

Town of Clarence  
Planning Board Minutes  
Wednesday September 16, 2009

**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**

Epiphany United Church of Christ  
Agricultural Rural Residential and  
Industrial Business Park Zones

Requests Concept Plan approval for a new church  
at 9520 Wehrle Drive.

**Item 2**

DHD Ventures/Leonard Deni  
Major Arterial and Residential Single-Family  
Zones

Requests preliminary Concept Plan Review for a  
major commercial plaza on Transit Road, north of  
Miles Road.

Chairman Gerald Drinkard called the meeting to order at 7:30 p.m. Director of Community Development James Callahan led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard  
2<sup>nd</sup> Vice Chairman Wendy Salvati  
George Van Nest  
Gregory Todaro

1<sup>st</sup> Vice Chairman Albert Schultz  
Timothy Pazda  
Richard Bigler

Planning Board Members Absent:

Jeffrey Grenzebach

Other Town Officials Present:

Director of Community Development James Callahan  
Planner Brad Packard  
Deputy Town Attorney David Donohue

## Other Interested Parties Present:

James Radwan	Paulette Rupp
Nina E. Triettey	Bruce Waasdorp
Scott Snyder	Robert Koerner
Andrew Olek	James Shelton
Margaret Shelton	Doug McCallum
Rev. Cushing	John Russo
Sue Freeman-Russo	John Gaulocher
Sandy Gaulocher	

Chairman Drinkard announces that Mr. Callahan attended the New York State Planning Federation Conference this past weekend and was awarded the Pomeroy Award for zoning achievement. Ms. Salvati also attended the conference and was promoted to president of the New York State Planning Federation.

In the absence of Planning Board member Jeffrey Grenzebach, alternate Planning Board member Gregory Todaro will participate in all discussions and vote on all agenda items.

Motion by Al Schultz, seconded by Timothy Pazda, to **approve** the minutes of the meeting held on September 2, 2009, with the following correction:

-The word "be" shall be stricken from the first line of the seventh paragraph on page 122.

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

Epiphany United Church of Christ  
Agricultural Rural Residential and  
Industrial Business Park Zones

Requests Concept Plan approval for a new church  
at 9520 Wehrle Drive.

**DISCUSSION:**

Jim Callahan provides the background on the project. The property is located on the north side of Wehrle Drive west of Gunnville Road. It is existing vacant land consisting of approximately 14.3 acres in both the Agricultural Rural Residential Zone and the Industrial Business Park Zone. The applicant is proposing to develop a new church on the property. A Negative Declaration has been issued under the State Environmental Quality Review Act (SEQRA) by the Town Board on August 26, 2009.

James Radwan is an architect at Trautman Associates and is representing the applicant. Mr. Radwan notes there have been a few minor modifications to the plan. One modification is the reduction of the church structure by approximately 1500 square feet; the church is now approximately 8300 square feet total. The reduction would happen along the northwest portion of the proposed structure. The reason for the reduction is a cost savings measure. Phase II will be 5-10 years down the road. Phase I is what they are looking at now. Parking would be at about 75 cars, seating at the church would be approximately 200. The church would have accommodations for Sunday school classes, a gathering place and some support space. Some outside organizations may use the space for meetings along with some groups from within the church.

Reverend George Cushing concurs with what Mr. Radwan has said and has nothing more to add. The maintenance building in the back is part of Phase I and will be used for things like storage of lawn maintenance equipment.

Although a landscaping plan is premature at this point, Chairman Drinkard asked what the applicant's thoughts were. Mr. Radwan said they plan on leaving the entire property as natural as possible. Up front they have to have an above ground septic system so they would use this as an additional undulating buffer to help hide the parking. They would like to use the retention pond area to enhance the property as well. The entrance drive was discussed and a possibility is a sign with some landscaping around it. Mr. Radwan points out that much of the front portion of the property has already been cleared.

Ms. Salvati voices her concern regarding the house that is next to the proposed driveway and how it will be buffered. Mr. Radwan said they are prepared to look at a berm in that area and may use the grading from the site.

Mr. Pazda said if the applicant is reducing the building have they considered moving it further away from the neighboring property. Mr. Radwan said if the building is moved back there will be added costs for the clearing of the trees, they want to keep it as natural as possible. There would also be additional costs for added asphalt. Mr. Todaro suggests shifting the building west. Mr. Radwan explained that would affect the future Phase II. In Phase II they would take the parking around the back of the building, keeping the handicap parking in the front. They would like to keep the building off the west property line to allow the road in Phase II, which leads to the parking in the back of the building.

Mr. Radwan said the gathering space would be wide open and approximately a story and a half high. The support piece around it would be flat roofed; there would be bathrooms and offices on the sides. Building materials would be stone and some natural wood siding.

Chairman Drinkard said at the last meeting the neighbor adjoining the project site to the west, Mr. Kraft, indicated he did not oppose the project.

