

Town of Clarence
Planning Board Minutes
Wednesday June 18, 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

Saturn of Clarence
Major Arterial

Requests a new sign permit for existing Auto Sales Dealership at 5535 Transit Road.

Item 2

St. Mary's Church
Traditional Neighborhood District

Requests Development Plan Approval for construction of a new church at 6925 Transit Road.

Item 3

Dan Furmanek
Traditional Neighborhood District

Requests Concept Plan Approval for an Open Space Design Subdivision at 8230 County Road.

Item 4

Rocco DelGrosso
Traditional Neighborhood District

Requests Preliminary Concept Review of a proposed Subdivision/Open Development Area at 8100 Stahley Road.

Chairman Gerald Drinkard called the meeting to order at 7:30 p.m. Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard
2nd Vice Chairman Timothy Pazda
George Van Nest
Albert Schultz

1st Vice Chairperson Wendy Salvati
Jeffrey Grenzbach
Richard Bigler
Gregory Todaro

Other Town Officials Present:

Director of Community Development James Callahan
Planner Brad Packard
Councilman Peter DiCostanzo

Other Interested Parties Present:

Chris Cardillo	Barbara Beckinghauser
John Wabick	Don Moeller
Rick Newton	Rebecca Brenon
Terry Finn	Joan Matheis
Jim Fregeau	Denise Fregeau
Gary Mathers	Jim Blum
Rev. Robert Yetter	Melissa Thore
Don Daigler	Heather Finn

Motion by Jeffrey Grenzebach, seconded by George Van Nest, to **approve** the minutes of the meeting held on June 4, 2008, with the following changes:

- Page 74, change the second sentence of the first paragraph under agenda Item 1 to read, "...just east **of** the entrance of the Eastern Hills Mall..."
- Page 74, third paragraph under agenda Item 1, third sentence shall read, "...leach beds **will** end up..."
- Page 74, fourth paragraph under agenda Item 1, the second sentence shall read, "...the trees in the middle most of the **green belt** property..."
- Page 74, fourth paragraph under agenda Item 1, the third sentence shall read, "...removing the five (5) trees on the **street** side of the property."
- Page 74, the following sentence shall be added to the fourth paragraph under agenda Item 1, "If the trees do end up having to be removed they will have to be replaced. This will be noted on the Landscape Plan."
- Page 74, third last paragraph, 80% shall be replaced with 8%.
- Page 74, a final sentence is added to the last line on the page, "The others will follow."
- Page 75, first paragraph, the third paragraph shall be amended to read, "...the property line the building **will** be."
- Page 75, "...and eventually landscape approval." Shall be added to the last sentence of the first paragraph.
- Page 75, under ON THE QUESTION, the first condition shall be amended to read, "-The updated print will show interior parking green space with curbed islands at **8%**."
- Page 76, last paragraph, a "?" is added after the first sentence.
- Page 77, third paragraph includes the following changes: fourth sentence to read, "Chairman Drinkard said there **must be** strict adherence to the green space requirement **as each phase is developed** and **ultimately** to the Land Conservancy." The second last sentence shall read, "...around those ponds so they **can** be maintained."
- Page 78, the first sentence of the third paragraph shall read, "...is concerned with the road **onto** Greiner..." The second last line of the same paragraph shall read, "...the west side of **the** house."

-Page 78, fourth paragraph, second last line, the word **approved** shall be replaced with the word **recommended**.

Albert Schultz	Abstain	Richard Bigler	Aye
George Van Nest	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Wendy Salvati	Abstain
Gerald Drinkard	Aye		

MOTION CARRIED.

Chairman Drinkard 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. 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

Saturn of Clarence
Major Arterial

Requests a new sign permit for existing Auto
Sales Dealership at 5535 Transit Road.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the east side of Transit Road, south of Roll Road. It is an existing automotive repair/sales operation. The applicant is requesting a new sign for the building.

Don Moeller, of Moeller Signs, and John Wabick, Vice-President of West Herr Automotive are present. Mr. Wabick explained that this variance request has been made in order to stay within the guidelines of the Saturn Corporation. Over the past few years the Corporation has been working on a new image and this is part of that national change. Mr. Moeller said only the center section of the proposed sign will be lit up; it will not affect the neighborhood. Mr. Wabick explained that the height of the sign becomes an issue because it has to be high enough to be seen over the existing canopy.

