

Town of Clarence
Planning Board Minutes
Wednesday March 16, 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

Eastgate Plaza/Benderson Development Company Requests acceptance of Final Scope for Draft
Major Arterial Environmental Impact Statement (DEIS).

Item 2

Paul Bonito Requests Concept Approval for Construction of a
Industrial Business Park New Building in the Industrial Business Park and
Recommendation for a Special Exception Use
Permit (SEUP) for Automotive Service Operation
at 9680 County Road.

Item 3

Radtke/Bob Reggentine Requests Minor Subdivision Approval for 5566
Residential Single Family Thompson Road.

Item 4

Kittinger Furniture Requests a Building Permit and Architectural
Major Arterial Approval for an Addition to an Existing
Commercial Structure at 5363 Transit Road.

Item 5

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

Vice-Chairman 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	2 nd Vice-Chairman Richard Bigler
Timothy Pazda	George Van Nest
Paul Shear	Gregory Todaro

Planning Board Members absent:

Chairman Al Schultz	Robert Sackett
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Town Officials Present:

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

Other Interested Parties Present:

Rosemary Vazquez	Michelle Eschborn
Jeff Borton	Trina Lowmaster
Rev. Eugene H. Roth	Helen Patrzyc
Myra Dunning	Mark Dunlap
Albert Schweitzer	Karen Okonowski Dunlap
Kathy Karaszewski	Robert Geiger
Anthony Ditsious	Frances Rogala
Denise Rogala	Nicholas Bucki
Neda Hadisadegh	Seyed Hadisadegh
Gail Berger	Marcia Powers
William Adamczyk	Norm Radtke
Lou Vitello	Chris Bugenhagen
David Sutton	Bob Reggentine
David Beckinghausen	Greg Sheehan
Laura DelMonte	Donna Giezycki
Michael Giezycki	Bernard Kolber
Jackie Fiegl	Kathy Mamili

Vice-Chairperson Wendy Salvati will run the meeting in the absence of Chairman Al Schultz. Gregory Todaro will participate in all discussions and vote on all agenda items in the absence of Robert Sackett.

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.

ACTION:

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the minutes of the meeting held on January 26, 2011, as written.

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

MOTION CARRIED.

Minutes from the February 16, 2011 Planning Board meeting will be tabled.

ACTION:

Motion by Paul Shear, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on March 2, 2011, as written.

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

MOTION CARRIED.

Item 1

Eastgate Plaza/Benderson Development Company Major Arterial	Requests acceptance of Final Scope for Draft Environmental Impact Statement (DEIS).
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DISCUSSION:

Jim Callahan provides the history on the project. The property is located on the south side of Greiner Road, east of Transit Road. It is an existing retail plaza located in the Major Arterial Zone. The applicant is proposing to extend an access drive from the existing plaza to Greiner Road. A Positive Declaration under the State Environmental Quality Review Act (SEQRA) was issued by the Planning Board on January 26, 2011. The Lead Agency, the Planning Board, has prepared a Draft Scope and is ready to finalize the Scope to allow for preparation of a Draft Environmental Impact Statement on the project.

Vice-Chair Salvati said the Scope was made available to the public for review and comments. To date comments have been received from the Town of Amherst, Gertrude Guth, Mark Dunlap, Karen Okinowski Dunlap, Kathy Karaszewski, Giuseppina Bugenhagen, Rev. Eugene and Carol Roth, and Patricia Dore (M&T Bank). The Planning Board has considered all comments received, the Draft Scoping document has been revised to reflect the comments that have been made by the public. The Planning Board is working hard to make a well-reasoned decision on this action. It is the intention of the Planning Board to accept the final Scoping Document so the applicant can move forward and start to prepare the Environmental Impact Statement (EIS) to obtain the information the Planning Board

needs to make a decision. There will be no additional public comment this evening. Once the applicant completes the EIS and the Planning Board reviews it to determine that it is sufficient and complete, it will be made available to the public and comments will be received.

ACTION:

Motion by Richard Bigler, seconded by George Van Nest, to **accept** and finalize the scope of the proposed access drive to Greiner Road from Eastgate Plaza as prepared by the Town Planning and Zoning Department and amended by the Town Planning Board to initiate the development of a Draft Environmental Impact Statement.

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

MOTION CARRIED.

