

Town of Clarence
Planning Board Minutes
Wednesday June 6, 2007

Work Session (6:30 PM)

- Roll Call
- Minutes
- Sign review
- Update on pending items
- Committee reports
- Zoning reports
- Miscellaneous
- Agenda Items

Agenda Items (7:30 PM)

Item 1

Benderson Development/Walgreens
Commercial

Requests Development Plan and Architectural
Approval for a proposed drugstore at 9217 Main
Street.

Item 2

St. Mary's Church
Traditional Neighborhood District

Requests Concept Plan Approval for a new
worship hall at 6925 Transit Road.

Item 3

Russell Gullo
Traditional Neighborhood District

Requests Development Plan and Architectural
Approval for a new retail store at 6825-6843
Transit Road.

Item 4

Four M's Development
Industrial Business Park

Requests Preliminary Concept Review of a
proposed warehouse/office park at 10120 County
Road.

Item 5

Christopher Carollo
Residential Single Family

Requests Concept Plan Approval for a 2-Lot Open
Development Area at 8720 Clarence Center Road.

Item 6

Master Plan 2015

Amendments.

Patricia Powers, Chairperson, called the meeting to order at 7:35 p.m. Councilman Bylewski led the pledge to the flag.

Planning Board Members Present:

Patricia Powers, Chairperson
Jeffrey Grenzebach
George Van Nest
Albert Schultz

Wendy Salvati, 1st Vice Chairperson
Timothy Pazda
Richard Bigler

Planning Board Members Absent:

Gerald Drinkard, 2nd Vice Chairperson

Other Town Officials Present:

James Callahan, Director of Community Development
James Hartz, Assistant Director of Community Development
Councilman Scott Bylewski

Other Interested Parties Present:

Ron Schumacher
Joan Matheis
Kathleen Daigler
Mary Daigler
Al Hopkins
Jason Knight
Michael Thore
Len Satola
Ken Pearl
Jim Rumsey

Becky Schumacher
Susan Wickenhiser
Frank Daigler
Zoe M. Dettinau
Don Daigler
Melissa Thore
Jim Fregeau
Jeffrey Palumbo
Bill Schutt
Mark Tufillaro

Motion by Timothy Pazda, seconded by Jeffrey Grenzebach, to approve the minutes of the meeting held on Wednesday May 15, 2007, as written.

Patricia Powers	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Wendy Salvati and Gerge Van Nest have not arrived at the meeting yet.

Sign Review

A replacement pole sign is requested for Subway at 10440 Main Street. The application is approved as presented.

The second sign application is for Len Co Lumber at 8075 Sheridan Drive. This application is within code and is approved as presented.

Item 1

Benderson Development/Walgreens
Commercial

Requests Development Plan and Architectural
Approval for a proposed drugstore at 9217 Main
Street.

DISCUSSION:

Jim Callahan describes the property as being located on the south side of Main Street at the Sheridan Drive/Thompson Road intersection. The property consists of approximately 13.3 acres in the Commercial Zone. A Negative Declaration under SEQRA was issued by the Town Board on May 9, 2007. Concept Approval was recommended on February 7, 2007 with conditions. A Special Exception Use Permit was issued on May 23, 2007 for the drive-thru facility.

Jeffrey Palumbo, of Damon & Morey LLP, is representing the applicant. Mr. Palumbo explains that the proposed pharmacy is just under 15,000 square feet and the proposed office building which measures approximately 8,000 square feet. He believes the plan preserves the community character of Clarence, as requested by the Board. The stonewall matches the stonewalls in the area. A right-in only is proposed for the driveway on the western end of the property. A traffic signal is at the eastern most entrance of the site. The lighting plan also complies with what the Board asked for; this includes shielding, no drop lenses and dark sky type of structures. Mr. Palumbo points out that there is not electronic message board. Jim Rumsey, from Benderson, is present.

In response to Patricia Powers question regarding the acquisition of a demolition permit, Mr. Palumbo states that a permit has been applied for and issued. It is his understanding that the demolition can proceed, however, he has been waiting for the Town Board's approval prior to proceeding.

Timothy Pazda asked about cross access at the site. Mr. Palumbo has no problem with providing cross access at the western end of the site, the applicant would prefer the access to be towards the rear of the site.