Chairman Drinkard clarifies that the Planning Board does not issue variances; the applicant would have to go before the Zoning Board of Appeals in order to have a variance granted. Since the proposed sign does not meet the requirements of the Town Code, the purpose of this meeting is to give clear direction to the Zoning Board of Appeals. Chairman Drinkard refers to the Sign Law, section 181-8 entitled Variances, which reads: In appropriate cases, the Zoning Board of Appeals of the Town of Clarence may, after a public notice and hearing, vary or modify the application of this chapter in harmony with its general purpose and intent. Under the definitions section of the Sign Law, 181-2, only one secondary sign is allowed on a building. The proposal is to move the logo away from the text, thus creating two (2) signs. Chairman Drinkard refers to section 181-3 (C) (2) with regards to the location of the sign and reads, "a sign shall not be elevated above the ridge of the roof line." The proposed sign is elevated above the roof line. Section 181-3 (E) (1) indicates a sign shall be allowed

with the name of the business and their logo only. Businesses may have one freestanding sign and one wall sign; the applicant currently meets this requirement. Section 181-6 (F) indicates that a wall sign shall not extend beyond the ends or over the top of the walls to which attached.

ACTION:

Motion by Gerald Drinkard, seconded by Albert Schultz, to **deny** the request for a sign permit for an existing auto sales dealership at 5535 Transit Road as the request is in violation of four (4) provisions in the Sign Law as stated.

Albert Schultz	Aye	Richard Bigler	Aye
George Van Nest	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 2

St. Mary’s Church
Traditional Neighborhood District

Requests Development Plan Approval for construction of a new church at 6925 Transit Road.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the south east corner of Transit and Stahley Roads in the Swormville Traditional Neighborhood District. The project previously received a Negative Declaration under SEQRA and a Special Exception Use Permit (SEUP) for a facility greater than 10,000 square feet. The applicant is present seeking a recommendation from the Planning Board for Development Plan Approval on a previously approved Concept Plan.

Peter Johnston, civil engineer with William Schutt and Associates, is representing the applicant. Mr. Johnston believes they have answered all questions and obtained all approvals needed to move forward with the project. The applicant has worked with the neighbors and believes they are satisfied.

Mr. Pazda asked what the applicant will do with regards to the traffic issues. Mr. Johnston said the traffic will be monitored once the new church has its first services, the applicant does not think there will be any more traffic issues because they are not increasing the congregation. Once the traffic is monitored the applicant agrees to come back before the Town Board and present a traffic report. If the report shows an impact, the applicant will offer mitigation measures.

Rick Newton, of 8040 Stahley Road, said there is currently a problem with traffic. Mr. Newton has consulted with the Town Highway Department and the Erie County Engineering Department and he understands that it is possible to have the speed limit on Stahley Road reduced to 30 mph; it is currently 35 mph. It is also possible to have a school sign put in that area. The intersections at County and Stahley Roads, and Transit and Stahley Roads are both problem areas with regards to getting out. Parameters for traffic need to be established before the church is built, not after; he recommends the Planning Board take this into consideration. He suggests a double line be put in, the school zone be

enforced and the speed limit reduced. He appreciates anything the Planning Board can do to help with the traffic issue.

Rick Kieffer, of 8084 Stahley Road, asked if there is not going to be any more traffic what is the sense of putting up a new church. There is nothing wrong with the existing church. Currently, when church lets out, Mr. Kieffer has to wait about an hour to get out of his driveway. Chairman Drinkard said the proposed church has been justified by the congregation and many meetings; it will not be re-hashed this evening.

Rebecca Brenon, of 8050 Stahley Road, has grave concerns regarding the traffic. There was a very serious traffic accident three weeks ago at the corner of Transit and Stahley Roads; she was not able to get into her street; this is a common occurrence. In order to exit her driveway during peak hours, Ms. Brenon has to wait and then "gun it" out of her driveway. She appreciates that the church is going to look into the traffic, but it is too little too late. There are no sidewalks and people going over 50 mph down the street in a residential neighborhood.

Mr. Johnston understands that there may be traffic problems for the people on Stahley Road. Stahley Road is an Erie County Road, thus the applicant sent the plans to Erie County Highway Department for their review; the County did not have any problems with the location of the driveway or the proposed church's location. Mr. Johnston is sure the church will work with the suggestions brought to this meeting by the neighbors.

Mr. Van Nest explains that the traffic issue has been brought up at many meetings. He is uncomfortable approving a project with a yet to be determined approach to traffic safety. A traffic management plan has been discussed, such as utilizing a traffic control officer; he would like to make this a condition of the motion. Wendy Salvati agrees with Mr. Van Nest and said she would also like to see some type of conditions to get the mitigation that was recommended for Stahley Road.