**ACTION:**

Motion by Al Schultz, seconded by Wendy Salvati, to **recommend** Concept Plan Approval to the Town Board.

**ON THE QUESTION:**

The following conditions apply to the motion:

- Based on the conditions stated in the NYS DEC letter dated February 20, 2009.
- The applicant will need to come back before the Boards for approvals on Phase II.
- A redesigned plan to submit at the next level.

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

MOTION CARRIED.

**Item 2**

DHD Ventures/Leonard Deni  
Major Arterial and Residential Single-Family  
Zones

Requests preliminary Concept Plan Review for a  
major commercial plaza on Transit Road, north of  
Miles Road.

**DISCUSSION:**

Jim Callahan describes the property as being located on the east side of Transit Road, north of Miles Road. It is vacant property consisting of 35 acres and was approved for extension of commercial zoning to a greater depth with conditions as a Master Plan 2015 amendment in 2008.

Dave Neuman, of DHD Ventures, is present. He is working with Leonard Deni on a proposed shopping plaza at the site. Mr. Neuman said they slightly altered the shape of the retainage basin. There is a significant amount of permitting work that has already been done through civil engineers, geotechnical and wetland delineation. The land that has been identified for the buildings is what has been approved. The intent is for one (1) or two (2) larger boxes on the east side of the development facing Transit Road. There would be a smaller strip center facing north and facing the inner parking fields. Rather than a sea of parking there would be two (2) out parcels up front; there would be some green spacing and some trees in this area as well.

Mr. Schultz notes that a clear-cut delineation of wetlands and other related information would be done by the TEQR Committee as part of the SEQRA process.

Chairman Drinkard suggests the applicant consider all the points and comments made by Planning Board members this evening to establish a plan that the applicant feels meets the guidelines of both his employer and the Town.

Mr. Pazda asked if the applicant is willing to make changes to the plan. Mr. Neuman said there is room for suggestions but as far as functionality, the bigger boxes prefer to be in the location currently shown on the plan. He is unable to say who the potential tenants may be at this time. Mr. Pazda asked if there are potential tenants for all the buildings. Mr. Neuman said they have a good start with one large retailer.

Mr. Schultz asked for clarification on the parking calculations as it appears the calculations are from the Commercial guidelines and the Retail guidelines. Mr. Neuman said they used both to show that they can meet the parking guidelines no matter what goes in the buildings.

Mr. Neuman said building C and part of building B could possibly house a restaurant.

Ms. Salvati said this project may be an opportunity to combine some design elements as the Traditional Neighborhood District is close to the project site. She suggests moving building B closer to the road and having the façade that faces the road provide the look of a series of small stores or businesses and have the entrances in the back of the building. The parking, with landscaping, would be in the middle, framed by the buildings. She suggests putting the loading docks behind the buildings.

Mr. Pazda would like the project to be more sensitive to the surrounding area.

Mr. Schultz points out that the applicant will need to become familiar with the architectural standards in the Commercial zone.

Mr. Neuman said they are not opposed to considering two (2) businesses in building A. There are big box retailers who have their own identity and branding in place and if their guidelines can't be reached they will go elsewhere; he has much more flexibility with buildings B, C and D.

Mr. Bigler voices his concern for the neighbors regarding diesel trucks loading and unloading at the south end of building B.

Mr. Schultz points out that the biggest concern of the Planning Board when they reviewed the Master Plan amendment last year was for the protection of the neighbors on Miles Road; thus the reason for the white area on the current proposed plan. The nature of the businesses that will go into buildings A and B are very important.

Ms. Salvati said future concerns will involve the lighting at the site.

Chairman Drinkard said not knowing the tenants is a potential risk. If the tenants were known, information could be discussed such as loading docks, engineering and other requirements. Looking at the current plan, it would be difficult for a semi tractor trailer to maneuver at the site. Chairman Drinkard suggests the applicant review the Town of Clarence Zoning Law. This Law will address items such as parking and shared access for the future.

Mr. Pazda suggests land-banking some parking and put it in as needed.

Chairman Drinkard suggests the applicant review the Landscape Law in § 131 of the Town Code. This section addresses various items including internal greenspace in the parking area; if there

are over 25 parking spaces 8% greenspace is required. A Landscape plan must be drawn up by a landscape architect; Landscape approval will be required.

Scott Snyder lives on Miles Road and said the last time a developer looked at putting a project at this site they were going to convey some land to him and his neighbor. Mr. Snyder asked that the same requirement be met for this developer. Mr. Van Nest explains that neither the Planning Board nor the Town has the ability to dictate to a private property owner what he does with the property with regards to conveying it to a third party. The Planning Board may be able to work out an agreement whereby the land is kept green or used in a way that it is accessible for a bike path. There is no mechanism for the Planning Board to force the property owner to sell land. Deputy Town Attorney David Donohue suggests Mr. Snyder discuss this with the developer. Chairman Drinkard explains that the "white" portion of land that is shown on the plan is an easement and can never be developed. Mr. Snyder asked that the parking lot at the south end of the property be removed. Loading docks and dumpsters are not depicted on the plan; he asked they be placed on the northern end of the plaza. Mr. Neuman said building A will probably slide westward, the loading on the back space will have to accommodate their shipments. Mr. Snyder said there is another plaza on the other side of Transit Road, 90% of this plaza is vacant. "What makes us believe that we are going to have tenants for this plaza?" Chairman Drinkard points out that is a rhetorical question.