Richard Bigler asked what the hours of lighting would be, on the building and for the sign. Jim Rumsey said the lighting would turn off approximately ½ hour after the building closes, close time is around 9:00 p.m. or 10:00 p.m. A security light would be maintained, it is minimal. He will find out about the sign lighting. At this time, Mr. Rumsey does not think it is a 24-hour store, he will obtain the exact hours of operation. The hat type fixture is what the applicant will use for the lighting.

Patricia Powers prefers the canvas type look for the awnings as opposed to the metal awnings. Mr. Rumsey explains that Walgreen's likes to use standing seam because it is more permanent, it is not affected by weather, it provides better protection and ties into the other elements of the building. Mr. Palumbo explains that the canvas awning that is on the building in Williamsville was a trade-off. George Van Nest asked about the finish on the awnings, Mr. Rumsey said it is a satin finish and passes an example of all the proposed materials to the Planning Board members for their viewing.

Patricia Powers asked if the sign will be set back 10' from the right-of-way. Mr. Rumsey said, "Yes."

In response to Mr. Bigler's question regarding ice sheds on the awnings, Mr. Rumsey explains that there will be alternating ice guards.

George Van Nest asked if the DOT is going to adjust the traffic signage for the turning lane. Jim Callahan said the configuration will remain the same; the center turning lane will be removed and become the dedicated left-hand turn westbound into the facility. Mr. Palumbo said DOT specifically took Tim Horton's into consideration, it was also discussed that there is more than one access to Tim Horton's, if the Main Street access becomes too difficult to access because of the Walgreen's, DOT believes people will start using the Thompson Road access. This will actually eliminate some traffic on Main Street.

Mr. Palumbo refers to a discussion at the Zoning Board of Appeals meeting with regards to the ground sign and whether or not it should be made of all stone. If the stone is put all the way around the sign and the sign moves, it could cause cracks in the sign. The sign will be made of the same material as that of the building. Mr. Rumsey said the stone base is approximately 3' high. The top part of the sign will be a material similar to Stucco.

Wendy Salvati asked what the applicant will do for a sign with regards to the office building. Mr. Palumbo said he would like to leave that discussion for another day.

Timothy Pazda likes the sign as presented by the applicant as long as it matches the building.

Wendy Salvati said the Planning Board was not in favor of all the signage on the building; they wanted to be consistent with the drug store on the other side of the street. Patricia Powers explains that this was discussed at a Planning Board meeting in February 2007; she refers to the minutes to remind the applicant of the Board's requests.

Timothy Pazda would like to see the shared access depicted on the site plan closer to where the applicant wants it.

Len Satola, owner of Woodside Village, would like to request a berm separating Walgreen's and the Woodside Village, he would like the berm to run the full length of the property down to the wetlands. The proposal shows 40 2'-6' high Spruce trees as the berm. Mr. Satola wonders how big the holding pond will be, should there be a fence around it. Mr. Rumsey explains the pond will be a dry pond approximately 3' deep, it can be mowed. Wendy Salvati explains that when a pond is fenced it becomes a garbage trap and then it becomes a maintenance issue. She does not recommend a fence. Mr. Palumbo explains that the berm can only go to the 100' wetland area. The goal is to screen the parking area. George Van Nest asks about possible additional landscaping where the berm ends. Mr. Rumsey said he met with the Town's Landscaping Committee. He will do what he can to provide landscaping in the area of concern. Mr. Palumbo will work with Mr. Satola.

ACTION:

Motion by Patricia Powers, seconded by Jeffrey Grenzebach, to **recommend** Development Plan and Architectural approval for agenda Item #1 subject to the following conditions:

- The Town Engineer's letter of May 17, 2007.
- The west driveway to be "right turn in" only per DOT.
- A continuous stone wall made of real and natural material with no cap, to be in front of the property.
- A 45' setback from the Mobile Home Park.
- A 100' setback from the wetlands at the rear of the parcel.
- The maximum height of the office building is 25'.
- Both buildings to be serviced by one (1) septic tank.
- Detention pond and septic tank to be located in the rear of the office building.
- A striped crosswalk for office building tenants to access the pharmacy.
- Dark sky lighting as presented.
- Security lights only at night in the office building.
- A sidewalk from the store to the existing sidewalk on Main Street.
- An approved Landscape Plan prior to being placed on a Town Board agenda.
- The sign is to be setback 10' from the right-of-way; material as presented this evening.
- Commerical Open Space Fee(s).
- Shared access to the west property.
- The lights will go off approximately ½ hour after closing, which is approximately 9:00 p.m., with the exception of security lights.

