

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday September 4, 2013

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

Andre Cook
Residential Single Family

Requests Minor Subdivision Approval to create one new residential lot at 5525 Thompson Road.

Item 2

McGuire Development
Traditional Neighborhood District

Requests Development Plan Approval for the construction of a proposed Professional Office Building at 8321 Main Street.

Chairman Robert Sackett called the meeting to order at 7:30 p.m.

Jim Callahan led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chairman Paul Shear
George Van Nest
Gregory Todaro

Vice-Chairperson Wendy Salvati
Timothy Pazda
Richard Bigler
Steven Dale

Planning Board Members absent: none

Town Officials Present:

Director of Community Development James Callahan
Junior Planner Jonathan Bleuer
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Andre B. Cook
Jaime Brawdy

Bob Wolinski
Gabriele Maddalena

Darren Doell
Harold Erbacher

Motion by Gregory Todaro, seconded by Wendy Salvati, to **approve** the minutes of the meeting held on August 21, 2013, as written.

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|-----------------|---------|----------------|-----|
| Gregory Todaro | Aye | Richard Bigler | Aye |
| George Van Nest | Abstain | Timothy Pazda | Aye |
| Paul Shear | Abstain | Wendy Salvati | Aye |
| Robert Sackett | Aye | | |

MOTION CARRIED.

Chairman Sackett explained the procedure for this evenings meeting noting that Mr. Callahan will introduce the project. The applicant will have a chance to address the Board with any additional comments. The Board will ask questions if they have them. People from the audience will be invited to speak. The applicant will have the opportunity to address any comments made by the public. The Board will then take action they deem appropriate.

Item 1

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| Andre Cook Residential Single Family | Requests Minor Subdivision Approval to create one new residential lot at 5525 Thompson Road. |
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DISCUSSION:

Jim Callahan provided the history on the project noting that it is located on the east side of Thompson Road south of Roll Road. It is existing residential property located in the Residential Single Family Zone. The applicant is proposing a lot split to create one (1) new additional residential building lot. All the minimum lot size and setbacks will be met with the proposed split. Per the Subdivision Law, the Planning Board has final review and approval authority for Minor Subdivisions.

Andre Cook is present and said he has lived in Clarence for 25 years, 14 years at 5525 Thompson Road. He has 8.5 acres of property and would like to divide 3 acres off of that into one single family lot available for sale.

ACTION:

Motion by Paul Shear, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Cook Minor Subdivision located at 5525 Thompson Road. This Unlisted Action involves a Minor Subdivision to create one new residential building lot in the Residential Single Family Zone. After thorough review of the submitted site plan and Short Environmental Assessment Form it is determined that the proposed action will not have a significant negative impact upon the environment.

ON THE QUESTION:

Deputy Town Attorney Steve Bengart said he assumes the Board would want the record to reflect any discussion on this agenda item that was had at the last meeting by residents. Chairman Sackett said yes the record should reflect those comments.

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|-----------------|-----|----------------|-----|
| Gregory Todaro | Aye | Richard Bigler | Aye |
| George Van Nest | Aye | Timothy Pazda | Aye |
| Paul Shear | Aye | Wendy Salvati | Aye |
| Robert Sackett | Aye | | |

MOTION CARRIED.

ACTION:

Motion by Paul Shear, seconded by George Van Nest, to **approve** the Minor Subdivision at 5525 Thompson Road to create one new residential building lot per the submitted site plan, subject to the following conditions:

1. Town Building and Engineering Department approval on any future construction activities.
2. Erie County Health Department approval for any future on-site sanitary facilities.
3. Erie County Department of Public Works approval on future additional access connection to Thompson Road.
4. Open Space and Recreation fees.

ON THE QUESTION:

Chairman Sackett asked Mr. Cook if he had any questions on the motion or the conditions. Mr. Cook said he presumes they are customary and normal for any minor subdivision approval. Chairman Sackett said that is correct. Mr. Cook understands.

Deputy Town Attorney Steve Bengart said he assumes the Board would want the record to reflect any discussion on this agenda item that was had at the last meeting by residents. Chairman Sackett said yes the record should reflect those comments.

| | | | |
|-----------------|-----|----------------|-----|
| Gregory Todaro | Aye | Richard Bigler | Aye |
| George Van Nest | Aye | Timothy Pazda | Aye |
| Paul Shear | Aye | Wendy Salvati | Aye |
| Robert Sackett | Aye | | |

MOTION CARRIED.

Item 2

McGuire Development
Traditional Neighborhood District

Requests Development Plan Approval for the construction of a proposed Professional Office Building at 8321 Main Street.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the south side of Main Street, west of Susan Drive. It is existing residential property located in the Traditional Neighborhood District zone. A Negative Declaration under the State Environmental Quality Review Act (SEQRA) was issued by the Town Board on August 14, 2013. Concept Approval was granted by the Planning Board on July 7, 2013, with conditions. Final approval on the project will be a Special Exception Use Permit (SEUP) as issued by the Town Board with a Public Hearing scheduled for September 11, 2013.

