

Town of Clarence
Planning Board Minutes
Wednesday April 20, 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

Stephen Development
4905 – 4915 Kraus Road

Requests Minor Subdivision Approval to create
Additional Residential Building Lot(s).

Item 2

Jesse Horst
Rapids Road

Requests Minor Subdivision Approval to Create
One Additional Residential Building Lot.

Item 3

Rivera Greens
Open Space Design Subdivision

Requests Clarification of Previous Development
Plan Approval Condition Related to Sidewalks on
One Side of the Street.

Item 4

Master Plan 2015

Discussion on Items Referred by Town Board at
Annual Public Hearing on Master Plan 2015, held
February 23, 2011.

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

Jim Callahan led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz
2nd Vice-Chairman Richard Bigler
Robert Sackett
Gregory Todaro

Vice-Chairperson Wendy Salvati
Timothy Pazda
Paul Shear

Planning Board Members absent: George Van Nest

Town Officials Present:

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

Other Interested Parties Present:

David Audino	Maureen Audino
Paul Wheeler	Scott Malchow
Deborah Malchow	Nicole Horst
Jesse Horst	Walter Ersing
Jeremy Horst	Carol Cornwall
M D Hickey	Ed Hewlett
Pat DiLauro	Rebecca Pfeiffer
Don Pfeiffer	John Fopeano
Terrence D Finn	

In the absence of Planning Board member George Van Nest, alternate member Gregory Todaro will participate in all discussions and vote on all agenda items this evening.

The minutes for the April 6, 2011 meeting are not available.

Chairman Schultz explained that authority on land use decisions in Clarence is split between the Town Board and the Planning Board. The authority will be explained with each agenda item. Jim Callahan will introduce each agenda item; the Planning Board will discuss it with the applicant, before any decision is made by the Planning Board any interested party in the audience will be invited to make comments on the project.

Item 1

Stephen Development
 4905 – 4915 Kraus Road

Requests Minor Subdivision Approval to create
 Additional Residential Building Lot(s).

DISCUSSION:

Jim Callahan provides the background on the project. It is located on the east side of Kraus Road, north of Main Street. It is existing residential lots located in the Residential Single Family zoning classification. The applicant is proposing to split existing property to create additional building lots. Per the Subdivision Law the Planning Board has the authority to approve Minor Subdivisions. If the Board was to act on this project in a positive way it would require a review under the NYS Environmental Quality Review Act (SEQRA).

Noel Dill, Vice-President of Stephen Development, is present. Mr. Dill said there are two (2) existing lots with older homes on them. They are proposing to replace those with four (4) lot, each of which will be consistent with the character of the neighborhood. The lots will be approximately 1.6 acres each.

Mr. Packard noted that the home at 4905 Kraus Road was constructed in 1946 and the home at 4915 Kraus Road was constructed in 1948. Chairman Schultz said the demolition on these homes would require special action under the SEQRA review and a special approval.

Mr. Dill said the plans have not been finalized with respect to the size of the homes.

Mrs. Salvati asked why the applicant is not choosing to ask for three (3) lots that would be in conformance with the frontage requirement of the Code. Mr. Dill said with all that has to be done to the lot(s) it would be cost prohibitive to have only three (3) lots; however they can make the project work with four (4) lots. He is aware that he will need a variance to allow four (4) lots. Mrs. Salvati asked if the applicant thinks he will be seeking additional variances; she does not want to see homes on these lots that are not in keeping with the character of the neighborhood. She does not want to see anyone come to the Board asking for side yard or front yard variances to build large structures that would change the character of the neighborhood. Mr. Dill does not anticipate building large structures, he recognizes the character of the neighborhood and will build homes consistent with that.

Ed Hewlett, of Kraus Road, asked for clarification on the project.

Don Pfeiffer, of Kraus Road, asked how far back from the road the homes will be.

Mr. Callahan explained the minimum setback in the Residential Single Family zone is 45' but the applicant will probably be required to match the existing setbacks.

Dave Audino, of 4910 Kraus Road, voiced his concern that a variance might be granted for four (4) homes versus three (3). Mrs. Salvati explained that the minimum frontage is 125', the applicant is asking for 106'. Mr. Audino asked if there will be blasting, the last time blasting was done in his neighborhood he heard there were cracked home foundations and water damage to homes in the surrounding area. He wondered if there will be an inspection of his home and other homes before the blasting to see if there is any impact from the blasting; repairs will have to be done.

Without the variance for the frontage, the Planning Board cannot do anything but deny the project. If the variance is granted, the applicant would have to come back to the Planning Board to seek subdivision approval. The blasting issue will come up under the environmental review.

