

Town of Clarence  
 Planning Board Minutes  
 Wednesday September 5, 2007

**Work Session 6:30 pm**

Roll Call  
 Minutes

Update on Pending Items  
 Committee Reports

Zoning Reports  
 Miscellaneous

**Agenda Items 7:30 pm**

**Item 1**

Four M's Development  
 Industrial Business Park

Requests Concept Plan Approval for an Industrial  
 Business Park at 10120 County Road.

**Item 2**

Jack Willert  
 Agricultural Rural-Residential

Requests a Residential Lot Split or an Open  
 Development Area at 10965 Stage Road.

**Item 3**

Chris Carollo  
 Residential Single-Family

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

**Item 4**

Staybridge Suites Hotel  
 Major Arterial

Requests Concept Approval for a new hotel at  
 8005 Sheridan Drive.

**Item 5**

Sign Review

Discussion.

**Item 6**

Architectural/Design Standards

Discussion.

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  
 Gerald Drinkard, 2<sup>nd</sup> Vice Chairperson  
 Timothy Pazda  
 Richard Bigler

Wendy Salvati, 1<sup>st</sup> Vice Chairperson  
 Jeffrey Grenzebach  
 George Van Nest  
 Albert Schultz

## Other Town Officials Present:

James Callahan, Director of Community Development  
 James Hartz, Assistant Director of Community Development  
 Councilman Scott Bylewski  
 Deputy Town Attorney David Donohue

## Other Interested Parties Present:

John Akiki	Ted Kensity
Steve Aldrich	Jerry Young
Chris Carollo	Susan Wickenhiser
Brad Davidzik	Jason Knight
Mark Tuffillaro	Mark Meiler
Carla Meiler	Jack Willert

Motion by Gerald Drinkard, seconded by Richard Bigler, to **approve** the minutes of the meeting held on August 15, 2007, as written.

Patricia Powers	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye	Jeffrey Grenzebach	Abstain
Timothy Pazda	has not arrived yet	George Van Nest	Abstain
Richard Bigler	Aye		

MOTION CARRIED.

**Item 1**

Four M's Development  
 Industrial Business Park

Requests Concept Plan Approval for an Industrial  
 Business Park at 10120 County Road.

**DISCUSSION:**

Jim Callahan provides the background of the project. The property is located on the north side of County Road, west of Strickler Road and consists of 4.2 acres. The applicant has received a Negative Declaration under SEQRA. The project features six (6) buildings.

Jason Knight of Greenman Pedersen, Inc. and Mark Tuffillaro of Four M's Development are present. Mr. Knight explains the proposal now includes pine trees to be planted at the north property line, the trees would be dense, 35' across from the ground up; the trees would shield all uses to the north including lighting issues.

In response to Patricia Powers question regarding the placement of the sign, Mr. Tuffillaro said he imagines the sign will be located at the entry way.

Mr. Drinkard clarifies, for the record, that the hedgerow at the north and south boundary lines will remain untouched. Mr. Knight agrees and said with the exception of the entranceway the hedgerows will remain untouched. The back hedgerow is approximately 35'- 45' thick and 12' -14' high. The south hedgerow is not on the applicant's property. The property has been topographically

surveyed. The two back buildings will have no lights on the rear of the buildings. The lights on the buildings will be wall packs with shields.

Mr. Drinkard explains that the Landscape Committee requires 8% of the space within the parking area must be landscaped; the applicant is aware of this and will calculate appropriately.

At this point, Mr. Knight does not know if the retention pond will be wet or dry. Mr. Tufillaro prefers a dry pond.

Mr. Knight said the septic systems will be located in the 80' area in front of the buildings. The pond would be mowed if it was dry.

Timothy Pazda asked when the new stormwater regulations will go into effect where ponds will be required to be wet. Jim Callahan said the Engineering Department is working on the final draft of that law and it should be ready by February 2008.

Carla and Mark Meiler own the property directly north of the project site. Mrs. Meiler asked if the hedgerows are not going to be touched, where are the pine trees going and where is there room for a pond? Patricia Powers explains that the trees that are to be planted will be planted on the north side of the hedgerow and the pond will be to the south of the hedgerow. Mr. Meiler measured 45' from the property line to the other side of the hedgerow. Wendy Salvati explains that the applicant needs to install the pond without disturbing the hedgerow. Mr. Meiler is concerned about water drainage. Wendy Salvati explains that the applicant has to design a drainage plan that handles all the water on their site. Mrs. Meiler said it is not possible for the proposed project to handle that amount of water at the site. Patricia Powers explains that the applicant will be required to obtain an engineer approved drainage plan for the project. The pine trees will not be on a berm.

