

Town of Clarence  
Planning Board Minutes  
Wednesday April 2, 2008

**Work Session 6:00 pm**

Roll Call  
Update on Pending Items  
Zoning Reports  
Committee Reports  
Miscellaneous

**Agenda Items 7:30 pm**

**Approval of Minutes**

**Item 1**

Dash's Market  
Traditional Neighborhood District

Requests Recommendation on Special Exception  
Use Permit for a Drive-Thru facility at 8845 Main  
Street.

**Item 2**

Sean Hopkins  
Major Arterial/Residential Single-Family

Requests consideration of a Master Plan 2015  
amendment to extend Commercial Zoning to a  
greater depth at Transit Road north of Miles Road.

**Item 3**

Lou Visone  
Traditional Neighborhood District

Requests Preliminary Concept Review of a  
proposed medical office park at 8766 Main Street

**Item 4**

Architectural Design Requirements

Discussion.

**Item 5**

Open Space Design Overlay Amendments  
to Town Zoning Law

Discussion.

Chairman Gerald Drinkard called the meeting to order at 7:30 p.m. Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard  
Jeffrey Grenzebach  
Richard Bigler  
Gregory Todaro

2<sup>nd</sup> Vice Chairman Timothy Pazda  
George Van Nest  
Albert Schultz

Planning Board Members Absent:

1<sup>st</sup> Vice Chairperson Wendy Salvati

Other Town Officials Present:

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

Other Interested Parties Present:

|                     |                     |
|---------------------|---------------------|
| Sue Freeman         | John Russo          |
| Scott Snyder        | Penny Favale        |
| Arnold Castren      | Mike Arnold         |
| Pat Cullinan        | Lisa Miller         |
| Sherry Steinbrenner | R. Ruhland          |
| R. Wojnar           | J. Shelton          |
| M. Shelton          | Mr. & Mrs. D. Swart |
| Tom Keller          | Fred Skretny        |
| Don Braunschidle    | Victor O'Brien      |
| Marlene Grygokcewz  | Pauline Callan      |
| Robert Callan       | Jim Blum            |
| Bruce Waasdorp      | Stephen Stark       |
| Joe Dash            | Scott Boneschett    |

Motion by Timothy Pazda, seconded by Jeffrey Grenzebach, to **approve** the minutes of the meeting held on March 19, 2008, as written.

|                    |         |                 |     |
|--------------------|---------|-----------------|-----|
| Gregory Todaro     | Abstain | Albert Schultz  | Aye |
| Richard Bigler     | Aye     | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye     | Timothy Pazda   | Aye |
| Gerald Drinkard    | Aye     |                 |     |

MOTION CARRIED.

Chairman Drinkard explains that the Planning Board is a recommending body that may refer agenda items to other committees such as the TEQR Committee, Fire Advisory and Traffic Safety for their study and comment. The Planning Board may vote to recommend an action to the Town Board with conditions. The Town Board is the governing body and as such will have the final vote on the item. The procedure for agenda items starts with Jim Callahan introducing and providing a brief history of the item. The applicant will then have the opportunity to speak on the project. The Planning Board members will then have an opportunity to ask questions. The public will be offered the opportunity to speak on the subject; all commentary will be addressed to the Planning Board and will be limited to three (3) minutes. The applicant will then have the opportunity to respond to the public comment. A motion will be called for with a roll call vote.

**Item 1**

Dash's Market  
Traditional Neighborhood District

Requests Recommendation on Special Exception  
Use Permit for a Drive-Thru facility at 8845 Main  
Street.

**DISCUSSION:**

Jim Callahan provides the history of the project. It is located on the south side of Main Street between Cameron Drive and Roxbury Drive. It is a previously approved grocery store with a drive-thru coffee facility. The applicant is seeking to amend the previous approval to redesign the drive-thru. The project was referred from the Town Board at the March 12, 2008.

