

Town of Clarence
Planning Board Minutes
Wednesday May 7, 2008

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

Doodle Bugs
Restricted Business

Requests Concept Plan Approval and
Recommendation on Special Exception Use
Permit at 8574 Sheridan Drive.

Item 2

Master Plan 2015 Amendments
Harris Hill Road Corridor

Recommendation on Master Plan 2015
Amendments.

Item 3

Lou Visone
Traditional Neighborhood District

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

Item 4

Open Space Design Overlay/Incentive Lot Design
Amendments to Zoning Law

Recommendation.

Chairman Gerald Drinkard called the meeting to order at 7:30 p.m. Director of Community Development James Callahan led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard
Jeffrey Grenzbach
Richard Bigler
Gregory Todaro

1st Vice Chairperson Wendy Salvati
George Van Nest
Albert Schultz

Planning Board Members Absent:

2nd Vice-Chairman Timothy Pazda

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:

Robert Blood	Anthony Insinna
Eric Carpenter	Michael Fuchs
Joe Smerecak	Margaret Kiesel
Michael T. Metzger	

Chairman Drinkard explains that, with the absence of Timothy Pazda, Gregory Todaro will be filling in for him and voting on all agenda items.

Motion by Jeffrey Grenzebach, seconded by Wendy Salvati, to **approve** the minutes of the meeting held on April 16, 2008, as written.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	George Van Nest	Aye
Jeffrey Grenzebach	Aye	Wendy Salvati	Aye
Gerald Drinkard	Recuse		

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 all items. 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

Doodle Bugs	Requests Concept Plan Approval and
Restricted Business	Recommendation on Special Exception Use
	Permit at 8574 Sheridan Drive.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the north side of Sheridan Drive, west of Meadowbrook Road. The property consists of approximately 6.5 acres. It was initially introduced to the Town Board on December 19, 2007 and referred to the Planning Board. After

thorough review a Negative Declaration under SEQRA was issued by the Town Board on April 22, 2008. The applicant is present.

Robert Blood, of Lauer-Manguso Architects, and Anthony Insinna, owner of the Doodle Bugs Corporation, are present.

Chairman Drinkard said the project elevations have sustained themselves throughout the process. Mr. Blood said the façade is in keeping with the neighborhood. Chairman Drinkard explains that the applicant will need to obtain Landscape Review Committee approval. He also suggests a stacked stone wall.

Mr. Blood describes the sign as a ground mounted internally lit sign that is perpendicular to the road visible from both sides, the site lighting will be off by early or late evening. All the businesses will be on one sign.

Wendy Salvati refers to a letter that was submitted by one of the neighbors; she believes the neighbor’s concerns have been addressed.

Anthony Insinna said the day care center closes around 7:00 p.m. and the other office buildings will close around 5:00 p.m. or 6:00 p.m. There may be some Saturday hours for the offices. The garbage disposal pick-up will be worked on and will most likely be during the day. The snow removal is difficult to work with and will depend on when the snow falls.

Engineering approval will need to be obtained.

ACTION:

Motion by Jeffrey Grenzebach, seconded by Richard Bigler, to **recommend** Concept Plan Approval for the Doodle Bugs Day Care Center at 8574 Sheridan Drive. The Town Board shall proceed with the Public Hearing with regards to a Special Exception Use Permit.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	George Van Nest	Aye
Jeffrey Grenzebach	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 2

Master Plan 2015 Amendments
Harris Hill Road Corridor

Recommendation on Master Plan 2015
Amendments.

DISCUSSION:

Jim Callahan provides the background on the Master Plan 2015. It was adopted in August 2001. As a part of the Master Plan a system has been put in place to ensure that the document remains current. The system involves an annual Public Hearing to allow public comment on any portion of the Plan. This years Public Hearing was held on February 27, 2008 and identified several matters that have been referred to the Planning Board for review and comment. A specific request under

consideration this evening is a request from a property owner along Harris Hill Road, north of Greiner Road to change the Master Plan from Residential to a Commercial classification. The Planning Board is looking at the entire Harris Hill Corridor to ensure compatibility exists with any proposed changes considered. The applicant who requested this amendment is present.