#### **ACTION:**

Motion by Timothy Pazda, seconded by Richard Bigler, to **recommend** Concept Plan Approval with the following conditions:

- The northern hedgerow, which is approximately 39' south of the north property line. The intent is to maintain the hedgerow.
- The southern hedgerow is not on the applicant's property and is to remain in place only allowing for the ingress and egress to the property.
- No lights on the rear walls of the two northern most buildings.
- All other lights are to be wall packs and to be shielded; any lot lights are required to be shielded as well.
- There will be no outside storage.
- The hedgerow to the north is to be supplemented and approved by the Landscape Review Committee.
- A Development Plan Approval Checklist is required.
- The applicant is subject to Commercial Open Space Fees.
- Final engineering will be required at Development Plan Approval.
- The retention pond is to be dry and mowed as needed.
- The hedgerow is not to be disturbed to accommodate the pond.

Patricia Powers	Aye
Gerald Drinkard	Aye
Timothy Pazda	Aye
Richard Bigler	Aye

Wendy Salvati	Aye
Jeffrey Grenzebach	Aye
George Van Nest	Aye

MOTION CARRIED.

**Item 2**

Jack Willert

Agricultural Rural-Residential

Requests a Residential Lot Split or an Open Development Area at 10965 Stage Road.

**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the south side of Stage Road, east of Schurr Road and consists of approximately 17.5 acres. Minor subdivision approval on the parent parcel for four (4) lots was approved in 2005, the applicant is seeking approval to develop a fifth (5<sup>th</sup>) lot from the parent parcel. The applicant was referred by Town Board to consider a one-lot Open Development Area on a 17.5 acre parcel.

Jack Willert is present and explains that the lot is sold pending some type of approval from the Town.

In response to Mr. Grenzebach's question regarding the setback of the house, Mr. Willert explains that the house would be setback from the street, but may move to take advantage of a drop-off that is behind the house; the drop-off is a perfect situation for a walk-out basement. This leaves the back acreage of 13-15 acres totally untouched and undeveloped; this keeps in tune with what the Town is trying to accomplish.

Jim Callahan explains that any housing permit is going to require a drainage plan submittal and approval by the Town's Engineer Department.

Wendy Salvati does not think it is fair to make the applicant obtain variances to create a one-lot Open Development Area when all the applicant wants to do is build one house on one 17 acre lot, which is in keeping with what the Town would like to see. She suggests that the Town apply the provision found in the Town Code under section 193-9 which indicates that where the Town Board finds that because of unusual circumstances of shape, topography, or other physical features of the subdivision tract, or because of the nature of adjacent development, extraordinary hardships may result from the strict compliance with these regulations, it may vary the regulations via supermajority vote. She would like to see the recommendation on this project for a one development lot.

Timothy Pazda thinks the Town Board's major concern was changing a minor subdivision to a major subdivision. Wendy Salvati said it doesn't make sense to make the applicant go through the major subdivision procedures when the Town Board can grant him a variance from that. By approving the project as one lot, it can never be subdivided further.

David Donohue suggests the reasons for this unique situation be stated for the record. Gerald Drinkard said the major reason is the topography of the lot, the size of the lot, the physical conditions of the lot, the proposed location of the home is best place to site a home on the lot, to take the house back further would take substantial grading and by maintaining 17 acres as a single residential unit it is

in keeping with the Master Plan of Clarence. Jim Callahan identifies other rationale and indicates that no public infrastructure would need to be extended; the New York Realty Subdivision Law would not come into play because of the size of the lot.

**ACTION:**

Motion by Patricia Powers, seconded by Jeffrey Grenzebach, to **recommend** the Town Board issue a Negative Declaration based on the information and analysis as provided on the short form EAF, this proposed unlisted action will not result in any significant adverse environmental impact.

Patricia Powers	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	George Van Nest	Aye
Richard Bigler	Aye		

MOTION CARRIED.

**ACTION:**

Motion by Richard Bigler, seconded by Wendy Salvati, to **recommend** a residential lot split at 10965 Stage Road, subject to the following conditions:

-Any future splits will require a formal review under either a Major Subdivision or an Open Development Area, this will include SEQRA.