Joe Dash is present, along with Scott Boneschett from Beth Buscaglia's office. Mr. Dash explains that the original drive-thru plan has been revised to be much safer, with regards to traffic. Chairman Drinkard clarifies that the applicant has an approval for the original drive-thru, he is now asking for approval on the amended design. Mr. Dash confirms.

Mr. Boneschett explains that the current exit is very wide; their plan has narrowed it to keep traffic in control; the drive will be in the same location as the existing.

Mr. Dash explains that the amended design shows a curve to queue the traffic to the drive-thru to avoid any confusion; there will only be traffic in and traffic out at this location. There will be a better traffic flow within the property.

Mr. Dash explains the product as more expensive premium coffee. The activity will not be near that of Tim Horton's or Dunkin' Donuts. There will be a small lunch menu and at dinner time there will be 4 dinner entrées offered; a very limit menu.

There will be a "no entrance" sign placed appropriately with regards to the drive-thru. There is enough room for an emergency vehicle to access the site.

Arnold Castren of 4256 Roxbury Drive is happy that Dash's is coming to Clarence but it appears to Mr. Castren that the traffic and parking problems were overlooked in the original design. This is Dash's solution to the issue and the problem is going to be dumped on to Roxbury Drive. There is no shoulder on Roxbury Drive and it is a very narrow street. Currently there are four (4) drives servicing three (3) businesses and when Dash's and the liquor store opens it will be servicing five (5) businesses. Mr. Castren voices his concern saying the fourth car in line at the drive-thru will hang out on Roxbury Drive; this will block the whole street especially from 6:30 a.m. to 9:30 a.m. At first he was told the drive-thru will only serve coffee and donuts, now they have more menu items. He is also concerned with any Town vehicle trying to service the street, such as snow plows. He said the snow will be plowed to the back of the lot; however, there is a leach field in that area that raises 3'-4' above the drive and it could become a dangerous situation. Mr. Castren said there are too many issues for the Planning Board to give this project a favorable approval.

Pat Cullinan, of Roxbury Drive, said that Roxbury Drive does not meet Main Street at an angle, it is perpendicular. She suggests the cars for the drive-thru travel around the back of the building and use Cameron Drive. She does not understand why the plan is at an angle. Mr. Boneschett said the plan is a survey from a professional surveyor and depicts the site correctly. Mr. Dash said the addition to the building is parallel to Cameron Drive; the entire building on the parcel is at an angle because it is

parallel with Cameron Drive. Ms. Cullinan asked if the Board members have visited the site; she wondered if they found it as confusing as she does. It is explained that the Board members have walked the site and Chairman Drinkard said there are construction items at the location that will be removed when the project is complete and it will not seem so confusing to Ms. Cullinan. The traffic flow for the drive-thru is explained to Ms. Cullinan, she does not understand and is concerned with how the traffic flow will work.

Brian Eckert, of 4333 Roxbury Drive, asked what happens if the cars do not stay on Dash's property as proposed. George Van Nest explains that if there are identifiable traffic safety concerns it is something that needs to be referred to the State Police, the Planning Board does not have the ability to enforce these issues. Mr. Eckert said that the Planning Board's actions will have consequences that no one can enforce. Mr. Van Nest explains that if what Mr. Eckert is proposing is that this will create a traffic violation, then it should be enforced as a traffic violation. Mr. Eckert asked to whom the violation will be sited to. Mr. Van Nest said it should be directed to the State Police or the Sheriff's Department. Mr. Eckert then asked to whom is the ticket issued to. Mr. Van Nest said the ticket would be issued to the driver of the vehicle who may cause a traffic infraction. Mr. Eckert's concern is that cars will have to enter and exit Dash's from the same entrance off of Roxbury Drive causing traffic issues. Chairman Drinkard explains that the Planning Board's job is to look at the criteria of the project to see if it is a good use and to find if it is acceptable for the Traditional Neighborhood District. Mr. Eckert asked if there is a parking requirement, Chairman Drinkard said yes and it has been met. There are comments in the file from the Traffic Safety Committee.