ON THE QUESTION:

Jeffrey Grenzebach recommends a condition be added that this is not a "24 hour" store.

Wendy Salvati suggests amending the wording under the conditions with regards to the lighting as follows: security lighting only for both buildings ½ hour after closing.

Patricia Powers and Jeffrey Grenzebach amend their motion to include the recommendations as stated above.

Mr. Palumbo points out that the 9:00 p.m. close time is just an estimate.

Wendy Salvati suggests adding the following condition: no late night or early morning deliveries. Deliveries will be made during regular business hours.

Patricia Powers and Jeffrey Grenzebach amend their motion to include the recommendations stated above.

George Van Nest refers to Section 3.7 of the Zoning Code which indicates the code encourages commercial growth on Main Street; however these provisions should encourage designs that will minimize traffic congestion, reduce conflict points, and encourage a pleasing community character. Mr. Van Nest can not see how the geometry of the location will not have a significant impact on the traffic. Traffic implications are going to be significant.

Patricia Powers	Aye	Wendy Salvati	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
George Van Nest	Nay	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Item 2

St. Mary's Church
Traditional Neighborhood District

Requests Concept Plan Approval for a new
worship hall at 6925 Transit Road.

DISCUSSION:

Jim Callahan provides the history of the project. It is located on the south east corner of Transit and Stahley Roads. The existing church is located in the Swormville Traditional Neighborhood District. The applicant received a Negative Declaration under SEQRA on May 23, 2007.

Ken Pearl is representing the applicant, Bill Schutt is the engineering consultant for the project, Jeffrey Palumbo is assisting with the project as well. All are present. Mr. Pearl understands that a Special Exception Use Permit (SEUP) will be required; this will take place at the Town Board level.

Patricia Powers explains that a Concept Plan Approval Checklist is required to be received within one week of today's date; the applicant should forward it to the Planning and Zoning Office. The Planning Board wants to know the status of the negotiations with the neighbors. Mr. Pearl said they are in a holding pattern until this process gives them some information to present to the neighbors. Mr. Pearl has met with two neighbors: the Daigler's and the Fire Hall.

In response to Wendy Salvati's question regarding an agreement with the Fire Hall, Mr. Pearl said they have an agreement in an informational manner; they do not want any written obligation. There are signs on the property with regards to parking, Mr. Pearl submits photos of these signs to the Planning Board, they have become part of the file. Mr. Pearl said they are looking to solve basic parking on their own site, they just wanted to reserve continued use with the Fire Hall for special events.

Timothy Pazda thinks it will be helpful if the site plan would show curb cuts on the other side of Stahley Road. Mr. Pazda has had conversations with the neighbors and has found there is much concern that traffic will be dumped onto Stahley Road; he asks why the road is not brought out to County Road. Mr. Pearl said it was never a part of this project. The land in question was purchased with the intention of leaving it green without letting anyone else build on it, the church may use it in the future or they might sell it. Besides the cost burden and the technical problems, another reason for not utilizing this area for a road is the church does not like the idea of pavement. There is no current plan for the area.

Bill Schutt explains the detention basin will be opposite the existing shed, the reason for this placement is to take advantage of some existing pipes; this will minimize any discharge or disturbances to Ransom Creek. The site plan that is currently being viewed is labeled incorrect with regards to the placement of the detention pond.

Mr. Pearl explains that the TEQR Committee cautioned him to leave the appropriate area open for the Dodge Road expansion.

