449 Transit Road as per the submitted site plan from Metzger Civil Engineering dated April 17, 2015.

Jeffrey Buckley	Aye	Steve Dale	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Paul Shear, to **recommend** a Special Exception Use Permit to the Clarence Town Board to allow for the development of a mixed use building at 6449 Transit Road as per the approved Concept Plan from Metzger Civil Engineering dated April 17, 2015.

**ON THE QUESTION:**

It is suggested that the following be added as a condition to the motion: subject to Landscape review and approval prior to Development Plan approval. Timothy Pazda and Paul Shear both agreed to add this to the motion. The applicant understands and agrees to this condition.

Jeffrey Buckley	Aye	Steve Dale	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye				

MOTION CARRIED.

**Item 2**

Cobblestone Center Phase II  
Restricted Business

Requests amended Concept Approval of a proposed mixed-use project and a recommendation for a Special Exception Use Permit for the project located at 8584-8590 Sheridan Drive.

**DISCUSSION:**

Jim Callahan provided the history on the project noting that it is located on the north side of Sheridan Drive, east of Harris Hill Road. It is an existing previously approved Daycare Center with two (2) office buildings. The Daycare Center was built in 2009 as Phase I. The applicant is seeking an amendment to the previously approved plan to allow for two (2) mixed use buildings instead of the previously approved office buildings. The amendment will require Town Board approval, the Town Board is Lead Agency on this matter.

Robert Blood of Lauer-Manguso Architects is present. Chairman Sackett noted that the elevations on the existing building show a combination of brick and stone-like material, this appears to be of a different character than what is being proposed. The proposal shows limited stone on the bottom and extensive vinyl. Mr. Blood said he doesn't think the applicant wanted an exact duplication, complimentary but still unique. Chairman Sackett said it is his opinion that the two styles of building are of different character. Mr. Blood noted that the Doodlebugs image is something that is duplicated and the owners did not want that image to be carried on to these proposed buildings. The façade on all Doodlebugs locations are very similar. Chairman Sackett referred to the east and west elevations in which a limited landscape buffer is shown. He asked if it is the applicant's intention to buffer those areas more sufficiently. Mr. Blood said on the east side there is a detention basin between the building and the adjacent property and that is grown in and heavily vegetated. There are also some trees that were planted in the Phase I development that are still there. There is a town drainage reservation on the opposite side of that. They could supplement plantings in this area if the Board desires. Mr. Blood said there is a wooden stockade privacy fence on the west side of the property, this can be continued, or supplemented with plantings, or both. Chairman Sackett said wooden fences are not preferred because of their longevity.

Chairman Sackett noted there was discussion regarding a stone wall in front of the property but that idea was dismissed. Mr. Blood said the applicant indicated he would construct that wall in the future if he could financially afford it. He went on to say that to construct that wall would be tens of thousands of dollars, however he believes the intent remains. Chairman Sackett said when the applicant goes to the Town Board they need to have a definite answer. The applicant understands. Chairman Sackett referenced the two-story buildings and asked Mr. Blood if there will be a sprinkler system. Mr. Blood said he believes there will be. Mr. Shear would like definite answers. Mrs. Salvati referenced an e-mail dated July 31, 2015 from the Harris Hill Fire Chief, Michael Schreiber Jr. The Fire Chief asked for assurance that the buildings will be fully sprinklered, including the garage area. He is concerned that garages are being included in this building because the chance of fire increase a lot; dangerous things happen in garages. He also noted his concern with the layout of the parking area saying it is difficult to navigate the large fire apparatus around the concrete islands. If the buildings are not sprinklered the Fire Chief would like to see the islands removed. A copy of the e-mail is on file. Mr. Blood said given that e-mail he assured the Board the owner will install sprinklers.

Mr. Buckley asked if the islands in the parking area will impede school bus access. Mr. Blood said the existing turn movements in Phase I are what they use now and that will not be changing. Doodlebugs buses access the site all the time and have no problems.

Mr. Salvati said a letter received August 5, 2015 from William and Carol Conwall indicated their concerns regarding traffic, Gott Creek and vistas. The letter is on file. She went on to say she would like to see the landscaping supplemented on the east side of the property.

Mr. Dale asked how the applicant plans on handling the waste water for the expansion. Mr. Blood said there is an existing sand filter on site and they show a dashed area (on the plan) on the southeast corner of the site that will be expanded to handle the additional flow. Mr. Dale then asked about storm water. Mr. Blood said the storm water would be handled in the existing storm water management facilities. When the existing facilities were constructed they were designed for this future second phase of development.