**ON THE QUESTION:**

Wendy Salvati said the decision is based on the fact that the Planning Board feels that this one lot is keeping with the recommendations of the Master Plan; the proposal does not require infrastructure extensions, the topographic and geographic conditions of the site warrant the best location for the house is at the front of the site.

Richard Bigler said the applicant would need to comply with the Town Law regarding topsoil removal, grading, drainage, etc., at the site.

Patricia Powers	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	George Van Nest	Aye
Richard Bigler	Aye		

MOTION CARRIED.

**Item 3**

Chris Carollo  
Residential Single-Family

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

**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the north side of Clarence Center Road, west of Shimerville Road and consists of approximately 4.5 acres. The applicant was previously tabled pending alternative designs and is now seeking Concept Approval on the amended design.

Christopher Carollo is present. He explains that his plan meets the regulations for an Open Development Area.

Wendy Salvati advises Mr. Carollo that the Planning Board needs to see the location of the driveway on the neighboring parcel to ensure that the 100' distance requirement is met. Mr. Carollo said it is approximately 125' from center line to center line. Wendy Salvati said that needs to be shown on the plan. Mr. Carollo said there is 125' of frontage on the main parcel and he plans to put the driveway to the east and as close to that tree line as possible, without damaging it.

Gerald Drinkard said the plan must be submitted by a certified engineer showing the lot delineation. Mr. Carollo said the plan meets all requirements and he has no problem having this plan approved contingent on obtaining a certified plan, he is sure the numbers will work.

George Van Nest said it appears that the plan is in conformance with the requirements; however, for every other plan submitted, the Planning Board requires details which should include the lines, the grades, the measurements, etc. Mr. Carollo explains that the only thing that has been changed on Bissell-Stones rendering of the project is the positioning of the house. Mr. Drinkard said that the past plans included the need for variances; things have changed. Mr. Carollo said the plan has changed because it was driven by the Town Board and the code, it is not the plan he wanted. He said the Planning Board needs to recognize the hardship of cost and time; the cost of moving the house 200'-300' has been a hardship on the Carollo's. He is looking at a \$35,000 to \$40,000 upcharge because he had to move the house. George Van Nest points out that the house was moved "on paper" and is not a real cost but a theoretical cost of developing a lot that has not been approved yet.

Mr. Carollo points out that the Planning Board made an exception to agenda item #2, so exceptions can be made. Mr. Drinkard explains that was for the betterment of the Town. Mr. Carollo said that is all in perception.

Mr. Van Nest reiterates that a detailed concept plan with dimensions such as measurements, grades, lines, etc. is required in order to move forward. Patricia Powers explains that the neighboring curb cuts and the distances must be shown on the concept plan as well. Mr. Carollo said the neighboring driveway is in the midst of construction, so definitively that driveway is not established 100%. He said the farther east he moves the road, the more trees it will damage. Mr. Carollo can submit a plan with dimensions and setbacks by Monday September 10, 2007. He said this will put him back another 30 days. He points out, one again, that the drawing is to scale. He asks, again, if the project can be moved forward contingent on a certified drawing, so he can begin to build by the end of the season. Patricia Powers explains that the Planning Board can not move on contingencies. If Mr.

Carollo submits the information requested by September 10, 2007 he may be placed on the September 19, 2007 Planning Board agenda.

Gerald Drinkard said he noticed there is a lot of cement fill at the project site, he also saw a pool development company dropping fill off at the site, he asked if Mr. Carollo has a permit from the Town for bringing fill on to the property. Mr. Carollo said no one has permission to drop anything on his property. The cement material at the site is remainder of the approved demolition that took place at the site.

Mr. Drinkard explains that once the Landscape Committee approves a plan, the approved greenspace must remain greenspace forever.

Mr. Carollo explains he was planning on hand laid stone wall with a gate. Both houses will not be built at the same time; however the infrastructure will be in place. It will be a private drive.

Susan Wickenhiser, owner of 8710 Clarence Center Road, has many concerns. She said she obtained a copy of the current plan just yesterday and has not had time to review it. She suggests that, in the future, if Mr. Carollo submits a plan, copies should be made and kept in the file so she can have access to them. She comments about the driveway saying the Building Department has a file which indicates her driveway is supposed to be 25' from the property line. She also has concerns regarding the turn around. She wants to see dimensions on the plan. She asked if the house can face the driveway, does the setback line have to be where the front of the house is. She would prefer a berm put behind her for privacy.