Item 2

Paul Bonito
Industrial Business Park

Requests Concept Approval for Construction of a New Building in the Industrial Business Park and Recommendation for a Special Exception Use Permit (SEUP) for Automotive Service Operation at 9680 County Road.

DISCUSSION:

Jim Callahan provides a brief history on the project. It is located on the north side of County Road, east of Goodrich Road. It is an existing vacant property located in the Industrial Business Park Zone. The applicant is proposing to construct a new building and utilize a portion of the new construction for an automotive repair operation.

Dave Sutton, of DeanSutton Architects, is present and explained that the proposal is for an 11,000 square foot building, 1200 square foot of that will be office space on the south portion of the building. 10,000 square feet is going to be a bay area, the front portion of the building will be used for motor service and will require a Special Exception Use Permit (SEUP). They are meeting all the setback requirements; they will be 80' from the road, 20' off the east property line with parking to the west. There will be access to a series of overhead doors to the west. Paul Bonito owns the property to the west and is proposing a connecting element for vehicular access between the two parcels to minimize the traffic on County Road. There is a curb cut proposed on County Road. The detention area and the septic area are proposed to be placed in front of the building. The 1200 square foot office space would be the lower portion of the building; this would be of stone material with a series of windows. Behind the office space would be the bay areas, 16' at the eave, and will continue back about 200' into the parcel. There is no outdoor storage being proposed and there will be no fixing of vehicles outside the building parameters. There will be no vehicles for sale at this time.

Mr. Todaro asked how the applicant will mitigate any construction dust that may become a problem for the neighbors. Mr. Sutton said he will relay these concerns to the contractor, any provisions that are necessary to mitigate the dust will be made. The applicant will gladly adhere to any restrictions or conditions of this Board or the Town Board.

Mr. Sutton explained that New York State will require any floor drain in those bay areas to have an oil/water separator; this will be proposed in the building documents for this project. There is no painting of the vehicles; no spray booth. There will be standard hours of operation. The parking lot portion of the building will have a series of wall pack lights on the building; Mr. Sutton is anticipating one (1) wall pack light above each overhead door. This will allow for a sense of illumination and security into the parking area. There will be no additional lighting to the east; the front of the building may be highlight with architectural ground lighting to accent the building. There is no lighting proposed for the back of the building. The wall packs will have an adjustable cover shield on them. If the Planning Board recommends less lighting such as wall packs on every other bay, his client will adhere to the recommendations. They are not looking to over light the property. Another option is to do the low-level lighting.

Mr. Sutton said the entire property is 700' deep, the building is going back approximately 280', there is nothing proposed for the back of the property at this time.

Donna Giezycki, of 9737 Martin Road, asked if the proposed building will be directly behind her house. She has concerns with some of the other buildings that are back there, she hears sandblasting, music blaring, tools and talking. Is the property going to be open where it will be visible to her? She likes the brush in the back of her property for privacy. Privacy and quietness are main factors as they do have children. Will strangers be able to see their property? It is clarified that 9737 Martin Road is not behind the project site. 9645 and 9655 Martin Road are the properties directly behind the project site.

Michael Giezycki said it looks like the new building is flush with the other businesses on County Road. This statement is confirmed.

Mr. Sutton said the back 400' of the property will not be disturbed at all with this proposal. His client will be glad to work with the neighbors to mitigate any concerns they have. The motor service will be in the front portion of the building. The rear portion of the building will be used for storage.

ACTION:

Motion by Gregory Todaro, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board **issues** a Negative Declaration on the proposed Bonito Industrial Building located at 9680 County Road. This Unlisted Action involves the construction of a new industrial building in the Industrial Business Park Zone. After thorough review of the submitted site plan and Environmental Assessment Form, it is determined that the proposed action will not have a significant adverse environmental impact.

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

MOTION CARRIED.

ACTION:

Motion by George Van Nest, seconded by Gregory Todaro, to **approve** the Concept Plan for construction of a new building in the Industrial Business Park Zone per the submitted drawing from Dave Sutton, Architect, dated 1/31/11, subject to the following conditions:

1. Landscape Committee Review and Approval.
2. Lighting to be shielded and downcast to prevent impacts to adjoining uses.
3. Subject to Erie County Health Department approval of the required on-site sanitary system on the Development Plans.
4. Appropriate Administrative and Building Fees.
5. There will be no outside storage of auto parts and no repair of vehicles outside the building.

ON THE QUESTION:

Proper mitigation is to take place for minimizing construction dust for neighbors.

