

Town of Clarence  
Planning Board Minutes  
Wednesday April 6, 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**

West Herr  
Major Arterial

Requests a Building Permit and Architectural Approval for a façade upgrade at 5535 Transit Road.

**Item 2**

Bark and Bow  
Commercial

Requests a Change In Use for a dog grooming operation at 9135 Sheridan Drive.

**Item 3**

Groundhog Landscaping  
Restricted Business

Requests Preliminary Concept Plan Review for a new building at 8225 Transit Road.

**Item 4**

GC Supply, Inc.  
Commercial

Requests a Change In Use and a Building permit for a building addition at 9992 Main Street.

**Item 5**

Rivera Greens/Angelo Natale  
Traditional Neighborhood District

Requests an Amended Development Plan Approval on an Open Space Design Development on County Road.

**Item 6**

Clarence Properties  
Commercial

Requests Preliminary Concept Review for the construction of a building addition at 6235 Goodrich Road.

Chairman Al Schultz called the meeting to order at 7:32 p.m.

Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz	Vice-Chairperson Wendy Salvati
2 <sup>nd</sup> Vice-Chairman Richard Bigler	Timothy Pazda
George Van Nest	Paul Shear
Robert Sackett	Gregory Todaro

Planning Board Members absent: none

Town Officials Present:

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

Other Interested Parties Present:

John Wabick	Dave Richardson
Robert Thoman	Bark and Bow Representatives
Robert Miller	Andrea Kimbriel
Douglas Klotzbach	Spiros Kardamdikis
Jim Gerstung	Marsha Brauer
Joe Daigler	Ken Pearl
Rebecca Pfeiffer	Don Pfeiffer
Robert Geiger	

Chairman Schultz thanked Gregory Todaro for sitting in as a voting member of the Planning Board in the absence of other members during the 2010 year and the beginning of this year.

Motion by Richard Bigler, seconded by Paul Shear, to **approve** the minutes of the meeting held on March 16, 2011, as written.

Paul Shear	Aye	Robert Sackett	Recuse
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Recuse		

MOTION CARRIED.

Motion by Robert Sackett, seconded by Wendy Salvati, to **approve** the minutes of the meeting held on February 16, 2011, as written.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Recuse
Richard Bigler	Recuse	Wendy Salvati	Aye
Al Schultz	Recuse		

MOTION CARRIED.

Chairman Schultz explained the procedure for each agenda item will start with an introduction by Jim Callahan. The Planning Board members will then discuss the item with the applicant. Before the Planning Board takes an action, any interested parties from the audience will be invited to speak on the project. The Planning Board and the Town Board have split authorities regarding land use decisions, for each agenda item an explanation will be provided as to the Planning Board’s role for that particular item.

**Item 1**

West Herr  
Major Arterial

Requests a Building Permit and Architectural Approval for a façade upgrade at 5535 Transit Road.

**DISCUSSION:**

Jim Callahan provided the background on the project. It is located on the east side of Transit Road, south of Roll Road. It is an existing automotive sales operation which the applicant is proposing a new façade. The Planning Board has final approval authority on architectural style in the Major Arterial zone.

Chairman Schultz said this project is a SEQRA Type II Action which means it does not require an environmental review under New York State Law.

John Wabick, Vice-President of West Herr Automotive Group, is present. He explained that he would like to put a new façade on the building that was previously the Saturn facility on Transit Road. Saturn has been out of the market for over a year; they have worked on other franchises for this facility and have decided to put a used car facility at this location.

Chairman Schultz makes the applicant aware that the sign must comply with the Town Code, Mr. Wabick understands.

**ACTION:**

Motion by Richard Bigler, seconded by Timothy Pazda to **approve** the proposed façade improvement per the submitted design and authorize the Building Department to issue the necessary permits. Approval subject to appropriate building fees, Landscape Committee review and approval of updated landscaping on the property. Any signs are to comply with the Town Code.

**ON THE QUESTION:**

Mr. Wabick said it is not currently landscaped. The big tower that is in front of the property will be taken down and relocated at the center; the canopy for the delivery module on the left side as you are facing Transit Road will remain in place.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

**MOTION CARRIED.**

**Item 2**

Bark and Bow  
Commercial

Requests a Change In Use for a dog grooming operation at 9135 Sheridan Drive.