Michael Metzger, of Metzger Civil Engineering, is present and representing the applicant. Mr. Metzger said the project site is not in a sewer district; however his client has sought out and has been granted out-of-district sewer status from Erie County Sewer District #5. Although this property has enough land that a septic system could be put on it, the applicant feels it is more environmentally conscious to go into a public sewer. The applicant will attempt to preserve as much of the natural vegetation as possible at the back of the site understanding that it backs up to Clardon Heights and Country Meadows Subdivisions. On the southern boundary of the property there is thick vegetation, the applicant is proposing to preserve that, there are significant trees in that area. They will augment the vegetation on the sides and front of the property. If a septic system was going to be installed an entire portion of the property would have been clear cut. Mr. Metzger said his client wants to be a good neighbor; they have worked with various neighbors on the site plan and have made changes to the plan to accommodate the desires of the neighbors. The proposal is for a 19,000 square foot single story building. There will be no heavy lighting; it will be dark sky compliant and properly shielded to ensure that neighbors aren't adversely impacted by the lighting. There were specific trees in the right-of-way that were requested to remain on site, they will be preserved. A stonewall will be installed across the full frontage of the property. The applicant has reached out to the State Office of Parks, Recreation and Historic Preservation and has received a sign-off from them, the letter is on file. They have also worked with the NYS DOT and have provided a letter that states their comfort with the project, the letter is on file. The Town Engineer has reviewed the project and issued a letter approving the plan with conditions, the letter is on file. The applicant will comply with those conditions.

Chairman Sackett said the Landscape Committee reviewed the project and they will meet again next Tuesday if the applicant wants to address any landscape issue with them. The Committee asked for additional trees to be placed by the southern boundary of the property, in particular the southwest corner. Some species are deer-friendly; Chairman Sackett said a better choice could be made. The Committee said Norwegian Pines tend to stand up a little bit better than Colorado Spruce.

Mr. Pazda said he likes the look of the building; it looks like it belongs in a residential area. He asked if the dark sky lighting will be on a timer. Mr. Metzger said the intent is for the lights to be on photocell but there will be a timer where they would shut off no later than 11:00 pm.

Mrs. Salvati asked if the applicant evaluated the condition of the sidewalks out front and if there are any plans to make any improvements to them. Mr. Metzger said the Town Engineer made it a condition of his approval that the applicant meet with members of the Building Department and assess the sidewalk for possible sections of replacement and maintenance. The applicant is agreeable to this condition.

Mr. Shear noted that there are varmints on the property. The applicants plan was to trap them and remove them. The timeline for this to occur was tied with the demolition of the building. Mr. Shear asked if this has been done yet. Mr. Metzger said the process has been started; there are several traps on site. However, he does not know what has been captured. The trapping process will continue to the point of the clearing of the site.

James Neill, of 4260 Clardon Drive, said he likes the plan. His concern is it seems that the fence idea has been abandoned. He would like to see fencing at the back and sides of the property to form a visual block for the neighborhood back there. The trees on the property line are Norway Spruce and are high, not low to the ground, so there is a look-through. If the shrub gets cleaned up this will open up the look-through even more. He would like to see some barriers there. His other concern is that there is a large colony of woodchucks that live there. One neighbor said there are 20-30 cats that were

poisoned that were in the little cottage that is now destroyed, he hasn't seen any cats. But at one time he had wild cats walking through his yard. Three years ago Mr. Neill trapped six woodchucks and took them out to the country and let them go. He said they are difficult to trap, they don't take the bait. He used apples and they did take them periodically. He suggested going to a woodsmen to find out what will work. Mr. Neill said there are corn rats and he can't feed birds or those rats will come across to his property.

Bob Wolinski, of 4282 Susan Drive, is strongly requesting a good fence be installed the length of his property which is adjacent to the project site. He has presented literature indicating the type of fence he is requesting. He has an expensive home, he has spent a lot of money on his home and he expects his home to look gorgeous after this project is done. He thinks the project is great; the only thing he wants is protection from people cutting through his property from Main Street, which they then exit through Susan Drive. Just last week someone took this route through his property to Susan Drive, then turned towards David Road. Chairman Sackett said there is a dense thicket at one section of the project site, if that was duplicated along Mr. Wolinski's property, so that it is a consistent thicket the entire east side of the property, would that act as a deterrent for those cutting through Mr. Wolinski's property. Mr. Wolinski said he doesn't know, they walk through his bushes now. Two years ago they walked through his bushes and stole equipment from his garage. He is mildly demanding the fence be installed and asked for serious consideration by the Board.

