

Clarence Planning Board Minutes
Wednesday, September 21, 2005

Work Session (6:30 PM)

- Roll Call
- Minutes
- Sign review
- Update on pending items
- Committee reports
- Zoning reports
- Miscellaneous
- Agenda Items

Agenda Items (7:30 PM)

Patricia Powers, Chairperson, called the meeting to order at 7:30 PM.
Scott A. Bylewski led the pledge to the flag.

Planning Board Members Present:

Patricia Powers	Tim Pazda
George Van Nest	Roy McCready
Phil Sgamma	Wendy Salvati
Gerald Drinkard	

Planning Board Members Absent:

Jeff Grenzebach

Other Town Officials Present:

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

Other Interested Parties Present:

Debbie Kasting	Marc Mussachio
Nick Piestrak	Leonard Castellone
William Tuyn	James Geiger
Andrew Terragnoli	

MINUTES Motion by Pat Powers, seconded by Gerald Drinkard, to approve the minutes of the meeting held on September 7, 2005.

Patricia Powers	AYE	Wendy Salvati	Abstain
George Van Nest	AYE	Roy McCready	AYE
Jeff Grenzebach	Absent	Phil Sgamma	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

MOTION CARRIED.

Item 1

Dominic Piestrak
William Tuyn
Industrial Business Park Zone

Requests Concept Plan approval for
New Industrial Park at 8550 Roll Road.

DISCUSSION:

Jim Callahan gave a brief description of the project that is located on the north side of Roll Road, east of and as an extension to Harris Hill Road. It is comprised of 33 acres and zoned Industrial Business Park. The Master Plan identifies the area in the Industrial Business Park. The applicant is seeking approval of a proposed design for creation of a new Industrial Business Park.

Dominic Piestrak and William Tuyn, of Greenman Peterson, Inc., introduced themselves. Mr. Tuyn began by emphasizing to the Board that an Industrial Park (Industrial Zone) is not the same as a residential subdivision. Ultimately the lots are sold by metes and bounds, not per subdivision map cover. The ultimate configuration of the lots is very dependent upon the individual site plans that would be submitted in the future. He expressed that the dimensions for the proposed Industrial Park should not be "cut in stone" but rather vague and subject to change.

Referring to the last slide showing a road that is designed as an extension to Harris Hill where it joins Roll Road, Mr. Tuyn advised the Board that they have a customer for Lot No. 1 who would like to appear before the Town with a site plan proposal. The applicants would like to separate Lot No. 1 from the rest of the development. They said they did submit plans at one time that did show Lot No. 1 as an exception which is how they would prefer to consider it. That lot is "functionally independent" and if approved, they would be able to move forward with the project. Their customer, Italian Marble and Granite, has a lease that runs out and he is very interested in advancing the project.

Pat Powers pointed out that previously, Italian Marble and Granite had been shown on the map as a separate parcel and now it is shown as integrated into the Industrial Park. In response, Mr. Tuyn said that they were told it needed to be submitted that way. Further, he expressed that they feel their request is not inappropriate because the parcel is functionally independent and could be considered a separate action.

Nick Piestrak added that the customer's time frame is very important which is why they put him on Roll Road so that he might be able to move forward with his project rather than wait for the approval of the proposed Industrial Park.

Gerald Drinkard asked if there was a more complete plan available because he recalled a discussion at the June 15th meeting that showed Italian Marble off to the east. He said they had "commented very significantly on the roadway at that time," and Harris Hill was not as depicted as it is here. He said that the owner of Italian Marble did come before the Board and referenced a cul-de-sac going in behind parcel No. 1. That was not referenced on the plans before them this evening.

Mr. Piestrak explained that he believed the customer's reasoning for the cul-de-sac was for an outlet onto Harris Hill and onto Roll Road. He said that with the nature of the customer's business and the utilization of large trucks, he wanted to not have a turnaround, but rather outlets on each street for ease in exiting and entering the property.

To clarify, Mr. Tuyn added that originally the customer came into their office with a plan drawn up by his architect that showed Italian Marble on Lot. No. 1 - their preferred location. Mr. Piestrak and Mr. Tuyn looked at moving them to Lot. No. 3 since there was still some questions regarding where the Town wanted the road to extend into this property. If the Town's preference is to align it with Harris Hill, they have provided an "S" curve. The other option is an offset intersection, but a "T" coming from north to south. They were "trying to leave as much flexibility." He continued by saying that he knows the Town wants Harris Hill to extend. As a result, Italian Marble was moved back to Lot. No. 1 as it is the best fit and seems to accommodate all parties.