**DISCUSSION:**

Jim Callahan provided the background on the project. It is located on the south side of Sheridan Drive west of Thompson Road. It is an existing commercial building in the Commercial Zone; the applicant is proposing a dog grooming operation and is present seeking approval for a change in use. Per the Zoning Law, the Planning Board has approval authority for such changes in use.

Chairman Schultz noted that this project does not require any action under the State Environmental Quality Laws.

Leann Senters and Allison Rumano are the applicants and both are present. Ms. Senters said they would like to open a dog grooming and dog day care facility. The building was previously a dance studio.

Mr. Bigler asked for details on the fence that goes along the back. Ms. Senters said the fence would be 4' to 6' high in the back between the two buildings for the dogs to play. There will not be overnight stays; there will be dogs that stay for the day and play, and dogs that are there for grooming. There will be approximately 15 dogs at a time. The majority of playtime for the dogs will be inside; they will only go outside to go to the bathroom. The applicants retain a facility that collects and disposes of the dog waste. Ms. Senters has seven (7) years experience and Ms. Rumano has 5 years experience in this business. This is a new business, not an existing one.

Marcia Brower, CEO of the Clarence Community Credit Union voiced her concerns regarding the lack of green space, parking issues, noise and waste. When the building was occupied by the dance studio the vehicles would fill up the Credit Unions parking lot. The vehicles would pull into their driveway and onto their lawn. She is also concerned that the customers will let their dogs drop their feces on her property before they enter the daycare and not pick it up.

Joe Daigler, president of the Credit Union, voiced concerns about the parking and what will be done with the dog droppings.

Ms. Senters explained that the parking is just pick up and drop off; people will not stay parked there. The only two (2) cars parked there on a daily basis would be the applicants. Mr. Pazda pointed out that there are no parking spaces in the front or on the side of the building. There is a driveway on the side of the building so customers can park on the side and walk in through the side door and then keep driving around the building to exit the property. The driveway goes around the building.

The hours of operation will be Monday 12:00p.m. to 8:00pm; Tuesday through Saturday 8:00am to 5:00pm.

There is a strip of grass that separates the driveway to the east. The dog droppings would be picked up immediately.

Ms. Rumano explained that each dog is evaluated to make sure he/she will get along with others. Once this is established they will play together with little barking noise.

The fence will be a closed fence with no gate. Dog waste would be confined to the fence area.

Mr. Shear said he understands the parking concerns. He asked if there was any room along the property for a few parking spaces, or is the property not wide enough.

Mrs. Salvati said the strip of grass makes it clear that there is a separate business there. It would be the applicant's responsibility to instruct their clients that they are not to park on the property next door.

Mr. Pazda suggested a sign to be put on the front door discouraging use of the Credit Union parking lot. The applicants agree and indicate they want to be good neighbors.

Ms. Brower said the green space between the properties belongs to the Credit Union; the side entrance always has two (2) cars parked there because of the apartments upstairs. If customers use the side entrance, Ms. Brower guarantees they will park in her lot. Mr. Senters said the apartment upstairs is currently vacant, if she does not rent that space the owner told her it will remain vacant. The applicants have never seen the driveway blocked, it's always open. There is no connection to front door; customers would enter and exit using the side door.

**ACTION:**

Motion by Robert Sackett, seconded by Wendy Salvati to **approve** the proposed Change In Use from vacant to pet grooming operation and authorize the Building Department to issue the necessary permits to allow the operation as described.

**ON THE QUESTION:**

The emphasis is that the business does not interfere with the Credit Union parking and whatever steps it takes to do this. The applicant agreed. Proper signage is to be posted to communicate the restrictions on parking. There is also a restriction placed on the motion stating there is no overnight boarding. It is clarified that this not only a dog grooming facility but also a dog day care operation as described this evening.

Robert Sackett	Aye	Paul Shear	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

**Item 3**

Groundhog Landscaping  
Restricted Business

Requests Preliminary Concept Plan Review for a  
new building at 8225 Transit Road.

**DISCUSSION:**

Jim Callahan provided the background on the project. It is located on the east side of Transit Road, south of Millersport Highway. It is existing vacant land in the Restricted Business Zone and within the Density Flood Zone.

The Planning Board has approval authority per the Zoning Law. The proposal is an Unlisted Action under New York State Environmental Quality Review; therefore it will require a coordinated review under NYS SEQRA.

