

Town of Clarence  
Planning Board Minutes  
Wednesday May 19, 2010

**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**

Clarence Sewer District #2/Shadow Woods  
Subdivision

Requests approval for the construction of a new gravity sewer line on the west side of Goodrich Road north of Via Cimato Drive and Pinyon Court in the Pine Breeze Subdivision.

Chairman Al Schultz called the meeting to order at 7:30 p.m.

Deputy Town Attorney David Donohue led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz  
Timothy Pazda  
Richard Bigler

Vice-Chairperson Wendy Salvati  
George Van Nest  
Gregory Todaro

Town Officials Present:

Director of Community Development James Callahan  
Assistant Town Engineer Timothy Lavocat  
Deputy Town Attorney David Donohue

Other Interested Parties Present:

Joe Weiss  
Robert Sackett  
Bill Kicman  
F. Scott Massey  
Joanne Wagner  
Joseph J. DiLiberto  
Eric Grajek  
Kim Hermance

George Hermance  
Tom Hanifin  
Tony Dominguez  
Michael Bracci  
Paul Wagner  
Steve Fortunato  
Randy Schreiber

Motion by Timothy Pazda, seconded by George Van Nest, to **approve** the minutes of the meeting held on May 5, 2010, as written with the following corrections:

-Item #3, page 18, second paragraph, last sentence shall read, “There will be no curb cuts on **to Transit Road**”.

-Item #3, page 18, add the following to the last sentence on the page, “with the drainage design for the property to the rear of the site, which is now owned by the applicant.”

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Al Schultz	Aye

**MOTION CARRIED.**

Chairman Schultz notes that the Planning Board is a seven (7) member board. There have been five (5) appointments to the Board this year plus one appointment for the alternate position. Alternate Planning Board member Gregory Todaro will be participating in all discussions and voting on all agenda items this evening.

Chairman Schultz explains that the Planning Board is a recommending body that may vote to refer agenda items to other committees such as the TEQR Committee, Fire Advisory and Traffic Safety for their study and comment. A project may be tabled pending further information. 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 each project. 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**

Clarence Sewer District #2/Shadow Woods Subdivision

Requests approval for the construction of a new gravity sewer line on the west side of Goodrich Road north of Via Cimato Drive and Pinyon Court in the Pine Breeze Subdivision.

**DISCUSSION:**

Jim Callahan provides background on the proposal. It is located on the west side of Goodrich Road opposite Keller Road, it is parallel and north of Pinyon Court and Via Cimato Drive in the Pine Breeze and Beech Meadow Subdivision. The proposed upgrading involves the installation of gravity sewers to service the proposed Shadow Woods Subdivision and to eliminate an existing pump station in Clarence Sewer District #2 (CSD#2).

Timothy Lavocat, Assistant Town Engineer, explained that the proposal is to eliminate a proposed pump station and an existing pump station that is outdated. The Engineer’s office reviewed the pump station design for the proposed development and knowing that the failing Keller Road pump station will need to be replaced it was determined that a gravity sewer line could be utilized. It was realized

that the gravity line could service the proposed subdivision as well, eliminating the proposed pump station. Both the DEC and Erie County representatives walked the proposed route of the sewer. DEC has provided correspondence with conditions to the Town. The proposed location is the most direct route and will use the least amount of pipe. One of DEC's conditions is to keep the line along the south of the property because they do not want to fragment the existing wetland area by pushing it to the north. Another condition was to try and avoid as many mature trees as possible and restore the area. On the southern portion of the wetland is a 30' wide easement for the 8" sewer. The proposal is to work mainly with the northern 20' of that easement to try and maintain the existing scrub brush and the trees abutting the residential properties. The economic benefits for CSD#2 would be the installation of 3,100 feet of sewer at no cost to CSD#2, the elimination of the Shadow Woods pump station, which would cost between \$25,000 and \$30,000 annually for operation and maintenance (O&M). Another benefit is the future elimination of the Keller Road pump station, which will save CSD#2 approximately \$300,000-\$400,000 for capital improvement and the \$25,000-\$30,000 a year for the annual operation and maintenance. Pump stations are difficult to maintain and are very expensive, not to mention all the energy they use. This proposal is a fix to the long-standing problem of the Keller Road pump station. The 3100 feet of sewer, if the Town were to do it, would cost approximately \$350,000. To rebuild the Keller Road pump station would cost approximately \$350,000-\$400,000. There is no cost to CSD#2 for the 3100 feet of sewer. More planning needs to be done prior to shutting down the Keller Road pump station. The proposed project is a benefit to CSD#2. If the Keller Road pump station was replaced it would cost the CSD#2 users approximately \$400,000 plus any other costs. The sewer line would run through the southern end of the subdivision between two (2) lots and tie into the gravity line. Mr. Lavocat refers to correspondence from Charles Roseburg of the DEC dated April 27, 2010. The highlights of that letter are as follows: keep the sewer line along the southern edge of the woodland to minimize the fragmentation impacts, preserve as many large trees as possible, plant trees and shrubs for screenings south of the center line of the sewer, plant screening plantings and seed the easement when complete with a shade tolerant mix. There would be similar mitigation to the disturbed area that runs from the subdivision.