Larry Ives, of 4920 Kraus Road, voiced his concern about being notified of the project and its details. Chairman Schultz explained he and surrounding neighbors will be notified if the project goes to the Zoning Board of Appeals. Mr. Ives is advised to visit the Planning Office and view all the information that is on file.

Mr. Callahan provided the details on the project again.

Mr. Dill invited anyone that has questions to see him at the end of the meeting. He does not believe there will be any blasting but if there is an application and review process must take place.

ACTION:

Motion by Gregory Todaro, seconded by Wendy Salvati, to **deny** the proposed Steven Development Minor Subdivision located at 4905-4915 Kraus Road. The basis for the denial is the proposed lot width which does not meet the 125 foot minimum specified in Town Code, the proposed is 107'.

ON THE QUESTION:

The proposed lot width is consistent with the character of the area, but it would require relief in the form of a variance to § 229-50(A) and § 229-50 (C) (2) of the Code of the Town of Clarence. Other factors, such as lot size and required number of curb cuts seem to be in conformance with the Code and the area.

Mrs. Salvati voiced her concern that the homes to be built, if the variance is granted, will be in keeping with the character of the neighborhood; no further variances should be requested to allow for structures that would be outside of the character of the neighborhood.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 2

Jesse Horst
Rapids Road

Requests Minor Subdivision Approval to Create
One Additional Residential Building Lot.

DISCUSSION:

Jim Callahan provided the background on the project. It is located on the south side of Rapids Road, east of Salt Road. It is existing agricultural land located in the Agricultural Flood Zone. The applicant is proposing to split off an agricultural lot for residential purposes. Per the Subdivision Law, the Planning Board has the authority to approve minor subdivisions. It will also require an Action under NY SEQRA.

Jesse and Nicole Horst are present. Mr. Horst is proposing to build a 1700 square foot ranch style, single family home. The rest of the land will remain green space/wooded acreage. The Horsts do a lot of gardening so the land would be farmed or remain as is. Mr. Horst grew up next to this land and he would like to preserve the woods.

Mrs. Salvati pointed out that the minimum lot size in this area is 150'. She explained that the applicant could get additional lots along Salt Road but would be restricted along Rapids Road.

Deborah & Scott Malchow live to the left of the applicant's property. If there is just going to be a house built there, the Malchow's are happy with that.

Chairman Schultz reminds everyone that this project requires a SEQRA review.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board issues a **Negative Declaration** on the proposed Horst Minor Subdivision located on Rapids Road. This Unlisted Action involves a minor subdivision to create one

(1) new residential building lot in the Agriculture Flood Zone in conformance with the local Zoning Laws.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Chairman Schultz explained that a “negative” declaration means this project will not have a significant impact on the environment.

ACTION:

Motion by Wendy Salvati, seconded by Paul Shear, to **approve** the minor subdivision application of Jesse Horst to allow for the creation of one (1) additional residential building lot in the Agricultural Flood Zone.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 3

Rivera Greens
Open Space Design Subdivision

Requests Clarification of Previous Development Plan Approval Condition Related to Sidewalks on One Side of the Street.

DISCUSSION:

Jim Callahan provides the background on the project. It is located on the north side of County Road, east of Stahley Road. It is a previously approved Development Plan for an Open Space Design Subdivision. The applicant has proposed some changes to the approved Development Plan and is seeking approval/clarification on previously approved conditions.

Chairman Schultz said the only issue from the previous Development Plan that the applicant has sought relief from was a requirement to have sidewalks on one (1) side of all the streets. The specific request is that the Town only require sidewalks on the west edge of Rivera Way to connect from County Road back to the sub-road.

Terrence Finn, of County Road, asked to see a picture of the windmill and asked what the sound decibels will be.

Chairman Schultz said the windmill is an as-of-right use in that area. The Town Code requires that any windmill have a noise level that is no greater than the ambient night time noise level, which is quiet in that area.

Mr. Finn voiced another concern stating the applicant has staked the property and has started to do work. Mr. Finn walked the property and said it looks like 60-70 trees are going to come down along his property. He asked what will happen to the trees that are on the property line, he would like them to remain. Chairman Schultz said the applicant said he will not remove any trees that do not need removing. One of the Town requirements is for the Landscape Committee to approve anything that goes on in that development with regards to trees; they will look into it. Mr. Finn said he is also concerned with water drainage in that area.

Mr. Shear asked if there is sufficient clarification on the tree farm. Chairman Schultz said the applicant said they will leave the trees back there just the way they are and they will discuss a tree farm later.

