

Town of Clarence
Planning Board Minutes
Wednesday March 5, 2008

Work Session 7:00 p.m.

Roll Call

Planning Board Members Present:

Albert Schultz
Jeffrey Grenzebach
Chairman Gerald Drinkard

Richard Bigler
Second Vice-Chair Timothy Pazda

Planning Board Members Absent:

Vice-Chairperson Wendy Salvati George Van Nest

Other Town Officials Present:

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

Chairman Drinkard reminds all attendees that this meeting is a work session and, as such, no votes will be taken. The intent of the meeting is to informally discuss projects prior to the submittal of a formal decision making meeting. The public will not be heard at this meeting as it is not a formal meeting.

Item 1

Master Plan 2015
Annual Review

DISCUSSION:

Jim Callahan explains that the Town Board held a Public Hearing on the Master Plan on February 27, 2008. Numerous comments were received, mainly focused on specific requests for zone changes, amendments or additions; these items were referred.

The first item is a request from Roy Jordan of North Forest Office Providers with regards to the property at 6051 Transit Road where he is proposing a one-story office park. The issue is the zoning depth which is 750' for Major Arterial with the rear of the parcel zoned Residential Single-Family; the applicant wants to build deeper than 750', thus he is asking for the rear of the parcel to be rezoned to Commercial. The project would fit the Restricted Business Zone as well.

The second item is requested by Sean Hopkins, of Hopkins, Garas and Sorgi, PLLC. The location in question is at the corner of Transit Road just north of the intersection with Miles Road;

Frank Deni is the owner of the property. An upscale retail plaza is proposed. The applicant would need approximately 200' of the property rezoned. Mr. Hopkins said he would keep the conservation easement on east part of the property forever wild and buffer off the remaining property. Mr. Hopkins is requesting the Major Arterial Zone be extended back a couple hundred feet to accommodate his project.

The third request comes from Michael Metzger, of Metzger Civil Engineers, with regards to a parcel on the corner of Harris Hill Road and Greiner Road owned by Mr. Deni. The property is zoned Industrial Business Park at the Harris Hill Road/Roll Road frontage. The applicant is requesting a small piece on the Roll Road to extend the Industrial Business Park zone there. He is also requesting a Commercial zone classification on the corner of Harris Hill and Greiner Roads. There may be state wetlands on the site and it appears that the proposal may be encroaching on them. Jim Callahan explained that if a sewer trunk line was brought down from the north sewer capacity would be available in this area. The Future Land Use Map remains that this area has always been an area that could be Commercial. Traffic, infrastructure and residential neighborhoods need to be analyzed on all the rezoning proposals.

Wendy Salvati is opposed to having the Commercial Zone spreading out along the roadways. If the sewer comes through here, it should be to help solve problems in Harris Hill not in new developments.

The last request for rezoning referred by the Town Board is located on a section of Harris Hill Road near Main Street. The residents of Harris Hill Gardens questioned the zoning in this area.

David Donohue questions whether this is "spot zoning" or not. He is concerned with setting a precedent where more requests to rezone will come in each year.

Jim Callahan explains that the rationale for drawing a line at a certain depth on these parcels that include two different zoning classifications was either the parcel started to impact on a wetland floodplain or an existing residential neighborhood. The rezoning must be a land use that is appropriate for each section of land in question.

Wendy Salvati said the whole corridor needs to be looked at when rezoning otherwise it is "spot zoning". The applicant's are using the request to rezone as a tool to get what they want.

Jim Callahan suggests the first step is to do Master Planning; invite the neighbors and get the public involved by sending a letter indicating there is a request to change the Master Plan and therefore the zoning in the area. He also said all the alternative uses for this land need to be analyzed; what will the full build-out of all the potential uses be.

Wendy Salvati said if two parcels on Transit Road are being evaluated why the corridor in between them wouldn't be evaluated as well. It is clarified that this corridor will be analyzed.

Albert Schultz said the public also needs to know the potential uses for the parcel(s) if the area is rezoned.

Chairman Drinkard said each of the projects will be scheduled on future Planning Board meetings, not all on the same night.

Jim Callahan said the Planning Board has 90 days to forward a recommendation.

It is decided that the two Transit Road requests should be on one Planning Board agenda while the two Harris Hill Road requests be on subsequent Planning Board agendas; each on it's own.