Chairman Drinkard said traffic will be drawn onto the premises of the new church; this has the potential, during high volume times, to make the traffic better than it is today. He refers to the Town Board meeting minutes dated September 12, 2007 which states a crossing guard be provided for weekend and Holiday masses as one of the conditions.

Mike McNally, co-chairman of the Executive Committee for St. Mary's Church, explains that there will be a traffic control, such as a crossing guard, at the onset. The Committee has had the same discussions with the neighbors regarding the traffic issues and their mitigation suggestions; the Committee is willing to work with the neighbors, but ask them to keep in mind that Stahley Road is an Erie County road.

Mr. Schultz asked if the citizens can ask for a decrease in the speed limit or is it best coming from the Town. Mr. Callahan said there is influence by the Town Board if they request the County to review reducing the speed limit or double striping the road. Erie County ultimately makes the final decision.

Mr. Newton met with the Erie County Highway Engineer who visited Mr. Newton at his home and said the road should definitely be double striped and the 35 mph speed limit is very fast. Mr. Newton is unclear as to who takes care of these issues or who needs to act first. The County Engineer that Mr. Newton spoke with was Mike Asklar.

Mr. Callahan explains that the Planning Board can condition the motion and recommend the Town Board send a letter to the County regarding the traffic mitigation issues.

ACTION:

Motion by Gerald Drinkard, seconded by Jeffrey Grenzebach, to **recommend** Development Plan Approval for construction of a new church at 6925 Transit Road subject to the following conditions:

- Standard and required fee payment.
- The conditions of the Town Engineers letter dated April 23, 2008 must be met.
- Particular attention be paid to the traffic on Stahley Road, it is recommended that the Town Board consider sending a letter to the appropriate agency in the County to do something in the short term with regards to speed devices on Stahley Road.
- The Town Board or the Town Highway Superintendent request of the County that they evaluate striping, signage and the configuration of Stahley Road for the safety and traffic standpoint.
- The Church agree to place a temporary traffic guard on any day following a church service, the guard will be on Stahley Road to manage traffic flow and access at the location indefinitely, irrespective of any 90 day condition under the SEUP.

ON THE QUESTION:

Wendy Salvati suggests the Planning Board recommend the Town Board send a letter to the appropriate County agencies, as opposed to asking the Town Board to consider sending this letter. Chairman Drinkard and Jeffery Grenzebach both agree to this recommendation.

Albert Schultz	Aye	Richard Bigler	Aye
George Van Nest	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 3

Dan Furmanek
Traditional Neighborhood District

Requests Concept Plan Approval for an Open
Space Design Subdivision at 8230 County Road.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the north side of County Road, east of Stahley Road in the Swormville Traditional Neighborhood District. The project has received a Negative Declaration under SEQRA issued by the Town Board on May 28, 2008.

Chris Cardillo, of Damon & Morey, is representing the applicant.

Mr. Schultz said the site is within Erie County Sewer District #5 (ECSD); technically there is capacity within the district to both handle the sewage and to transport it to the sewage treatment plant; however, there is enough inflow and infiltration in the lines that it makes it very marginal to whether or

not the plant can handle any additional flows. Any project that connects to that district is required to find and mitigate some of the in-leakage, correct it to open up capacity for the material to flow. For this requirement the project sponsor needs two (2) letters, a letter from Erie County #5 saying if these things are corrected they will allow the sponsor to have capacity, a letter indicating the same thing from the Town of Amherst is also required because they own the lines and the sewage treatment plant. There is a letter from Erie County #5 in the file indicating that if the project sponsor makes corrections and has an engineering plan to free up capacity they will allow the sponsor to do it. There is no such letter from the Town of Amherst. The letter from Amherst indicates that if the sponsor does the work, lays out the program, they will consider whether or not to approve the capacity. Mr. Callahan adds that the Amherst letter is a letter of denial and it indicates that if corrections are made they may reconsider; the letter does not say capacity would be allowed. This puts the developer in a difficult situation. Mr. Callahan has talked with the Town of Amherst engineer and he has agreed to look at the letter and transcribe a new document to the Town of Clarence either allowing the project to move forward or not. The Planning Board can only react to the letter that is currently in the file; an updated letter could not be obtained for this evening's meeting.

Mr. Cardillo said that he has been assured by individuals in the Town of Amherst that provided Erie County is on board with the capacity, Amherst will be as well; he understands that this does not progress the issue at this point.

