

Town of Clarence  
Joint Meeting Minutes  
Wednesday April 30, 2008

**Agenda Items 7:00 p.m.**

**Item 1**

Old Business- Items from the last Joint Mtg.  
-Landscape Committee, Training, Sign Law,  
TEQR law amendment.  
-Traffic Safety Committee

Gerald Drinkard

George Van Nest

**Item 2**

Master Plan 2015 review-status

Albert Schultz

**Item 3**

Storm Water - update

Joseph Latona

**Item 4**

Architectural Standards – Commercial Law  
changes

Timothy Pazda

**Item 5**

Sewer District Update

Supervisor Scott Bylewski

**Item 6**

Branding Clarence-Variou (e.g. Stone Walls,  
other)

Supervisor Scott Bylewski

**Item 7**

Other Committee updates (optional)

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**Item 8**

Open discussion if time allows

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**Item 9**

Next Joint Meeting-2009

To be scheduled

Town Board Members Present:

Supervisor Scott Bylewski  
 Councilman Bernard Kolber  
 Councilman Peter DiCostanzo

Councilman Joe Weiss  
 Councilman Patrick Casilio

Planning Board Members Present:

Chairman Gerald Drinkard  
 2<sup>nd</sup> Vice-Chair Timothy Pazda  
 Richard Bigler  
 Gregory Todaro

1<sup>st</sup> Vice-Chair Wendy Salvati  
 Jeffrey Grenzebach  
 Albert Schultz

Town Officials Present:

Director of Community Development James Callahan  
 Planner Brad Packard  
 Town Attorney Steven Bengart  
 Deputy Town Attorney David Donohue  
 Town Engineer Joseph Latona  
 Assistant Town Engineer Timothy Lavocat

Other Interested Parties Present:

TEQR Committee Member Paul Shear  
 TEQR Committee Member John Moulin  
 ZBA Member Hans Mobius  
 ZBA Member Daniel Michnik  
 Economic Development Officer Steven Stark

Supervisor Scott Bylewski called the meeting to order at 7:00 p.m. Gerald Drinkard led the pledge to the flag.

Supervisor Bylewski explains this meeting is a work session so there is no public participation. He notes that there are no members of the public, besides members of various Town Committee's, in the audience. Supervisor Bylewski thanks all Board/Committee members who are in attendance for making time to be at this meeting.

**Item 1**

Old Business- Items from the last Joint Meeting, Gerald Drinkard  
 Landscape Committee, Training, Sign Law and  
 TEQR law amendment.

**DISCUSSION:**

Chairman Drinkard reported that at the 2007 Joint Meeting the Landscape Committee was in need of a third member. At that time the Landscape Committee only met once a month, this was not enough as landscape reviews could not be processed in a timely manner. A third member was obtained

but quickly resigned because the Committee changed the meeting schedule to meet on an as needed basis and the member's schedule could not accommodate this change. Chairman Drinkard commended the Building Department for their follow through right to the end. The Landscape Committee now has a paper trail for its review of projects and a monthly status report as well. There is still an opening on the Landscape Committee; Chairman Drinkard is looking for an arborist or an individual with a professional landscape degree that might be interested to volunteer for the Landscape Review Committee.

Chairman Drinkard reported that many Committee/Board members took advantage of the nine (9) course land use training manual; this manual has been updated. As a reminder, all members must obtain four (4) hours of training each year for certification. All the Planning Board members are certified along with a few members from the TEQR Committee and the Zoning Board of Appeals. The March 17, 2007 Town Board meeting minutes will list different types of training that are acceptable for certification. Updated Land Use Manuals are available in the Planning and Zoning Office.

Chairman Drinkard explained the status of the proposed Sign Law. It was discussed at last years Joint Meeting and subsequently sent to the Chamber of Commerce for comment. Twice the Chamber was reminded that comments were requested; no comments were received. A number of public comments were heard at a Town Board meeting in October 2007. Research was done; Town Board Members met with members of the community and received good input. It is now in the hands of the legal department.

Jim Callahan reports that the Traffic Safety Committee has been revamped. When the Planning Board refers a project to the Traffic Safety Committee, a site plan is sent to each member electronically asking for their comments. As the comments are received they become a permanent part of the project file. To date, this procedure has worked well. George Van Nest is the Planning Board Liaison to the Traffic Safety Committee, he was unable to attend this evenings meeting. Councilman Casilio explains that weekly road reports are forwarded to the Highway Superintendent.