Albert Schultz refers to the power point presentation that is on display and explains the slide that shows a segment of Harris Hill Road from Sheridan Drive to Roll Road; the slide depicts what is in the Future Land Use Plan and what the actual use is of the area. Most of the Future Land Use is Residential in this area. There is some level of Commercial use between Greiner Road and Sheridan Drive. There are Public Facilities south of Greiner Road. There is also Industrial Business Park use between Roll Road and Greiner Road. The slash marks on the slide indicate vacant land. Mr. Schultz explains the proposal is to extend Business Park Zoning in the northern part of this segment and proposed Commercial Zoning in the lower corridor. A concern that the Planning Board needs to address is the residences that are scattered throughout the parcel; what can be done to protect them from encroachment of Commercial use. The Planning Board is also concerned with the Federal and State Wetlands that are in the area; the wetlands cut into the heart of the proposed Business Park and down into the Commercial District. An accurate delineation of the wetlands would be required prior to any further movement towards a proposal.

Michael Metzger, of Metzger Civil Engineering, is representing the applicant. He asked Mr. Schultz for clarification on the Community Facilities definition; it is clarified that churches and parks fall within the parameters of the definition. Chairman Drinkard goes on to explain that the Planning Board is looking at the entire corridor in order to protect the people that are already in that corridor, whether it is residential or business use.

Mr. Metzger explains that his client owns approximately 200 acres. He refers to the two proposals he has submitted. The first is to extend the opportunities for the business park itself, which is north of the property in question. The second is to open business opportunities for the area along Harris Hill Road, just north of Greiner Road. Mr. Metzger said the proposals are a natural progression, rather than having residential tucked in between the two areas. He goes on to explain that the Master Plan encourages Business Park development in the Roll Road/Harris Hill Road area; he believes the proposal will be consistent with the text of the Master Plan. Mr. Metzger also brings attention to the sanitary sewer system; however he is not sure how it will play out in the future as there are no grand designs for the proposal at this point. Chairman Drinkard explains that the sanitary sewer system and rezoning are mutually exclusive. Wendy Salvati explains that if the Master Plan is changed, subsequently the Zoning Map has to change to match the Master Plan. Mr. Metzger said currently the Master Plan and the Zoning Map are not consistent and asked if this is being changed. Jim Callahan said the Future Land Use Map is broad brush; it's all use specific and both maps are compatible with each other. He goes on to clarify by saying the Future Land Use Map identifies broad brush uses that would be acceptable in a zoning classification and the Zoning Map restricts it further down as to specifically what land uses will be allowed.

Richard Bigler asked the applicant how he plans to mitigate the wetland area that lies within the area in question. Mr. Metzger has not reached that point yet; he does not think his client would propose any mass change or fill to the wetland area; he would work around the area. Mr. Metzger said he will work with the Town Board, Planning Board, DEC and the Army Corp of Engineers regarding the wetlands area.

Chairman Drinkard asked how the “delinking” of the residential area along Harris Hill can be justified if the request of the applicant is granted. Mr. Metzger said the use will be the same on both sides of the road.

Mr. Schultz asked if Mr. Metzger’s client owns all the existing residences in the area. Mr. Metzger said no. Mr. Schultz asked how Mr. Metzger would feel if someone suggested changing the area he lives in to a Commercial corridor; Mr. Schultz would not like this if it was done to him. Mr. Metzger said there are always properties adjacent to development that are uncomfortable with it. Mr. Metzger compares this situation to that of Main Street, where there are both businesses and homes.

Mr. Van Nest asked if the conceptual analysis would propose to service the needs of the immediate residential area as opposed to traveling to Transit Road, Main Street or Sheridan Drive. Mr. Metzger said that could be an opportunity; there is no specific project in mind.

Mr. Metzger continues his presentation by saying the Harris Hill/Roll Road area was identified in the Master Plan as an area that makes sense to bring sanitary sewers service to; this opens up pressures for the Town, land owners and residential development. By assigning a commercial zone to the area in question it will minimize the dense residential development that may occur when the sewer system is installed. Sustainable business and the commercial tax base will be encouraged. There are natural protections built into the code that would minimize adverse impacts of the business development.