ACTION:

Motion by Robert Sackett, seconded by Wendy Salvati, to **approve** a clarification to item three (3) of the approved Development Plan authorized by the Town Board on December 1, 2010, as follows:

-Installation of a sidewalk on the west side of Rivera Way from the right-of-way at County Road to the stub road at the northern property line.

-reiterate the additional condition specified by the Planning Board on November 11, 2010 as follows:

- 1.) The underground pipe from the pond at the front of the property to the property to the west will be removed, sealed or otherwise addressed as soon as possible to prevent drainage issues.
- 2.) The Landscape Committee will approve the removal of trees and shrubs on the lot.

ON THE QUESTION:

The following conditions to the Development Plan Approval are all in effect and will be included in the record as part of the motion:

- 1.) Landscape Committee Approval required for Development Plan and to include a minimum of one (1) tree per lot.
- 2.) All applicable fees with the Recreation Fee established at \$1,000 per lot.
- 3.) Installation of a sidewalk on the west side of Rivera Way from the right-of-way at County Road to the stub road, this is the only sidewalk required.
- 4.) Final Homeowners Agreement to specify and define locations and maintenance of common areas and to be reviewed and approved by Town Attorney.
- 5.) Setbacks: 25' front and 15' rear, with utility approval; 7' side yard setback for interior lot section and 10' side yard setback for all others.
- 6.) 2,500 square foot maximum home size with 25% of total lots up to 2,700 square feet.
- 7.) The applicant has requested day light windows be allowed as a component of the proposed home construction. As the consideration of day light window basement foundations will not impact the overall square footage of living space as previously approved and does not require an amendment to the existing approved subdivision grading and drainage plan, day light windows are allowed provided the associated individual lot grading and drainage plans are reviewed and approved by the Town Engineer.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED

Item 4

Master Plan 2015

Discussion on Items Referred by Town Board at Annual Public Hearing on Master Plan 2015, held February 23, 2011.

DISCUSSION:

Chairman Schultz explained that every year the Town Board hosts a meeting where anyone can propose changes to the Master Plan. There are three (3) requests that came up at the Town Board meeting.

Jim Callahan said the following are proposed Master Plan 2015 amendments that were identified at the annual review held on February 23, 2011. The Town Board referred the proposed amendments to the Planning Board for review and recommendation. This represents the Planning Board's first opportunity to publicly identify those referrals.

The first proposal is related to the area along Transit Road in the Commercial Zoning classification north of Roll Road. It involves a request from an applicant to construct senior housing on that property. This will most likely require a Master Plan amendment and possibly a zoning amendment and will be identified as the project is submitted for formal review.

The second proposal is a request from a homeowner in Clarence Center to look at changing the zoning classification that exists along Goodrich Road from Residential Single Family to Traditional Neighborhood District. The request is related to the Traditional Neighborhood District of the Clarence Center area; however it is isolated from that area. The applicant is looking to build some higher density residential units on the property. The applicant would need the zoning re-classification to accommodate that proposed use. The Planning Board may want to consider extending that Traditional Neighborhood District throughout the Clarence Center Hamlet.

The final request is from the Oakwood Drive residents and the Harris Hill Gardens area of Clarence looking to change the zoning from a property that fronts onto Harris Hill Road from Traditional Neighborhood District to Residential Single Family along Oakwood Drive. This represents the desire of the neighborhood to maintain the character of Oakwood Drive.

Chairman Schultz said the proposal for Transit Road is the site that created a lot of controversy last year when Bella Vista Group wanted to rezone that entire parcel to Major Arterial. The Planning Board did a lot of work on this and determined that the standard setback between significant Commercial use and Residential use, all along Transit Road, is approximately 300'. That proposal was sent back to the Town Board to initiate a SEQRA review; the Town Board did not initiate the review. It is important to know what the applicant wishes to do with the parcel. Mrs. Salvati said the Planning Board clearly determined that the 180' area would qualify for rezoning, she does not think this needs to be revisited again. The Planning Board should look at what is currently being proposed.

Chairman Schultz said the second request looks like “spot zoning”. Mrs. Salvati said this gives the Planning Board an opportunity to take the Traditional Neighborhood Zoning and apply it over a larger area.

Chairman Schultz said the history of the third request needs to be looked at. Mrs. Salvati said if the zoning is split off to be zoned back to Residential Single Family, the size must be considered. How large does it need to be to enable it to meet the requirements for a septic system and then what does that leave behind for commercial development and is that a large enough piece to make it a useful piece.

Chairman Schultz noted that the Town Board has the authority to change the Master Plan, so the Planning Board’s authority is for recommendation only. All of the proposed changes will require a coordinated review under SEQRA.

Meeting adjourned at 8:24 p.m.

Carolyn Delgato
Senior Clerk Typist