Deputy Town Attorney David Donohue clarifies that the Keller Road pump station serves only a portion of CSD#2. The cost for this project would be borne by all CSD#2 users.

Mr. Van Nest asked if the project is all open cut excavation, Mr. Lavocat said yes. Mr. Van Nest then asked if there is any way to do the project via directional drilling, Mr. Lavocat said no, not with the soils that are there and the equipment that would be needed.

Mr. Lavocat stated the project would take six (6) to seven (7) weeks, weather permitting.

Mr. Van Nest noted that a letter was delivered to the Planning and Zoning office dated May 19, 2010 on behalf of the residents of Pine Breeze Subdivision. The letter is on file.

George Hermance, of 9190 Via Cimato Drive, is opposed to this proposal. He asked that the Planning Board deny this request and table for further review as he believes there are additional alternatives that need to be analyzed. Based on the information he has collected, the proposed sewer line was the only gravity sewer line that was considered. A proper engineering environmental cost benefit analysis needs to be considered for a different alignment. Additional environmental quality review is warranted. The original proposal only impacted approximately 350' of wetland on the northern parcel boundary, now it will be impacting more than 1,000'.

Scott Massey, of 9220 Via Cimato Drive, would like to know what the other alternatives were. Since this is in his backyard he wants to know what the direct impact will be to his property. His backyard is a swamp and he asked what kind of machinery is necessary to excavate in a swamp. What will be the side effects of construction? There is always debris, pollution and leaks with construction. What is the sub-strata beneath? If there is solid rock, will there be blasting and how will that affect the homes in the area? Who will accept liability if there is damage to the homes?

Randy Schreiber, of 9210 Via Cimato Drive, asked if the presence of this proposed sewer line open up the wetlands for future development. If so, it would be wrong.

Tom Hanifin, of 9364 Pinyon Court, he bought his house in 1998 and one of the reasons he bought it was because the realtor said the property behind him will remain as is forever. Then he was advised that Essex was going to build homes back there, he is ok with this, however at the time the subdivision was approved there was to be a 150' buffer between his home and the development. Basically he has another bike path going through the back of his yard and he feels the value of his home has decreased. If it is going to cost more money to fix the pumping station that is there then tax those people who are going to buy the homes back there, don't lay it on him. He wondered if the area where the sewer line will be placed will give off an odor. He does not think the proposal is fair to the homeowners on Via Cimato and Pinyon Court. His buffer will be gone.

John Thur, of 9334 Pinyon Court, said the original plan for the development was to leave 150' of buffer; there are many trees in this area and he suggests the Planning Board members walk the property. There is approximately a 200' line of trees along Pinyon Court. He has seen many animals in this corridor; if it is disrupted he doesn't know what will happen. He asked the Planning Board to consider this. There is a swatch of land behind his home that was cut to put his drain lines in, trees have grown over this area now. If this project is approved those trees will be gone. Why does the line have to go against his and his neighbor's properties and through the trees, when there is an area nearby with no trees? It is wet behind his property and if the land is dug up at the project site will it affect his property further back. Who will monitor this project? Who will be held accountable if the project is not done right? He would like to see the project moved away from the lot lines and asked the project sponsor to consider alternatives.

Jean Dominguez, of 9240 Via Cimato, is concerned about the buffer area and the water issue. She also has concerns regarding the disruption from noise pollution that will come from the construction vehicles as she has a 4 year old child and a dog. Mr. Lavocat said there will be disruption but it will only be temporary. Ms. Dominguez wants to know what she will get out of this project, what is the benefit to her? Mr. Lavocat explained that, as a CSD#2 user, she will not be charged to replace the pump station nor will she be charged for the \$30,000 a year for operating and maintaining it. The estimated time for the project is six (6) weeks to two (2) months. She also asked that as many trees are saved as possible. Mr. Lavocat said that is the goal.