In response to Mr. Schultz' question with regards to the proposed capacity of the new worship hall, Mr. Pearl said it is a 1,000 seat maximum capacity church. This is at 24" per person. The capacity for the current worship hall is approximately 400. Mr. Schultz recalls a TEQR meeting where he asked the applicant if they anticipated any expansion in the number of people that would be attending the new worship hall. The answer was, "No." Mr. Pearl explains that the current church has been outgrown, the last seven (7) years has not been a growth trend. Mr. Schultz indicates that there are 250 parking spaces required for a 1,000 seat church. Wendy Salvati explains that there is a letter in the file dated March 5, 2007 addressed to Sean Riley explaining the applicant was directed to have the parking ratio of 1:4. Mr. Schutt points out that the parking summary developed by the architect included the removal of the non-conforming spaces along Stahley Road and then added other spaces to compensate. Wendy Salvati said the plan needs to be clear on the parking spaces and it is not. Mr. Schultz voices his concern with the parking along Stahley Road and how dangerous it can be. Mr. Pearl said the parking that was convenient for the old church will not be convenient for the new worship hall. Further discussion ensued to clarify the parking issue; the applicant will submit a clearer plan.

Patricia Powers asks the applicant to submit a plan showing the entire parcel, the delineated parking spaces, the wetlands, the location of the detention pond and the curb cuts. Mr. Pearl said he can amend the plan to show these changes. George Van Nest asks that the revised plan be done by a local architect. Mr. Schutt is local and can have a revised site plan to the Planning Board next week. An estimate on the driveway locations across Stahley Road will be included in the site plan.

Mr. Palumbo asks if the Planning Board is satisfied with the response from the Fire Hall with regards to parking. Patricia Powers said, "We will have to be." Mr. Palumbo points out that the County and DOT have both reviewed the traffic issue and have no problem with the location of the driveway onto Stahley Road or any other concern related to traffic. Mr. Van Nest asks if there is something more the church can do with regards to the traffic, perhaps an internal parking management plan informing the parishioners where to safely park. He also suggests a temporary traffic control be utilized.

Kathleen Daigler, of 8055 Stahley Road, said the proposed parking lot is going to be right up against her back property line. She indicates that the intent is to take the dirt road along her property line. Ms. Daigler has documentation that the church gave to the Parish Council members that indicates the land was purchased for the traffic to go out on to County Road, she can provide the Planning Board with this information. She said she has asked Mr. Pearl and Fr. Yetter why the road can't go through the apple orchard keeping the traffic off Stahley Road; they do not want to do that. She said the corner is very dangerous and it is ridiculous that they want to put a road there that will have 250 cars on it. Let the traffic back up on to the church's property. She also voiced her concern with the new church going on Stahley Road, not Transit Road. Ms. Daigler said the church has no regard for the neighborhood.

Melissa Thore, of 8070 Stahley Road, said she attended a meeting with the church where she was told that, finances permitting, they planned to take the traffic out onto County Road. Another option was to purchase land on Transit Road, however, the Diocese would not approve spending a half million dollars for a parcel. Ms. Thore is assuming the Church will not spend this much money to re-route traffic onto County Road. She has submitted her concerns in writing to the Board on two occasions along with photos depicting traffic back-up on Stahley Road. She said the initial proposal

was for the church to hold 1,313 people, if the seating was changed to 20” the seating would be for 1198 parishioners. She said plan “V” is not going to be efficient for their parking. Ms. Thore is willing to provide her survey to the architect so he can align her driveway. She suggests a traffic control device, even if it is a temporary control, at both ends of Stahley Road. She is also concerned that this plan does not look like a traditional church, it is a church in the round, it is a UFO.

Michael Thore, of 8070 Stahley Road, said the church said the plan was just a concept and now it is becoming a reality. He is also concerned with the traffic and parking situation. There is constant traffic and constant speeders. The snow storage on the road is a problem as well.

Mr. Palumbo understands the traffic concerns but said the church has the right to expand as long as they comply with the Town ordinances and mitigate whatever potential impacts are there, the church has always planned to do this. He does not like the implications that the church has lied. A plan for a road going to County Road is not going to happen; there are too many impediments. There are wetlands, crossing of a creek and floodplains. Mr. Palumbo will do what he can to address the traffic issue.

Patricia Powers said a site plan is required. The plan should show the entire parcel, the wetlands, the creek, the exact parking spaces, the neighboring properties, the access points to Stahley Road and the correct property lines.