Wendy Salvati asked who told them that they should move it from Lot 3 to Lot 1. Mr. Tuyn replied that it was Italian Marble because that is where they want to be.

Dave Donohue asked who owns the land where the road comes into the Harris Hill parcel. Mr. Tuyn replied that the same owner that they bought the property from; the owner is in support of the project. Pat Powers asked if that was part of his private drive. Mr. Tuyn replied, "Correct." They expect to be granted a public right-of-way. It will become a public street and the owner's driveway will be brought into it. Or it will be eliminated completely and his driveway may come in off the front of his property. It will be up to him how he wants them to access that parcel.

Roy McCready wondered what would happen at a particular spot to which Mr. Tuyn replied that it was for now a "stub" but that it was his understanding that the Town wanted that road extended to Clarence Center. Mr. Piestrak said that they aren't sure what the saturation of the market is and as a result, they are "feeling it out". He said that if it turns out that this type of project creates significant difficulties, they would be open to the recommendations of the Board to do something residential in the future. Further, he stated that they don't currently own the entire property but that they have options to purchase the portion to the north at a later date. They have an option on the northern half.

Wendy Salvati asked if they were going to subdivide the parcel to only take ownership of what they were showing them on the plan. Mr. Piestrak replied that they intend to do only what they are showing right now. They're on the same page as they were last time as far as continuing Harris Hill to Clarence Center. If the Industrial Park doesn't work out, they are open to residential. They haven't changed their view since the last time.

With all due respect, George Van Nest responded that they were, indeed, on different pages. He is concerned with:

1. The fact that the Board had been given the impression that the entire parcel was one option, which it isn't. The execution of the southern parcel at a later date is a concern. Mr. Piestrak said that as payments are made, they

secure more land. Mr. Van Nest asked if he has "options" to the land or if it was a "land contract." It is a land contract.

2. Subdivision law as it relates to the separation of Lot No. 1 from the larger parcel and its treatment as a separate parcel. Mr. Tuyn responded with his understanding that though there may be a Town requirement, according to the NYS subdivision laws, it's not a subdivision because it is non-residential use. Town Attorney David Donohue interjected that it's a "segmentation issue" and that a Town ordinance does apply. Wendy Salvati affirmed that under Town law, this is considered a minor subdivision.

Pat Powers asked if there were any further questions. Phil Sgamma commented that he still believes Lot No. 1 is a good use for Italian Marble. Wendy Salvati suggested that they come back and apply for a minor subdivision off the parent parcel. Mr. Sgamma added that taking that course of action would open up all sorts of issues including environmental and traffic issues. He thought it would be appropriate to take a look at the entire plan for the next 5-10 years, however he recognized that course of action would not help Italian Marble at present.

Mr. Tuyn agreed with the appropriateness of a full assessment of the long-term plans for this project and said they were "willing to go through the scrutiny" with the Board. However, Mr. Tuyn would like to specifically address the needs of Italian Marble in that they do not have the burden of the above-mentioned issues.

Wendy Salvati brought up the Board's original concern regarding the growing number of curb cuts along Roll Road. She thought that the original idea was that as they brought this road (referring to the map) in, all the properties would access the extension of Harris Hill. She said, "they didn't put this plan before us, and they were coming to us to say all they want to do is break off Lot No. 1." She said that the Board needs to decide whether they want to add another curb pack to Harris Hill Road or do they want to keep that property tied to the rest of this. She went on to say that as Pat Powers had mentioned earlier, what if Lot No. 1 was broken off but that the Board require that it have a shared access with whatever may happen with Lot No. 3 in the future? Consequently, there would be one curb cut and not two. Or, as Lot 1 develops, it has a driveway off the extension off of Harris Hill.

Phil Sgamma asked Dave Donohue if they could break off Lot No. 1. Mr. Donohue replied that they would have to get everything in place for the Harris Hill extension and that there would have to be a condition that the ownership is transferred for the construction of a road. Originally this concern was voiced because the project could potentially prohibit the Town from extending Harris Hill at a later date.