Robert Miller of Groundhog Landscaping explained that he would like to put up a 5,000 square foot warehouse. He will employ five (5) to eight (8) people, business operations would be from 7:30 am to 5:00pm Monday through Friday, perhaps some Saturdays. They would store landscape equipment inside the warehouse. There will be bins of topsoil, mulch and stone stored outside to the east of the building, behind it. There will be water available to wash down the trucks. The building will be insulated and heated. Currently there are no retail sales; however that may happen in the future. Mr. Miller noted they would have an outside display depicting landscapes, patios, fire pits, etc. There will be no chemicals stored on the site. They provide a lawn maintenance service and the lawn clippings are dumped at the compost facility in the Town of Amherst, there will be no clippings dumped at this property. They also provide snowplowing services. The employees take the work vehicles home so there is not a lot of in and out traffic at the site. Most of the equipment will be stored in the building. There may be a loader left outside behind the building. Mr. Miller said he would like to clear less than an acre of this property for the building; he would like to leave the woods and grass intact. The applicant is aware of the hydric soils on this site and the high water table. He is willing to bring in fill to make this work. He wants to leave the property south of the parking undisturbed. Chairman Shultz pointed out that the Restricted Business Zone does not allow landscaping businesses. The purchase of the land is contingent upon this evening's outcome.

Mr. Van Nest said he wants to foster business in that area but he also needs to be faithful to the Code; he is having a hard time fitting this particular use into that zoning district.

Mr. Shear pointed out that the applicant submitted a Wetlands delineation showing 2.15 acres, the delineation came from the Erie County GIS. This is a best guess; the wetlands have not been delineated yet.

Bob Thoman owns the property to the south of the project site and has lived there since 1962. He voiced his concern regarding drainage as the land has excessive amounts of water. He is also concerned with the setback and a lot of lighting in the back. He wondered if there would be fencing to mitigate the trucks and the noise. He is also concerned that there may be smells associated with the business. He would like to see a copy of the plan and asked about the grievance process if the Planning Board approves the project.

Chairman Schultz noted there are three (3) actions available to the Planning Board. They can initiate the SEQRA review which would be a minimum of 30 days to obtain responses. The Planning Board could table the project for more information. Finally, the project could be denied.

Mr. Pazda asked what the applicant's recourse would be should the Planning Board deny the project. Ms. Salvati said he could go before the Zoning Board of Appeals for a use variance.

Mr. Van Nest does not see the advantage in moving the project along through the SEQRA process if the majority of the Board believes they simply don't have the authority to approve the project because it does not meet the Code. He feels it is better to provide the applicant with a decision to give the applicant finality in order for him to make a business decision.

**ACTION:**

Motion by George Van Nest, seconded by Wendy Salvati, to **deny** the request for preliminary Concept Plan Review for a new building at 8225 Transit Road to the extent that it is inconsistent with the Restricted Business and Zoning Classification for that property.

**ON THE QUESTION:**

Mr. Shear said the applicant can proceed to the Zoning Board of Appeals and ask for a variance, but cautions the applicant that comments brought up this evening regarding the wetlands and the soil should be considered before he puts more money into the project.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

**Item 4**

GC Supply, Inc.  
Commercial

Requests a Change In Use and a Building permit for a building addition at 9992 Main Street.

**DISCUSSION:**

Jim Callahan provided the background on the project. It is located on the north side of Main Street east of Kraus Road. It is an existing commercial building in a Commercial Zone and the applicant is proposing to relocate a golf cart supply company to the vacant space and to construct a small addition. Per the Zoning Law the Planning Board has final approval authority for such changes in use.

Douglas Klotzbach, of K2 Architecture, is representing GC Supply, Inc. Spiros Kardamdikis, sales manager and marketing director for GC Supply, Inc. is present along with Jim Gerstung, manager of the Akron, NY facility.

Mr. Kardamdikis said the business has been a distributor of golf cart and utility vehicles since the early 1980's in Pennsylvania. The facility in Akron NY has been there since 1994. The business has been strictly distribution but both of the manufacturers they represent are making models that fit the individual use, so this is the part of the business Mr. Kardamdikis wants to take advantage of. He finds this property fits their needs and provides exposure for their business. The business will focus on retail and will operate six (6) days a week during the season, which is from April until late September. The hours of operation will be from 8:00am until 5:00pm; two (2) days out of the week they will be open until 6:00pm. Saturday hours would be 9:00am to 2:00pm.