Mr. Pazda asked what the plan is for the gravel road, Mr. Pearl said the gravel will be removed and the lawn repaired, there are no plans for this area to become a road. Mr. Pazda also asked about moving the driveway out further, Mr. Palumbo said if that is done more people will be upset. Mr. Pearl points out that the school needs play fields and it is not smart to have the student have to cross over a road to get to the play field. The applicant has consulted traffic experts.

Wendy Salvati suggests the applicant look harder at bringing a road through the land that the church owns that goes to Stahley Road; the area is not all wetlands and could be worked through. Mr. Pearl has met with the County, has had discussions on various options and he disagrees with the suggestion of bringing a road through the wetlands.

Wendy Salvati said that the Concept Plan should be as close to the Development Plan as possible.

Mr. Schultz asks about Transit Road access through the existing driveway, Mr. Pearl said this brings up the issue of parking control. Mr. Pearl said there are bus requirements for the school and there must be fire lane access on both ends of the campus.

ACTION:

Motion by Patricia Powers, seconded by Jeffrey Grenzebach, to **table** agenda Item #2 pending the submittal of the revised site plan showing the items discussed this evening. If the plan is received by the Planning and Zoning office by the morning of Tuesday June 19, 2007 the item will be placed on the June 20, 2007. If it is not received by this time the project will not be on another agenda until July 2007.

Patricia Powers	Aye	Wendy Salvati	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
George Van Nest	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Item 3

Russell Gullo
Traditional Neighborhood District

Requests Development Plan and Architectural Approval for a new retail store at 6825-6843 Transit Road.

DISCUSSION:

Jim Callahan describes the location of the property as being on the east side of Transit Road, south of Stahley in the Swormville Traditional District. A Negative Declaration under SEQRA was issued on March 28, 2007, Concept Plan approval was recommended on April 4, 2007.

Al Hopkins, of Metzger Civil Engineering, is representing the applicant. Owner Russell Gullo is present as well. Mr. Hopkins explains that an archeological study of the site has been completed and there have been no significant findings. The house on the site is not John Sworms house. There is an area of wetland to the back corner of the property. Comments from the DOT have been received indicating they do not want pavers on the sidewalk because it may cause a tripping hazard. Mr. Gullo is still pursuing this issue. There is sewer available on site. The applicant has submitted an Industrial Waste Survey to the Town of Amherst because the waste will go to the Amherst treatment plant. The site is 3.3 acres; it is currently three (3) parcels but will be made into one (1). There are two existing houses that will be demolished. The proposal is for a retail flower shop and greenhouse. The proposed plan shows 44 parking spaces and shared access to the north. There is a dry detention pond with a 4 on 1 slope. The proposed driveway is now lined up with Dodge Road. The greenhouse has three (3) gables on it and is attached to the retail store. The signage will be limited to a small sign on the front of the building. Mr. Gullo still plans on erecting a "Welcome to Swormville" sign on his property.

Councilman Bylewski reminds the Board that this project should comply with the Land Use Access Management Plan. This has been discussed with Mr. Gullo; the driveway is lined up with Dodge Road and there will be no permanent buildings in this area.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda, to **recommend** Development Plan and Architectural Approval for agenda Item #3.

Patricia Powers	Aye	Wendy Salvati	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
George Van Nest	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

ON THE QUESTION:

The action is amended to include the following conditions:

- The conditions of the Town Engineers letter dated May 25, 2007.
- A sidewalk extended to connect with the existing sidewalk on Transit Road.
- A split rail and stone fence to be at the front of the property.
- A “Welcome to Swormville” sign to be erected.
- Trucks to be parked at the rear of the property.
- The driveway to be lined up with Dodge Road.
- An approved Landscape Plan prior to being placed on a Town Board agenda.
- The pole barn to be approved by Town Board prior to construction.
- Commercial Open Space Fees.

Patricia Powers	Aye	Wendy Salvati	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
George Van Nest	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Item 4

Four M’s Development
Industrial Business Park

Requests Preliminary Concept Review of a proposed warehouse/office park at 10120 County Road.

DISCUSSION:

Jim Callahan describes the property as being located on the north side of County Road, west of Strickler Road and consists of approximately 4.2 acres. The proposed project was introduced to the Town Board on May 23, 2007 and forwarded to the Planning Board for further review. This is the initial introduction to the Planning Board.