Wendy Salvati refers to the code and confirms that a turn around has to be put in, Jim Callahan explains Engineering approval will be required. Patricia Powers said the code does not state a distance for the pavement cross section and the turn around.

Mrs. Wickenhiser is also concerned with the increased traffic that the project will produce. She does not believe that the plan will meet the 100' requirement. It is clarified that the house can be situated anyway on the property as long as it meets the setback requirement.

#### **ACTION:**

Motion by Jeffrey Grenzebach, seconded by Timothy Pazda, to **table** agenda item #3 to allow the applicant time to submit a Concept Plan stamped by a certified engineer; the plan is to include details and dimensions such as setbacks, grades, lines and neighboring curb cuts.

Patricia Powers	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	George Van Nest	Aye
Richard Bigler	Aye		

MOTION CARRIED.

#### **Item 4**

Staybridge Suites Hotel  
Major Arterial

Requests Concept Approval for a new hotel at  
8005 Sheridan Drive.

**DISCUSSION:**

Jim Callahan provides the background on the subject. The property is located at the south east corner of Sheridan Drive and Transit Road and consists of approximately 6 acres. The applicant has received a Negative Declaration under SEQRA on the proposed property development.

Jerry Young is representing the applicant. Mr. Scott is present along with Mr. Johnson of Wm. Schutt & Associates and Steve Aldrich of FRA.

Steve Aldrich explains that the accident research has not been received back from DOT yet. Mr. Young does not know how relevant the accident research will be since the hotel has not been operational for 3-4 years. Wendy Salvati said there have been accidents in other places and she would like to get an idea of what existing conditions are in the vicinity.

Patricia Powers asked what organization is AASHTO. Mr. Aldrich explains that it is the American Association of State, Highway and Transportation Officials. He said he received a copy of the e-mail sent by Matthew Balling, Chairman of the TEQR Committee. The e-mail addressed an error in the calculations of the site distance in the Traffic Study. The traffic study standard for site distance was recalculated and corrected from 500' to 625'. The site distance actually measured at the location of Sheridan Drive looking west is 600'. Mr. Aldrich said a possibility might be to move the location of the driveway to the east; however, the uses do not coincide with the peak generation of Sheridan Drive. The recalculation was based on the post speed of 45 mph, but a design speed of 50 mph. Patricia Powers asked if there is enough frontage to move the driveway to the east. Mr. Young said yes. The line of site standards are different on Transit Road as compared to Sheridan Drive because the number of lanes are different.

Gerald Drinkard questions the peak times of Transit Road and the proposed restaurant. Mr. Young said the peak time for exiting the restaurant is 7pm to 9:30pm; this is not the peak time for Transit Road. The Transit Road peak is 4pm to 6pm.

Wendy Salvati said the problems with the traffic study were not properly identified. George Van Nest said the recently discovered information was not evaluated by the TEQR Committee; he is concerned with public safety and traffic safety. Mr. Callahan said the traffic issue was discussed at the TEQR meeting; DOT said a traffic study was not needed and felt the Level-of-Service was acceptable. Mr. Van Nest said it is not a Level-of-service issue, it is a safety issue, it's a line of sight issue.

George Van Nest said, for the record, that it is inexplicable, with respect to the applicant and his consultant, that a third party finds a discrepancy in the traffic study report that the DOT did not find. Mr. Van Nest is concerned with the TEQR Committee not evaluating all the information the Planning Board asked them to.

Jerry Young said he has done what the Planning Board asked; the applicant has hired an independent traffic consultant whose results are no mitigation is required, except for the site-distance issue that was mentioned previously. Mr. Young has no one else he can go to.

Mr. Young distributed copies of a map showing different options for traveling south on Transit Road out of the project site.

Mr. Pazda said he would be most comfortable with a “no left turn” on to Transit Road, as long there are two other options to exit the site.

Brad Davidzik, of Damon and Morey, represents the Reade family who owns the property to the east of the site. He said if the driveway needs to come closer to the Reade’s property he would like to request an agreement for substantial buffering, he does not want to stop or hold the project up. The applicant is willing to put up a green fence, mound the buffer and/or plant arborvitae.

Patricia Powers said the Planning Board’s concern is safety.

