

Town of Clarence
Planning Board Minutes
Wednesday, February 21, 2007

Work Session (6:30 PM)

- | | |
|---------------------------|---------------------|
| ➤ Roll Call | ➤ Committee reports |
| ➤ Minutes | ➤ Zoning reports |
| ➤ Sign review | ➤ Miscellaneous |
| ➤ Update on pending items | ➤ Agenda Items |

Agenda Items (7:30 PM)

Item 1

Don Stiglmeier
Residential Single-Family

Requests Concept Approval for a One-Lot Open Development Area at 10505 Greiner Road.

Item 2

Metzger Civil Engineers
Agricultural Rural Residential

Requests Preliminary Concept Review of a proposed 4-Lot Open Development Area north of County Road, west of Heise Road.

Item 3

Adequate Public Facilities Local Law

Discussion.

Item 4

Proposed Zoning Map Amendments

Discussion.

Patricia Powers, Chairperson, called the meeting to order at 7:35 p.m. Deputy Town Attorney David Donohue led the pledge to the flag.

Planning Board Members Present:

Patricia Powers, Chairperson	Wendy Salvati, 1 st Vice Chairperson
Gerald Drinkard, 2 nd Vice Chairperson	Jeffrey Grenzebach
Timothy Pazda	George Van Nest
Richard Bigler	

Other Town Officials Present:

James Callahan, Director of Community Development
James Hartz, Assistant Director of Community Development
David Donohue, Deputy Town Attorney

Other Interested Parties Present:

Paul Case
Don Stiglmeier

Michael Metzger

Motion by Gerald Drinkard, seconded by Richard Bigler, to approve the minutes of the meeting held on February 7, 2007, as written.

Patricia Powers	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye	Jeffrey Grenzebach	Abstain
Timothy Pazda	Aye	George Van Nest	Abstain
Richard Bigler	Aye		

MOTION CARRIED.

Item 1

Don Stiglmeier
Residential Single-Family

Requests Concept Approval for a One-Lot Open
Development Area at 10505 Greiner Road.

DISCUSSION:

Jim Callahan provides the history of the project. The property is located on the south side of Greiner Road, east of Hillcrest Drive. The project consists of approximately 1.84 acres, with 66' of public road frontage in a Residential Zoning Classification. The applicant was referred from the Town Board to review a one-lot Open Development Area.

Michael Metzger, of Metzger Civil Engineering and Don Stiglmeier, owner of the parcel, are both present. Mr. Metzger is representing the applicant and adds to Mr. Callahan's description saying the land opens up in the back; the 66' of frontage extends, at this point, to 216'. The full depth of the parcel is 533'. Mr. Metzger explains that the minimum lot size in the Residential Single Family zone, per the Town Code, is 20,000 square feet; this piece of property is more than four (4) times the minimum size of a single family home lot in that zoning classification. At the proposed building line the property also exceeds the frontage requirement with it's frontage at 216'. Mr. Stiglmeier has owned the property for approximately nine (9) years, he purchased the property from his daughter and son-in-law to help them out in anticipation of selling the land in the future as a single family building lot; he was not aware the lot was non-compliant due to the width, which at that time was 100' and has since been changed to 125'. At this point Mr. Stiglmeier realized he had two (2) options. One option was to go before the Zoning Board of Appeals to obtain a variance for the minimum lot width and a setback. The other option was to propose a one-lot Open Development Area which is the current request.

Mr. Stiglmeier did take the proposal to the Zoning Board of Appeals, but for various reasons was denied. He was not given the opportunity to correct the reasons for its denial and appeal to the Board again. Since then, Mr. Stiglmeier has taken care of the matters and attempted to get back on the Zoning Board of Appeals agenda to be reheard with the new information. In order to be reheard there must be a unanimous vote from the Zoning Board of Appeals agreeing to rehear the request; this could not be established, thus, leaving Mr. Stiglmeier with the denial.

Mr. Metzger explains that the Town Board has the ability to waive the requirement of a 2 acre minimum lot size and reminds the Planning Board that this project is 1.84 acres. Mr. Metzger points out that many Towns in Western New York grant their Town Boards the ability to waive requirements, and this has happened.

Mr. Metzger said the home would be placed on the lot so it is “nestled” into the trees; it would become a compliment to the neighborhood.

Mr. Metzger explains the rehearing at the Zoning Board of Appeals was requested in the Fall of 2006. He goes on to explain that it is well over one year that the Zoning Board of Appeals denied the request, the Board was not full and the Chairman at the time wanted to make sure he had a full Board to make a decision.

Mr. Metzger states the lot is sewerred.

