

Town of Clarence
Planning Board Minutes
Wednesday March 2, 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

Ken Thompson/Joe Rubino
Agricultural Rural Residential

Requests Minor Subdivision Approval to Create Two (2) Additional Building Lots between 10625 and 10705 Miland Road.

Item 2

Autobahn Collision Shop
Commercial

Requests a Recommendation for a Temporary Conditional Permit for a Collision Shop at 8200 Main Street.

Item 3

Frank Giumpa
Commercial

Requests Concept Plan Approval for a New Office Building at 10060 Main Street.

Item 4

Neda Hadisadegh
Traditional Neighborhood

Requests a Change In Use from Vacant to Recreational Facility at 5961 Goodrich Road.

Item 5

Patrick Development
Residential Single Family

Requests a Public Road Extension to Service 5+/- Residential Building Lots between 4284 and 4272 Roxbury Drive.

Vice-Chairperson Wendy Salvati called the meeting to order at 7:30 p.m.

Deputy Town Attorney David Donohue led the pledge to the flag.

Planning Board Members present:

Vice-Chairperson Wendy Salvati
Paul Shear

2nd Vice-Chairman Richard Bigler
Gregory Todaro

Planning Board Members absent:

Chairman Al Schultz
George Van Nest

Timothy Pazda
Robert Sackett

Town Officials Present:

Director of Community Development James Callahan
Planner Brad Packard
Councilman Peter DiCostanzo (arrived late)
Deputy Town Attorney David Donohue

Other Interested Parties Present:

Ken Thompson
Hadi Sadegh
Gail Ader
Gory Roigo
Scott Hess
Tom Comerford-Haley
Diane P. McMullen
Diane Rogers
Harold Erbacher
Frank Giumpa II
Marcia Powers
Kevin Curry
Dorothy Schwab

Neda Hadisadegh
Jerry Ader
Grace Mondello
Robert LaMastra
Jackie Fiegl
Pat Comerford-Haley
Scott Rogers
Bill Zahn
Bob Geiger
Daryl Martin
Reas R. Graber
Don Schwab

Vice-Chairperson Wendy Salvati will fill-in and run the meeting for the absent Chairman Al Schultz. Also absent are Timothy Pazda, George Van Nest and Robert Sackett.

There are two (2) agenda items that will not be heard this evening as they have been pulled from the agenda at the request of the applicants. The items are the Radtke Family/Bob Reggentine request for minor subdivision at 5566 Thompson Road and the Kittinger Furniture request for building and architectural approval at 5363 Transit Road.

Vice-Chairperson Salvati explained that the Planning Board is a recommending body on certain agenda items. For those items the Town Board has approval and the Planning Board may vote to recommend an action, sometimes with conditions. The Town Board is the governing body for such actions and therefore has the final vote on those actions.

The procedure of the Planning Board meetings begins with Mr. Callahan introducing the agenda items providing a brief history. The applicant has the opportunity to add additional information on the item. The Planning Board follows up with questions. The public is then provided an opportunity to speak on the agenda item. The Planning Board members have another opportunity to ask questions and then the item will be voted on.

The Planning Board meeting minutes from January 26, 2011 and February 16, 2011 are tabled until the next Planning Board meeting where an action can be taken on them.

Item 1

Ken Thompson/Joe Rubino
Agricultural Rural Residential

Requests Minor Subdivision Approval to Create
Two (2) Additional Building Lots between 10625
and 10705 Miland Road.

DISCUSSION:

Jim Callahan provides the history on the project stating that it is located on the east side of Miland Road, north of the intersection with Salt Road. It is vacant land and the applicant is proposing a minor subdivision to create three (3) residential building lots in conformance with the zoning in the Agricultural Zone. Per the Subdivision Law the Planning Board has final decision authority on these minor subdivisions.

Ken Thompson, of 8820 Clarence Center Road, said each lot is more than three (3) acres and more than 200' in width. There will be no further subdivisions.

Jerry Ader, of 10750 Miland Road, asked what the necessity is for the request of the subdivision. Vice-Chair Salvati explained that the applicant wants to take one (1) large lot and split it into three (3) smaller lots to market for residential development. Mr. Ader asked where he can obtain information on this project; he is advised that all information pertaining to this project is available in the Planning and Zoning Office.