Chairman Drinkard refers to the lot in the lower right hand corner of the property which is an exception lot, the Planning Board has continually asked for that lot to be eliminated. The lot is owned by the applicant and is part of the project. With the lot being included it will bolster the green space.

Mr. Pazda said the stated yield is 35 lots; however the plan shows 36 lots. One lot must be eliminated.

Wendy Salvati said another issue discussed was the way the design lays out the open space; there must be a minimum of 50% open space. The objective is to try and preserve large spaces; this proposal does not do that. The open space is split and much of it runs along the perimeter of the project; the people who buy the homes will take over that space. Ms. Salvati would like to see the plan shifted so that the lot lines on the western side go right up to the property boundary; this allows a 35' corridor of open space that would connect with the space in the back. She also suggests eliminating either lot 22 or 15. Mr. Cardillo agrees that an updated drawing needs to be submitted.

Mr. Cardillo asked if the Board would be satisfied if the revised submitted drawing showed the lot lines shifted to the west as suggested, Mr. Pazda said provided the plans shows 50% open space. Chairman Drinkard said the schedule needs to list the various square footage parcels. Mr. Cardillo would like a consensus that if he makes the requested changes to the plan the project can move forward.

Mr. Pazda said the stand of pine trees on the property needs to be preserved and protected. The detention basin is planned for this area and the Planning Board does not want it to be located in the area were the grove of pine trees will be impacted.

Chairman Drinkard suggests that the applicant bring the revised plan back to the Planning Board Executive Committee for discussion. He advises the applicant to review the Traditional Neighborhood District Law; within this law some recommendations are sidewalks and street lighting.

Ms. Salvati said the lot size was previously limited to 2500 square feet; she wants the applicant aware of this limitation.

Terry Finn, of 8208 County Road, is concerned with the elevation of the property for the proposed project. If houses are built the elevation will be higher and he is afraid his land will turn to swamp land. There is a small spring fed pond, a pipe that runs underneath the farm field that goes to a brook that is behind Mr. Finn's house. He is concerned with how much more water will pour onto his land. He is not in favor of the development being shifted to the west. He does not want the people who live there to dump their yard waste or anything else on his land. Children should not play in this area as it could be dangerous due to the trees. Mr. Finn would like to view the plans of the project. Chairman Drinkard said the plans are public record and are available for viewing at any time in the Planning and Zoning office. The next item on the agenda is for 8100 Stahley Road which is on the other side of Mr. Finn's property. Ms. Salvati explains that the proposal for 8100 Stahley Road has been stricken from the agenda.

Mr. Newton asked if the Planning Board considered traffic when reviewing a project. Is the builder prepared to install a traffic light or provide other mitigations? Mr. Newton requests any kind of considerations regarding traffic issues. If there are speeding issues residents should contact the Sherriff's office.

Mr. Schultz explains that the pond is in a Federal Wetland area so it will not be touched. He goes on to say that, under the new Storm Water Regulations, there has to be a permanent Storm Water Management Plan for the entire facility; one development should not be flooding another one. There will have to be an engineered Stormwater Management Plan.

Mr. Van Nest asked the applicant if there are any drainage easements on the project parcel or his neighbors parcel. Mr. Cardillo does not know this but will look into it.

ACTION:

Motion by Gerald Drinkard, seconded by Timothy Pazda, to **table** the request for an Open Space Design Subdivision to allow the applicant an opportunity to meet the following conditions:

- A letter from the Town of Amherst indicating there is sewer capacity must be obtained.
- The updated print shall show a yield of 35 lots and greenspace percentage of at least 50%.
- The schedule on the updated print shall identify the percentage of Open Space and the Build-out.
- The exception lot is to be removed.
- Houses will be a maximum of 2500 square feet for all lots.
- The project will be placed on an upcoming Planning Board agenda once the revised prints have been submitted.

ON THE QUESTION:

The location of the underground pipe needs to be determined. The applicant must find out if there is an easement on the project property or any neighboring properties.

Albert Schultz Aye
George Van Nest Aye
Timothy Pazda Aye
Gerald Drinkard Aye

Richard Bigler Aye
Jeffrey Grenzebach Aye
Wendy Salvati Aye

MOTION CARRIED.

Item 4

Rocco DelGrosso
Traditional Neighborhood District

Requests Preliminary Concept Review of a
proposed Subdivision/Open Development Area at
8100 Stahley Road.

DISCUSSION:

A letter has been received advising the project is on hold. The letter is on file. The project will not be heard this evening.

Meeting adjourned at 8:40 p.m.

Carolyn Delgato
Senior Clerk Typist