Mrs. Salvati asked about the new dumpster. Mr. Blood said the location of the new dumpster is moved slightly from the location of the original dumpster, but it is still there. It will be buffered with fencing and landscaping. It will be done in similar fashion to the two (2) dumpsters on the other side of the site.

Mr. Pazda referred to the stone on the lower part of the building and asked what the requirement is by code. Mr. Callahan said that would be discussed at the Development Plan stage, the code will have to be researched for the requirement; the project must comply with the code. Mr. Pazda thinks the Town Board would recommend the stone go higher on the building than what is being proposed.

Laurie Hauer-LaDuca, architect, lives at 8585 Sheridan Drive. She has lived there for 49 years and before that it was her grandparent's home from 1935 when it was constructed. The road has gone from a two-lane to a four-line road. The two (2) proposed buildings are out of scale with the neighborhood, she would not look forward to coming home after a long day and seeing this in her front yard. The only two-story building on Sheridan Drive from Transit Road to Main Street is the Erie Niagara Insurance building, this building does not impair anyone. She hopes that the Board will look at the Code they have and ask this person to go back to the one and a half story original concept, a professional office building that it was supposed to be. The multi-use project has increased traffic, increased lighting, noise and septic area. She has a one acre site and the septic that is required for a single family home is enormous. She can't believe that the septic that is laid out is going to take Doodlebugs, which has an enormous amount of water usage, twelve (12) apartments and businesses. She is concerned with the lighting, it is a safety thing for residences, it will be totally lit up across the street from her. She already deals with dumpster changes at 5:30 am from Benderson and Musso dump trucks coming in and now there is all this additional stuff, they do not know what the retail will be. Once the tenants realize that planes go over every five (5) minutes they will become so transient, they will be flipping constantly. A transient living is much different than a person who owns a home, that person has more indebted to it than a person who rents. She said her road is a raceway and is completely unsafe for animals and people. Her son goes to Sheridan Hill and in the morning people do not stop for the bus. There are motorcycle and car races at night. This area of Sheridan Drive is mostly all homes or homes that have changed over to an office building or a dentist but it is still a neighborhood.

Ann Marie Baker, of 8575 Sheridan Drive, echoes all of Ms. Hauer-LaDuca's comments. She moved to her home with her husband in 1999 and does not have a problem with the businesses coming in there but she does have a problem with the apartments. Her understanding of mixed-use is that there is typically a live, work, play environment. She sees that it could work well in cities or East Aurora where you can walk to places, there are no sidewalks on Sheridan Drive. Musso Plumbing is in and out all night. When Doodlebugs built in 2006 she started having flooding issues in her basement. Between 2006 and 2010 she had five (5) big floods in her basement. In 2012 she spent \$15,000 to waterproof the basement. There is a large aquifer on the property behind her, she believes it probably use to drain in a different manner, it now goes out to the ditches. She has contacted the Town Engineer about this issue. She is also concerned with the traffic.

Ray Hess, of 8565 Sheridan Drive, said he is surprised at how large the building is. He doesn't notice it too much but he knows there is a berm in front of Doodlebugs that hides Doodlebugs a bit, he assumes this is going away. With the size of these buildings, he can only imagine the run-off from these buildings. Mr. Hess has lived in the house for 50 years, his father built the house and rarely had a problem with water. In the past 15 years it is a regular flooding in the basement of 12"-24" of water. Many trucks have dumped fill on the Musso property and that has raised that property, he does not know where the water is going. The two proposed buildings seem out of character.

David LaDuca, of 8585 Sheridan Drive, concurs with all his neighbors. He said they deal with the planes, the cars and the trains. This is where they decided to live, this is their front yard. He asked the Board to consider a racetrack in their front yard, you worry for your life every time you pull in. He will be looking at the west building. The landscape architect said they will buffer on the commercial side, Meadowbrook is another lot over. Mr. LaDuca will look at the septic system, it's a berm that will be enlarged because of the change in uses. Every basement has flooded since this property got filled in, at night and on the weekends, there is 7'-8' of fill in there that was never there before. The ditch that is off to the right is a culvert now. It is the water that comes from behind him, it has nowhere to go but to his basement, it makes his basement useless. Mr. LaDuca said he has to allot five (5) to ten (10) minutes at the end of his driveway just to pull out. Then he has to wonder if he is going to get hit by someone coming around the corner going eighty (80) miles an hour. He went on to say that he had a Sheriff put a deer out in front of his house at 1:00am. The car was in his driveway with no lights on and a shot gun was pulled from the car to shoot the deer. Mr. LaDuca called 911, he thought the guy was walking up his driveway with a gun. Mr. LaDuca would like the applicant to consider buffering the south side of the property, the front of the building.