Pat Cumerford-Haley, of 10625 Miland Road, is concerned about the drainage and flooding issue. Vice-Chair Salvati explained that under this proposal the most the applicant could put in is 1 house on each lot; they cannot cause the drainage situation, as it currently exists, to change.

Bill Zahn, of 10745 Miland Road, built a pond in 1987 and is concerned with the ditch in the area as it does not drain well. He wondered who will maintain the ditch. Deputy Town Attorney David Donohue referred the applicant to the Town Engineer with regards to these concerns. The Planning Board would not have this type of information and would not know if there are drainage rights or not. This information will come out in the title search.

Mr. Thompson is not aware of a drainage easement that goes across his property. The ditch is very deep. The person who may buy the property is aware of the ditch and will have to maintain it.

Mr. Todaro asked if there are any conditions on how many septic lots can be built. Mr. Callahan explained the NYS Realty Subdivision Law allows four (4) lots in a three (3) year period.

Mr. Callahan said the Planning Board should let the Engineering and Building Department know that they need to look into the drainage ditch issues discussed.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board issues a Negative Declaration on the proposed Thompson Minor Subdivision. This Unlisted Action involves the minor subdivision of land to create three (3) building lots in the Agriculture Rural Residential Zone. After thorough review of the submitted survey and EAF, it is determined that the proposed action will not result in any significant adverse environmental impacts.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Wendy Salvati	Aye

MOTION CARRIED.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the minor subdivision of land as presented to create three (3) building lots between 10625 and 10705 Miland Road.

ON THE QUESTION:

Deputy Town Attorney David Donohue said the Engineering and Building Departments must be made aware of the existing drainage ditch that runs across the proposed lots and look into any easement rights that may be present.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 2

Autobahn Collision Shop
Commercial

Requests a Recommendation for a Temporary Conditional Permit for a Collision shop at 8200 Main Street.

DISCUSSION:

Jim Callahan provided the history on the project indicating it is located on the north side of Main Street and the east side of Bryant and Stratton Way. It is an existing retail plaza located in the Commercial zoning classification. The applicant is proposing to relocate an existing collision shop to a vacant store at the west end of the plaza. The Town Board has referred the application to the Planning Board for review and comment on a recommendation for a Temporary Conditional Permit for the relocation.

Bob Lamastra, president of Mercedes Benz of Buffalo, Gary Rasp, president of Autobahn Body Werks and Chris Nichter, general contractor from Nichter Construction, are present. Mr. Nichter said he has submitted plans that show a facelift to the building. The operation is currently across the street from the proposed project site.

Mr. Shear asked for details on the fence. Mr. Nichter said he is proposing a wooden fence that you cannot see through, but the winds can still blow through the fence. Any vehicles in the back of the property will not be seen from Transit Road with the fence installed there. It will be in the approximate same location as the existing fence. There will not be any work done on vehicles outside the building nor will there be any vehicles stored outside the building. There will not be any additional pole lights or lot lighting in the back of the property. There will be lights for security only, perhaps camera's as well. The signage will be transferred from the old building and put on this new location. There will be no pole signs.

ACTION:

Motion by Paul Shear, seconded by Gregory Todaro, to **recommend** the Clarence Town Board approve the proposed relocation of Autobahn Collision shop as a Temporary Conditional Permit with the following conditions:

- 1.) Per the submitted site plan as submitted by Metzger Civil Engineering dated 11/23/10.
- 2.) Per the façade elevations and interior renovations as prepared and submitted by Louis Design Group dated 2/16/11.
- 3.) Subject to appropriate building permits to ensure compliance with State Building Codes for the interior renovations including paint booth, car wash bay and required oil separators, and other improvements.
- 4.) Subject to Town Engineer review and approval of drainage impacts associated with the redevelopment.
- 5.) Subject to review and approval by the Landscape Committee of the screening berm fencing and other exterior site details.

ON THE QUESTION:

Vice-Chair Salvati added a sixth condition stating the action is subject to the applicant securing any other State or County approvals required for the paint booth, ventilation or anything related to the operation. Paul Shear amended his motion to include this sixth condition; Gregory Todaro amended his second to include the sixth condition as well.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 3

Frank Giumpa
Commercial

Requests Concept Plan Approval for a New
Office Building at 10060 Main Street.