## **Item 2**

Master Plan 2015 review-status.

Albert Schultz

## **DISCUSSION:**

Albert Schultz reported the Town has received two (2) requests to consider rezoning two (2) parcels along the Transit Road Corridor. The requests have been referred to the Planning Board. Each parcel is zoned Major Arterial in the front and Residential in the back. The Planning Board identified and considered five (5) other parcels along the corridor that have the same zoning. The objective is to analyze the entire corridor from Greiner Road to County Road. South of Greiner Road is zoned Major Arterial with big heavy-duty business. North of Griener and north of Swormville was rezoned to Restricted Business and Major Arterial. The corridor was broken into segments. In each segment the Planning Board went property by property to identify what is currently there and what zoning category it would fit in. They considered current use patterns and longer term objectives, then segment by segment see if there was any recommendation in order. The current status is that it has been discussed at three (3) open Planning Board meetings. At the last meeting a motion was passed recommending a rezoning for the segment from Greiner Road to County Road, including the seven (7) individual parcels, be forwarded to the TEQR Committee for SEQR review.

A notebook that contains an explanation on the various segments has been distributed to Town Board and Planning Board members. The first segment is between Griener Road and Roll Road. The current zoning is primarily Major Arterial. In each section there is a diagram that shows how the parcels are actually used and what zoning category it fits. Virtually 100% of the businesses are Commercial in nature. The Amherst side is Major Arterial. The recommendation of the proposed amendments will be to have Major Arterial Zoning remain all the way from Wehrle Drive to Roll Road. Within the contents of the notebook is also a diagram that shows what is in that corridor, business by business. There is a photo of two (2) parcels that are side by side that are zoned Major Arterial in front and Residential in back. The photograph is from the Erie County web site and shows where federal wetlands are located. The Planning Board believes the best use of these two (2) parcels is to leave it the way it is.

The next segment goes from Roll Road to Clarence Center Road. This area drops down significantly to smaller businesses. About two thirds of the parcels would fit into the Commercial category and one third would be Restricted Business. The Planning Board recommends down zoning the area from Roll Road to Clarence Center Road to Commercial zoning. There are two (2) properties interconnected that are basically zoned Commercial in front and Residential behind. Supervisor Bylewski asked if the setbacks have been looked at and are they adequate. Mr. Schultz said they have not been looked at specifically, but the general idea is that the setbacks are further and will probably be acceptable. Supervisor Bylewski would like the Planning Board to review the setbacks before the recommendation goes to the Town Board. The Planning Board does not think this segment fits Major Arterial. Chairman Drinkard said when down zoning takes place it affects the Sign Law as well; it will be executed at a lower level with smaller dimensions.

The next segment runs from Clarence Center Road to Miles Road. About 70% to 80% of the businesses in this segment, with exception to the Sunoco station and the Buggy Wash, are almost all Restricted Business type uses. If this segment is down zoned to Restricted Business there would be about four (4) or five (5) non-conforming preexisting Commercial type uses. This particular segment is the most attractive length of Transit Road between Lancaster and Lockport. The Planning Board thought the best way to protect this section of Transit Road is to down zone it to Restricted Business and deal with the non-conformances as they turn over. There are two (2) significant parcels that are Commercial in front and Residential in back. The first proposal is the Roy Jordan proposal which was submitted to the Town Board and referred to the Planning Board and subsequently to the TEQR Committee. The Planning Board believes that, to make the best use of this parcel, it should be rezoned to Restricted Business in its entirety. Some proposed offices may need a Special Exception Use Permit due to the size. There were several positive comments from the neighbors in the area. One negative comment was received by an individual who does not live in the area; he was concerned with the depth of a Commercial lot along the Transit Road Corridor and that other lots may increase to the same depth. Councilman Casilio voices his concern with this area being wall to wall blacktop. Mr. Schultz explains that the Restricted Business guides require a 45' green belt. Mr. Jordan's proposal was for parking in the middle and the office buildings on the outside. Timothy Pazda reminds everyone that the Restricted Business Zone requires a larger buffer than the Residential Zone. The next property that was considered is the property behind Pautler's which has Federal and State Wetlands and it is floodplain; the Planning Board believes this area needs to remain Residential.

