

Town of Clarence
Planning Board Minutes
Wednesday August 4, 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

Shadow Woods Open Space Development
Subdivision
Residential Single-Family

Requests recommendation on Development Plan
Approval for a proposed Open Space Design
Subdivision west of Goodrich Road, north of
Keller Road.

Item 2

Fairfield Park/Patrick Homes
Residential Single-Family

Requests recommendation on Concept Plan
Approval for a 4-lot Open Development Area
west of Roxbury Drive, east of Old Hickory Lane
and Fairfield Road.

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
Gregory Todaro

Vice-Chairperson Wendy Salvati
Richard Bigler

Planning Board Members absent:

George Van Nest

Town Officials Present:

Planner Brad Packard
Deputy Town Attorney David Donohue

Other Interested Parties Present:

R. Ruhland
 Angelyn Delgato
 Kevin Curry
 Tony Dominguez

David Kruse
 George Hermance
 Bill Kicman
 Joe Weiss

Chairman Schultz noted that each member of the Planning Board signs an oath of office; it is signed in front of a witness and is kept on file in the Town Clerk’s office. The oath says that each member will do what they can to enforce the Constitution of the Unites States, the Laws of New York and the Laws of the Town of Clarence. Sometimes the members are faced with proposals where they have to balance the interests of the developer along with the interests and needs of the residents. The overriding factor in all the work is it has to be legal; it has to follow the Code and the Law.

Chairman Schultz explained that the Planning Board is technically a seven (7) member board; presently there are five (5) appointed members and one (1) alternate member. It takes four (4) members for a quorum. The alternate, Gregory Todaro, will participate in all discussions and vote on all agenda items.

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on July 7, 2010, as written.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
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 Brad Packard 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

Shadow Woods Open Space Development
 Subdivision
 Residential Single-Family

Requests recommendation on Development Plan Approval for a proposed Open Space Design Subdivision west of Goodrich road, north of Keller Road.

DISCUSSION:

Brad Packard provided the background on the project. It is a proposed Open Space Design major subdivision located on the west side of Goodrich Road, north of Keller Road consisting of approximately 67 acres in the Residential Single Family Zone. This project was originally referred by the Town Board to the Planning Board on September 12, 2007. The project has been issued a Negative Declaration of environmental significance as per the Town Board on March 11, 2009. The project has officially received Concept Plan Approval as per the Town Board after a duly held public hearing on May 13, 2009. The Town of Clarence Engineering Department has performed a review of the current Development Plan proposal and has approved those plans with specific conditions that have been recorded and are on file with the Office of Planning and Zoning. The applicant is present this evening and has requested Planning Board recommendation concerning Development Plan approval.

Sean Hopkins of the Law Firm of Hopkins & Sorgi is representing the applicant. Project engineer Bill Schutt, of William Schutt and Associates, is present. Mr. Hopkins has worked with many agencies which include the Town of Clarence, the Town's Engineering Department, the Planning Department, the DEC, the Erie County Health Department, the Erie County Department of Public Works, etc. to come up with the plan before the Board this evening.

Mr. Todaro asked for details on the slope of the pond planned for the center of the subdivision. There is some concern about the safety of the slope and how steep it would be. Mr. Schutt said within the first layer underneath the normal water level it is a one (1) and four (4) slope which is a safe elevation. This is per both the Town and DEC standards. There is approximately a 10' length from the edge of the water until it starts to deepen. This pond is for storm water quality and will be wet all the time.

Chairman Schultz pointed out there are no changes from the Concept Plan to this Development Plan except the red line along the bottom of the plan which indicates the installation of the gravity sewer line within CSD#2 and the elimination of the Keller Road pump station. Chairman Schultz asked where the applicant ties the sewer line from the subdivision into the proposed gravity line. Mr. Schutt said it ties into the line at the point the lots are closest to the source. Beyond the point where it connects there will be approximately 400 more feet of line installed. Chairman Schultz asked for a brief explanation on the sewer issue. Mr. Schutt said this sewer will go westerly across Heise Road and southerly and connect into the Peanut Line trunk sewer and from there it goes into the Town of Amherst; it does not go near Dodge Road. The DEC will strictly watch this project; they have been involved in the proposal of the sewer and the subdivision.