Ann Koerner, of 8050 Miles Road, owns the property that goes directly to building B. Her concerns are she does not want a strongly lit parking lot or access to the back of her property by people who do not belong there. She is also concerned with dumpsters, loading, and trucks in her backyard. Chairman Drinkard asked what Ms. Koerner thought of a sidewalk path to make a walkable environment to and from the proposed plaza. Ms. Koerner said she would not like it. She was offered the same land conveyance as Mr. Snyder was by the previous developer.

Sue Freeman-Russo, from Poplar Hill, asked what the current zoning of the property is. The current zoning is Major Arterial, which allows for big box stores. The proposal is for the whole piece to be downzoned to Commercial, Commercial has a higher, stricter architectural standard than Major Arterial. Ms. Freeman-Russo points out that the additional residential area would be zoned Commercial as well. Mr. Schultz explained the reason the Planning Board supported the proposed Master Plan Amendment is because some of the surrounding land, which he points out on the plan that is on display, is to remain forever green and open. Ms. Freeman-Russo said there was a petition forwarded to the Town approximately a year ago that was opposed to the rezoning. The traffic on Miles Road is bad and will only get worse with more businesses in the area. Truck traffic will compound issues on the already problematic bridge.

Ms. Salvati explains that the Master Plan amendment has been approved by the Town Board but the land has not been rezoned yet. It most likely will be rezoned. Ms. Freeman-Russo is disappointed. Mr. Schultz said the rezoning will require a Public Hearing, so there is another opportunity to voice concerns to the Town Board. A notice of the Public Hearing will be mailed to residents within 500' of the site.

John Russo, of 6515 Poplar Hill, is concerned with the traffic. Between 4:00 p.m. and 6:00 p.m. Monday through Friday the strip on Transit Road, where it goes from four (4) lanes to two (2) lanes, backs up past Miles Road. This is a dangerous situation; there is an accident at least once a week. Chairman Drinkard said traffic will be looked at once there is a plan that can be forwarded on to the TEQR Committee. All meetings are open to the public and all minutes are available on line for public access. Mr. Schultz notes that the TEQR Chairman works for the NYS Department of

Transportation (DOT). The DOT is one of the primary inputs for the environmental review, which is state law. It is a thorough review.

Mr. Schultz explained the alternative to this Master Plan amendment is for significant residential development all through that piece of property. Apartments and/or high density living would be allowed. The TEQR Committee liked the proposed rezoning because it protected much of the open space.

Mr. Neuman said in drawing up this plan they tried to maintain the integrity of the wetlands. They will address the issues brought up this evening including parking, lighting and relocating a building or buildings.

Chairman Drinkard advised Mr. Neuman of the Executive Planning Board meetings held each Monday morning at the Town Hall. If Mr. Neuman draws up another sketch plan he can make an appointment, through the Planning Office, to meet with the Executive Planning Board to discuss his plan. The Executive Committee does not speak for the Planning Board. Mr. Neuman should review the Town's Landscape Law, the Zoning Law, the parking criteria, shared access and the architectural standards.

Mr. Callahan clarifies that because it was identified in the Master Plan amendment a Concept of this nature was acceptable; once the concept is firmed up the rezoning can proceed.

Deputy Town Attorney David Donohue said the Town wants to make sure the space is deeded forever green, it can't be zoned that way, so they have to wait until the Development Plan stage in order to deed it forever green.

Chairman Drinkard suggests the applicant come back with details such as elevations, materials and color schemes. Mr. Neuman agrees.

Ms. Salvati would like to know if there will be any drive-thru facilities at the site. She reads the Intent of the Commercial District § 229-83: ...the district is intended to achieve a high quality sit layout and use flexibility inherent in campus design...with attention to architectural compatibility with other buildings and the relationship of building facades to public roadways...the provisions should encourage designs that will minimize traffic congestions, reduce conflict points, and encourage a pleasing community character.

Chairman Drinkard said the applicant must eventually obtain a Special Exception Use Permit, at that time the retailer(s) must be known.

#### **ACTION:**

Motion by Timothy Pazda, seconded by Wendy Salvati, to **table** agenda item 2 pending further information.

Gregory Todaro     Aye  
George Van Nest    Aye  
Wendy Salvati      Aye  
Gerald Drinkard    Aye

Richard Bigler     Aye  
Timothy Pazda      Aye  
Al Schultz          Aye

MOTION CARRIED.

Meeting adjourned at 8:50 p.m.

Carolyn Delgato  
Senior Clerk Typist