

Town of Clarence
Planning Board Minutes
Wednesday June 16, 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

Patrick Development/Waterford Village LLC
Planned Unit Residential Development

Requests amended Development Plan Approval
for Waterford Campus.

Item 2

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.

Jim Callahan 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

Planning Board Members absent:

None

Town Officials Present:

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

Other Interested Parties Present:

George Hermance
 Kevin Curry
 Joe Weiss

James Ribbeck
 Kim Hermance

Motion by Timothy Pazda, seconded by George Van Nest, to **approve** the minutes of the meeting held on June 2, 2010, as written.

ON THE QUESTION:

The following corrections are to be made to the minutes:

- The last sentence of the first paragraph on page 39 shall read, "...so that if it is moved in either direction..."
- The last sentence in the second paragraph under On the Question on page 41 shall read, "Mr. Van Nest referred to § **617.5(C)(11)** of the **SEQRA Regulations.**"
- The last sentence in the second paragraph on page 42 shall read, "The applicant is also **eliminating** a non-conforming lot..."
- Item number (4) under Action shall read, "**Paved** driveway..."

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

MOTION CARRIED.

Chairman Schultz explained 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

Patrick Development/Waterford Village LLC
 Planned Unit Residential Development

Requests amended Development Plan Approval
 for Waterford Campus.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the north side of Roll Road between Thompson Road and Shimerville Road. It is a previously approved Development Plan for the Planned Unit Residential Development, identifying uses and design of the Campus area of the Waterford

Village PURD. The applicant is proposing an amendment to that previously approved Development Plan.

Chairman Schultz clarified that under the PURD law the Development Plan is more like the Concept Plan under today's laws. It is not the fully engineered plan; the next step would be Site Plan.

Kevin Curry, of Patrick Homes, is present along with Michael Metzger of Metzger Civil Engineering. Mr. Curry said the presented plan meets the goals of the suggestions from the various Boards. The Concept Plan is to reduce the amount of commercial space, increase the amount of greenspace, reduce traffic and make the project come into better conformance with the overall land use in the area.

Timothy Pazda said he has been opposed to large scale commercial development on this parcel; it is his number one concern. He asked Mr. Curry to clarify the square footage difference in the previous plan and this newly submitted plan. Mr. Curry referred to two plans on display for all to view, the plan on the left shows a lot of hard surface area, flat roofs, commercial buildings and lots of parking; this is the plan that is currently approved. The plan on the right has much more greenspace and a decreased building footprint. The northern two quadrants of the project would be limited to residential; the southern two quadrants would be limited to commercial use.

Mr. Curry does not know the exact number of residential units that are planned for the project, however, it is less than 100; it is less than the number of available sewer taps. It has been suggested to Mr. Curry that the unit size should not be too large; units should be smaller and more affordable. The project would be below all thresholds that have already been met and approved. The applicant is planning two-way drives. There may be a mix of single-family ownership units versus rental units.

George Van Nest asked if the applicant is ok with expanding the driveways to make them two-way. Mr. Curry said yes, there is enough room to expand.

Timothy Pazda asked for clarification on the square footage of the buildings. Mr. Curry said the footprint of the each building is approximately 4200-5000 square feet. The entire first floor of the four (4) buildings would be commercial so the total square footage would be between 16,000 and 20,000. Wendy Salvati clarified that per the PURD law, commercial uses are to service the development.

Timothy Pazda asked if the applicant represented a fair amount of parking for the commercial buildings on the plan. Mr. Curry said yes; the residential parking and the commercial parking would overlap with one another. If there is a more intensive commercial use they would look at eliminating a building and adding parking. This is not the direction he sees this project going, but there is room if it needs to be done.

Wendy Salvati asked if the applicant would have to come back before the Board again for an amended Development Plan approval if he made changes to the buildings or parking, since those changes would be different from the approved Development Plan. Jim Callahan said this would be discovered and worked out during the Site Plan review; with the Site Plan approval, the Development Plan can be amended if the change is in accordance with the overall design concept.

Chairman Schultz noted that this plan has not been through the Traffic Safety or Fire Advisory Boards. The applicant will have to address utility easements.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, to **recommend** the amended Development Plan approval for Waterford Campus.

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

MOTION CARRIED.