Wendy Salvati suggests the applicant mark off the areas to be preserved with orange fencing when construction begins.

It is pointed out that the rear yard drainage will go behind the easement area. Mr. Schutt said the pipe that will be installed is only 6" in diameter. The intention is to avoid mature trees.

Mr. Hopkins explained the property that is to be protected will be done so through two (2) mechanisms. Per the Town Code all the open space that was used in terms of calculating the density has to be subject to a declaration of restrictions. All of the green area shown on the site plan will have a permanent restriction. The applicant will be recording the declaration of restrictions and copies will be forwarded to the Planning and Zoning and the Town Attorney's Office.

Ms. Salvati noted that both sides of the entrance area are to remain in its natural state; however, they can be supplemented.

George Hermance, of 9190 Via Cimato, asked for clarification on where the sewer is being installed and how much he will be installing.

Mr. Schutt explained the sewer will go westerly along the southern portion of the project and will connect at Beech Meadow Court. They gain an extra foot of fall by connecting to this way. There is approximately 3,000 feet of sewer total.

Ms. Salvati asked if the sewer line will be installed prior to other construction. Mr. Schutt said it will occur simultaneously. There will be some clearing and grading of the subdivision while the sewer is being installed. They would like to begin as soon as possible, this year.

Ms. Salvati noted there is a letter on file from Nancy Latona of 6440 Goodrich Road dated July 30, 2010. Ms. Latona asked that the letter be read into the minutes, however, it is the same letter that has been previously submitted and is already on the record. Many of the items she speaks of in the letter have been addressed. The project applicant has a copy of the letter.

ACTION:

Motion by Gregory Todaro, seconded by Timothy Pazda, to **recommend** Development Plan Approval for Shadow Woods Open Space Design as depicted in drawings dated July 20, 2010, received by the Zoning Office on July 21, 2010. This recommendation is subject to the following conditions:

1. Deed restrictions, subject to review and approval by the Town Attorney, such that all vacant land within the parcel boundaries and outside the development envelope as shown in drawing PL1, that prevent any further usage regardless of ownership. The only exception to this restriction is that vacant land on the northwest corner of the property can continue to be used for agricultural purposes.
2. The land immediately south of the entrance driveway at 6440 Goodrich Road is to be protected and remain in its natural state, and may be enhanced. This condition applies to the land immediately north of the entrance driveway as well.
3. Development is subject to recreation and open space fees.
4. Building envelopes and setbacks are to be per final concept plan as recommended by the Planning Board on March 18, 2009 on plan dated November 17, 2008. Minimum 30 ft. front and rear setbacks; minimum 10 ft. side yard setbacks; 20 ft. minimum combined side yard setbacks.
5. A Homeowners Association Agreement will need to be approved by the Town Attorney.
6. Any areas not to be developed will be protected by orange fencing prior to and during construction activities.

7. Rear yard drainage to be installed in a way that minimizes impact on existing vegetation.

ON THE QUESTION:

These conditions are essentially the same as those contained in the Concept Approval. The applicant agreed with the conditions.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 2

Fairfield Park/Patrick Homes
Residential Single-Family

Requests recommendation on Concept Plan Approval for a 4-lot Open Development Area west of Roxbury Drive, east of Old Hickory Lane and Fairfield Road.

DISCUSSION:

Brad Packard provided the history on the project. It is a proposed 4-lot Open Development is located on the west side of Roxbury Drive, east of Fairfield Road and Old Hickory Lane. The property is zoned Residential Single Family and is approximately 8.3 acres in size. This project was originally referred by the Town Board to the Planning Board on April 14, 2010 and has received a Negative Declaration of environmental significance as per the Town Board on July 28, 2010. The applicant is present this evening and has requested Planning Board recommendation concerning Concept Plan approval.

Kevin Curry is present and explained his plan is to add 4 homes to the area with a private drive connecting to Roxbury Drive. There will be two (2) homes accessed off of Fairfield in addition to the proposed four (4) lots. He has discussed his plan with the neighbors. The north end of the property will remain wooded; this is the land adjacent to the Cohen’s property. Ms. Salvati said the lot that Mr. Curry is referring to is already an approved lot of record. The Planning Board is only dealing with the 4-lot Open Development Area at this meeting. The two (2) lots off Fairfield Road are not part of this proposal.