Rose Ruhland, of 4200 Roxbury Drive, said she has seen a tractor trailer at the project site and asked where the deliveries will be.

David Swart, of 4295 Cameron Drive, asked what products will be sold through the drive-thru. He is principally concerned about drive-thru grocery pick-up; this will create additional traffic.

Mr. Dash explains that the products that will be sold at the drive-thru are the traditional breakfasts which include coffee, muffins, breakfast sandwiches and cappuccinos. Albert Schultz refers to the Town Board minutes in the file where Supervisor Bylewski was told that there would only be coffee and pastries sold at the drive-thru. Mr. Dash said there will be a limited selection of cold sandwiches at lunch time and four (4) dinner entrees at dinner time. There will be no grocery pick-up at the drive-thru window.

Mr. Dash explained that if the snow piles up, he has three (3) other locations and the snow will be trucked away; he is not going to create a traffic hazard or be a burden to the neighbors. The tractor-trailer that is at the produce loading dock is currently being used to store equipment. Once the equipment is moved out of the trailer, the trailer will be gone. At the produce dock he will have deliveries from box vans that are 20' deep; there will be no tractor trailer deliveries. The Cameron Drive side of the building has double doors for receiving main loads; the deliveries at these doors will come on tractor-trailers.

Mr. Van Nest asked if Mr. Dash has calculated the queuing for the coffee sales at the drive-thru. Mr. Dash explains he has been monitoring Star Bucks and Bagel Jay's. These two drive-thru windows have 2-5 cars max, at any time. He is willing to look at the drive-thru six (6) months to a year from now to re-evaluate and adjust if needed, as he does not want it to be a problem for the neighbors. The drive-thru will not be opened until one month after the grand opening of the market. The sandwiches will be pre-made, no toasting. If the drive-thru becomes a problem Mr. Dash said he

may have to take it out. Mr. Dash has invited the neighbor's for a tour of the building on Thursday evening and on Saturday morning.

Tim Pazda asked if the order point at the drive-thru can be moved, Mr. Dash said yes if it will help. However, after further discussion it is decided that when there is a back up of 5 cars it does not matter the location of the order point. Mr. Pazda suggests recommending a condition on the project to re-visit the drive-thru situation in six (6) months. Deputy Town Attorney David Donohue said a six (6) month condition can not be done but a twelve (12) month can be set

**ACTION:**

Motion by Chairman Drinkard, seconded by George Van Nest, that after looking at the proposed changes of the traffic flow of the drive-thru window at 8845 Main Street and the consideration of the currently approved Special Exception Use Permit were traffic will flow onto Roxbury Drive it is **recommended** that a Special Exception Use Permit be granted with the following conditions:

- The traffic flow experience at the drive-thru window is looked at again in March/April 2009. At this time, if adjustments are warranted they will be addressed by the owners of Dash's Market. This condition is based on a one (1) year actual experience using the drive-thru window.

**ON THE QUESTION:**

Albert Schultz said the Planning Board must rely on the owner of the store to keep a closer eye on the traffic and if it is backing up on to Roxbury Drive he would need to move quicker than that year.

|                    |         |                 |     |
|--------------------|---------|-----------------|-----|
| Gregory Todaro     | Abstain | Albert Schultz  | Aye |
| Richard Bigler     | Aye     | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye     | Timothy Pazda   | Aye |
| Gerald Drinkard    | Aye     |                 |     |

MOTION CARRIED.

**Item 2**

Sean Hopkins  
Major Arterial/Residential Single-Family

Requests consideration of a Master Plan 2015 amendment to extend Commercial Zoning to a greater depth at Transit Road north of Miles Road.

