

Town of Clarence  
Planning Board Minutes  
Wednesday January 12, 2011

**Work Session 6:30 pm**

Roll Call  
Update on Pending Items  
Zoning Reports  
Committee Reports  
Miscellaneous

**Agenda Items 7:30 pm**

Approval of Minutes

**Item 1**

Marino Iannucci  
Residential Single Family

Requests Subdivision approval to create four (4)  
new residential building lots at 8815 Stahley  
Road.

**Item 2**

Joe Frey  
Commercial

Requests Change-In-Use from vacant to food  
market at 9992 Main Street.

Chairman Al Schultz called the meeting to order at 7:32 p.m.

Councilman Peter DiCostanzo led the pledge to the flag.

Chairman Schultz called for a moment of silence for all those affected by the events in Tucson,  
Arizona.

Planning Board Members present:

Chairman Al Schultz	Vice-Chairperson Wendy Salvati
2 <sup>nd</sup> Vice-Chairman Richard Bigler	Timothy Pazda
George Van Nest	Paul Shear
Gregory Todaro	

Planning Board Members absent:

Robert Sackett

Town Officials Present:

Director of Community Development James Callahan  
Planner Brad Packard

Councilman Peter DiCostanzo  
Deputy Town Attorney David Donohue

Other Interested Parties Present:

Joe Frey  
Ethel Fopeano  
Dan Pfeiffer

John Fopeano  
Rebecca Pfeiffer  
Earl Letzelter

Chairman Schultz explained that Robert Sackett is absent for this evenings meeting, therefore Gregory Todaro will participate in all discussions and vote on all agenda items.

Chairman Schultz noted that there has been a change this year for the approval authority. There has been an adjustment in what the Town Board approves and what the Planning Board approves. The Planning Board now has significantly more approval than they did last year. Both agenda items are under the Planning Board's purview, thus the Planning Board will make a decision on the item. A decision may be an approval with or without conditions, a denial or the item will be tabled for further information. The procedure will begin with Mr. Callahan introducing the project. The applicant will have the opportunity to speak about the project. The public is also given the opportunity to speak on the project.

**Item 1**

Marino Iannucci  
Residential Single Family

Requests Subdivision Approval to create four (4)  
new residential building lots at 8815 Stahley  
Road.

**DISCUSSION:**

Jim Callahan provided the background on the project. It is located on the west side of Stahley Road (extension of Shimerville Road), north of Clarence Center Road. It is existing vacant land in the Residential Single Family Zone consisting of approximately 3.5 acres. The applicant is proposing a minor subdivision to create four (4) new building lots along the existing road frontages. Per the Subdivision Law the Planning Board has final authority to approve such actions.

Lawrence Senear is representing Mr. Iannucci. Mr. Senear explained that there is a purchase offer and a survey for the property they needed to acquire in order to have frontage lots on Willow Run. There has been a transfer of lands to make this subdivision possible. There will be two (2) 125' frontage lots on Willow Run and two (2) 125'+ lots that front onto Stahley Road.

Chairman Schultz noted that the proposed lots are all part of Erie County Sewer District #5 and will require specific approval to tap into it. Mr. Senear understands; each lot would be sold subject to all the compliances with the Town of Clarence and New York State codes.

Chairman Schultz explained that this action is classified as an Unlisted Action under the New York State Environmental Quality Review Act (SEQRA), it does need a SEQRA decision by the Board.

**ACTION:**

Motion by Timothy Pazda, seconded by Gregory Todaro, that pursuant to Article 8 of the Environmental Conservation Law, moves to **issue** a Negative Declaration on the proposed Iannucci Subdivision located at 8815 Stahley Road. This Unlisted Action involves splitting the existing vacant property to create four (4) new residential building lots in the Residential Single Family Zone. After thorough review of the submitted site plan/survey and Environmental Assessment Form by the Town Planning Board, it is determined that the proposed action is consistent with local land use regulations and will not have a significant impact upon the environment.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the request by Marino Iannucci for Minor Subdivision Approval to create four (4) new residential lots at 8815 Stahley Road.

**ON THE QUESTION:**

The following are conditions on the motion:

- Open Space and Recreation Fees on future building permits.
- Subject to Town Engineer and Town Building Department review and approval for all future building permits.
- Subject to review and approval of Erie County Sewer District #5 for approval of sanitary sewer connections.
- Subject to review and approval of County and Town Highway Departments for required curb cuts.

Wendy Salvati and Gregory Todaro both agree to amend their motion to include the conditions listed. Mr. Senear understands the conditions and has no problems with them.

The motion is made based on information in the file which is included on the record.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

**Item 2**

Joe Frey  
Commercial

Requests Change-In-Use from vacant to food market at 9992 Main Street.

**DISCUSSION:**

Jim Callahan provides the background on the project. It is located on the north side of Main Street, east of Kraus Road. It is existing vacant commercial plaza located in the Commercial Zoning classification. The applicant is proposing a Change-In-Use from the current vacant to retail market. Per the Zoning Law the Planning Board has final authority to approve such changes in use.

Joe Frey is present and explained there is someone interested in leasing the property to put a farmer's market in the building up front. It may include a deli, a butcher shop, produce and a bakery, not all owned by one person, it would be like a co-op. Mr. Frey has no interest in the ownership of the business; he is the real estate owner.

Ms. Salvati asked how much of the structure will be used. Mr. Frey said the main store is 24,000 square feet; there is another 3,000 square foot building that would go along with it. He has interest from other parties that would complement the farmer's market that would lease the other space from him.