DISCUSSION:

Jim Callahan provided the background on the project. It is located on the north side of Main Street, west of Pineledge Drive. It is existing vacant land located in the Commercial Zone. The applicant is proposing to construct a new office building. Per the Zoning Law the Planning Board has final decision authority on this type of action. This represents the introduction of the project to the full Planning Board.

Architect Daryl Martin and applicant Frank Giumpa are present. Mr. Giumpa currently operates the Allstate building that is next to the project site. Mr. Giumpa said he has no need for a dumpster and will eliminate it from the plan.

Vice-Chair Salvati suggested the applicant keep as many trees as possible on the site, Mr. Giumpa agreed. Mr. Giumpa plans to have the employee parking on the side of the building; this will leave more greenspace along Main Street. Vice-Chair Salvati also suggested cross access so that the parking area for this property would connect with that of the Allstate property. Mr. Giumpa agreed.

There will be two (2) pole lights on each end of the turn-arounds. The hours of operation would include evening hours during the week until 7:00pm-8:00pm.

Mr. Giumpa has a sign on his current building that is approximately 2 ½ feet by 1 ½ feet; he would like to put this sign on the new building. The sign illuminates. He has not thought of any signage out at the road just yet, but he understands that he needs a sign permit.

Mr. Bigler asked if the applicant thought about extending the fence towards Main Street. Mr. Giumpa will entertain this idea. He is aware that he needs a variance for both side yard setbacks. If lighting is installed he will be cognizant of the neighbors.

Grace Mondello of Pineledge Drive wanted to know if it will be the same type of business that is there now. It is confirmed it will be the same. She asked if there is a potential to merge the two and create a different kind of business there. Mr. Giumpa will not do that, he wants to have a building of his own for his insurance business. It is confirmed that nothing can be built in the back of the property because the septic and leach fields are there. There will be only one driveway.

Vice-Chair Salvati noted that the area behind the building is a corridor for deer; she suggested the applicant keep it natural so the deer still have a place travel through the area. Mr. Giumpa said there will be nothing done to the property behind the building, except for the fence. The sand filter will be raised because it is all rock back there.

Mr. Callahan noted that the proposal is subject to an environmental review.

ACTION:

Motion by Richard Bigler, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, a Negative Declaration on the proposed Giumpa Office Building is issued. This Unlisted Action involves the construction of a 1300+/- square foot single story office building in the Commercial Zone. After thorough review of the submitted site plan and EAF, it is determined that the proposed action will not result in any significant environmental impacts.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Wendy Salvati	Aye

MOTION CARRIED.

ACTION:

Motion by Richard Bigler, seconded by Gregory Todaro, to **recommend** Concept Plan Approval for the proposed Giumpa Office Building located at 10060 Main Street in the Commercial Zone, subject to the following conditions:

- 1.) Zoning Board of Appeals granting a variance to allow the reduced side yard setbacks as depicted in the drawing submitted by Daryl Martin, Architect, dated 1/25/11.
- 2.) Subject to Landscape Committee review and approval.
- 3.) Subject to architecture as approved by the Planning Board and as submitted by Daryl Martin.

4.) Subject to Erie County Health Department approval of the required on-site sanitary sewage system on the Development Plans.

ON THE QUESTION:

Vice-Chair Salvati noted additional conditions:

- 5.) The applicant is to redesign the site plan showing the elimination of the dumpster that is on the west side of the building.
- 6.) Reduce the amount of parking and eliminate parking spaces along Main Street.
- 7.) Pave to the property line that will allow cross access to the property to the east.
- 8.) Properly design and shield ambient lighting.
- 9.) The applicant must come back before the Planning Board for Development Plan Approval.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 4

Neda Hadisadegh Traditional Neighborhood	Requests a Change In Use from Vacant to Recreational Facility at 5961 Goodrich Road.
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DISCUSSION:

Jim Callahan provided the history on the project. It is located on the east side of Goodrich Road, south of Clarence Center Road. It is an existing residential structure located in the Traditional Neighborhood zoning district. The applicant is proposing to convert the structure to a recreational facility. Per the Zoning Law, the Planning Board has final authority to approve changes in use. The applicant is present to detail the proposal.