Mr. Van Nest does not see the lighting as an issue and points out that the project site is in the Industrial Business Park Zone. Vice-Chair Salvati said she is more concerned with light spilling upwards; it is more of a dark sky issue that draws her concern.

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

MOTION CARRIED.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, to **recommend** a Special Exception Use Permit to relocate an Automotive Service Operation within a portion of the previously approved building at 9680 County Road. Automotive Service Operation recommended with the following conditions:

1. Outdoor storage of vehicles limited to the number of allotted parking spaces; vehicles must be stored on a paved and striped surface.
2. Hours of operation are from 7:00 am to 6:00 pm.
3. No automotive sales/display in front yard setback area.
4. Signage coordinated with principal building under separate approval of Sign Review Board.

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

MOTION CARRIED.

Item 3

Radtke/Bob Reggentine
Residential Single Family

Requests Minor Subdivision Approval for 5566
Thompson Road.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the south side of Roll Road, west side of Thompson Road. It is existing vacant land located in the Single Family Zone. The applicant is proposing to split the property per the submitted drawings.

Bob Reggentine, of Landesign Surveyors & Engineers, is representing the owner of the property. Mr. Reggentine explained that the owners want to split the property into four (4) parcels, three (3) vacant and one (1) with the existing farm. This pertains to the will of the mother; they want to continue the farming portion of the property. The vacant lots may remain vacant, there are no actual plans. The overall size of the property is 34 acres. The large parcel is 15 acres; the remaining three (3) parcels are 6.3 acres each.

Vice-Chair Salvati said there is a concern with the western most parcel which is identified as having Federal Wetlands on it. She wants to make sure the applicant is aware of this in case they want to develop that land in the future, they may run into some problems. Mr. Reggentine said the applicant is aware of this.

ACTION:

Motion by Gregory Todaro, seconded by George Van Nest, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board **issues** a Negative Declaration on the proposed Radtke Minor Subdivision located at 5566 Thompson Road. This Unlisted Action involves the minor subdivision of land to create four (4) total lots in the Residential Single Family Zone per the submitted design. After thorough review of the submitted survey and Environmental Assessment Form, it is determined that the proposed action will not have a significant adverse environmental impact.

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

MOTION CARRIED.

ACTION:

Motion by George Van Nest, seconded by Paul Shear, to **approve** the minor subdivision of land per the submitted survey as prepared by Landesign dated February 15, 2011.

ON THE QUESTION:

Vice-Chair Salvati noted that parcel number two (2) has constraints due to the wetlands.

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

MOTION CARRIED.

Item 4

Kittinger Furniture
Major Arterial

Requests a Building Permit and Architectural Approval for an Addition to an Existing Commercial Structure at 5363 Transit Road.

DISCUSSION:

Jim Callahan provided the background on the project. It is located on the east side of Transit Road, north of Greiner Road. It is an existing furniture store located in the Major Arterial Zone; the applicant is proposing to construct an addition to the existing building.

Dave Sutton, of DeanSutton Architects, is representing the applicant. He is proposing an addition at the existing Kittinger Furniture Store. The addition is approximately 3800 square feet to the south of the existing store. The purpose of the addition is to expand on shipping, receiving and warehousing. The addition will have a second story for office space. The applicant would like to expand on his show room setups; he does not anticipate an increase in customer volume but wants to show more product. Although there is room for additional parking, there is no need to expand the parking. This addition requires a variance along the side yard setback and the rear yard setback, 25' are required at both locations but the proposal is for 15'. They will be appearing before the Zoning Board of Appeals to request an area variance for both locations. The feel it is appropriate due to the nature of the adjacent properties. They are not taking a tremendous amount of greenspace as a result of this proposal because there is a driveway that leads back to a 90 degree turn for an overhead door that is currently used for shipping and receiving. A new overhead door will be introduced; it will face Transit Road. The property behind the building will remain greenspace along with the property on the south side of the building. The proposal does not include a loading dock. The door facing Transit Road will be 9' high and will either be a residential cottage type door or double doors as in a barn type door.