Jim Callahan said that in essence, "you're creating a lot whose future western boundary is a future public road, that you don't know is a future public road ... how do you do that?" The Board agreed that this was a concern. Jim said that this action would push it to the major subdivision category because it creates public infrastructure.

Mr. Tuyn offered a few possible scenarios to expedite this project:

1. To give the Board a site plan for Italian Marble that shows the development of this parcel with access solely on Roll Road and no other consideration or,
2. For the balance of this property the town still has the option - even though the intention would be to give it to you here (pointing to map and potential road) - we could just as easily put it on the other side. We can take a look at it both ways. Also, if the Town wants to see the road advance but just not to this point (again pointing to map), as part of the site plan here, construction of infrastructure and public road would be just to this point. Then it would be a dead end at that point.

Wendy Salvati referred back to the original reason why Italian Marble preferred Lot No. 1 with the potential for two points of access. Mr. Tuyn responded that certainly Italian Marble would *prefer* two-road access, but more importantly would be their preference for a corner lot on a location of notoriety. Italian Marble would be able to work around their entrance/exit issues for the large vehicles, but would be willing to “bet” on the future potential of the corner and Harris Hill Road, thus preferring to secure the corner lot at this time.

Roy McCready asked if Italian Marble intended to construct the road or would they be looking for someone else to build the road. Mr. Tuyn replied that Italian Marble had no intentions of building the road. But, he said that if it were a condition of moving that project forward, they could go either way. Ultimately, the development of the road would fall under the developer’s jurisdiction – being Mr. Piestrak – so he may be willing to take the road to a certain point. The road would eventually be turned over for dedication as a public roadway.

Pat Powers asked if there was 200’ of frontage on both Harris Hill and Roll, if that road were to happen. Mr. Tuyn said, “Yes.” Roy McCready asked if they would be giving right-of-way access and if that would be a written provision. Mr. Tuyn said, “Absolutely!” However, he also said that the pending road is not really part of this project. It doesn’t have to be. It’s a separate action. The Town has the option, ultimately, to put it in either place. If the Town’s preference is to make it an extension of Harris Hill – which is theirs as well – then “everybody wins.”

Tim Pazda wondered how legal the proposed project is since it has “segmentation” issues. Further, he said that he thinks they all agree the project fits the Master Plan and that they all want the project, however, he expressed feeling “under the gun” to perhaps do something that ought not be done. Jim Callahan remarked that the Planning Board could approve a minor subdivision creating a lot for the Italian Marble project to move along; he would probably refer it to the MRC to do a thorough environmental review.

George Van Nest questioned the subdividing of parcels and Jim Callahan said that action would require Minor Subdivision approval. Wendy Salvati said she was not comfortable doing the project with this plan. Phil Sgamma agreed and said he would like to know exactly who owns what pieces and what part of the right-of-way is on whose property.

Mr. Tuyn replied that Italian Marble just wants to know this project is "do-able." He said they're not looking to skip out any obligations or responsibilities. Wendy Salvati assured him that's not what the Board thought and that the Board knows they want to legitimately come here. However, she said it is still unclear what Mr. Piestrak owns and does not own. Mr. Piestrak asserted that he does legitimately own the section he is attempting to develop for Italian Marble, however he is only making payments on the back section at this time.

Pointing to the map, Mr. Piestrak was questioned further regarding pending right-of-ways. Phil Sgamma said he wants to know exactly where they will be as it appears on the site plan that the right-of-way is on someone else's property. Wendy Salvati asked how much of the driveway does Mr. Piestrak actually own. Mr. Tuyn replied that they own right up to the edge of the existing driveway. The owner has a small right-of-way out his driveway that he kept for his driveway that goes down to his home.

Further discussion ensued regarding actual and proposed boundary lines. Mr. Piestrak clarified for the Board exactly what Mr. Di Blasi (the original owner of the land) owns and what he owns. Jim Callahan said that technically, Mr. Di Blasi can't split the parcel without minor subdivision approval. He's created an illegal lot without any frontage. Ultimately, it was determined that Mr. Di Blasi's multiple use of his property is illegal as he has diminished his frontage to less than 100'.

Mr. Piestrak attempted to bring the discussion back to the Italian Marble project however, because of the complication brought on by Mr. Di Blasi's illegal division of this property, there was nothing further that the Board could do. Pat Powers asked if there were any further questions from the audience; hearing none, she suggested bringing forth a motion.