Mr. Pazda asks if the applicant has communicated with the neighbors to see if they were interested in purchasing his land or if they would sell some of their land to him so he could be in compliance with the Law. Mr. Stiglmeier said on February 4, 2007 he wrote to seven (7) adjacent neighbors to ask if they were interested in acquiring any portion of his property. There has been no interest. Mr. Stiglmeier also talked to the adjacent neighbors when the variance request was before the Zoning Board of Appeals and no one had any objections, nor did any neighbor attend the meeting.

Mr. Bigler asked what the unresolved issues were with the Zoning Board of Appeals. Mr. Metzger explains that there was discussion, at the time, that this would have been a septic lot, but now the sewer is in. The Zoning Board members also asked the applicant if he tried to purchase land from his adjacent neighbors in order to comply with the, then 100', requirement. Mr. Stiglmeier made the attempt to contact the neighbors, however if they would have sold property to Mr. Stiglmeier it would have created setback violations on those adjacent properties; the neighbors were not interested anyway. These issues were addressed by the applicant but the Zoning Board of Appeals did not want to rehear the case.

Mr. Metzger figures the applicant is approximately 6,000 square feet short.

Mr. Van Nest asks when the lot was originally subdivided, the applicant guesses at approximately 10 years ago. Wendy Salvati explains that she took note of the date January 1997 as the date of purchase for this lot; this information was provided at an earlier meeting of the Executive Planning Board.

Mr. Metzger explains that the applicant's daughter lives on the parcel that is north of the proposed project site; 10515 Greiner Road. The applicant's daughter owned both parcels independently, they were separate parcels, it was not subdivided. This lot was not created by Mr. Stiglmeier nor was it created by the previous owner, his daughter.

Mr. Van Nest explains that it appears that what is basically being looked for is a variance from the Subdivision Law to be granted by the Town Board, if they choose to do so. In essence, he is talking about hardships, is there another use for this land? He thinks not.

Wendy Salvati voices a few concerns. Does the Planning Board feel they can recommend beyond the law? Whether or not the Planning Board views this as setting a precedent and do they want to establish this precedent? The 66' of frontage is also a concern.

Mr. Drinkard points out that no neighbors have commented negatively, he also brings attention to the fact that the lot is sewerred. He refers to Section 193-2 (Purpose) of the Town Code and reads: To protect and conserve the value of land, buildings and improvements and to minimize conflicts among the uses of land and buildings. Mr. Drinkard said it is good that the applicant plans a single family home in a sewerred area and is still able to preserve the natural landscape.

Wendy Salvati refers to Section 193-9 (Variances) and said when this project goes back to the Town Board they need to take this section into consideration and know that this situation comes down to extraordinary hardships. David Donohue adds that it is important to note that the applicant did not create the hardship.

ACTION:

Motion by George Van Nest, seconded by Richard Bigler, to **recommend** the Town Board entertain the notion of a variance, these are in fact extraordinary hardships suffered by the applicant and the Town Board should refer to Section 193-9 (Variances) of the Subdivision Law when reviewing this proposal.

ON THE QUESTION:

Wendy Salvati suggests adding a condition to the motion which states the applicant is to clear only what needs to be cleared to establish a home site, perhaps through a deed restriction, it must be guaranteed that a tree buffer remain. George Van Nest and Richard Bigler agree with adding this as a condition to the motion.

Tim Pazda agrees with the motion; however he has concerns with setting a precedent.

Patricia Powers	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	George Van Nest	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Item 2

Metzger Civil Engineers
Agricultural Rural Residential

Requests Preliminary Concept Review of a proposed 4-Lot Open Development Area north of County Road, west of Heise Road.

DISCUSSION:

Jim Callahan provides the history of the project. The property is located on the north side of County Road, west side of Heise Road. It consists of approximately 28.9 acres with approximately 60' of public road frontage on County Road and approximately 420' of public road frontage on Heise

Road. The applicant was referred from the Town Board to review a proposed 4-lot Open Development Area on the west side of the property. The applicant was tabled at a previous Planning Board meeting.

Paul Case, of Metzger Civil Engineering, is representing the applicant and confirms that the project was tabled at the January 10, 2007 Planning Board meeting.

Mr. Grenzebach asks if there would be deed restrictions on the wetlands, Mr. Case replies, "Yes," and goes on to explain that the wetlands are Federal and were delineated in November of 2005. He has a letter into the Army Corp of Engineers requesting a jurisdictional determination. Mr. Case also said the plan is for a private driveway.

Mr. Drinkard states that the plan shows no lot less than 2 acres in size and asks for confirmation. Mr. Case verifies this information as correct and said the smallest lot is 2.3 acres.

Mr. Pazda makes mention of the possible permissible segmentation issue, and suggests the TEQR Committee take a close look at this issue. Wendy Salvati agrees and goes on to ask what might be proposed for the remainder of the property. Mr. Case said, depending on the market, it may be another Open Development Area, the applicant is unsure at this point. Wendy Salvati suggests the TEQR Committee review the entire site under the SEQRA process.