**DISCUSSION:**

Jim Callahan explains that the Master Plan 2015 was adopted in August 2001. The Town has subsequently held eight (8) annual Public Hearings on the Plan. The Town has created a mechanism by which they review the Plan to make sure that it is still meeting the goals of the community. At this year's annual meeting there were several requests to look at amending the Future Land Use Map to allow some changes in zoning; extensions of zoning. These have been referred to the Planning Board for review and comment. This is a process identified in the Master Plan. The Town Board has

referred four (4) specific items to the Planning Board. Item 2 on the agenda is one of the four (4) requests.

Chairman Drinkard said the Planning Board is not just looking at specific requests but groups of parcels. Albert Schultz explains that a request has been made for the Town to consider rezoning two (2) parcels along the Transit Road Corridor, each parcel is currently zoned Major Arterial in the front and Residential in the back. This same situation exists in approximately twelve (12) more parcels in the Transit Road Corridor. The Planning Board looked along the Transit Road Corridor from Wehrle Drive to Tonawanda Creek Road, but the area of focus is going to be the frontage parcels from Greiner Road to County Road. The Planning Board will be breaking the corridor into segments and identifying the current land use for each parcel. They will also look for patterns of use based on current zoning standards and come up with recommendations for each parcel. The individual parcel zoning will be analyzed individually; the Planning Board will consider accessibility, surrounding use, wetlands, floodplains, etc. Wehrle Drive to Greiner Road is Major Arterial on both sides of Transit Road and is mostly built-out. From Greiner Road to Roll Road is basically all Commercial use. On the corridor from Roll Road to Clarence Center Road there is a large parcel that the Planning Board needs to discuss how it should be zoned. The next stretch of Transit Road has 70% Restricted Business; the Planning Board needs to figure out if this is zoned appropriately. From Miles Road to County Road there is a mixture of Commercial and Restricted Business Zones, with one large parcel zoned Residential.

Jim Callahan explains that the property for Item 2 is located on the east side of Transit Road, north of Miles Road and consists of approximately 35 acres; Major Arterial along the frontage and Residential zoning in the rear. The applicant has made a request to amend the Master Plan to extend the Major Arterial classification deeper.

Sean Hopkins, of Hopkins, Garas and Sorgi, is representing the applicant. Andy Hunt is present on behalf of the project sponsor. Vic O'Brien, project engineer, is present as well. Mr. Hopkins said he is requesting that the Major Arterial zoning line be extended back approximately 400'. If granted, the request would allow 8.25 acres east of the zoning line to be zoned Major Arterial. Mr. Hopkins suggests that 16.29 acres of the back portion of the site would be preserved as open space. This can be done through a conservation easement or by down-zoning the property. The proposal is for approximately 144,000 square feet in size. This will not be big box retail; there are approximately 30 retail stores shown on the plan and will be pedestrian friendly. The maximum size foot print is 25,000 square feet. They will be preserving over 60% of the site as green space. The Concept Plan complies with the Town's 45' buffer requirement. There will be a lot of internal green space. There will be no access to Miles Road in the future. The applicant will schedule an informational meeting for the nearby residents.

Andy Hunt said the request to extend the zoning will leave a significant amount of open space on the Transit Road frontage; there are wetland impacts that need to be avoided. This project is meant for high-end retailers that are not represented in the area at this point.

Mr. Schultz asked if the zone has to be Major Arterial in order to do what the applicant is proposing. Mr. Hopkins said if the Commercial Zone allows for this project, he is ok with that. Jim Callahan said it will require a Special Exception Use Permit in the Commercial classification due to the size of the proposed building. Mr. Hopkins does not know what the final mix of the tenants will be.

Chairman Drinkard points out that if the Planning Board was to make the recommendation to the Town Board to rezone the parcel and this project falls through, the parcel becomes fair game to other developers and what might go in there then may not be what the Town envisioned. Mr. Hopkins said if the property is rezoned he is very confident that the existing Concept Plan is what he would submit, with some minor changes. A traffic and a wetland report has been done, but not yet finalized. Mr. Hopkins said there is approximately 7 acres of wetlands on the back portion of the site; however, there are developable portions. There are no State wetlands on the site only individual pockets of Federal wetlands. Mr. Hopkins said he is aware that he would have to have a very detailed drainage plan and demonstrate compliance with the Town Engineer and the DEC. Stormwater management is show on the plan.