Mr. Todaro asked if the gazebo structures will be removed. Mr. Frey said yes, those are not his structures. He also said they will have to be removed unless the owners lease space in the back of his property.

Mr. Bigler asked if there will be any changes to the outside of the structure. Mr. Frey said not at this point, but he wants to put a pitched roof on the flat roof building (the building that faces Main Street). There will be no change to the outside lighting. This will be a year round operation. Everything will be done inside the building. Deliveries will be made in the same place they used to be made, behind the building that faces Main Street.

Chairman Schultz confirmed that no special permits will be required for restaurants or bakeries at this location as it is zoned properly for these uses.

Mr. Bigler asked for details on the hours of operation. Mr. Frey said the hours would probably be 9:00am or 10:00am until night time. He does not have the business plan, but if there is non-conformance the Town knows where to find him. Ms. Salvati said she would like to know now rather than have issues crop up an approval is achieved.

Mr. Todaro asked if the parking will be changed. Mr. Frey thinks that if the front parking is at its max, the area that was used for gazebos and sheds can be used. There is a lot of space for parking even within the 500' off Main Street.

Mr. Frey clarified that his furniture business used 33,000 square feet of space for retail, these were the buildings in the front of the property. There is 30,000 square feet of buildings in the back of the property which was used for storage. The current parking was used for what was retail space; it is sufficient for this proposal. Mr. Van Nest asked if there were any parking issues during full operation of Frey's Furniture Store. Mr. Frey said the only time they had an issue was during the "going out of business" sale.

Mr. Frey has no intent of putting in a road off Kraus Road; there are Town restrictions that will not allow him to. He thinks this is unfair because he would like to sell the building that is on Kraus Road.

Mr. Shear asked if the building will be leased to one entity and that entity will then sublet to other individuals. Mr. Frey does not know. He is not proposing that he will sell to one person.

Chairman Schultz voices his concern with Mr. Frey not being able to provide details for the business operations. He is envisioning something very loud all night long, unless there is a restriction in place. Mr. Frey said it is not his place to set the hours of operation for someone else's business.

Mr. Van Nest thinks the use is going to be acceptable. Perhaps the Planning Board should not get too far into the details and try to manage something that is not in the Planning Board's purview. Mr. Callahan suggested using standard business operations as condition.

Rebecca Pfeiffer, of 4881 Kraus Road, is concerned with parking. If there is parking in the back, how will it impact her property? Will there be some sort of berm or noise control, and what about lighting?

Ethel Fopeano lives on Kraus Road. She agreed that there should not be extra traffic on Kraus Road. It seems to be a through road for fire engines and all kinds of traffic. The traffic seems to be heavy and very fast at times. Extra traffic and truck deliveries would be a big feature that would make her very unhappy.

Mr. Frey said the woods in the back of the property will remain and that will help with headlights but during the winter you can still see through when the foliage is off. He suggested a 6' stockade fence at the wood line going east to west if the business grows. Mr. Callahan noted that the parking for the retail space is the area in front. The parking would go to the back only in extreme conditions, if this comes up the Board can look at it again.

Mr. Frey said there is lighting in the back but it does not face the residents, it faces Main Street. The light is attached to a big oak tree. There is also a light on an old telephone pole near the old dairy store.

Chairman Schultz asked if the current sign(s) will come down and a new sign or signs will be installed and permitted according to the Town Code. Mr. Frey said yes.

#### **ACTION:**

Motion by George Van Nest, seconded by Timothy Pazda, to **approve** the proposed change-in-use from vacant to retail market at 9992 Main Street with the following conditions:

- Action is related to the former Frey's Furniture retail space, identified as the front buildings of 24,000 square feet and 8,000 square feet respectively to the southwest portion of the campus.
- General site cleaning in the front of the property is required, including removal of sheds/gazebos in the front yard setback area.
- Signage to be reviewed, approved, and installed in compliance with the new Sign Law.
- No access to Kraus Road per existing conditions to the rear of the property.
- Any interior renovations or build-out subject to review and approval of the Building Department.

- Subject to Landscape Committee review.
- Subject to standard retail business hours of operation.

**ON THE QUESTION:**

Chairman Schultz noted this Action is considered a Type II Action under SEQRA and requires no special New York State Environmental Quality review.

Gregory Todaro	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

**MOTION CARRIED.**

Motion by Richard Bigler, seconded by Wendy Salvati, to **approve** the minutes of the meeting held on December 22, 2010, as written.

Gregory Todaro	Aye	Paul Shear	Abstain
George Van Nest	Aye	Timothy Pazda	Abstain
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

**MOTION CARRIED.**

Mr. Pazda suggested all members of the Planning Board view the video presentation by Ed McMahan entitled “The Dollars and Cents of Preserving Community Character”. A viewing of the video can be scheduled for the Spring of 2011. The applicants and developers should see this video as well.

Mr. Van Nest suggested the Planning Board adhere to the three (3) minute time limit per speaker for public participation, especially with the Board taking over the environmental review. This will help cut down on repetitive comments/concerns.

Mr. Todaro suggested assigning an individual from the Planning Board to thoroughly review the environmental documents for every project. Ms. Salvati said all members should be reviewing the documents. Mr. Todaro said the documents should be checked to make sure they are complete, aligned and make sense. Mr. Shear agreed with Mr. Todaro.

Mr. Van Nest suggested that a pdf of each project plan is e-mailed to the Planning Board members in advance of the meeting so they can review it.

Meeting adjourned at 8:20 p.m.

Carolyn Delgato  
Senior Clerk Typist