Jason Knight, of Greenman Pedersen, Inc. is representing the applicant. The applicant is Mark Tufillaro, he is present as well. Mr. Knight said the proposal is for a 6-building industrial park with the buildings consisting of warehouse and storage space and associated offices. There will likely be overhead doors. The warehouses are approximately 18’ high and would be taller than the offices. The building materials would be metal siding with a wood interior frame. The building would have a metal seam roof and be very similar to Kelkenberg’s project. The applicant will meet the Town codes for the building façade.

Wendy Salvati points out that 45’ of the 100’ buffer that is required for setback from a residential zone must be a greenbelt. The detention pond can not be in this area. Mr. Knight will submit a revised site plan showing the setbacks and proposed location of the detention pond.

Patricia Powers voices the lighting concerns with regards to the neighbors behind the proposed park. She asked if the two end buildings could be moved to form an “L” shape so the neighbors won’t be so affected. Mr. Knight explains that the hedgerow which is at the site will help to shield the headlights of the vehicles from the neighbor’s backyards; the hedgerow will remain if at all possible.

There will be no outside storage. The office space will be in each appropriate building supporting the warehouse.

Wendy Salvati indicates that the project is two (2) parking spaces short.

Mr. Tufillaro said, most likely, the first building to be constructed would be those upfront. There are no potential users of the buildings at this point. Mr. Tufillaro indicated the driveway would be cut to go through the hedgerow, leaving the remaining hedgerow in tact. The septic system is anticipated to be located in the two front corners of the site; one for each three buildings. If the septic can not be put in because of the hedgerow, Mr. Tufillaro will landscape the area; however his goal is to save the hedgerow. The Planning Board needs to see the survey; the applicant can then design the plan accordingly.

There is a drainage ditch that runs along the back of the property.

Ron Schumacher owns the property to the north of the site on Martin Road. He will be building a house on this property next year. He voices his concern with the schematic of the six buildings and indicates that the driveway that goes directly through the site would line up with his house, his concern is the headlights from the traffic that will be generated at this site. He is also concerned with the proposed 18 doors for trucks to use, this will create noise and security lighting issues. He asks that the owner and the Board consider keeping the hedgerow to help mitigate the lighting issue.

Mark Meiler owns the property behind the site. He explains that all the water from County Road runs to the bridge that is in front of his house and runs towards Martin Road. If a retention pond is put in this area it will be full. He would like to see the last two buildings on the proposal turned so the neighbors would not have to see anything, this will block noise, traffic and lights.

Patricia Powers explains that if the project moves forward a drainage plan will need to be reviewed and approved by the Town Engineer. The applicant is not permitted to displace any water from his parcel onto the neighboring parcels.

Mr. Knight said the width of the parcel may prohibit changing the positions of the last two (2) buildings. Wendy Salvati said the applicant needs to consider changing the position of the last two (2) buildings. Mr. Tufillaro thinks there are other alternatives and suggests more landscaping to block lighting. He said there is no question that he will work with the neighbors.

Wendy Salvati said the Concept Plan that is approved has to be very close to the Development Plan.

Patricia Powers said the alternative plan must be received in the Planning and Zoning Office by the time the Executive Committee meets next Tuesday morning. The project can then be placed on the next Planning Board agenda. Albert Schultz suggests the applicant show that the front hedgerow remains, the applicant said he can not guarantee that. The alternate plan should also show the estimated measurements of the detention pond.

Mr. Tufillaro asked if the hedgerow is the determining factor in approving this project. All Planning Board members agreed that it is not.

Mr. Knight asked what the Board is looking for in terms of lighting. Richard Bigler said wall packs with shields or dark sky lights, if there are lot lights they should be shielded. Mr. Knight said there would be no use of the site at night, there will be security lighting at night.

ACTION:

Motion by Jeffrey Grenzebach, seconded by Richard Bigler, to **table** agenda Item #4 to allow the applicant time to provide an alternate plan including the items discussed this evening.

ON THE QUESTION:

Patricia Powers clarifies that the alternate plan is to be in the Planning & Zoning Office prior to the next Tuesday morning Executive Planning Board meeting. If it is received as requested it may be placed on the next Planning Board Agenda.