Mr. Klotzbach said Building A on the plan will be an approximately 8,000 square feet plus the small addition. The north side of the building is where equipment will go in and out of the building. The back portion of the building will be the service area. As you look at the building the long "L" shaped open space area will be the showroom. There is one restroom that services the whole facility. There are six (6) employees and are hoping to add two (2) to three (3) more.

A utility vehicle is anything with a utility bed/tray. Inventory is brought in on a flatbed throughout the year mainly from January to April. There will be outside storage in the north parking lot, it will consist of a 100' x 200' fenced in area; lighting will be added.

Mrs. Salvati said there are private residences behind this facility and they will be concerned with lighting. The Board would require all down cast lighting. There will be all night lighting for security purposes.

The display will be in the front area, landscaping will be done. There will be a maximum of six (6) golf carts in the outdoor display. The carts will be brought in at night for security reasons.

Chairman Schultz said the outside display needs a permit issued by the Town Board. He is concerned with the outside storage and the lighting.

Mrs. Salvati has an issue with lighting that is not there now and will be on all night for surrounding residents. She is also concerned with the outside storage area. Mr. Kardamdikis said most of the property is wooded and would hide the light. Mrs. Salvati said in the winter the lights will shine through because there will be no leaves on the branches. Mr. Kardamdikis said the existing lighting may be adequate; they will use the lighting strictly for security purposes. Mr. Callahan explained there is a stipulation in the Zoning Law in § 229.14 & § 229.151 that would allow lighting of a minimal intensity; the law must be adhered to.

Mr. Pazda does not have a problem with the outside display as long as it is done tastefully. The smaller structures that are there now will be removed.

Robert Jaus, of 4888 Pineledge Drive, voiced his concern with the lighting especially when there are no leaves, at that time he can see through to Main Street. He hopes the light will face Main Street. He asked if the vehicles are electric or gas, and will they be driven around the back of the property for test driving. He is concerned with fumes. He asked for clarification on how far back the project goes. Mr. Jaus suggested fencing between the stone area and the woods.

Rebecca Pfeiffer lives on Kraus Road and is also concerned about lighting and test driving, fumes and noise. There is only about 30' of brush separating the properties and that area is becoming sparser each year.

Mr. Kardamdikis explained that the test driving would be very minimal and done on the parking lot as the carts are not road legal. They would not be allowed to ride on the road or in the woods. Test driving would be done with one of the GC Supply's associates. The maximum speed on most carts is 10 to 15 mph; some four wheelers may go up to 25 mph. There are both electric and gas powered carts, they are quieter vehicles than ATV's. The rear of the property is secured from the public. There will be outside storage during fall and winter months. There will be no stacking in the fenced area. There will be no diesel idling from delivery trucks. There will be no overnight deliveries because the gates will be locked after business hours. If a delivery comes in after business hours, the driver will find overnight lodging and make the delivery during regular business hours the next day.

There will be a new sign on the front of building and on the existing pole sign, a variance will be required.

Ms. Salvati said the Planning Board had recently instructed the owner of the property to remove the storage sheds that are currently on the property, the sheds are still there. Mr. Klotzbach said that the removal of the structures is part of the tenant agreement.

Mr. Bigler asked for details on gas storage and battery disposal on the premises. Mr. Kardamdikis explained that the battery disposal is done regularly by their battery distributors. There will be a small 275 gallon gas tank stored outside on the premises within the fenced in area. The applicant is aware that DEC permits will be required for the gas tank storage.

There will be landscaping done around the outside storage.

**ACTION:**

Motion by George Van Nest, seconded by Timothy Pazda, to **approve** the change in use from vacant to golf cart supply operation and authorize the Building Department to issue the necessary permits for the proposed addition. This approval subject to the following conditions:

1. Sign and review approval under separate application.
2. Outdoor display areas to be approved via a Temporary Conditional Permit as issued by the Town Board, limited to the areas highlighted in the plans as submitted by K2 Architects and dated March 17, 2011.
3. Outdoor storage with down cast lighting pursuant to § 229-14 & § 229-155(D) of the Town Code.

**ON THE QUESTION:**

Mr. Shear set another condition: the 275 gallon fuel storage should be located within the fenced outside storage area on the east side of the property. Mr. Van Nest and Mr. Pazda amended their motions to include this condition.

Ms. Salvati suggested another condition stating no idling of trucks. Mr. Van Nest said the Planning Board cannot micro manage truck drivers particularly during winter conditions. This will be left to the discretion of the applicant.