Neda Hadisadegh and her father are present. Mr. Hadisadegh explained that he would like to put a pool table and two (2) game tables in the building for the kids. There would also be some pre-made food such as ice cream available. The proposal is for an area that is approximately 20' x 30'. The larger area in the back will stay open; there will be no game tables or other activities there. There is a garage in the rear of the property, the applicant is proposing to remove the garage and put handicap parking spaces. This proposed facility would appeal to the younger patrons in the neighborhood, those who do not drive yet; they would ride their bikes to the facility. This is a place for the kids to come when they are not in school to stay out of trouble. The winter hours of operation would be just the weekend, in the summer the hours would be 11am-8pm. There would be supervision at all times and probably four (4) or five (5) kids at a time in the facility. At this point there would be one (1) pool table and one (1) hockey table. They will sell healthy drinks like orange juice. There will be no music in the facility. This is not a business establishment; Mr. Hadisadegh is establishing a gathering place and will see how it goes. There is no need for signage on the building. The outside of the building is in need of repair and Mr. Hadisadegh will see to that. He has discussed the building with David Metzger of the Building Department. Mr. Hadisadegh painted the inside of the building, repaired the floor and cleaned it up. The second floor is currently being rented by one of his daughter's friends. If the recreational facility goes well, the second floor may be turned into the office. He will see how it goes over the summer and will evaluate the situation in October 2011.

Marcia Powers, of 5955 Goodrich Road, said her property is six (6) inches from Mr. Hadisadegh's building. She is concerned with the open ended proposals, the noise, young people hanging out and the parking. There have been parking problems for years. She is also concerned about dumpsters, increased health problems and rodents. This is a family orientated neighborhood; the proposal is not a good fit. Ms. Powers has safety concerns as well.

Jackie Fiegl, of 5919 Goodrich Road, asked if it will be a restaurant or an area to hang out. Restaurants have all kinds of health codes they have to go by. Will food be prepared there? She asked for clarification because the daughter's name is on the agenda, but the father did the talking, is this a joint venture? Mr. Hadisadegh said this is for his daughter. There will be prepared food such as ice cream sandwiches or cookies made available. There will be no cooking on site.

Mr. Hadisadegh said the parking should not be a problem as the kids will be riding their bikes to the facility. Loud noise will not be a problem; the facility will be open for only a few hours a day. There are only two (2) tables in the facility, it will not get loud. There is no cost to get into the facility. Mr. Hadisadegh has lived in the Town for 20 years and sees the need for a place for the kids to go. Ms. Fiegl said there are way too many kids hanging around in the Town of Clarence, and it is not for good reasons. Mr. Hadisadegh said he cannot put an age limit on the kids as that would be discrimination, there will be no alcohol served. There is no need for a dumpster; there won't be that much garbage.

Deputy Town Attorney David Donohue said there is the possibility of granting a one (1) year Temporary Conditional Permit (TCP) and then re-evaluate the situation. Mr. Hadisadegh is amenable to this.

Don Schwab wondered why there is a meeting about this if it is not a business proposal. A house can be a gathering place for people. Mr. Callahan clarified that this is a change in use, since public assembly is offered there is a change in the Building Code and requires an approval.

Mr. Todaro said he would be amenable to recommending a Temporary Conditional Permit for one (1) year with conditions.

Mr. Shear is concerned with the driveway. If the tenant uses the driveway, how will the handicap parking spots in the rear of the property be accessed? He would like more time to review the proposal now that he has a better understanding of the project. He would be in favor of tabling the project.

ACTION:

Motion by Paul Shear, seconded by Richard Bigler, to **table** agenda item #4.

ON THE QUESTION:

Mr. Todaro would like to know the hours of operation. He has heard the applicant say he will "see how it goes", but Mr. Todaro does not know what that means and would like clarification.

Mr. Bigler is concerned with the neighbor and if parking will be an issue whether it be in her driveway or in front of her house. Vice-Chair Salvati pointed out that another type of business could be located at this property as it is zoned Traditional Neighborhood; this could generate more parking and cause a worse situation. Mr. Bigler is also concerned with the vagueness of the proposal.

Vice-Chair Salvati asked for clarification on how many handicap parking spots are required. Mr. Callahan will discuss the requirement with David Metzger of the Building Department.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 5

Patrick Development

Residential Single Family

Requests a Public Road Extension to Service 5+/- Residential Building Lots between 4284 and 4272 Roxbury Drive.