The last segment runs from Miles Road to County Road. Currently this area is zoned Major Arterial, the actual use is some Commercial and Restricted Business. The Amherst side is Commercial. The proposal from Frank Deni is to extend the Commercial back and maintain the entire back of that property as a conservation easement and leave it all natural woods. The Planning Boards

recommendation to TEQR is to down zone from Major Arterial to Commercial and grant the request as indicated. Most residents who attended the Planning Board meeting objected to the proposal. There were basically three (3) types of objections: residents who don't want to do anything different, residents who are concerned with the access on to Miles Road, and residents who are concerned with two (2) properties because the original proposal was to put a parking lot in the area where there are woods; the Planning Office revised the proposal to maintain that area as Residential.

Councilman Weiss said he would like to see taxes come out of areas close to Transit Road rather than putting homes where there will be school children. The landscaping needs to be looked at because the Ash trees that border the property may be gone in a few years.

Mr. Pazda explains that the rezoning is a work in progress.

### **Item 3**

Storm Water – update.

Joseph Latona

### **DISCUSSION:**

Town Engineer Joe Latona explains that the USEPA Stormwater Phase II program is currently in effect. The ultimate goal is to protect water quality to the maximum extent possible. The Phase II covers municipalities under 100,000 people; this applies to the Town of Clarence. The enforcement comes in to effect with Development Plan and site plan submittals. The EPA has required six (6) minimum control measures. Public outreach is one measure; subsequently the Engineering Department has been present at various happenings in the Town with pamphlets available. The backbone of the Illicit Discharge Detection and Elimination Requirements is developing an ordinance that prohibits illicit discharges into the system. Public hearings were held for this ordinance and the Town Board passed it.

The construction site run-off control is another on-going facet. This would be an ordinance that requires sedimentation and erosion controls.

The Engineering Department is requiring submittals by developers as it will be part of the Engineers review process.

The DEC is currently discussing sampling for various parameters in the storm water. They discussed phosphates and acceptable limits.

Any time the Town Board members or the Planning Board members have questions, Mr. Latona encourages them to visit the Engineering Department.

In response to Councilman Weiss's question as to who monitors injection wells, Mr. Latona said his department does this; then they send a report to EPA. With regards to projects, the Town's Engineering Department will require a report every five (5) years advising that the well has been cleaned and it is working.

Mr. Pazda voices his concern regarding the maintenance of the wells once the developer sells the property to private individuals; these individuals or Homeowners Associations then become responsible for the wells and they may not be aware of their responsibility. Enforcement becomes an issue. Councilman Bylewski asked if there is an effort that will be taken in coordination with the

engineers and the attorney's office to contact these pre-existing associations. Town Attorney Steven Bengart said it would have to be voluntary.

Mr. Latona said another issue that needs to be addressed is public water running through private ditches.

Mr. Latona said the official position of the Town is their preference of a wet basin over a dry basin as they are easier to maintain.

#### **Item 4**

Architectural Standards –  
Commercial Law changes.

Timothy Pazda

#### **DISCUSSION:**

Timothy Pazda explains that the intent to revise the code was to provide developers with more information up front, prior to submitting a proposal to the Town. Its intent was also to keep the character of the community in tact. Mr. Pazda commends the Planning Department for their work on this law. Numerous revisions were made to make it simple; the proposed changes are one meeting away from recommendation to the Town Board. The changes began with trying to protect Main Street but evolved into protecting all Commercial areas.

Councilman Kolber suggested having overlay districts with an Architectural Review Board.

Supervisor Bylewski said one issue under the Master Plan was for the different hamlets to have their own Community Character Protection Board. The Hollow has a Board and there is some interest in Harris Hill.

Richard Bigler said it has been proven at the Planning Federation meetings that the better building/structure ultimately generates more money. This information should be passed along to the developer.

Councilman Kolber asked if the architectural review could be placed under the auspices of the Planning Board.

Further discussion ensued regarding protecting the hamlets and strengthening the code with regards to architectural standards.

Chairman Drinkard said the next step is to put the proposed changes for the Commercial section into the Restricted Business section.

#### **Item 5**

Sewer District update.