Chairman Schultz noted for the record that the Planning Board referred to the outside display area but they are not recommending approval of that area; the Planning Board is neutral.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

**Item 5**

Rivera Greens/Angelo Natale  
Traditional Neighborhood District

Requests an Amended Development Plan  
Approval on an Open Space Design Development  
on County Road.

**DISCUSSION:**

Jim Callahan provided the background on the project. It is located on the north side of County Road east of Stahley Road. It is a previously approved Open Space Design Development; the applicant is proposing some amendments to the previously approved conditions of approval.

Jeffrey Palumbo, of Damon Morey LLC, is representing the applicant. Angelo Natale, owner of the development, is present along with Larry LaDuca.

Mr. Natale is proposing a 35-lot development that would be considered the first true green development in New York State. In order to obtain this designation there are requirements that need to be met, Mr. Natale feels it is important for Clarence to obtain this designation.

Mr. LaDuca pointed out that the trees in the back right corner of the property will be preserved, there will be no trees removed in the back 5.6 acres. Sam Berg, a licensed arborist, will go through the sight and preserve as much as possible.

The tree farm depicted on the plan will be maintained by the Eagle Scouts and those trees would be used to plant in front of each house in the development.

Chairman Schultz noted that the planting of one (1) tree in front of each house in this development is a condition not an option.

Mr. LaDuca said the tree farm would not be a commercial business. He explained that the green standards are dictated through the National Association of Home Builders, there are bronze, silver and gold certificates, they are striving for the silver. They would use windmill power for the street lights, landscaping lights and the fountains in the ponds. The tree farm is temporary.

Mr. Van Nest reads from the code, "natural features such as streams, rocks, trees and shrubs should be preserved and incorporated into the landscaping of the development." He is not sure he reconciles this with running a tree farm. Mr. LaDuca said there is a 100 year old potato field there now. Mr. Van Nest asked how the open space being utilized as a tree farm is consistent with the spirit and intent of what is here as open space. Mr. LaDuca said that instead of using trees not indigenous to the area they will use trees that are grown in Western New York, specifically by charitable organizations. If the Board does not like this idea, they won't do it.

Ms. Salvati clarified that Open Space means the property is to remain natural.

Mr. LaDuca said Sam Berg is the arborist for the City of Buffalo; he is the only certified and licensed arborist in Erie County. If the Board has any questions on the integrity of what the re-tree program is like, they can speak with Paul Mauer from the Buffalo, NY Re-Tree Organization. Mr. Van Nest said he is not as concerned with what Buffalo does as whether or not what is being proposed for changes in this plan are in fact consistent with what the Planning Board can do under the Town Code.

Mr. Natale said the three (3) major points are: 1. Installing a windmill to generate enough electricity to power the street lights, the fountain in the natural pond and the landscaping lights at the front of the site. 2. They are looking to install a tree farm although it is not necessary. 3. The yellow spot in the back of the property indicates where the lot size would be increased and a deed restriction would be placed on the property saying no one will use that space; it is just to make the lots look larger.

Mrs. Salvati said the problem is the applicant took over a project that the Board already approved as an Open Space Design. The yellow area on the plan makes up part of the 50% Open Space that is a requirement. Deed restrictions are difficult to enforce, at some point in time the yellow area will become part of someone's backyard. Mr. Palumbo said it would not be any different than if the Homeowners Association owned that land, which is what is going to happen if they don't extend the lots. The applicant is willing to monument the area and make it clear that the back cannot be used in any way.

Mr. Palumbo said the idea behind the elimination of the sidewalk is to get people back to the walking path where they can enjoy the wildlife and the trees. The back area is already a certified wildlife habitat. The walking path gives you more walking space.

Chairman Schultz pointed out that the idea of sidewalks in a traditional neighborhood is for walkability within the neighborhood not to a tree farm. The Code specifies that the Open Space has to be under single ownership, it does not allow that property to be broken up into individual lots.

Mr. Van Nest said that since the open space was counted towards the open space percentage, it may now actually fall below the percentage which presents a problem in approving the amendment if it is inconsistent with the Code. Mr. Palumbo wondered if the Town would consider it open space even though it is not technically open space because there would be deed restrictions.

The size of the windmill would be 50' tall at the apex with an 8' blade. The proposed location is based on the wind pattern and the fall zone.