Item 2

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 the history on the project. The property is located on the west side of Goodrich Road, opposite the Keller Road intersection and parallel north of Pinyon Court and Via Cimato Drive in the Pine Breeze and Beech Meadow Subdivision. The proposed upgrade allows the installation of a gravity sewer line 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 for the Town of Clarence, is representing CSD#2. He noted that a NYSDEC letter was a pending item since the last meeting, that letter been received and distributed to all members of the Planning Board. The letter is dated June 7, 2010 and is a permanent part of the file. Mr. Lavocat explained three (3) scenarios for the proposed gravity sewer line. The primary motivation to pursue a project of this type has always been the elimination of the Keller Road pump station. It is an old pump station, over 35 years old, and does not have the capacity or a back-up generator when the power fails. The County has to bring a very large generator to the site to operate the pumps; in the meantime the system fills up and backs up Keller Road. Some people will experience back-ups in their basements if they don't have check valves on their laterals. It costs \$35,000 a year in maintenance fees for the pump station. Scenario #1 is to keep the Keller Road pump station as is, pay the \$35,000, and eventually it will need to be replaced with a pump station that is up to current standards. The replacement cost would be approximately \$400,000, plus the annual \$35,000 maintenance fee. The proposal for a pump station for the new subdivision would remain; the annual \$35,000 maintenance fee would also apply to this pump. The total cost to CSD#2 would be a \$400,000 Capital Improvement for replacing the pump station and \$70,000 for yearly maintenance fees.

Chairman Schultz asked Erie County Sewer District (ECSD) representatives about the life of the Keller Road pump station and they replied that it is well beyond its useful life; it is inadequate and has become undersized over time. Erie County lists it within the top four (4) of 100 pump stations in Erie County that need to be replaced. Chairman Schultz spoke with the next door neighbor and advised she believes it needs to be replaced as well.

Mr. Lavocat explained the second scenario: utilize the Shadow Woods pump station to eliminate the Keller Road pump station. He referred to the NYSDEC letter dated June 7, 2010, which states the

Health Department indicated that the Shadow Woods Subdivision has already been approved for a force main and a pump station to serve the new development (Shadow Woods) and the Keller Road area, thereby eliminating the Keller Road pump station. Mr. Lavocat further explained that in order to build the pump station in Shadow Woods and eliminate the Keller Road pump station, a 1200 foot sewer main would have to be installed along Goodrich Road to get to the point where it can be tied in. This project would cost CSD#2 approximately \$300,000. When it comes time for Keller Road to go into the pump station, District #2 would have to upgrade the pumps because of the additional flow; this would cost approximately \$35,000. To decommission the Keller Road station it would cost approximately \$100,000, bringing the total cost for this scenario to \$435,000. Plus, there would be a \$35,000 yearly maintenance fee for the Shadow Woods pump station.

The third scenario is the installation of a gravity sewer from Via Cimato Drive to a termination point of rear yards of existing lots on Goodrich Road, which would eliminate both pump stations. There would be zero (0) operation and maintenance costs. This scenario would be a total cost of approximately \$150,000 to CSD#2: \$50,000-\$60,000 to run a connection from the gravity line to the Keller Road area and approximately \$100,000 to decommission the Keller Road pump station.

Mr. Pazda asked for an explanation regarding information contained in the NYSDEC letter dated June 7, 2020 in which it states this new line would be less than minimum flow. Mr. Lavocat said the area is at a flatter slope than the 10 State Standards. The 10 State Standards are technical specs which have provisions stating that if certain items are satisfied it is acceptable; this proposal satisfies the conditions. The technical issues on the slope of the sewer line have all been addressed; there is adequate flow.

Mr. Todaro asked if testing will be implemented prior to the sewer line going "live". Mr. Lavocat said yes, there will be testing of the manholes, the mains themselves, air testing, infiltration, ex-filtration just to name a few. It is all set forth in the standards.

Mr. Pazda asked what the legal opinion is regarding next step would, does this have to go back to the TEQR Committee? Deputy Town Attorney David Donohue said this is an exempt Type II Action because it is an installation of a sewer line pursuant to § 617.5 (c)(11) under the NYS SEQRA Regulations. It does not need a full SEQRA Review; an uncoordinated review can be done. This project does not need to go to the TEQR Committee. The NYSDEC review and the Erie County Health Department review have both been received.

Wendy Salvati brings up the question of having the construction period delayed, to try and limit impact to the neighbors. Construction in the Fall is not the best time because the wetlands would have a greater volume of water within them. She suggests limiting the daily hours of operation to 7am-5pm on weekdays only.

Mr. Van Nest asked if the construction duration of this project has been reviewed such that if construction was limited to no Saturdays, would it have an impact on the delivery date of this project. Mr. Lavocat said it would adversely affect the project because construction would be cut from 6 days to 5 days a week. Weather conditions also need to be taken into consideration. Construction would not be in any one backyard for any length of time; the disruption will be minimal.

Ms. Salvati said it has been estimated that the project would take 5-6 weeks to complete, if Saturdays would be eliminated it would take 1 week longer to complete, weather permitting.