Mr. Pazda reads a letter from Karen Okonowski-Dunlap dated March 15, 2011 into the record: "I understand that the Kittinger Furniture expansion is on the agenda for Wednesday, March 16, 2011 meeting. Please allow me to share a few concerns regarding this project, if approved. During the construction phase of the project, it would be appreciated if the construction vehicles are kept to a minimum and the amount of dust and dirt also be kept to a minimum. We are all well aware just how much dirt and dust is stirred up during any size construction project. Summer is a long awaited and very short season, and being forced to keep windows and doors closed because of excessive dust would be most unpleasant. If the amount of light that is shone from the back of the building be limited to a reasonable area and not aimed directly at the residents whose backyards are adjacent to the property, that would be appreciated. Thank you for allowing me to express my concerns."

Mr. Sutton said there is no lighting anticipated for the back of the building. If there is a requirement for illuminating an exit, it would be low level and minimal. Mr. Sutton asked for a copy of the neighbor's letter so that the applicant may reach out to her and assure her that her concerns will be addressed.

Vice-Chair Salvati suggested the applicant consider an access management connection to the south, with Hector’s Hardware. Mr. Sutton said his client is more than willing to work with the neighbor and put in an access road. Even if the neighbor does not want an access road, Mr. Sutton’s client will pave up to his property line.

Vice-Chair Salvati pointed out there is an electronic reader board currently at the project site; she asked that the reader board come into compliance with the Town Law.

Mr. Callahan clarified that this is a proposed addition so it will probably not be back before the Board for Development Plan. This is for Architectural Approval and a Building Permit subject to conditions.

Kathy Karaszewski, of 5362 Greenhurst Avenue, said lighting is a concern and wondered if the applicant is going into the paper street. Mr. Pazda said they are not going into the paper street at all, the applicant is supposed to stay 25’ away from that border but they are asking for a 15’ setback.

Mr. Sutton is confident there will be no lighting at the rear of this property; his client will work with the neighbors to address their concerns.

ACTION:

Motion by Paul Shear, seconded by Timothy Pazda, to **approve** the proposed addition to Kittinger Furniture at 5363 Transit Road, subject to the following conditions:

1. Per the architectural drawings and elevations as submitted by Dave Sutton, dated 11/1/10. The change in the front door design is to be approved by the Executive Planning Board Committee.
2. Subject to Zoning Board of Appeals granting a variance to allow for reduced side and rear yard setbacks as depicted.
3. Subject to review and approval by the Landscape Committee.
4. The existing LED signage is to operate in conformance with provisions of the Sign Law Chapter 181 of the Town Code.
5. There will be no additional rear lighting.

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

MOTION CARRIED.

Item 5

Neda Hadisadegh
Traditional Neighborhood District

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

DISCUSSION:

Jim Callahan provides the background 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 District. The applicant is proposing to operate a small game/snack room and is present providing additional detail after being tabled at the last Planning Board meeting.

Neda Hadisadegh and her father Seyed Hadisadegh are present. Ms. Hadisadegh said this will be a very small business; there is only room for three (3) games and two (2) tables. They are anticipating approximately eight (8) people visiting the site at a time. It will not be open late on school nights. This is meant for all ages; however the majority of the clientele will probably be young adults. Parking spaces will be provided in the back of the property. There will probably be a lot of bikers and walkers visiting the site. There is also parking available on the street.

As requested, the applicant submitted details of the proposal to the Planning Board. It is clarified that the hours of operation will be 1pm -8pm on school days, 10am-10pm on weekends and non-school days. A list of the snacks that will be offered was submitted. There will be one pool table, one hockey table and a Wii system.

Mr. Todaro reads a letter from Linda Nastasi dated March 15, 2011: "As a resident of 5905 Goodrich Road, I am opposed to the change requested for 5961 Goodrich Road, and I ask that the Planning Board rejects this request and/or recommend to the Town Board that this change not be made. We have experienced a significant increase in what I would refer to as late middle to high school age children using Clarence Center Coffee Company as the local hang out over the years. The residents of Goodrich Rd have had to endure, excessive late evening noise levels, as they walk to and from the intersection of Goodrich and Clarence Center Rd. We have also had to clean the front lawns of our property of debris such as bottles, cups, papers etc. that they deposit as they pass. Goodrich Rd is an extremely busy street, and unsafe for children to ride their bikes in groups at various hours, in particular after dark. We have a youth center in the Town of Clarence, we have Dave and Busters in the Eastern Hills Mall, these locations are equipped to handle youth of this age, and to provide appropriate, supervised recreation opportunities. The last thing we need as residents of Goodrich Rd, who have taken pride in our community particularly in the area of Historic Preservation, are youths congregating behind a building in a residential neighborhood. I am particularly concerned, as in the past "groups" of youths found it to be a fun activity to play in the Creek which runs the length of my property, and caused youths to then be walking through Swallow Creek, disturbing those residents as well. This has resulted in damage to my property that I had put money into so that I could participate in the Clarence Center Community Association's Garden Walk. I vote no change."