Mr. Piestrak said that if they sold off just the one lot, that's not going to change anything with the situation that exists with Mr. Di Blasi. He argued that it's still just a minor subdivision, which they spoke about earlier. Wendy Salvati reiterated that there's a problem with what he's asking - to allow him to sell off a piece of property from a 2-lot minor subdivision because it:

1. Has not been approved by the Town, and
2. Creates a lot that's not legal.

Wendy Salvati said the Town couldn't approve it because the Di Blasi piece doesn't meet the code for the formation of a lot. He doesn't have the proper frontage for it. Jim Callahan said Mr. Di Blasi shouldn't have split off his lot without Town approval. Mr. Tuyn suggested that they go to the ZBA and get an area occurrence for lot width and setback and bring Mr. Blasi into compliance with the variance, then they could come back and request a minor subdivision for Lot 1. He felt that course of action would result in the quickest turnaround of the project.

Everyone agreed it was taking a big chance but otherwise, the applicants "can't do anything." Mr. Sgamma said the only option is Lot 3 which is a stand-alone lot. Italian Marble may want to go back to their original plan. Phil Sgamma mentioned that even if the ZBA did approve it, they would still face obtaining the right-of-way guaranteed for future use. Wendy Salvati said they were "trying to find a way to help you, but

unfortunately our hands are tied now." Legal intervention was suggested. Wendy Salvati said they could not approve it as proposed.

Pat Powers told Mr. Piestrak that if they proceed, the Board would have to either deny the project or give them the option to withdraw the project. Dave Donohue interjected that the applicants brought up the single-lot issue and wondered if they could go back to the site plan and deal with some of those issues. Wendy Salvati said that the plan that they want to subdivide for Industrial purposes is still a lot that was split illegally from another parcel. Mr. Donohue suggested that this issue could be corrected by approving a road that would go through it. He felt it would be helpful to get more specific information concerning where the road would go through, etc.

Pat Powers asked whether anyone would initiate a motion. Mr. Tuyn said he would prefer to withdraw the application with the intention of returning at a later date with a revised plan based upon the evening's findings.

ACTION: Applicant WITHDREW the application.

Item 2

David De Marie Dance Studio
Leonard Castilone
Commercial Zone

Requests Concept Plan review for a new dance studio at 8965 Sheridan Drive.

DISCUSSION:

Jim Callahan gave a brief description of the property which is located on the south side of Sheridan Drive, east of Shimerville Road. It is approximately 2 $\frac{3}{4}$ acres with approximately 313' of road frontage on Sheridan Drive. It is zoned Commercial and the Master Plan identifies the area in a Commercial classification. The applicant is introducing a new proposal to develop a dance studio.

Marc Mussachio, of Mussachio Architects, introduced himself to the Board. Mr. Mussachio said that they are proposing an 11,000 sq. ft. dance studio that would include approximately 5 studios, costume rooms, a waiting area, and 2 small tenant spaces that would be leased out. The tenant spaces would be located on the northeast and northwest corners of the building. Parking for the entire facility, including tenant parking, is indicated on the plan. Mr. Mussachio is aware of the Town's requirements regarding green space and indicated they may have to make some moderate adjustments. However, regarding total green space, he felt they have "way more than what the Town would require." This is a result of the 80' setback and also the need for a retention pond and septic field for this project.

Wendy Salvati and Phil Sgamma posed a few questions regarding the use of the tenant space. Mr. Mussachio responded that the tenant spaces are only 600 sq. ft. each and that he did not know who the tenants would be. Further, he said that the spaces would probably be utilized as retail space rather than office space. Mr. Mussachio also said there is an existing house on the property that would be retained and leased out as an individual home rental property, as it is currently. Referring to previous discussions, Tim Pazda asked if that property would be split off. Mr. Mussachio replied, "No, it will

not." Mr. Pazda recalled discussing splitting the rental off, however, Mr. Mussachio said he previously talked to the Town regarding that specific condition and he was told it was acceptable. Jim Callahan said there's plenty of frontage to allow multiple uses.