#### **ACTION:**

Motion by Patricia Powers, seconded by Gerald Drinkard, to **recommend** Concept Plan Approval for agenda item #4 subject to the following conditions:

- A traffic study to be reviewed by an independent third party with particular attention to safety concerns.
- The traffic study recommends that the access points to Sheridan Drive and Transit Road each consist of one in-bound and one out-bound lane.
- The Planning Board recommends that the Transit Road driveway be constructed in such a way as to permit right turns only out of that access point.
- Sheridan Drive access point distance to be mitigated by moving this driveway 26’ east of present site.
- A Special Exception Permit is required due to the size of the hotel; this will be taken care of at the Town Board level.
- Further additions to the hotel and proposed restaurant will require the applicant to return for Concept Approval.
- The applicant is required to present an approved Landscape Plan at the time of Development Plan Approval.
- Commercial Open Space Fee(s).
- Additional buffering will be put in adjacent to the Reade’s property due to the relocation of the driveway.

#### **ON THE QUESTION:**

In light of the new information received, Timothy Pazda questions the need to have a third party review the traffic study. Patricia Powers said the Planning Board is only recommending a third party review the traffic study; the Town Board will choose whether to require it or not.

Mr. Young makes sure that a left turn into the site is acceptable; the conditions set on the motion reflect this. Gerald Drinkard points out that there is a turning lane to assist in a left turn going into the property, which is what the turning lane is for. A left turn into the site is acceptable.

Mr. Van Nest said, for the record, the newly discovered discrepancy in calculations, which was not evaluated by the TEQR Committee, could affect the environmental impacts and the public safety of the citizens that use the site; this is a major issue. It puts the Planning Board in a difficult position because they are making major assumptions without certain information such as the accident analysis report.

Councilman Bylewski suggests the Planning Board ask the applicant submit the updated traffic study to the Planning and Zoning Office as soon as possible so that when the project comes before the Town Board they will have access to the report. The applicant agrees to amend the study.

Mr. Young questions the condition stating a third party needs to be consulted, he asked if the Planning Board means another third party be consulted, besides FRA. Patricia Powers said she believes FRA was charged with looking at the traffic from a Level-of-Service standpoint, not a safety standpoint. Mr. Young asked if the applicant can engage FRA to look at the Planning Board's concern prior to the Town Board meeting.

Mr. Van Nest suggests recommending the Town Board rescind the Negative Declaration, to re-evaluate the new information, to evaluate the traffic accident analysis and to fully consider the environmental impacts specifically traffic safety impacts on this site and then appropriate mitigation measures should be put in place.

The information that has not been reviewed, to date, is the 600' vs. the 625' site distance standards. Wendy Salvati adds the accident data has not been review either. Mr. Young said the accident data is not going to be related to the project. Wendy Salvati does not agree.

Mr. Young said the DOT has indicated that they have no concerns.

Mr. Van Nest said the Town is a decision making authority, the DOT, as an involved agency, can comment or not. DOT seems to not look specifically at traffic studies with the level of analysis that they should have given. His recommendation is that the Town Board, the TEQR Committee give a thorough analysis under the Town Law and forget about what the DOT does and does not do. Mr. Young said that is why the applicant hired the third party expert.

It is clarified that a left turn into the site is not prohibited.

Patricia Powers	Aye	Wendy Salvati	Nay
Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	George Van Nest	Nay
Richard Bigler	Aye		

MOTION CARRIED.

**Item 5**

Sign Review

Discussion.

**DISCUSSION:**

- A sign for Christian Value Investments, 5637 Harris Hill Road, is approved.
- A sign for Len-Co Lumber has been approved on the condition that the illegal signs on Sheridan Drive be removed.
- A sign for Auto Place Infiniti, Main Street, is approved.
- A sign for Dr. Philip J. Young, 6715 Transit Road, is approved.
- A sign for Dr. Nabi, 6095 Transit Road, is approved pending the 50' setback requirement.

**Item 6**

Architectural/Design Standards

Discussion.

**DISCUSSION:**

Patricia Powers suggests all Planning Board members read the Architectural/Design Standards that have been distributed, mark them with any changes and return them to Jim Callahan as soon as possible so that a draft can be drawn up.

Timothy Pazda refers to section 229-89 (h) (1) and suggests “Grand Island” be taken out of the paragraph.

Meeting adjourned at 9:45 p.m.

Carolyn Delgato  
Senior Clerk Typist