Another resident said he had three (3) floods this year, each of 12". It has been the same for the last few years. He installed a sump pump, which he never had before. He is disappointed the owner did not show up, to hear his view.

Mr. Blood said the two (2) buildings are just under the maximum allowable height, which is 35'. Mrs. Salvati said the existing building is 29'; it is a one and a half story building.

Chairman Sackett explained that this use is not an as-of-right use and requires a Special Exception Use Permit which can only be granted by the Town Board. The storm water issue will be reviewed at the Development state, but it is important to have it on the record. Chairman Sackett asked Mr. Blood for details on the lighting. Mr. Blood said in Phase I they worked with the Town to provide fixtures of the style and height and shielding that was of a particular request to match others in the area, they will do the same for this Phase. He is not aware of any requests to the lights on or off.

Chairman Sackett asked if there are any farm buildings on the property. Mr. Blood said Doodlebugs is the only building on the property.

Mrs. Salvati asked if there were any conditions on the original approval related to the building height. Mr. Callahan said not that he can recall, it would have to meet the Restricted Business Code for maximum height, which is 35'.

#### **ACTION:**

Motion by Paul Shear, seconded by Wendy Salvati, to **table** agenda item 2 until a representative can be present to answer the questions and discuss the issues that have been raised.

#### **ON THE QUESTION:**

Deputy Town Attorney Steve Bengart said the next available meeting would be by August 19, 2015, assuming the applicant could be present. It is clarified that the mixed-use is decided by the Town Board upon recommendation of the Planning Board. The applicant is encouraged to go before the Planning Board Executive Committee on August 10, 2015 in order to discuss being placed on the August 19, 2015 meeting.

Jeffrey Buckley	Aye	Steve Dale	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye				

MOTION CARRIED.

**Item 3**

McGuire Development  
Commercial

Requests Development Plan Approval of a proposed retail plaza with Tim Horton's Drive-Thru at 5989 Transit Road.

**DISCUSSION:**

Jim Callahan provided the history on the project noting that it is located at the southeast corner of Transit Road and Clarence Center Road. This is a recently approved Special Exception Use Permit allowing a commercial plaza with a Tim Horton's Drive-Thru.

Michael Metzger, of Metzger Civil Engineering, is present and representing the applicant. He explained that the project is just over an acre and a quarter. They are proposing an approximately 10,700 square foot commercial plaza. On April 1, 2015 the Planning Board recommended a Negative Declaration, Concept Approval and a Special Exception Use Permit to the Town Board conditioned upon the applicant receiving a variance which was necessary due to the size of the greenbelt. On April 14, 2015 the Zoning Board of Appeals granted that request. On May 27, 2015 the Town Board held a public hearing and unanimously granted the Negative Declaration under SEQRA and granted the Special Exception Use Permit for a commercial plaza and a drive-thru. Since May 27, 2015 the applicant has prepared the detailed engineering plans and have sought and obtained all necessary approvals. They have sign-offs from Erie County Department of Planning, Erie County Department of Public Works, NYS Department of Transportation, NYS Department of Environmental Conservation, the Town of Clarence Landscape Committee and the Town Engineer. There have been many changes to the plan which include: the re-location of the dumpster, an interconnection with the neighboring property, the building size has been decreased, the number of parking spaces has increased, the building has been moved further away from the east property line and further away from Clarence Center Road, a significant amount of landscaping has been added, a sidewalk has been added along Clarence Center Road, architectural enhancements have been made to the roof-line and to the building elevation facing Clarence Center Road (this at the request of the Town Board at the time the Special Exception Use Permit was granted), the greenbelt has been increased, the applicant is under agreement to purchase the home and property next door, design features has been added for the storm water detention pond for slope protection to ensure there will be no erosion issues to the neighbor's property.

Chairman Sackett asked for details on the protection against erosion of the neighboring property. Mr. Metzger said they hired geotechnical engineer Baron and Associates who made an evaluation of the soils based upon the soil testing that was done. They concluded that the slopes as designed were going to be stable but if there were issues with the slope they made some recommendations with things that could be done. Those things would be quite costly. The applicant provided a letter to the Engineering Department stating that if the Town of Clarence determines that there is a problem once this is built the applicant will come back and add those features to the pond slopes to stabilize it. The applicant will sod the slopes rather than putting topsoil on the slopes and planting grass. Chairman Sackett asked for details on the extraordinary things the applicant would have to do should this plan fail. Mr. Metzger explained that it will have no impact to the neighbor. He went on to say that one of the suggestions was to put

concrete blocks at the bottom of the pond and put in some soil to decrease the steepness of the slope. However, Mr. Metzger sees this suggestion as counter-productive as this pond is for storm water storage and this suggestion would decrease capacity. The other suggestion was to lay geotextile fabric over the top of the soil and put #4 and #6 stone over the entire slope, this is the more likely plan the applicant would execute if the Town deemed it necessary.