Mr. Grenzebach asks if the applicant thinks a retention pond is needed because of how wet the soil is. Mr. Case has not looked at these details yet. Mr. Grenzebach notes that at the last meeting many neighbors were concerned with water/drainage issues. Since the Planning Board meeting of January 10, 2007, Mr. Case has talked with the wetlands biologist who walked the entire site. The biologist informed Mr. Case that the frontage lots on County Road drain away from County Road and towards the northeast, towards Heise Road, it does not drain towards Lexington Woods. Wendy Salvati also recalls the neighbors concerns with the drainage issue and she suspects there are hydric soils at the site.

Mr. Pazda asks what this applicant is doing differently from the prior applicant with regards to this property being looked at negatively by the MRC (now TEQR Committee). Mr. Case is not aware of the prior situation. Mr. Callahan explains that the prior applicant withdrew his request, it was not anything related to a specific finding of the MRC, the applicant just wasn't ready to proceed.

Mr. Case states that Wilson Environmental Technologies performed the delineation on the wetlands. Mr. Drinkard asks if the report delineates the entire area or just the parcel in question. He said the delineation of the whole area is something the Planning Board should have in order to review the proposal. Mr. Van Nest said the Planning Board can not ask the applicant to delineate what is not his property. Mr. Hartz said the Army Corp of Engineers Wetland Inventory Map will show a large Federal Wetland in that area, there is a copy of this map in the Planning and Zoning Office.

ACTION:

Motion by Patricia Powers, seconded by Timothy Pazda, to **refer** agenda Item #2 to the TEQR Committee and the Fire Advisory Board. The TEQR Committee is to do the Environmental Quality Review on the entire site.

Patricia Powers	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	George Van Nest	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Item 3

Adequate Public Facilities Local Law

Discussion.

DISCUSSION:

Jim Callahan explains that this proposed legislation has been developed over the past several years as a means to ensure that Adequate Public Facilities exist before approving projects that impact those facilities. Towards adoption of such legislation the Town Board, after review by the Planning Board and TEQR Committee, has adopted changes to the Master Plan 2015 to facilitate adoption of this local law. As the proposed legislation has evolved, the form under consideration identifies Clarence Schools as an involved agency for project review and the Williamsville School District, as well as Emergency Service Organizations, as involved agencies for annual review of service capacity. To pursue adoption of this law, the proposed law should be reviewed by the TEQR Committee for action under the State Environmental Quality Review Act (SEQRA). The Adequate Educational Facilities Overlay is a component of the Adequate Public Facilities Ordinance.

Wendy Salvati said she noticed some inconsistencies between the Draft and the Memorandum and would like to see them corrected; there are some definitions that should be in both. She said the definition for “maximum capacity” and “director” should be in both. Mr. Callahan said the Draft was modified specifically to accommodate the Clarence Schools. Wendy Salvati would like to see the definition for “attendance zone” included.

Mr. Pazda wonders how it can be said that maximum capacity does not take into account temporary or portable classrooms. If temporary or portable classrooms are being used, aren't the schools at, or beyond, maximum capacity? Mr. Donohue explains the schools are trying to avoid mitigation in the form of temporary classrooms. They don't want a developer to put a huge development in and then find there is not enough capacity in the schools, the developer, might then offer to put up a temporary classroom, this should not be used as way of mitigating excess capacity.

Mr. Callahan explains that a Memorandum of Understanding does not have to be established with all three (3) school districts. There will be an annual, more informal review with the Williamsville District.

Mr. Donohue suggests deleting the word “outstrip” from the second last paragraph on page one (1) of the Memorandum and replace it with the word “exceed”. He also suggests capitalizing the word “Town(s)” throughout the entire document. He refers to the definition of “maximum capacity” in the Memorandum and suggests deleting “take into account” and replace with “include”.

Wendy Salvati refers to the first “Whereas” of the Memorandum and suggests “in population, in part, due to its proximity to the major employment center of Buffalo;” be stricken.

The other change is the Transit Road corridor outside the flood zone on the north part of the Town, around Tonawanda Creek. The areas outside the density flood zone have been changed from Restricted Business back to Major Arterial. Mr. Callahan states that the zoning on the Lockport and Pendleton side are both Commercial.

ACTION:

Motion by Gerald Drinkard, seconded by Jeffrey Grenzebach, to **refer** the proposed Zoning Map amendments to the TEQR Committee.

Patricia Powers	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	George Van Nest	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Gerald Drinkard refers to the required training for Planning Board members and explains that the members are allowed to carry over hours of training, if they exceed the yearly requirement, to the next year. Mr. Drinkard wonders if this training should be formalized, Patricia Powers replies by saying the resolution that sent by the Planning Board to the Town Board this evening addresses this issue.

Meeting adjourned at 8:55 p.m.

Patricia Powers, Chairperson