George Hermance, of 9190 Via Cimato Drive, has reviewed the NYSDEC letter dated June 7, 2010 and in his opinion the Town Engineer and the Developer are constructing a less than minimum slope for a gravity sewer. According to the letter the Town and Sewer District have not provided the information needed by the DEC to determine if the gravity sewer will work. The Planning Board should table this proposal until the DEC is able to determine that the sewer will work. He has also found several discrepancies in the Environmental Assessment Form (EAF). These discrepancies need to be resolved prior to making a recommendation. It is not clear to him that the issue with the Keller Road pump station will be resolved by this sewer. The design should be part of the complete plan by the sewer district to resolve issues of the Keller Road pump station.

John Thur, of 9334 Pinyon Court, also reviewed the EAF and said he found discrepancies. He referred to page 3, questions 2, 11, 14 and 19, page 4, questions 3, 5 and 14 and voiced his concerns which included displacing Pileated Woodpeckers, sewer gas smell in his backyard, replacing a 40' trees, which he is sure will cost more than \$400,000. He does not believe the EAF was truthfully filled out. He is concerned that the project will not be done properly and it will not be policed properly. He believes the risks of the unknown are far greater than the known cost savings.

Chairman Schultz said the neighbor to the pump station said her assessed value dropped \$20,000 because of the pump station next to her.

Town Engineer Joseph Latona spoke with Mr. Rink of the DEC regarding the slope who informed Mr. Latona that the State requires the pipe tipped at a certain slope so at peak flow there will be a 2' velocity, which theoretically is supposed to scour and clean the pipe. It has been proved to Mr. Rink that the peak flow will be at least 2' per second, he is satisfied with this.

Ms. Salvati reiterates that the area to be disturbed is up to 30', less if possible. Mr. Latona confirmed. Manholes will be approximately every 400'. Solid manhole covers will be used to mitigate any sewer smell; there will be no place for gas to escape.

The DEC has not identified any endangered species of Woodpeckers or other animals at the project site. The DEC will suggest what type of vegetation to plant when construction is complete.

Richard Bigler notes that the project will not impede any of the animal travel patterns as the disturbed property runs along the back property lines, there is no dissecting or cutting through the natural wetlands.

Mr. Latona confirmed clay check dams will be used. The installation contractor has not been decided at this point. Erie County and Clarence's Engineering Department will inspect the project site. The DEC will check to make sure the project is in compliance.

Mr. Todaro asked how the DEC knows what areas of the site will need to be reforested. Mr. Latona said the DEC visited the site and walked the property so they know what is out there. They were opposed to pushing the sewer to the north because there is more of a forest there.

ACTION:

Motion by George Van Nest, seconded by Richard Bigler, to **recommend** approval for 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 as follows:

Whereas, the Clarence Town Board had referred for recommendation, the construction of a gravity sewer line to service Clarence Sewer District #2 and the proposed Shadow Woods Open Space Design Subdivision, and

The proposed gravity sewer line lies partially within a NYS regulated wetland and within the Churchville and Ilion Silt Loam Soil types, and

After review of the proposed project and information from the NYS Department of Environmental Conservation and consultation with Erie County Sewer District #5, the Clarence Town Attorney's Office and the Clarence Town Engineering Department, and

Identifying that the proposed project is classified as a Type II Action under SEQRA, identified as the extension of utility distribution facilities to render service in approved subdivisions, and

The determination that there may be no further development of the property under question as it is included within an Open Space Design Development that specifically limits the density of development and the number of units to the number identified in the Shadow Woods Development as well as being within a NYS Wetland area,

The Town of Clarence Planning Board recommends the proposed land use for construction of a gravity sewer line within Clarence Sewer District #2 as designed, with the following conditions:

1. All the conditions as established by the NYSDEC in a letter dated June 7, 2010, including re-vegetation of the impacted areas with appropriate plant materials and tree replanting at a minimum of 1:1 replacement ratio.
2. No blasting; as the soils identify the depth to bedrock to be below the maximum depth of the proposed sewer line.
3. Construction activities to be sensitive to the existing rear yards along Pinyon Court and Via Cimato Drive, including:
 - a. Limiting the time of construction activities to 7:00 am until 5:00 pm, Monday through Saturday.
4. Conditions as identified by the Town Engineering Department to reduce the potential impacts of flooding and tree removal, with oversight by the DEC, Erie County and The Town Engineer's Department to ensure that the fewest number of mature trees possible are impacted by the construction.

-These conditions include:

- Establishing a "line-of-site" from each manhole to the next, identifying significant trees within that line and moving the next manhole as much as practical to preserve those trees.
- No installation of a service road to construct or maintain the sewer line.
- Re-establishing the approximate original grade of the disturbed land.
- Solid covers on the sewer manholes.

ON THE QUESTION:

Mr. Latona understands and agrees with the conditions.

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

MOTION CARRIED.

Meeting adjourned at 8:30 p.m.

Carolyn Delgato
Senior Clerk Typist