Mr. LaDuca said the homes will have a superior wall foundation which is a fully engineered, fully insulated; the walls are in 4' sections with an R10 value and will come from Pennsylvania. They will use the highest grade for windows and geothermal heating and cooling which runs off grid. The homes will not have a traditional open flame furnace. However a homeowner can choose to have a gas furnace. The homes will have universal design options which feature handicap accessibility and grading issues. Mr. Natale explained that the properties are going to be 2'-3' lower than surrounding property so instead of bringing in truck loads of fill, the best option is to keep the grade consistent with existing grade and be able to put daylight windows in the basement. This will not make the homes any larger. If the homeowner chooses the solar power option, the panels would be placed on the rooftop. Mr. Natale said there are already 4-5 people interested in these homes.

Chairman Schultz asked if the certification changes if the 50% open space requirement remains. Mr. LaDuca said it could drop them to a bronze certificate. Chairman Schultz asked if it will hurt the certification if the sidewalks remain in the plan. Mr. Pazda said he would like the sidewalks to remain; perhaps they could be made of a different surface. The walking path in the back is expensive because the pavers are permeable, water can go through them and greens can grow through them but they hold their integrity and don't damage the environment as much. These would be used for part of the path, the other part would be one of three other options the applicant has. They would chose whatever option the Board would approve.

Terrance Finn, of 8208 County Road, is concerned with the grading and wondered if he would be lower than the project site so the water would run off onto his property. The houses are going to have shallow yards and the kids will be in his woods, this is a concern. He is concerned with the arborist taking trees down and wondered if they trees along his property will be removed. The windmill, which will be in line with his house and across the street from a 100 year old cemetery, is an eye sore. The

issue with the drainage from the pond was discussed a year and a half ago and nothing has been done about it.

It is clarified that the arborist will not be removing trees, only dead or dangerous ones.

Mark Spoth owns property on the north side of the project site. He is concerned with drainage and asked that whatever is developed drains to County Road instead of back onto the farm. He is also concerned with people walking through his woods; he hunts those woods. Mr. Spoth applauds the applicant for going green. He would rather see the windmill back by the farm.

Mr. Natale said he will be good neighbors, particularly to Mr. Finn and Mr. Spoth. He hopes to take care of the drainage this spring. He hired an arborist because he thought it was the best way to preserve the trees. He will post hunting signs along the path and bring the path in as best he can along the property lines to discourage trespassing. The plan shows the drainage flow going toward County Road. Mr. Natale thinks the windmill will serve as a beacon, he does not think it will be an obtrusive site.

Ms. Salvati said the yellow area depicted on the plan will stay open space. Chairman Schultz said the stand of trees to the immediate east of the homes is to be preserved. Regarding the tree farm, Mr. Natale said they will not cut down any trees in order to plant any; they will take a pick-up truck through the property to get the trees in and out. The trees will be loaded and unloaded manually.

Mr. Pazda suggested the Planning Board take a closer look at this project before taking an action on it.

Mr. Van Nest said if the applicant needs a decision relative to the yellow are and how that impacts the Open Space and the Planning Board's ability to reduce that, the answer would probably be no. It makes sense for the Planning Board to look further into this project.

Mrs. Salvati asked the applicant if a permeable sidewalk is an option. The applicant agreed to look into it.

Mr. Sackett noted that the plan includes a truncated road and will go into something. Whatever the Planning Board does must be consistent with the plan for the land behind the project site. If the Code is waived for this project, the Planning Board better be consistent with what they are going to do in the back.

It is clarified that this will be a public road. Mr. Shear is also concerned with the stub road. When sidewalks are not put in, which is recommended in the TND zone, it moves forward with an extension on that public road and before you know it people are complaining because the speed is too high, there is not sidewalk or there is too much traffic.

Chairman Schultz said he would agree to the tree farm and pervious sidewalks.

#### **ACTION:**

Motion by Timothy Pazda, seconded by Wendy Salvati, to **table** the project for all the reasons previously discussed.

**ON THE QUESTION:**

Mr. Van Nest asked the Town Attorney's Office to evaluate the issue of whether or not the Planning Board has the ability to deviate from the 50% Open Space such that the Board might be able to allow the yellow shaded area be put in individual ownership by property owners. Chairman Schultz said the only reason the applicant is trying to do this is to make the lots more attractive, he does not think it is worth making the argument.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Nay		

MOTION CARRIED.

**Item 6**

Clarence Properties  
Commercial

Requests Preliminary Concept Review for the construction of a building addition at 6235 Goodrich Road.