Supervisor Bylewski

#### **DISCUSSION:**

Supervisor Bylewski explained that approximately a year and a half ago the Town of Clarence was approached by the Erie County Sewer District #5 about a possible merger between the Clarence Sewer Districts and Erie County Sewer Districts. Discussions went on last year but when it came time

to have all information gathered it was too late for the merger. There was also discussion regarding a merger between all sewer districts of the Towns of Clarence and Amherst, the Village of Williamsville and Erie County Sewer District #5. These discussions are on-going. The Town of Clarence is still pursuing possible merger with Erie County Sewer District #5; the numbers look beneficial. If there is a merger the Town would like some say in the entity regarding any further development that would occur in the Town that would be sewerred. The other area looking to be sewerred is Harris Hill. There is an issue in the Town that some developers have been obtaining letters from Erie County Sewer District #5 saying there is capacity in the Town for their project. The letters were issued without Erie County talking to the Town. A mitigation measure may be to have Erie County buy into the Town's Adequate Facilities Law and get them to discuss a level of service.

**Item 6**

Branding Clarence-Variou  
(e.g. Stone Walls, other).

Supervisor Bylewski

**DISCUSSION:**

Supervisor Bylewski said the question of how the rural character of the Town can be preserved has often been asked. How can the Town Board help promote a better sense of recognition of the Town? Steven Stark is doing research on obtaining grants for stone walls. Supervisor Bylewski asked if there are any other features anyone would like to see promoted. Wendy Salvati would like to see more trees saved and/or added. When a project is submitted, the trees to be saved are marked, however that does not always ensure their safety, there is an enforcement issue here. Wendy Salvati thinks every site should be photographed before it is cleared for a project. Councilman Weiss said the Town should ask developers to put in hard trees as opposed to soft types. Wendy Salvati encourages the Town Board members not allow developers to clear their project site ahead of time.

**Item 7**

Other Committee updates (optional).

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**DISCUSSION:**

Daniel Michnik explains many residents are installing stand-by generators and need a variance for the placement of the unit. Height variance on accessory structures is also a common request. Jim Callahan said a generator is treated as an accessory structure when it comes to code requirements for placement. Hans Mobius suggests changing the code so a generator would not be considered an accessory structure. Jim Callahan explains that it is important to let the neighbors know of a generator being installed and the ZBA procedure is the best mechanism to accomplish this. Town Attorney Bengart said the ZBA is doing a tremendous job in making sure the neighbors are looked out for when any accessory structures come before the Board. Deputy Town Attorney David Donohue said a generator is treated differently than an outdoor air conditioning unit.

Paul Shear said the TEQR Committee is dealing with questions on Sewer Districts #5 and #6. Town Attorney Bengart said there was a Sewer meeting today and the discussion included the letters that Supervisor Bylewski referred to under agenda Item #5 and capacity of the sewers.

**Item 8**

Open discussion if time allows. --

**DISCUSSION:**

Deputy Town Attorney David Donohue is concerned about the e-mails that are being sent to and from Board members. His first concern is that it is a violation of the Open Meetings Law. He suggests a public letter be utilized as opposed to e-mail; this will become part of the record. The second concern is litigation; the e-mails could be used against the Town. Town Attorney Bengart agrees with Deputy Town Attorney Donohue. Wendy Salvati asked if it would be legitimate if when she sends an e-mail to ask to have it be made part of the record. Deputy Town Attorney said, "Yes." and went on to suggest being very careful what is in the e-mail since it will be public record.

Chairman Drinkard explains the on-going Land Use training that has been mandated by the State. The Town Board minutes of March 7, 2007 lists a number of sources available, the State mandates 4 hours of training per member per year.

Town Attorney Bengart reminds all members of all Boards and Committees that the Chairman of each should recognize the person who is speaking at their respective meeting(s) or ask the speaker to state their name for the record. Legally the speaker does not have to provide an address.

Mr. Schultz commends Mr. Packard on his leadership at a recent Planning Board meeting.

Mr. Michnik asked if there is a list of seminars the Board can produce with regards to training for the State mandated hours of Land Use Training. He also advises that two (2) members of the ZBA have completed and passed the Land Use Training Course.

Mr. Pazda said there is a New York Planning Federation seminar at Saratoga Springs in the Fall of 2008.

**Item 9**

Next Joint Meeting - 2009.

To be scheduled.

Councilman Bylewski thanks everyone for attending and advises the next Joint Meeting is tentatively scheduled for April 29, 2009.

Meeting adjourned at 8:51 p.m.

Carolyn Delgato  
Senior Clerk Typist