Linda Nastasi, of 5905 Goodrich Road, said the flavor of the area in which she lives has changed; sidewalks have been put in, the bike path has been put in, there is a lot more traffic on Goodrich Road. She believes more traffic is a concern. The sidewalks are narrow and close to the street, the kids are not going to be walking single file, this is a safety concern. She is concerned with the number of kids that go under the bridge and walk down the stream. She has no choice but to put up security lighting to protect her property. She has a dog that kids have thrown stones at; this has to be constantly monitored. She does not understand how the kids will be kept inside the building when the weather is good, if there are too many kids to fit inside the building they will stand outside the building. Let the kids go to the parks that she pays taxes to help provide facilities for. The Youth Center is also available to them.

Lou Vitello, of 5970 Goodrich Road, values the character of Clarence Center and feels this proposal is the wrong fit for the community. Although the proposal is for all ages, he does not see many people out of their teenage years going to a place like this. He is an educator and knows that when students tend to gather together, the numbers grow and he is concerned there is no way to control the amount of people going into the facility. He does not want to stifle businesses in the area, but this does not fit.

Laura Delmonte owns 5975 Goodrich Road and a hair salon at 9475 Goodrich Road. She agreed with the concerns of the two previous speakers. She thinks the idea is great but this is not the spot for it. She is constantly calling the police in the parking lot, just last night the police were there talking to two kids. There are drugs in the parking lot; the coffee shop staff is also calling the police. The protruding air conditioners have been damaged by the kids. They congregate on the walkway and they smoke and intimidate her clients. She constantly has to ask them to get off the porch and when they don't she has to call the police. Ms. Delmonte puts up signs and they are torn down, then they have to be put on the inside of the window. She is concerned on how to monitor these children and how many will show up and spill out into the neighborhood. Her tenant is concerned with the safety of his equipment in the pole barn. Ms. Delmonte is part of the Meet in the Center Committee.

Marcia Powers, of 5955 Goodrich Road, is only 6" away from where the front entrance would be, she is very concerned with liability. She is concerned with backing out of her own driveway. Mrs. Powers said her husband was told the facility was going to be closed in the winter. If the project is approved she wants to know about fencing. If parking is to be in the backyard of the project side she will lose any privacy she had in her backyard; she would be interested in seeing the back portion of the property fenced. She would like to see a low fence at the front of the property to delineate the two (2) yards.

Jackie Fiegl, of 5919 Goodrich Road, asked how many people can really be held in the building. How many staff will be there to watch over the kids? What will they be selling? Vice-Chair Salvati said the applicant indicated they will be selling ice cream, nachos, pizza slices, cookies, candy, chips, pies/desserts, pop, water and juice. The Building Code will regulate the capacity of how many people are allowed in the building. Ms. Fiegl asked if there will be someone there to regulate how many kids are in the building.

Ken Smith, of 5925 Goodrich Road, said his biggest concern is the parking. There is only parking on one side of the road in that area so whoever parks there would have to cross the street to get to the building. People speed on Goodrich Road, safety is an issue. He is also concerned with noise; he has tenants at 5929 Goodrich Road and does not want them to move out. His tenants sit on the porch and the kids walk by and are "mouthy". If he loses a tenant he loses income.

Mr. Hadisadegh said you cannot keep the good kids out of the Town because there are some bad kids around. This place will be classy with expensive building materials; it will not be made for kids to play and jump around. The maximum amount of people allowed in the building will be eight (8) and there will be two (2) staff members to watch over them. You cannot sacrifice the good kids because of the bad kids. Vice-Chair Salvati asked how the number of kids will be controlled. Mr. Hadisadegh said there is an area 19'x 30' that is filled with stuff, so you cannot really have a lot of kids. This will be a unique place and the Town will be proud of it. He is not in it to make money; he wants to do something good for this Town. He knows what he is doing; he had a restaurant with a bar in Clarence for ten (10) years. There were no complaints on his business because he closed the place early, before the noise and the problems started. There will be no coin machines in the building. Mr. Hadisadegh has a heart problem and if this place is going to aggravate him and the neighbors he will close it down.