Steve Fortunato, of 9150 Via Cimato Drive, asked how many homes are in CSD#2. Mr. Lavocat said he does not have a home number but there are 1,150 equivalent dwelling units, including the elementary school. 9160 Via Cimato Drive is an empty lot, Mr. Cimato just purchased this lot and he mentioned it would be used for the easement and then a building lot. Mr. Fortunato asked for clarification on this. Mr. Lavocat explained that the sewer line will come off of Via Cimato Drive; head to the north, on that vacant lot there will be an easement for the sewer line. That vacant lot is a legal building lot. Mr. Fortunato asked if the easement will make the building lot smaller. Mr.

Lavocat said the building envelope would be shrunk slightly. Mr. Fortunato had further questions regarding the building of a home and setbacks; he was referred to the Planning and Zoning office.

Mr. Thur asked why the Town is even looking at a subdivision development of this size; they should put 10 big lots in there and put them on septic.

Chairman Schultz clarified that the subject being discussed this evening is the sewer line and its potential impacts, not the Shadow Woods project.

Ms. Salvati explained that users in the CSD#2 are currently paying a portion of the operating and maintenance costs for the Keller Road pump station. Every year the cost is estimated at \$25,000-\$30,000. By doing the gravity line the pump station would be eliminated thus the costs eliminated as well. It is estimated that the Keller Road pump station will have to be rebuilt in the near future, the rebuilding cost is estimated at \$350,000-\$400,000, which CSD#2 users would be responsible for paying a portion of. If the Keller Road pump station can be eliminated the cost would not be passed on to the CSD#2 users. There is proposes cost savings associated with running this gravity line. Mr. Thur said to avoid the line coming down in the proposed area, he will pay his share to replace the failing pump and pay for the maintenance every year.

Kim Hermance, of 9190 Via Cimato Drive, said she thinks she heard there is already a sewer connection that goes down Goodrich Road. Mr. Lavocat explained there is a force main that goes down Goodrich Road where the Keller Road pump station pumps south down Goodrich Road past the Highway Department; it is not gravity. Ms. Hermance asked why a sewer line can't go down Goodrich Road, pavement already exists, there are no trees and 1,000 feet of wetlands would not have to be taken. Mr. Lavocat said the cost would be tripled; his department has done a cost analysis. Ms. Hermance would like to see the analysis. She asked why the proposal can't go further north. Mr. Lavocat explained the current location is the only way to get it by gravity; the further north you go the more pipe you have, the connection would not be made between point A and point B by gravity.

George Hermance, of 9190 Via Cimato Drive, said this alternative is tied into CSD#6. Mr. Lavocat said that is not correct, CSD#2 goes through CSD#6 and back to CSD#5 down Heise Road. Mr. Hermance asked if the Town has looked at any sewer connections in Beech Meadow Court. Mr. Lavocat said that area is too shallow. Chairman Schultz reminds all attendees that the point of this meeting is not to re-design the district. This meeting is to find out what impacts there are on the residents for the proposed project. Mr. Hermance said an alternative analysis has to be done; he has nothing to look at to quantify what the impacts are.

Mr. Lavocat said he walked the sight and currently there is a lot of debris dumped in that wetland. He does not anticipate any pollution from the construction of the project. The wetland cannot be developed further as this was in the agreement when the plan was approved; in addition it is a State Wetland and cannot be developed for that reason. The project would be a temporary disturbance not a permanent one. Mr. Bigler said the DEC wants it returned to its natural state.

A resident asked if the presence of this new sewer line provide more taps. Mr. Lavocat said no it does not.

Chairman Schultz asked what alternatives there are for this proposal. One is to put a lift station in Shadow Woods and sometime in the future, maybe 3-5 years, replace the Keller Road pump station.

Chairman Schultz is on the Board for ECSD#5 and he knows that they do not like pump stations because they are difficult to maintain and expensive.

Mr. Lavocat said they looked at alternatives but there are none without pumping due to the topography and the elevations. After the line is installed there will be no odor. There is no rock in the area so there will be no blasting. There will be nothing above ground, just a manhole cover flush to the ground. Mr. Lavocat referred to the taxes and said you can't just arbitrarily tax a certain group for an upgrade in a sewer district, it is not legal. Screening plantings are being proposed. There will be temporary disruption. This is a proposal to benefit all the users in CSD#2; a benefit to try and save the tax payers money. It is possible that the people would see a decrease in their tax levy. This project would be done under a DEC permit thus the DEC would monitor the project along with the Erie County Sewer District which operates and maintains CSD#2 under contract. Mr. Lavocat said he does not anticipate a sewer line making the water issue any worse than it is. An 8'-10' trench would be dug to accommodate the sewer line. Six inches (6") of stone would be placed above and below the sewer line within the trench; the trench is then filled with back fill of the natural soil. Clay dams will be installed every 700'-800'.