Gregory Todaro reads a letter dated May 7, 2008: “Per our conversation earlier in the week, please read on my behalf at the Wednesday, May 7, 2008 Planning Board Meeting our following concerns regarding the proposed rezoning and building of commercial property off of Harris Hill Road, between Greiner and Roll Roads: We built our home on Coyote Court with the intent to live in a neighborhood zoned as residential, not commercial; the proposed change would allow for commercial development literally in our neighborhood backyards, only separated by Harris Hill Road. Harris Hill Road is presently overburdened with vehicles currently seeking an alternative North-South Route to avoid Transit Road. As Clarence does not have a Police Department, this road is seldom to never patrolled by either the State Troopers or the Erie County Sheriff’s Department resulting in habitual speeding on this street, which dangerously backs up directly to our Coyote Court backyard(s). This causes concern for our and our neighbor’s safety and quality of living. The proposal to rezone and build commercial property and/or office parks would only increase our concerns from the additional traffic, the traffic noise levels and exhaust fumes on this street and resultantly in our backyards. Our present aesthetically pleasing backyard views of unoccupied wet lands would be replaced by a view of commercial buildings and a “freeway” of traffic, noise and fumes called Harris Hill Road. A decrease in our neighborhood and our home’s property value could only be expected with the proposed changes to zone the area commercial. I highly doubt that whatever taxes this change would derive would off-set the deterioration in our neighborhood’s appearance, property values and undue traffic, noise and fumes in our backyards and in the Town of Clarence in general. I hope these concerns will be seriously reviewed by the Town Planning Board as they consider this amendment. Please feel free to address any questions or remarks regarding the above directly to us; we would welcome the opportunity to further express our disapproval on this rezoning and commercial development issue. Thank you for your time and consideration. Sincerely, Lisa Urso and Dick Batterson.” The letter is on file.

Lou Visone, owns land in Clarence, and said the tax base should be look at in the next 10 years to see if his children will be able to afford to live in Clarence at that time. The tax base can be helped with commercial buildings.

ACTION:

Motion by Chairman Drinkard, seconded by Wendy Salvati, to **table** agenda item number 2.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	George Van Nest	Aye
Jeffrey Grenzebach	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 3

Lou Visone
Traditional Neighborhood District

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

DISCUSSION:

Jim Callahan provides the background on the project. It is located on the north side of Main Street, west of Overlook Drive and consists of approximately 8.9 acres. It is in the Traditional Neighborhood District and is zoned Residential Single-Family to the rear of the property.

Lou Visone is present and apologizes for the delay in this presentation. He has owned the land for 8-9 years and has received some requests for lot purchases to use as offices; he thinks an office park would benefit the area.

Chairman Drinkard said the Subdivision Law applies to this proposal; the applicant needs to review this law. The back end of the property is zoned Residential Single-Family, the front end is zoned Traditional Neighborhood. The proposal is for buildings as far back as possible on the parcel; it appears that the applicant did not pay attention to the zoning. The subdivision will have to be redesigned to avoid the Residential Single-Family Zone; the applicant may also seek a rezoning for this area. Wendy Salvati points out that if the Residential Single-Family Zone remains as is a 45' buffer is required.

Chairman Drinkard requests a print showing adjoining properties because the proposal must comply with established setbacks. Ms. Salvati refers to the Subdivision Law section 193-20 (G) of the Town Code which requires lots to be setback 200' from the road. She asked if the road will be public or private. She also advised the applicant that the first action for this proposal is to approve the subdivision.

Chairman Drinkard asked if the applicant plans on selling off the lots or will he keep possession of it all. Mr. Visone said he will sell the lots. Mr. Visone is aware that he will need a business owner's agreement/association.

Michael Metzger, of Metzger Civil Engineering, is representing the applicant. He said that NYS Realty Subdivision Law does not apply to commercial property; it is clarified by various Planning Board members that it is the Town's Subdivision Law that applies to commercial property.