Chairman Drinkard reiterates that the proposal is for an upscale mall and therefore everything about it needs to be upscale including landscaping, lights, entrances and exits to name a few. Mr. Hunt said the project will consist of the highest quality materials designed.

Tim Pazda clarifies that the agenda item being discussed this evening is the request for a zoning change to the Master Plan 2015, not the project itself.

Bob Callan, of 8075 Miles Road, is glad there is no access to Miles Road. He asked what type of stores are in the proposal. George Van Nest clarifies that the subject to be discussed tonight is the rezoning of the property not the project details. The reason the project details are presented in general is to give a sense of what the future use of the site might be. Mr. Callan does not have water problems but his neighbor's lots are lower than his and he is concerned that there may be drainage issues. He does not have a problem with the Concept Plan.

Marlene Grygokcewz, of 8080 Miles Road, explains that there is a piece of property that comes between her and her neighbors property, she wonders what will happen to that piece of property; will it be opened up? She has seen people use this property as a dumping ground. Mr. Hopkins said his applicant owns the property. Ms. Grygokcewz does not want traffic or trucks going back to the area. Chairman Drinkard reminds her that the discussion this evening is for the rezoning of the parcel, not the project. She said water is also a concern.

Sandy Gallegher, of Stahley Road, asked how many points of frontage are there on Miles Road. Mr. Hopkins said there are four (4).

Bruce Waasdorp, of 8156 Miles Road, wonders what happens to the green area that is north of his property. Chairman Drinkard said the Planning Board will recommend that the property will be deeded to a conservation easement. Deputy Town Attorney said it will remain permanently undeveloped with the easement; the applicant's plan would benefit Mr. Waasdorp. Mr. Waasdorp thinks the plan for upscale retail in Erie County is beyond delusional.

Penny Favale, of 8115 Miles Road, is opposed to a change in the Master Plan; it was developed for a reason. She does not think a 600' amendment is in keeping with the residential neighborhood. If and when this property is developed she would like to see something more in keeping with the residential community. All she sees in the project is a big parking lot and a strip plaza. There needs to be more green space required than what is currently being allowed when developing a property.

John Russo, of Poplar Hill Lane, he likes the idea of changing the zoning to Commercial, as it makes it safer. He also likes the idea for restricting the back end and wonders how permanent it will be. Mr. Pazda and Chairman Drinkard both reiterate that the deed restriction will be permanent.

Scott Snyder, of 8100 Miles Road, does not see how the rezoning of this property fits the statement that he read on the website. He asked how the floodplain will be affected; it is very swampy back there. He moved here because he likes the forest and now there will be parking lots on both sides of his land. This plan will affect property values, crime and traffic. He does not see how the rezoning will benefit anyone.

Mr. Hunt said he has no commitments from any tenants at this point; however there is a lot of interest in small retailers such as apparel and gift stores. There may also be restaurants.

Mr. Hopkins reiterates that the conservation easement for greenspace would be permanent. He asked what the Board and the neighbors would rather see-a big box store along the front eleven (11 acres) in the Major Arterial zone or a plan with an agreement that half the site will be forever green space. Mr. Hopkins said he submitted a detailed letter to the Town Board outlining the goals of the Master Plan and how this project meets them.