Patricia Powers	Aye	Wendy Salvati	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
George Van Nest	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Item 5

Christopher Carollo
Residential Single Family

Requests Concept Plan Approval for a 2-Lot Open
Development Area at 8720 Clarence Center Road.

DISCUSSION:

Jim Callahan explains the location of the property as being on the north side of Clarence Center Road, west of Shimerville Road and consists of 4+ acres. The applicant is proposing a 2-lot Open Development Area. A variance has been received to allow an increase front yard setback for construction of a new home. The applicant was denied a Special Exception Use Permit for a secondary living unit. The proposal is referred from Town Board.

Christopher and Beatrice Carollo are present.

Richard Bigler said there are concerns about the pond. Mr. Carollo said there are 5-7 unprotected ponds within 2,000 feet of the proposed pond. The reason for this proposed pond is drainage, not aesthetics. The plan has been engineered through Wes Stone. Mr. Carollo understands there are concerns with a pond along the bike path however, he feels the pond is on private property and no one should be on his property, there is a 20'-30' barrier of trees and brush between the pond and the bike path. The pond request was tabled by the Zoning Board of Appeals. Wendy Salvati asks what the applicant intends to drain. She does not understand the configuration of the lots on the proposal. Mr. Carollo said the plan is designed to the Town's Law, he meets or beats all the requirements of an open subdivision except one, and that can be changed. Mr. Carollo is reaching the "end of his rope" with the approval process in Clarence. He submitted a cleaner, neater proposal and it was denied and now the Board does not like this plan either. George Van Nest said the Planning Board has not seen a prior proposal.

Mr. Carollo said he has taken a 5.62 acre parcel from Clarence and has done nothing but spend money, knock down an old barn and a house, he spent over \$31,000 in improvements on this property.

Jim Callahan explains that this is a 5+ acre property, there was an old farm house and some accessory structures that were in deplorable condition, they have been demolished. Mr. Carollo purchased the property and split off one residential property. Mr. Carollo applied for a variance to set a single family residence back 450'+, the variance was granted. He then applied for a secondary living unit under a Special Exception Use Permit, but because of the concerns related to zoning in terms of a second principle structure and other concerns the request was denied. The Zoning Board of Appeals referred the concept of an Open Development to build two units on this property to the Planning Board.

Albert Schultz asked the applicant if there is a reason for the question mark shaped lots. Mr. Carollo distributes an updated plan to the Planning Board members and explains that he intends to keep ownership on both parcels; he does not plan on selling anything. He said the plan that was just distributed is to the letter of the law; the only variation is the front proposed residence will be equal to the house at 8710 Clarence Center Road, which is a 90'-100' front yard setback. He wanted to put a carriage house 15' off the property line, but that Town Board denied the request because it was a zoning and variance nightmare.

Mr. Carollo said the pond would be 6'-8' deep with a 3-1 slope, there would be a 3' ledge around the pond in case anyone fell in. It is for retention and aesthetics; it will be close to a quarter of an acre. Wendy Salvati does not see how it will hold water; she does not think there is enough drainage coming off the site unless the pond is lined. Mr. Carollo asked if there is a problem if the pond is dry versus wet, Ms. Salvati said, "No." Mr. Carollo said he would consider lining the pond; he wants it to be a clean looking pond, no algae.

In response to Mr. Schultz question regarding the reason (s) for the pond, Mr. Carollo lists three reasons for the pond: drainage, size and useable fill. Mr. Schultz refers to the Zoning Regulations and thought he read that you can not scoop fill from one area of a residential lot and put it in another area on that same lot.

Patricia Powers asked the applicant what the approximate square footage is for the proposed residences. The front house would be 2,000 + square feet single story, if Mr. Carollo decides to build a double it would be 2,500+ square feet. The rear house would be 3,400 to 4,000 square feet.