Pat Powers asked if Mr. Mussachio would explain what "spandrel glass" is. He replied that the proposed building would be mostly glass with small areas of metal. He said you can't see through it; it's opaque on the backside. It looks like regular glass, but it will be tinted, not mirrored. Pat Powers asked what color it will be tinted and Mr. Mussachio said it will probably be a gray tint.

Pat Powers identified the 80' front setback, 25' side setback, 25' rear setback, and 45' greenbelt to the adjoining residential property. Mr. Mussachio didn't believe they were at 45' feet and he was told, "they're supposed to be." He replied that they could make some adjustments to the parking to achieve that. Wendy Salvati pointed out that they have many more parking spaces than needed to which Mr. Mussachio agreed. Per the standards, they need 57 spaces and they are showing 93 parking spaces.

Leonard Castilone, Director/Owner of David De Marie Dance Studio, identified himself and commented that he needed more parking spaces to run his business. One of his main goals in moving his business is to obtain adequate parking for his clients. He said that he currently has 63 spaces (approx. 50 in winter due to snow piles), and with 5 dance studios with approximately 20 students in each class, there can be 80-100 cars navigating the lot at any given time. It has become a "danger to my clients," he said.

Tim Pazda asked how many dance studios are in the existing building to which Mr. Castilone relied that there are four studios currently. Pat Powers asked if he would continue to have his recitals off-site. He will. Tim Pazda asked if it is typical to use all 5 studios at one time. Mr. Castilone said it was and that they operate Monday – Friday from 3:30 – 9:30 and Saturday from 10 – 4.

Phil Sgamma brought up the ordinance regarding steel siding. He thought it looked like the proposed dance studio would have more than 30% steel on the exterior. Mr. Mussachio stated they had "under 30%." Mr. Sgamma said that looking at the drawings, it looks like there is steel on the east and west sides. Mr. Mussachio thought the ordinance was only for the front to which he was told it was for all visible sides. Mr. Mussachio said that the east and west side may not be visible from the street because it is a wooded site.

The slide showing the aerial photo was presented for review. Wendy Salvati commented that the site plan presented shows almost all of the vegetation cleared out to accommodate their parking. She also added that the property next door has lawn in front so therefore, the proposed dance studio would be visible from Sheridan Drive. Mr. Mussachio replied that the perimeter of their site is retained green and the building is set relatively far back. He felt the site lines *aren't* as visible as Ms. Salvati was expressing.

Tim Pazda mentioned the "flat roof issue" to which Mr. Mussachio stated that it's actually a single pitch roof. Pat Powers asked Mr. Mussachio to explain the pitch of the roof to the Board. Mr. Mussachio explained that there is a pitch of ½" per foot over the entire distance. The drop is approximately 6' from front to rear. Pat Powers asked if the building mechanicals would be on the roof or on the ground. Mr. Mussachio replied that

there may be some mechanical systems on the roof but they would be near the rear of the site in order to screen them from the road. Pat Powers asked if he would be willing to provide a tree survey on the property prior to construction. Mr. Mussachio agreed with the request.

The subject of the metal siding was revisited and Phil Sgamma said that he thought the sides would, indeed, be visible and that it may be unattractive. He expressed that David De Marie Dance Studio has an excellent reputation and he wondered why they would want such plain sides. He remarked that he was confident the front would be attractive but questioned the "warehouse-look" of the metal siding.

Tim Pazda suggested the Board revisit his earlier question regarding non-conforming uses. It is his opinion that this project is a non-conforming use and he wondered how the others felt due to the fact that there is a residential structure present and the desire is to add a commercial building to the site. Dave Donohue said it's a "Bubble Boy" situation. Jim Callahan added that "it's pre-existing which could allow that to continue. And they have plenty of frontage and lot size to accommodate multiple uses." He didn't think it would be an issue. They are intending to keep the pre-existing, non-conforming use in the commercial zone. That is acceptable; they are not expanding it. They have plenty of frontage to allow the additional building on the site.

Mr. Castilone interjected that even before he bought the property, he came to the Town and was told that based on his plans, there shouldn't be any problem since the size of the lot and the location of the new building were in compliance with Town code. He has a letter from the Town verifying this. Pat Powers agreed that she believed Jim Callahan to be correct. Dave Donohue asked Mr. Castilone if he purchased the property recently to which he replied, "Yes."