Jim Callahan said the question is if the proposal is for a public road and if so then it is a major subdivision per Town Law. If it is a private road, the proposal could be considered an Open Development. This will need to be addressed in the future. Mr. Metzger asked if the same requirements apply whether the proposal is considered a Subdivision or an Open Development. The question could not be answered at this time. Mr. Metzger said the original intention was for a public road, but if there are too many problems a private road would be considered. He also said the applicant may ask to waive the 200' setback requirement.

Chairman Drinkard points out that the applicant will need a septic system, since there are no sewers in the area. Section 193-24 of the Subdivision Law indicates individual septic systems shall not be used in developments that have more than four (4) lots; one (1) septic system is allowed. Ms. Salvati refers Mr. Metzger to Section 193-21 which is specifically for non-residential lots.

Ms. Salvati said other concerns of the Planning Board are the natural resources, the vegetation on the site and the potential for wetlands. The Planning Board will request a wetland delineation and a tree survey. Mr. Metzger said a wetland delineation was done and submitted to the Corp of Engineers; there are no jurisdictional wetlands on the property. Mr. Metzger has a letter stating this information. The letter is from June 5, 2003; Chairman Drinkard said a current letter is required. Ms. Salvati said the DEC typically wants a delineation letter updated every five (5) years.

Chairman Drinkard points out that there are no retention ponds on the plan. Mr. Metzger said the plan is preliminary. Albert Schultz explains that Phase II of the Storm Water Regulations applies.

Chairman Drinkard recommends the applicant look into shared access on both east and west sides of the property.

Jeffrey Grenzebach asked if the existing house will be demolished. Mr. Visone said it will come down eventually.

Chairman Drinkard points out a swale at the north end of the property, Mr. Visone said he intends on making that part of the retention facility. Mr. Metzger said there is a huge gaping hole on site that the water from the swale empties into.

Chairman Drinkard said 8% internal greenspace for the parking lot will be required. The applicant will also need space for a dumpster and garbage disposal vehicles.

Mr. Grenzebach asked if the buildings will be sprinklered or will a water line be brought back to the buildings. Mr. Visone said a water line would be brought back.

Richard Bigler asked if there is any chance of the proposed buildings sinking. How would the applicant address this question with the buildings that are located near the gaping hole on the property? Mr. Visone said there will be tests done ahead of time; he has not had these tests done yet. Mr. Metzger said this work will be done at the appropriate time; however, the ground is solid in this area.

Mr. Visone envisions this proposal to be some place where the kids can walk to the Doctor's office.

Jim Callahan reminds the applicant that he needs to decide on whether this proposal will be a Subdivision or an Open Development. Mr. Visone said he will take the path of least resistance.

ACTION:

Motion by Richard Bigler, seconded by Albert Schultz, to **table** agenda item number 3.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	George Van Nest	Aye
Jeffrey Grenzebach	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 4

Open Space Design Overlay/Incentive Lot Design Recommendation.
Amendments to Zoning Law

DISCUSSION:

Jim Callahan provides the history on the project. The Town Board referred this portion of the Zoning Law to the Planning Board for review and recommendation to include Incentive Lots. Within the recommendation the calculation and application of density is clarified.

Chairman Drinkard refers to the draft copy of sections 229-49 and 229-108 of the Zoning Law. The last sentence on the last page under section 229-108 (C) is stricken from the paragraph.

Chairman Drinkard worked through a few examples of the recommended density calculations and applies them to various projects; the calculations worked appropriately.

Jim Callahan said the recommended changes provide a compromise; the Incentive Lot Design, while still maintaining 25%, will encourage larger lots. It also gives the Planning Board flexibility.

ACTION:

Motion by Chairman Drinkard, seconded by George Van Nest, to **recommend** the Town Board pursue adoption of the amendment to the Zoning Law with reference to the Open Space Design Overlay/Incentive Lot Design with the appropriate environmental review.

ON THE QUESTION:

Deputy Town Attorney David Donohue asked if it is possible for a lot to be in a public sewer district and not be sewered. Wendy Salvati said yes. Deputy Town Attorney David Donohue clarifies that an Incentive Lot Design could not be done unless sewers are going there.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	George Van Nest	Aye
Jeffrey Grenzebach	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Meeting adjourned at 8:55 p.m.

Carolyn Delgato
Senior Clerk Typist