Susan Wickenhiser, owner of 8710 Clarence Center Road, explains that she will be building her home on this parcel and hope to break ground next month. She said the plan that is on display is not accurate with regards to measurements. Patricia Powers told Ms. Wickenhiser that there is a survey with the correct measurements in the file. Ms. Wickenhiser goes on to say that the proposed lot A does not meet the 2 acre requirement. She refers to the code and indicates that the proposal does not have 200' on Clarence Center Road; therefore the 200' would have to be facing the private driveway. She then refers to the code again and said Lot A must meet the following requirements: 45' is required for the rear setback per the Residential Single-Family code, a 45' setback from the private drive pertaining to the Open Development Area requirements, 20' of pavement for a common driveway as per Item B (4) in the Open Development Area, an 8' right-of-way from the road to the property line is required. This total 118' leaving 8.68' in width for a proposed residence on Lot A to be built, therefore multiple residences would be needed. Ms. Wickenhiser purchased the land from Mr. Carollo, prior to doing so there were many conversations with regards to what would be done with the surrounding land. Mr. Carollo assured Ms. Wickenhiser many times that the land would be only used for his own single family

home. He told her that he wanted to set his house back 400' and was granted the variance in 2006. He repeatedly told her that the land would not be further subdivided. If she would have known Mr. Carollo was going to submit this Concept Plan she would have never purchased the land. Mr. Carollo said he will buy back the property. Ms. Wickenhiser said right now she has an investment in the land and she is ready to break ground in one month to build a house, she plans on raising her children there. There are four stakes on the property because she is applying for a variance for a detached garage. The garage will be approximately 20' from the property line in the back of the driveway. Ms. Wickenhiser said Mr. Carollo mentioned he would put a fence around the pond if need be.

Albert Schultz refers to Article V of the Subdivision Code which indicates upon completion of the project the sub-divider shall not be permitted to leave any surface depression which will collect pools of water except as may be required for retention of storm water.

Mr. Carollo said the proposal that is on display is incorrect. The updated site plan is correct. He wants the Board to know that all of his proposals are being stopped by the owner of 8710 Clarence Center Road. George Van Nest said the Planning Board, or any other Board, will not be involved in a private dispute. He suggests the project is tabled this evening to allow review of the plan that was just submitted and perhaps the applicant can meet with the Executive Planning Board Committee for further discussion. Mr. Carollo strongly disagrees with Mr. Van Nest and said he would go with a contingency that if the most current plan does not work out mathematically to meet the requirements, the Board could deny the project. Wendy Salvati said the new plan does not meet the requirements; the area that the front house is being set in needs to be 200' wide. She agrees to table the project.

ACTION:

Motion by George Van Nest, seconded by Albert Schultz, to **table** agenda Item #5 to allow the Planning Board time to review the plan that was submitted this evening.

ON THE QUESTION:

Albert Schultz said the Planning Board needs time to study the plan to make sure it meets the intent and the letter of the law.

Mr. Carollo said as every plan is shot down by the Town of Clarence, the more people are affected. As this Board makes their decision, Mr. Carollo said they have to understand that the next plan may be for patio homes or a subdivision; he is in the process of negotiations to purchase the property east of this site. If this project does not go forward his next concept could be a subdivision, so as this evolves more people become affected by his plans.

Patricia Powers	Aye	Wendy Salvati	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
George Van Nest	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Mr. Carollo asked for the updated site plan to be returned to him. He will make sure the submitted plan is correct and submitted tomorrow.

Item #6

Master Plan 2015

Amendments.

DISCUSSION:

The Planning Board is awaiting a decision from the Town Attorney’s office on a disclosure statement for the Sewer Priorities. They are also waiting to review the minutes from the May 2007 Joint meeting.

Timothy Pazda said if the Town is flexible with the Sewer Priorities they will be no further along than they are now. Albert Schultz’ belief is the flexibility will be project by project. Wendy Salvati agrees with Mr. Pazda. Councilman Bylewski said if the Board is too rigid with the priorities they may not be completed in the future.

ACTION:

Motion by Patricia Powers, seconded by Jeffrey Grenzebach, to **table** agenda Item #6 to allow the Planning Board time to review the Joint Meeting Minutes.

ON THE QUESTION:

Albert Schultz said if there are any questions forward them to him or Jim Callahan.

Patricia Powers	Aye	Wendy Salvati	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
George Van Nest	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Meeting adjourned at 10:40 p.m.

Carolyn Delgato
Senior Clerk Typist