To clarify, Phil Sgamma mentioned that the Bubble Boy issue involved frontage and his intent to turn the other house into a business. Jim Callahan said that was "absolutely the case." Though Mr. Castilone's intention is to keep the existing house as-is, Wendy Salvati reiterated that should he ever desire to turn it into a business use, there was plenty of frontage to do so.

Scott Bylewski provided the Board with more information on the Bubble Boy project and stressed the need to maintain consistency with all projects. Tim Pazda concurred that consistency is key.

Pat Powers asked if there were any other concerns that they hadn't covered. Tim Pazda asked what is the consistency of a flat roof. The one noted on the plans looks like a flat roof to him. Jim Hartz explained that a flat roof could be interpreted in a number of different ways. There are varied elevations of that roof. Wendy Salvati asked what is the height difference on the roof in question. There is a 6' difference between the height at one end and the height at the other.

Pat Powers said she would like to revisit the parking. Mr. Castilone said he would like at least 80 spaces for traffic flow and the children's safety. He would be comfortable with that. Jim Callahan said that the commercial zone does identify that there's no parking in the front. Jim Hartz wondered if the spots could be moved to the back. Wendy Salvati posed that if the first row of 15 spots were eliminated, the total number

of spots would be 78 – close to Mr. Castilone’s desired number. Mr. Castilone commented that it wouldn’t be very attractive to potential renters of the retail space should the parking in the front be eliminated. Their customers would have to park on the side or back of the building which he felt would be a detriment. He also felt that no front parking would impact his clients, especially the grandparents who frequently bring their grandkids to dance lessons.

Pat Powers asked Mr. Mussachio what he was showing as the percentage of green space. He replied that they would have to probably add 2-3 islands to get the 80% for the internals. Pat Powers wondered, overall, how significant is the green space and Mr. Mussachio said he exceeds the 25%. Wendy Salvati suggested that the elimination of the 15 spaces would help the project meet the 45’ separation issue. Mr. Mussachio agreed that they would have to adjust the driveway and the building in order to achieve that.

George Van Nest questioned whether the zoning laws state that parking cannot be in the front yard setback. That is correct. The elimination of the 15 spaces would give Mr. Castilone a total of 78 parking spots and bring him into compliance. Mr. Mussachio commented that the disadvantage of shifting parking is the way this building is set up - the main entrance is at the front of the building with additional entrances on each side. There is no entry at the rear of the building. Shifting the majority of parking to the rear of the building is somewhat of a conflict in the way the building functions. He felt the way they have it set up (prior to eliminating the 15 spaces) works best for access into the building.

Wendy Salvati asked whether they could move the building back a little bit. Mr. Mussachio didn’t understand the reason behind that thought since he understood parking in the front was prohibited. Ms. Salvati said the intent was to reduce parking and that it wasn’t allowed in the front yard setback. Further discussion ensued regarding the number of spaces per code per building function vs. how many Mr. Castilone desired. Wendy Salvati summed up by saying that the applicant needs to come up with more green space by the building; there is too much pavement close to the building. Phil Sgamma reminded the group that this issue only applied to the one corner and if that were eliminated, it would still be possible to have spaces up front. Mr. Mussachio said that “88 would really be the minimum that we would want to have,” in order to accommodate the dance studio and the proposed retail space.

Leonard Castilone stressed again that his current facility – with its approximately 60 parking spaces – is a dangerous situation and it is his desire to avoid problems in the future by adequately providing for his current and future customers. He said he has no idea what future growth of his business will be and he wants to be prepared and make sure the current dangerous situation is eliminated in the future. Wendy Salvati asked if there is parking behind his building now. She wondered where he has 63 parking spaces. Mr. Castilone replied that it goes all along the side, along the back and both sides.

Phil Sgamma commented that the only problem he saw with the parking issue was the northwest corner. Tim Pazda mentioned that they are following the code, which is setting the minimum standard. He said, “We followed that code with Hayes Fish and all of a sudden he’s in trouble. Are we doing the same thing with this ... potentially?”

Wendy Salvati said she wouldn't disagree that he needs more parking. Pat Powers said that she thinks this is one of those rare instances where Mr. Castilone knows exactly what he needs to accommodate his clients. Further, she said they don't want to recreate what he's dealing with now. Everyone agreed that Mr. Castilone needs more parking.