Chairman Drinkard said the Open Space portion of the Zoning Law has been referred to the Planning Board in the context that it did not balance well with incentive lot usage. Jim Callahan explains that this referral is a direct result of a law suit filed by Cimato on the Newhouse Road subdivision where he did not want to do Open Space Design; he came in with an Incentive Lot Design. The Town Board agreed to send the project to the Planning Board on the condition that it be an Open Space Design. Mr. Cimato sued the Town. There is clause in the Residential Zoning Law which indicates an Incentive Lot is a permitted use. The Court suggested Mr. Cimato do his Open Space Design and they will reserve judgment on whether he has to in the future. The Town's Attorney suggested the Town look at the Zoning Law and incorporate Incentive Lot Design rationale into your Open Space Design. The sections of the law that are being referred to are the Open Space Design Section and the Residential Single-Family Section. The Town Board also referred the idea of having some means of varying the Open Space or Incentive in the Open Space, so it does not go to the Zoning Board of Appeals. Jim Callahan has amended the Law as discussed and asked if the Planning Board members find it acceptable. Albert Schultz suggests incorporating the Incentive Lot Design into the Open Space Design. Jim Callahan said the Town Board needs to refer this issue and a recommendation from the Planning Board is required. The Planning Board members will review the draft that Jim Callahan has drawn up.

Item 2

Architectural Design Standards

DISCUSSION:

In Chairman Drinkard's opinion and after much work on the Standards he has concluded that they need to be "guttled" and simplified.

Brad Packard said issues like parking and design standards are what should be addressed. The latest draft shows significant changes made starting at section 229-88. Copies of the latest draft have been distributed to all Planning Board Members. Mr. Packard said portions of the Standards read like a guide and other portions read like a law; it is important that the document read like a law. Chairman Drinkard asked all Planning Board members to look at the latest draft and return any comments to Mr. Packard by Friday, March 14, 2008. The Architectural Design Standards will be an agenda item at the next Planning Board meeting and will be discussed.

Item 3

Administrative Review Fees

DISCUSSION:

Chairman Drinkard said Councilman DiCostanzo suggested reviewing the Administrative Review Fees. The Planning and Zoning office has put together a proposal. Chairman Drinkard does not think any changes are needed to the existing fees/form with the exception of some verbiage changes.

Mr. Packard explains that the Administrative Review Fees are largely based on square footage and goes on to explain the proposal. It adds a mid-range project, which creates a minor project that is extremely marginal and, after further work on the fees, it is found that this will allow a lot of projects to “skate” through with very little fees. It appears that Clarence is in-line with other communities. Jim Callahan said instead of having a fee **per** SEQRA meeting, which could be challenged, he added Preliminary Concept Review. A number of meetings can be added such as Traffic Safety and Fire Advisory. Deputy Town Attorney David Donohue said whatever the fee it must be relative to the cost of regulating a particular act that is being regulated. Wendy Salvati said the fees are used to offset costs in reviewing the project. She would like to see the applicant charged the total fee up front instead of per meeting or approval as the process unfolds. The proposal does not include a change in the dollar amounts for Administrative Review Fees. Timothy Pazda asked if the applicant is charged for the Town Board meeting. The applicant is not charged for the Town Board meeting, a charge will fall under other meetings.

Chairman Drinkard asked Deputy Town Attorney David Donohue what the appropriate legal reply back to Councilman DiCostanzo and the Town Board regarding this issue. Is a memo acceptable or should it be brought up as a full disclosure at a Planning Board meeting to vote on. Timothy Pazda thinks it needs to be brought up at a meeting because if it was referred to the Planning Board it needs a vote. Deputy Town Attorney said there is a change to the form and to some terminology and suggests it be placed on the next Planning Board meeting agenda.

MISCELLANEOUS:

Deputy Town Attorney David Donohue said he has been asked to look at the process guide that is provided for new Planning Board Members and wonders what the Board is planning to do with it. Chairman Drinkard said it is meant to be an informal review; it will be helpful for a new Board member. Deputy Town Attorney David Donohue said it is good to refer to, but he does not want to make it any type of law. It is agreed that this document is very informal. Chairman Drinkard said looking at Roberts Rules of Order the document can be either followed religiously or something locally can be crafted, thus a Board/Committee can deviate from Robert’s Rules of Order as long as it is documented; the Planning Board does not deviated form Robert’s Rules of Order. Deputy Town Attorney David Donohue suggests a disclaimer be put in the document. He reminds the Planning Board members that if anyone recuses him/herself from a project due to a conflict, he/she must disclose the conflict and complete a transaction form.

Meeting adjourned at 8:27 p.m.

Carolyn Delgato
Senior Clerk Typist