Ms. Salvati said future property owners should be encouraged to preserve the natural vegetation as much as possible. Perhaps they can maintain a buffer behind the homes. Mr. Curry agreed. The private driveway will extend East Howard Drive and will be 20’ wide to meet the Town standard. This is significantly narrower than the Town Spec for a right-of-way. He will speak with the neighbors to the north and south of this area to coordinate landscaping.

Arnold Castren, of 4256 Roxbury Drive, has lived there for 40+ years. He respects Mr. Curry’s right to develop his property but Mr. Castren is concerned with excavation as the area sits on bedrock, blasting will have to be done. If there will be no blasting then the properties will have to be built up, which means that property will be 3’ or 4’ higher than his property. During the spring time all the lots in the area flow toward a field and that field becomes flooded. He does not need more water on his

property. Mr. Castren is also concerned with lighting from the proposed homes invading his privacy. Another concern is the increased traffic; Roxbury Drive has not been maintained for many years. Mud and dust from the construction will cause problems as well.

Chairman Schultz noted that the current street maintenance is not the responsibility of the developer.

Mr. Curry does not expect that blasting will need to be done. He has built other homes in the area and he has not had to blast. He has used in-ground septic systems or sand filters systems as dictated by the County.

Rosemond Ruhland, of 4200 Roxbury Drive, asked what time the construction will begin each morning. There are children in the area and she thinks 6:00-6:30 am is too early to start construction.

Mr. Curry is aware that his project cannot displace water onto a neighbor's property. He will address any lighting issues that may arise. There will only be four (4) homes added to the area so the increased traffic will be minimal.

Ms. Salvati asked if Mr. Curry's project is approved will he build the driveway right away or would he wait until he sells the lots. He would market the lots first then build the driveway.

Chairman Schultz asked for Mr. Curry's response to a "no blasting" condition if the project was approved. He doesn't anticipate blasting, but if he had to, there are regulations he would have to follow. He doesn't want to blast but would like to have the option if needed.

Mr. Pazda asked what the intent is for lighting on the private drive. Mr. Curry said he has not considered that issue yet. He will not do anything that is an annoyance.

Mr. Curry is not familiar with any ponding for any length of time on his parcel. The water dissipates rapidly; thus he does not anticipate drainage issues. Mr. Packard noted that the Engineering Department will review a storm water management and drainage plan.

Mr. Curry will comply with the Town requirements for the hours that construction can take place. The Town Code standard allows construction between the hours of 7:00am and 6:00pm.

Mr. Todaro asked if the applicant will bring dirt on to the project site. Mr. Curry does not know at this point but will have a better idea once the project is engineered.

Mr. Pazda said he is not a fan of recommending approval for housing behind housing but if the project meets the code, he must follow the code. If this bothers other people in the Town there are provisions where they can recommend changing the code.

Mr. Bigler said he thinks everyone will be pleased that there aren't 30 homes on the property.

ACTION:

Motion by Richard Bigler, seconded by Wendy Salvati, to **recommend** approval of the Concept Plan for a four-lot Open Development Area on the west end of East Howard Drive. This recommendation is subject to the following conditions to be implemented at the Development Plan phase:

1. Access drive is to meet minimum design standards as defined by Town Code.
2. Public water must be supplied per Town Code.
3. Drainage and storm water management plan as determined by Town Engineering, consistent with Town Code 188A.
4. Development is subject to recreation and open space fees.
5. A landscape plan will be developed to screen driveway within East Howard right-of-way from adjacent neighbors.
6. Individual septic systems must be approved by the County Health Department.
7. Homeowners' Agreement, approved by the Town Attorney, to specifically address maintenance of, and snow removal from, the portion of access driveway included in the Town Right-of-Way.
8. Consideration to roadway lighting, if lighting is needed, to install low intensity lighting.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Meeting adjourned at 8:36 p.m.

Carolyn Delgato
Senior Clerk Typist