Tim Pazda reintroduced the flat roof issue. He doesn't believe it fits the code and he said he was surprised they are not willing to dress up the side a little bit. Mr. Mussachio responded that the roof design affects his budget and he felt funds would be better spent on other areas. George Van Nest commented that the tree survey showing the line of sight would be helpful. The applicants agreed to provide the tree survey.

Revisiting parking, the applicant said he would take a look at it again and make some adjustments to the parking and the islands. Phil Sgamma said the number of parking is not an issue anymore, just where the applicants put them. Wendy Salvati suggested shifting the building a bit to the east and bringing the driveway into the side yard setback. The building has to be 25' off the property line. Parking can be in the side yard.

Pat Powers expressed that it was clear that the Board is in favor of the project. She felt the problems concerning this project have been clearly outlined. Mr. Castilone can have the 93 parking spaces he desires and it is up to the architect to figure out how that can be accommodated on the plan. She advised that a Tree Survey and a new plan showing the issues described this evening would be required. Further, she said that there is some concern on the part of the Board regarding the architecture of the building. Now that the applicant knows what the Board is looking for, they were invited to address the issues and come back before the Board for further review. The Board is willing to work with Mr. Castilone and Mr. Mussachio any way they can.

ACTION:

Motion by Pat Powers to TABLE this project; seconded by Wendy Salvati.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Roy McCready	AYE
Jeff Grenzbach	Absent	Phil Sgamma	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

MOTION CARRIED.

Item 3

IHOP – International House of Pancakes
Major Arterial Zone

Requests Development Plan Approval for
Construction of a new restaurant at 4445
Transit Road.

DISCUSSION:

Jim Callahan gave a brief description of the project located on northeast corner of Main and Transit. It is zoned Major Arterial and the Master Plan identifies the area in a major arterial classification. The applicant is seeking Development Plan Approval for construction of a new restaurant as approved in the concept.

James Geiger, who was present to represent the owners and operators of the restaurant, and Andrew Terragnoli, of Lauer-Manguso Architects, introduced themselves to the Board. Mr. Terragnoli began by advising that on September 2nd, the required site plans and design reports were submitted to the Town Engineer and MRC for review. They issued 3 comments that have been addressed. They have prepared and submitted the required plans for the Department of Sewerage Management who is in the process of reviewing them.

Pat Powers stated that the three items will be subject to the Board's approval this evening. The Town has received the applicant's responses as well. Further, Pat Powers stated that the project was first presented to the Planning Board. The Planning Board recommended a negative declaration to the Town Board on the 17th of August; the Town Board issued a negative declaration on the 24th of August. The project is consistent with the Master Plan. She thanked the applicants for the checklist for the Concept Approval for a commercial project and said that the Board is also looking for those for Development Plan Approval.

ACTION:

Pat Powers asked if there is a motion to recommend Development Plan Approval for construction of a new restaurant at 4445 Transit Road with the following conditions:

1. They would be subject to the conditions listed in the Town Engineer's letter of 9-16-05,
2. They have an improved landscape plan dated 8-18-05,
3. They'll be subject to the Commercial Open-Space fee, and
4. Compliance with the Fire Advisory's suggestion of a Knox-box.

Motion by Roy McCready, seconded by Wendy Salvati to approve Development Plan Approval based upon the above stated conditions.

Pat Powers	AYE	Gerald Drinkard	AYE
George Van Nest	AYE	Jeff Grenzebach	Absent
Tim Pazda	AYE	Phil Sgamma	AYE
Roy McCready	AYE	Wendy Salvati	AYE

MOTION CARRIED.

ITEM 4

Local Law Review

DISCUSSION:

Pat Powers stated that the Board was not prepared to move forward on this. She opened up the floor for further discussion on some of the evening's previous issues. Phil Sgamma suggested that Mr. Castilone and Mr. Mussachio of the David De Marie Dance Studio, be apprised of the exact definition of a flat roof to ease in their compliance. It was suggested that Jim Callahan email them page 98 of the Zoning Laws.

Regardless of whether the applicant has read the Zoning Law or not, Scott Bylewski agreed that it would be prudent to notify them now so the Board is not criticized down the road for not notifying them.

George Van Nest voiced that the two sentences detailing the flat roof definition are inconsistent. Further discussion ensued regarding flat roof definition.

Meeting adjourned at 9:54 p.m.

Patricia Powers,
Chairperson