DISCUSSION:

Jim Callahan provides the background on the project. It is located on the west side of Roxbury Drive, opposite East Howard Drive. It is existing vacant land in the Town right-of-way located in the Residential Single Family Zone. This is a previously recommended four (4) lot Open Area Development. The proposal is now for a public road extension to service 5+/- one (1) acre lots.

Kevin Curry, of Patrick Development, is present.

Vice-Chair Salvati said one concern regarding the construction of a public road is that it would benefit only five (5) single family homes. Public roadways should provide more benefit to the Town. The Planning Board supported the original plan of a private driveway and four (4) lots.

Mr. Shear said a legal opinion is needed before the Planning Board can move forward on this project.

Vice-Chair Salvati said the original plan had two (2) lots that were wide enough and provided the ability to preserve open space, save some vegetation and provide a buffer between the homes that are along the existing road. The new project diminishes this ability; this is a concern.

Scott Rogers, of 4284 Roxbury Drive, tried to buy the property next to him but he was told the Town owns it. There was a meeting that changed the ownership of the property but he was still unable to purchase it. The project started as a proposal for six (6) houses and has changed numerous times, he wondered how many times a project can change. There are different accesses into the area with one coming from Main Street. He asked what will happen to the paper road that is next to his lot.

Deputy Town Attorney David Donohue clarified that the road in question is not being abandoned; at this point it is a Town paper road.

Vice-Chair Salvati said if the road is public, Town snowplows will maintain it. Mr. Rogers said it seems to be pretty poor spending of Town money for Town plows to maintain a road for only five (5) houses.

Diane Rogers, of 4284 Roxbury Drive, said she and her husband have been maintaining the paper road for over twenty (20) years. Another reason they bought their house was because they liked the green space around it, this proposal is taking all that away. Twenty (20) years ago she had a meeting with Patrick Development in which they promised six (6) houses, maximum, in that area. She wondered

why that area can't just be left alone. Vice-Chair Salvati explained that the property is privately owned and the owner has the right, under the Town Zoning Law, to develop it in accordance with the law. Mrs. Rogers asked why the applicant can't use existing entrances to get to the lots instead of putting in a whole new road.

Diane McMullen, of 4283 Roxbury Drive, asked what the square footage of the proposed homes would be. She also asked if access off Fairfield Road has been looked at. The original proposal did not extend Howard Drive; the entrances were to be on Heather Drive or Fairfield Road and she does not understand why this needs to change.

Mr. Curry explained that originally the proposal was for access off of Fairfield Road; however the Town Board and the Planning Board directed him towards Roxbury Drive. There is not an access off Main Street. Mr. Curry spoke with the Highway Superintendent who indicated he would like to see the road all private or all public, not half and half. The size of the homes would be approximately 2500 square feet and larger; the homes will be single family. Mr. Curry noted that the access rights of the paper road are always going to be there, it is just a matter of making it a public or a private road.

Mr. Bigler said the project that has already been approved has less impact on all residents of Roxbury Drive than the new project.

Diane McMullen said that when this area was first being developed the paper street went all the way through to connect with the other end of Howard Drive, now there is a home situated at the end of what would be that paper street, now there is no way to have it be a through connection. She does not understand why this was allowed back then. Vice-Chair Salvati said those are decisions that were made by previous Boards. Mr. Curry explained that the paper street never went all the way through. The original concept was to have 80-85 homes on this parcel, similar in size to those on Roxbury Drive. Old Hickory was going to extend out to Main Street and Heather was going to run parallel with Roxbury Drive and connect with Old Hickory. At that time it was decided that it didn't make sense to physically build the street but it was dedicated and map covered as a street. As such, the property owner has always had the access right to East Howard Drive to the intersection of Roxbury Drive. There was consideration of taking East Howard and connecting it to the cul-de-sac but it would have created a greater density and was dismissed because of the cul-de-sac construction at Fairfield.

ACTION:

Motion by Richard Bigler, seconded by Paul Shear, to **table** agenda item #5 pending further information as discussed, specifying if there is a mechanism for this road to be private rather than public.

Gregory Todaro	Aye	Paul Shear	Aye
Richard Bigler	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Meeting adjourned at 9:10 p.m.

Carolyn Delgato
Senior Clerk Typist