Jim Callahan said a letter has been received from a concerned neighbor. Tim Pazda reads the letter dated April 1, 2008: “Dear Mr. Callahan: I am asking you to forward this letter to the Planning Board regarding the rezoning of the property at Transit and Miles Road to accommodate a proposed plaza. I own the property at 8070 Miles Road which is adjacent to the vacant lot and part of the proposed plaza. When I purchased my property I fully realized that the parcel of land next to and behind me would eventually be developed into some type of housing. I never thought it would become a plaza. The proposal of rezoning from its present status to commercial opens up a Pandora’s Box of rezoning requests which would be contrary to the Master Plan. If rezoning occurs for this development, what about the requests to rezone the property behind Paulters Ice Cream Stand for a new Wegmans and the request to rezone the rear parcel at Transit and Clarence Center Road for office buildings? The previous Town Board as well as the present Board spent much time and effort to create a Master Plan according to the wishes of the Town residents and I see no reason to alter that plan. I would hope that your recommendation to the Town Board is for no rezoning. Thank you. Megan Hallock Sarkis.”

**ACTION:**

Motion by Chairman Drinkard, seconded by Timothy Pazda, to **table** agenda item number 2.

|                    |         |                 |     |
|--------------------|---------|-----------------|-----|
| Gregory Todaro     | Abstain | Albert Schultz  | Aye |
| Richard Bigler     | Aye     | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye     | Timothy Pazda   | Aye |
| Gerald Drinkard    | Aye     |                 |     |

MOTION CARRIED.

**Item 3**

Lou Visone  
Traditional Neighborhood District

Requests Preliminary Concept Review of a  
proposed medical office park at 8766 Main Street

**DISCUSSION:**

Jim Callahan provides the history on the project. It is located on the north side of Main Street west of Overlook Drive and consists or approximately 8.9 acres. This represents the introduction of the project to the Planning Board.

The applicant is not present.

**ACTION:**

Motion by Chairman Drinkard, seconded by George Van Nest, to **table** agenda item number 3.

|                    |         |                 |     |
|--------------------|---------|-----------------|-----|
| Gregory Todaro     | Abstain | Albert Schultz  | Aye |
| Richard Bigler     | Aye     | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye     | Timothy Pazda   | Aye |
| Gerald Drinkard    | Aye     |                 |     |

MOTION CARRIED.

**Item 4**

Architectural Design Requirements

Discussion.

**DISCUSSION:**

Jim Callahan explains that last year the Town Board referred the task of reviewing the Architectural Design Standards in the Commerical and Restricted Business zoning classification to the Planning Board. The Planning Board has hosted a number of drafts. A recommendation has been developed to stream line redundancy.

**ACTION:**

Motion by Timothy Pazda, seconded by Chairman Drinkard, to **table** agenda number 4 to allow the Planning Board members to review the latest suggested changes.

**ON THE QUESTION:**

Chairman Drinkard said there were a few typos and content changes that need to be addressed.

|                    |         |                 |     |
|--------------------|---------|-----------------|-----|
| Gregory Todaro     | Abstain | Albert Schultz  | Aye |
| Richard Bigler     | Aye     | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye     | Timothy Pazda   | Aye |
| Gerald Drinkard    | Aye     |                 |     |

MOTION CARRIED.

**Item 5**

Open Space Design Overlay Amendments to Discussion.  
Town Zoning Law

**DISCUSSION:**

Jim Callahan provides the background on the project. In February 2008 the Town Board referred the task of reviewing the Open Space Design Overlay and Incentive Lot Subdivision Design to the Planning Board for review and recommendations. The Planning and Zoning Department along with the Chairman have drafted a proposed amendment to that section of the Zoning Law and it is up for consideration.

**ACTION:**

Motion by George Van Nest, seconded by Richard Bigler, to **table** agenda number 5 to allow the Planning Board members to review the latest comments on the draft.

|                    |         |                 |     |
|--------------------|---------|-----------------|-----|
| Gregory Todaro     | Abstain | Albert Schultz  | Aye |
| Richard Bigler     | Aye     | George Van Nest | Aye |
| Jeffrey Grenzebach | Aye     | Timothy Pazda   | Aye |
| Gerald Drinkard    | Aye     |                 |     |

MOTION CARRIED.

Meeting adjourned at 9:10 p.m.

Carolyn Delgato  
Senior Clerk Typist