Chairman Sackett referred to the proposed directional sign at the end of the coffee drive-thru queuing lane in which the sign requests traffic to go somewhere other than right out to Clarence Center Road at the light under certain conditions. He asked for details on this sign and an explanation on what the proposed wording means.

Mr. Metzger said they hired SRF Associates, a traffic engineering consultant firm, to evaluate traffic for the project. Their conclusion was that this project would not have an adverse impact on the transportation system at Clarence Center Road and Transit Road to the point where it would affect the level of service. That study was reviewed by the County Traffic Engineer who concurred. It was reviewed by the NYS Department of Transportation, who concurred. There was still concern within the Town about traffic maneuvers, specifically vehicles exiting the site out on to Clarence Center Road and getting inter-mixed with traffic that is coming onto Clarence Center Road off of Transit Road or queuing up on Clarence Center Road to make a turn on to Transit Road. It was suggested that the applicant place the sign at the location shown on the plan, however the applicant does not feel it is needed but they added it at the request of the Town. The wording on the proposed sign is confusing, Mr. Metzger explained that the intent of the sign is for people who are coming out of the drive-thru lane who want to access Transit Road, they would be directed back through the property across the handicap access to the Transit Road entrance to exit there. Chairman Sackett said if the Traffic Engineer, the County Highway Department and NYS DOT did not recommend this sign, who did? Mr. Metzger was unsure of exactly who recommended it.

Mrs. Salvati said at the time the site will be busiest will be the same time Clarence Center Road will be busy with traffic, she does not think traffic should be sent back through the site to exit on Transit Road, making the site even busier, it seems counter-productive. The traffic will work its way out. Mr. Metzger agreed.

Mr. Metzger confirmed that the directional sign was not put there at the request of the applicant. If the Board requests the sign be removed the applicant will remove it.

Chairman Sackett asked if there are intentions for a plaza sign. Mr. Metzger said the only signage planned is for the sign on the building in accordance with the Town's Sign Law. They are not proposing a stand-alone sign.

Mr. Dale offered alternate wording for the directional sign at the end of the queuing lane: "Northbound traffic must use Transit Road exit". Chairman Sackett noted that this still creates traffic going through the parking lot front joining the confluence of traffic generated by the stores, the building to the south and traffic coming into the site. Mr. Dale said the only people who will see that sign are those that go through the Tim Horton's drive-thru, those are the ones that would be using the bypass. Mr. Pazda asked why the focus is on "northbound" traffic. Mr. Dale said he was reading from the April 1, 2015 meeting minutes in which both Mr. Silvestri and Mr. Dentinger committed to northbound traffic going out on Transit Road.

Mr. Bigler said the sign should be removed from the plan. He thinks it is confusing and potentially a dangerous situation.

Mr. Buckley asked how many cars can line-up, after they have their coffee from the drive-thru and going towards Clarence Center Road, before they start to back up the queuing line. Mr. Metzger said three (3) or four (4) cars. Mr. Buckley does not think this will be an issue, the light will change and allow that traffic to be accepted onto Clarence Center Road. Mr. Buckley said his position is to remove the sign. Mr. Metzger said the applicant would like to propose the removal of the sign. The Board will vote on an amended plan that shows the removal of the directional sign at the end of the queue for the drive-thru lane.

**ACTION:**

Motion by Paul Shear, seconded by Richard Bigler, to **approve** the Development Plans for the proposed McGuire Development Plaza with Tim Horton’s Drive Thru as per the submitted plans submitted by Metzger Civil Engineers dated June 23, 2015, last edited July 6, 2015 and further edited on August 5, 2015, to exclude the directional sign at the end of the drive-thru segment with the following conditions:

1. All conditions as identified in the Town Board issued Special Exception Use Permit as depicted in the minutes of the 5/27/15 Town Board meeting.
2. Subject to issuance of PIP Permits by the Town Engineer to ensure compliance with Town Code requirements.
3. Subject to highway work permits from the Erie County DPW and NYS Department of Transportation for work within the right-of-ways.
4. Subject to permitting for utility connections from the responsible agencies (ECSD#5, ECWA, NYSEG, NFG).
5. Subject to Building Department issuance of required building permits on the project.
6. Subject to Open Space and Recreation Fees.

**ON THE QUESTION:**

Mr. Metzger said he understands the conditions and agrees with them.

Jeffrey Buckley	Aye	Steve Dale	Nay	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye	Paul Shear	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Meeting adjourned at 9:22 p.m.

Carolyn Delgato  
Senior Clerk Typist