Vice-Chair Salvati asked what Mr. Hadisadegh will do when there are more than eight (8) kids in or around his building. He will put a sign up advising the limited number of people allowed. He knows that it is illegal to have more people than what your space allows for. So far, he has spent four (4) months just to clean the place up.

Marcia Powers said if there is going to be a limit to the number of children inside the facility, the ones that are waiting for their turn will congregate outside and that is her front yard.

Linda Nastasi said the amount of space between the sidewalk and the street is narrow; it only takes one kid shoving another kid to put that kid in the street and there are a lot of speeders on the street. The kids are not going to cross at the corner, they will run across the street at an angle to go to this facility and they are going to get clipped. There are no sidewalks on her front lawn so there will be kids on her front lawn. This is not a safe location for this type of business. She has a concern if the project is approved with restrictions, who will enforce the restrictions?

Mr. Vitello said no one doubts Mr. Hadisadegh's intention, but it seems that this is too small a space without a plan for what to do when more than eight (8) kids show up. He thinks this will add fuel to the fire in the area.

Mr. Hadisadegh said if he cannot control the place he will close it. It is not this place that is going to bring bad kids to the neighborhood.

Ms. Hadisadegh said the place is so small it will bring in very little traffic. There is already bicycle, vehicle and pedestrian traffic in the area.

Mr. Van Nest said he is surprised at the level of opposition on a project of this sort. He looks at this project as a Change-In-Use. If this was a property which use continued it would not even be before this Board. It is a business that would have been permitted as long as it was consistent with the existing laws of the Town and the State. The property owner has the right to make reasonable use of his property consistent with the Town and State laws. Mr. Van Nest does not think it is fair to superimpose, on a property owner, the issues that may exist in the community as a whole but are not of his creation. This is not a reason to deny a Change-In-Use permit. This property owner has taken a risk and bought property in the Town, spent his own money and funds. The Planning Board needs to be cognizant of the issues raised but it is not reasonable to impose those issues entirely upon one property owner who is asking for one use. There are ancillary issues that need to be addressed in general such as speeding on Goodrich Road, the level of noise, property safety, property rights and property boundaries, the kids are congregating in places they shouldn't be, these issues were not created by this applicant and they are not going to be solved by this applicant. Mr. Van Nest said the Planning Board should act on the applicant's request by looking at what is being proposed and not impose upon him the greater issue or greater level of scrutiny that is not imposed upon other projects of this kind.

Mr. Pazda asked about the lighting in the back yard. Deputy Town Attorney David Donohue said there are only two (2) additional parking spaces in the back yard; there is an existing space for the tenant. There will be headlights shining on to the neighbor's property, this needs to be mitigated. Mr. Hadisadegh said he agreed with the neighbor who suggested a fence or greenery be placed there, he will work with her.

Mr. Pazda asked if the applicant is concerned about putting a lot of money into this project. Mr. Hadisadegh said he wants to do something good for somebody so he does not care how much money he spends, money is not everything.

Vice-Chair Salvati asked how the overflow of kids will be handled. Mr. Hadisadegh said he will check the time of the overflow and close the facility early. If he cannot handle the situation he closes the shop.

Vice-Chair Salvati said there will be no signage at the site.

Ken Smith asked if this applicant closes up shop, does this open up a pathway for the next owner to do the same thing. Mr. Callahan said if it required a building permit or if there is a change in occupancy, it will require a Change In Use permit.

ACTION:

Motion by George Van Nest, seconded by Richard Bigler, to **approve** the change in use from vacant to youth facility subject to the following conditions:

1. Per the submitted operation details (on file).
2. Building Department approval of the interior renovations.

ON THE QUESTION:

Mr. Pazda is concerned about the surrounding area, if the patrons can't get into the facility, where are they going to go. They will hang around the neighborhood and the applicant does not have control over this. He thinks the residents are concerned that the applicant's establishment will exacerbate an existing problem. Mr. Hadisadegh said his place is going to be a classy place.

Mr. Bigler said the applicant is to work with the neighbor to see what she prefers, fencing or bushes to buffer the headlights from the vehicles turning around in the back yard. Mr. Hadisadegh said he will work with her.

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

MOTION CARRIED.

Meeting adjourned at 9:05 p.m.

Carolyn Delgato
Senior Clerk Typist