Chairman Schultz voices his concern regarding the large trees that are at the site, the other growth in the wetland will grow back in two (2) years. DEC asked for the Town to put conifers in at the site which will be an improvement. This project will not affect the menagerie of animals that live there.

If the project was approved construction would take place this summer.

Timothy Pazda explained that the public will have numerous opportunities to have their questions answered at future meetings.

Ms. Salvati said a letter was received from the neighbors regarding possible SEQRA segmentation. She questioned whether or not this project needs to go back to the TEQR Committee. She does not believe it is SEQRA segmentation; however the project is proposing an impact that was not there before. She wants to make sure the SEQRA information in the record is accurate. Chairman Schultz asked the Deputy Town Attorney to look at this issue.

Joe Weiss asked if bentonite will be put in the dams, Mr. Lavocat said yes. Mr. Weiss asked what recourse the residents have if they do experience flooding from this project. Mr. Lavocat said the residents could call the Engineering Office; the office would investigate and help as best they can.

Chairman Schultz walked the property and said there is some encroachment from the adjacent properties.

Mr. Van Nest asked when the last time was that the Planning Board looked at a sewer line being installed. Mr. Callahan said the last time was in the early 2000's with the Heise-Brookhaven project. Mr. Van Nest said perhaps the project should be looked at as a Type II Action exempt from review as this will decide what type of review, if any, the Town will take.

#### **ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler, to **table** the request for the construction of a new gravity sewer line on the west side of Goodrich Road north of Via Cimato Drive and Pinyon Court in the Pine Breeze Subdivision to allow time for legal interpretation for SEQRA procedures, to allow

time for additional information to be received from the DEC and to provide time to better address concerns raised by affected neighbors.

**ON THE QUESTION:**

Mr. Pazda asked why the project is not being sent to the TEQR Committee this evening so questions can begin to be answered. Mr. Van Nest explained that the project may not have to go to TEQR as it may not be considered a substantial change from the original review or it may be considered to be exempt from review. This information will come when the legal interpretation is given.

Chairman Schultz said the primary agencies that would be involved are the DEC, the State and the County and they have already been contacted so it is likely that if the project does require SEQRA determination it would be with very limited review. Deputy Town Attorney David Donohue said it could be done in a non-coordinated review as opposed to a coordinated review.

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Al Schultz	Aye

MOTION CARRIED.

**Item 2**

Ranchview/Rubino Bros Subdivision  
Residential Single-Family

**DISCUSSION:**

Jim Callahan explained the Ranchview project was discussed at the last Planning Board Executive Committee meeting. The project is a subdivision under construction on the corner of Clarence Center Road and Shimerville Road. In the Development Plan Approval one condition was the required installation of a recreational trail/bike path along the Shimerville Road frontage, north/south. After consultation with the Engineering Department, because of the safety concerns for extending that in a timely fashion and to connect to the existing east/west bike path, it was discussed that perhaps it would be better to accept the payment from the developer in lieu of the installation of the bike path. The monies would be banked to provide a more thorough comprehensive trail in the future. The Development Plan Approval would need to be amended to allow for payment in lieu of the installation of the recreation trail. The payment would be the equivalent of 12% of the pre-development assessed value of the property. The pre-development assessed value is \$255,000, 12% of that figure is \$30,600, which equates to \$695 per each of the 44 lots.

Chairman Schultz clarified that this is not a decision against installing a bike path, but now is not the time for installation. It will be installed when a proper connection can be made in the future. An easement has been established close to the County right-of-way or abutting the County right-of-way along Shimerville Road and Clarence Center Road for future installation of the recreation trail.

**ACTION:**

Motion by Timothy Pazda, seconded by George Van Nest, to **recommend** the Town Board amend the previously approved Development Plan for Amber Meadows located at the intersection of Shimerville Road and Clarence Center Road as follows:

The developer is to establish a 30' easement for a future recreation trail on the eastern/northern edge of the property along Shimerville Road and Clarence Center Road. The recreation trail is to be installed at a future date at others expense. The developers have paid the standard recreation fees in lieu of installation of the recreation trail.

**ON THE QUESTION:**

It is confirmed that the easement on the north side of the project is already part of the Development Plan.

A copy of the e-mail from Mr. Rubino agreeing to the price is on file.

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Al Schultz	Aye

MOTION CARRIED.

Meeting adjourned at 8:55 p.m.

Carolyn Delgato  
Senior Clerk Typist