**DISCUSSION:**

Jim Callahan provided the background on the project. It is located on the east side of Goodrich Road, north of the Peanut Line. It is an existing restaurant located in the commercial zone; the applicant is proposing to further develop the property.

Chairman Schultz explained that this project would have Planning Board authority except for the Residential component in the Commercial Zone, which would require a special permit by the Town Board. The Planning Board would make the SEQRA decision, a decision on Concept Plan, then a recommendation to the Town Board.

Ken Pearl, architect for the project, is present. Tim and Rick Smith are the owners of the property and both had to work late this evening. The project has three (3) basic elements: 1. The front side of Clarence Pizza has been an open patio with a fabric awning. The awning has been damaged several times in recent years from storms. The applicant would like to put a permanent roof structure in its place. 2. The applicant would like to add banquet space to the south side of the building to accommodate the large groups of people/organizations that frequent the business. 3. The applicant would like to redevelop the north part of the property adding a new building that would mostly be one (1) story with a two (2) story building anchoring the back of the property. This matches the building that is currently on the property. The applicant does not want street lights or lamp posts; they want it to look more like residential properties. The two (2) story section on the north side of the property would be four (4) small residential units on the second floor. They are looking to have small business in this development such as candle shops, coffee shops, cosmetic stores, small restaurants or candy goods. They do not envision bringing in a large restaurant as that would compete with theirs. The banquet facility would be 1600 square feet maximum to accommodate parties of 20-30 people at the most.

Mr. Pearl explained that there was a survey error which has now been corrected. The property was actually 33' shorter from Goodrich Road towards the easterly line, so the square footage of the new

building was reduced. The east side parking area is different as well; it was at 74 spaces and now is at 71.

Mrs. Salvati said there are some instances where the applicant is not meeting the Code requirements. The lot coverage is a maximum of 70%; the current plan is beyond that at 75% or 76%. The plan is under on the required parking although there may be opportunities for shared parking. There was also a question on the building to the north and its proximity to the road in terms of the front setback. Mr. Pearl said he pointed this out to the applicants, and explained that they would need to ask for relief from numerous zoning requirements. Mrs. Salvati has an issue with “numerous” because that means the applicant is trying to put too much on the site. Mr. Pearl explained that the Smith brothers like the dense village feel of the coffee shop that they own on Goodrich Road and Clarence Center Road and that is the style they want to go with for this project. Mrs. Salvati said when she looks at this plan she sees lots of paving and buildings and very little green space.

Mr. Van Nest said the Code is the Code and the Planning Board has an obligation to work with it, if the applicant wants to deviate from the Code they will have to ask for relief, where it might be available otherwise the Planning Board would not have the authority at this level to make a decision as it is outside the scope of the Code.

Mrs. Salvati suggested the applicants come in and talk to the Planning Board to work out the details.

Dave Richardson, of 6270 Goodrich Road, spoke on Smith’s behalf, they are fine people. They keep their properties clean. He spoke with Rick Smith who stated they want to match the new building with the brick that is on the existing building. The Smith’s put a large investment in the original building and they hire 35 people from the community.

Sue and Carlton Thompson own property behind the project site that goes to Herr Road. Mrs. Thompson voiced her concern with the drainage problem; she does not want any water from the project site to drain on to her property.

Mr. Pearl said this proposal is just a starting point for the applicants; they are willing to work with the Board to make the project fit.

Chairman Schultz referred to a letter he received from the Supervisor that identified extending the sidewalk to encompass both this project and Big Sing’s Ice Cream Shop.

Mr. Callahan said that the proposal is the maximum that could be accommodated on that sight and when the SEQRA review takes place, it looks at the maximum. This proposal is going to get smaller, whether it be setback or number of parking spaces or meeting the greenspace requirement. The Planning Board could proceed with the environmental review because it will identify the maximum impacts.

#### **ACTION:**

Motion by Robert Sackett, seconded by Timothy Pazda, to **initiate** coordinated review under SEQRA, identifying the involved agencies as NYSDEC, ECDPW, ECWA and requiring the applicant to work with the Planning Office on submittal of a revised Part I EAF for review and referral to involved agencies.

**ON THE QUESTION:**

Mr. Shear said there is a Part I EAF on file but the information is incorrect.

Mrs. Salvati said the applicant needs to factor in the lawn and the landscaped area in the calculations on the EAF.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Meeting adjourned at 10:10 p.m.

Carolyn Delgato  
Senior Clerk Typist