Gabriele Maddalena, of 4256 Foxwood Lane, said he likes that it appears the lighting issue has been resolved. He is in favor of using a fence as a buffer as well as the extra greenery. He voiced his concern with the woodchucks. If something has been placed on the project site to trap them, it isn't working right now. He is seeing many woodchucks; they are burrowing against the foundation of his house. They are starting to dig around the cement pad of his shed; he does not want his shed to cave in. Chairman Sackett asked Mr. Maddalena if he is quite sure the woodchucks originated from the project site and not the surrounding sites. Mr. Maddalena has lived there for nine years and he has seen where most of them are coming from. He has never been on the project site but speaking with the neighbors they have come to the conclusion that the project site is where they originated. They are starting to spread now.

Mr. Wolinski said there is a big hole at the corner of his property that leads to the woodchuck's den. He has trapped as many as 31 woodchucks in one year, baited with apples and lettuce.

Mr. Neill said he walked the property behind his house to do some research and there really is a colony. There are holes were the barn had fallen down, around the barn perimeter and in the former stalls.

Mr. Metzger said he will talk to his client tomorrow morning and have him step up the trapping activities on site prior to demolition. Long term, they are eliminating the habitat for the current population.

Mr. Metzger said they worked with the Planning Board regarding a fence and it was the Planning Board's desire, as well as the clients, to handle screening more with landscaping. One concern was the southwest corner of the property; the client will work with the Landscape Committee to make sure that is buffered properly along with the rest of the project site. In between Mr. Maddalena's property and the project site is Alethea's. The owner of Alethea's has chosen to leave the back of the property, which is over 300' wide, thick with vegetation and that acts as a nice buffer. The client would like to maintain this on his side.

Mr. Metzger has discussed the extension of Mr. Wolinski's fence with him; they will work together to come to an agreement. It is Mr. Metzger's intention to illicit the assistance of a wildlife expert in trapping and removing the varmint at the site.

Mr. Pazda asked if the area to the south of the parking lot that is being kept for future development of a parking lot will be mowed or kept in its natural state. Mr. Metzger explained that there is about 60' of natural vegetation that they intend to leave.

Mr. Todaro asked if the applicant can enhance the landscaping on the south east side of the property to prevent people from walking through that neighbor's property. Mr. Metzger said he and his client are aware of this issue and have been speaking with Mr. Wolinski from the beginning. They will work with the Landscape Committee to make sure Mr. Wolinski is comfortable with the result and that the buffer will be as thick as it needs to be.

Chairman Sackett noted that there is a letter from Mr. Maddalena on file. The letter will be referred to the Landscape Committee for their review. Mr. Metzger has been provided with a copy of the letter and has no further comments on it.

Mr. Van Nest noted that the issue of the woodchucks appears to be unique on this property above the norm of what one might expect, so the Board encourages Mr. Metzger to obtain the services of a professional in not only trapping and removing the woodchucks but also to look at the dens that may be underneath the site. Mr. Van Nest referred to the matter of a fence. He said the Board must look at planning from a land use point to make decisions. They look at what the applicant is seeking to do with their property and make sure it is consistent with good land use principles, the Town Law and the State Law. The Board has not imposed fences upon applicants with projects; he does not think that would be a good practice anyway. There are serious concerns presented by the public as it relates to security, but that is not an issue that the Planning Board can address from a land use planning stand point other than acquiring appropriate screening and as thick screening as possible within the confines of the Land Use Law, the Landscape Law and the Landscape Committee. Mr. Van Nest encourages the applicant to work with the neighbors to try and alleviate whatever concerns he can to the maximum extent possible.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the Development Plans and Architectural Style on the proposed McGuire Professional Office Building located at 8321 Main Street as per the submitted drawings from Metzger Civil Engineering dated July 1, 2013 and Silvestri Architects dated June 13, 2013 and subject to the following conditions:

1. Town Engineer conditions on approval as described in a letter dated August 26, 2013.
2. Enhanced landscaping to preserve the areas adjoining residential properties to the east and south and final landscape approval by the Landscape Committee.
3. Subject to approval of a Special Exception Use Permit by the Town Board for a structure over 10,000 square feet within the Traditional Neighborhood District.
4. Subject to Open Space and Recreation fees.

ON THE QUESTION:

Mr. Metzger understands and agrees with the conditions.

Gregory Todaro Aye
George Van Nest Aye
Paul Shear Aye
Robert Sackett Aye

Richard Bigler Aye
Timothy Pazda Aye
Wendy Salvati Aye

MOTION CARRIED.

Meeting adjourned at 8:15 p.m.

Carolyn Delgato
Senior Clerk Typist