

Clarence Planning Board Minutes
Wednesday, October 5, 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	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:

Marc Mussachio	Lynn Minter
Nick Piestrak	James Rumsey
Mark Zografos	Debra Popp
Angelo Natale	Kristina Popp
Ann Case	Mary Powell

MINUTES Motion by Tim Pazda, seconded by Roy McCready, to approve the minutes of the meeting held on September 21, 2005.

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

MOTION CARRIED.

Item 1

Natale Builders
Commercial

Requests Concept Plan Approval for
construction of an 8,250 sq. ft. professional
office building at 9159 Main Street.

DISCUSSION:

Jim Callahan gave a brief description of the property which is located on the south side of Main Street, west of the Sheridan/Thompson intersection. It consists of 1-¼ acres and is zoned commercial; Master Plan identifies the area in a commercial classification. Project was initially introduced to the Town Board on February 23, 2005 and the Planning Board on August 3, 2005. The Town Board issued a negative declaration on September 28th and the applicant is here seeking Concept Plan Approval on the project as designed.

Angelo Natale introduced himself as the sponsor of this project. He told the Board that he currently has a host tenant for half the space. On the site he has four buildings that need to be demolished. He has the required permits filed.

Pat Powers asked if there were any questions from Planning Board members. Wendy Salvati asked if the detention basin has to be in the front corner or if it was possible to move it to the back. Mr. Natale replied that due to restrictions caused by the septic system, parking spaces, driveways, etc., the designated placement for the detention basin is the most viable. Wendy Salvati asked if he knew how large the detention basin would be. Mr. Natale said he wouldn't know until they got through all the final engineering.

Jeff Grenzebach asked if these buildings would mirror Mr. Natale's other Main Street buildings. Mr. Natale replied, "Correct - same color, same style." Pat Powers wondered if there would be the same type of lighting. That is also correct. Everything will be the same except the parking which will be in the back for this project.

Pat Powers asked for any further questions from the Planning Board or the audience. There were no further questions.

ACTION:

Motion by Tim Pazda, seconded by Jeff Grenzebach, to recommend Concept Plan Approval with the condition that the demolition permits for the four onsite buildings are approved.

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

MOTION CARRIED.

Item 2

Benderson Development
Major Arterial Zone

Requests a building permit for construction of an 8,500 +/- sq. ft. addition at 5033 Transit Road.

DISCUSSION:

Jim Callahan gave a brief description of the property which is located on the east side of Transit Road between Sheridan and Greiner. It is part of the Eastgate Plaza Development. The plaza encompasses over 70 acres and it's all zoned Major Arterial. The area proposed for addition is the small infill between Wal-Mart and the Fashion Bug. The Planning Board tabled this item to further analyze traffic issues. At the September 7th meeting, the applicant was invited back to share some further thoughts and they are here tonight seeking a building permit for the 8,500 sq. ft. project.

Jeff Palumbo, with the law firm of Renaldo & Palumbo, introduced himself to the Board. He handed out individual copies of the project for the Board's review and repeated, for the sake of clarity, that they are in a peculiar situation based upon the fact that Benderson, the original developer of the site, no longer owns it. The site is owned by DDR. As part of the obligation of the sale from Benderson to DDR, Benderson assumed the obligation to have the remainder of the build-out take place. There is more build-out available, but they are only proposing 8,153 sq. ft. He said, "After that, Benderson's obligation ceases." Mr. Palumbo said all this with respect to the issues of the two driveways – the two methods of ingress and egress on Greiner Road and Sheridan Drive. He stated that Benderson has no objection but that they also have no say in this. DDR wants to get their project approved but isn't "anxious to spend a lot of money to have these driveways put in."

Further, Mr. Palumbo believes the proposed Sheridan Dr. driveway won't be an issue. He doesn't believe it will be a problem to have Uniland accessing through their property on to the DDR property so long as Uniland realizes they have the obligation to have the driveway installed. He went on to remind the Board that in terms of Greiner Rd. access, they proposed that at the beginning but the Town rejected that plan. Mr. Palumbo said now Benderson is saying, "Are you kidding? I'm going to put in something that was rejected a long time ago when we all thought it was a good idea?" Mr. Palumbo said they are now in a "catch-22" situation with this issue.

Mr. Palumbo mentioned the letter he has from their traffic engineer, FRA Consulting, which points out the maximum trips anticipated in a peak hour at this site. Based on these findings, he assured the Board, "Traffic is going to be very small from this site." He also said that as far as internal circulation is concerned, "we feel there aren't any major problems." He said they can't "cure" all the problems on Transit Road and he doesn't believe all the traffic issues should be pinned on this one last plan.

For the sake of clarity, George Van Nest asked if it were true that the applicant cannot or will not take any further steps with respect to traffic. Mr. Palumbo responded that with respect to *driveways*, they will continue to work with the Town. They are not saying they do not want the driveways because ultimately it will be a benefit to the development. His questions are: who is going to pay for it, when will it be done, how logistically is it going to be done, and should it be a condition on this 8,153 sq. ft.

project? He said we are "absolutely not standing here saying that we will not participate in trying to have those things take place because we will."

Tim Pazda said he is not aware of any problems with the 8,100 sq. ft. However, referring to the traffic issues he said that if DDR doesn't do it, who is going to do it? He said, "When are these problems going to get fixed." Jeff Palumbo said that was a very good question and that potentially the Board may need to talk to DDR. Mr. Palumbo said they have to satisfy their obligation to DDR under the terms of the sale to get the 8,153 sq. ft. approved so they are still involved. But they can't make the decision with respect to the access points.

Mr. Palumbo suggested that the Board make a recommendation to the Town Board in terms of final approval with the condition the applicant continues to work on those two access points. They would then, "hash it out" at the Town Board level.

Wendy Salvati said she doesn't have a problem with that but she does disagree with Mr. Palumbo and does feel there are internal traffic problems. She feels it is not just limited to getting access at each end. She said if this is approved, how will they go about getting that done.

Mr. Palumbo and his traffic experts feel that removing some of the parking near the entrance and creating more access opportunities at that "intersection" would further complicate things. He said, "It creates and introduces more confusion." In response, Wendy Salvati asked him what his traffic engineers believe the answer IS to address internal problems - aside from not believing there are any. Mr. Palumbo discussed statistics, reiterating that they do not have traffic accidents, which would indicate *statistically* that there is not a problem. He agreed it is busy. He feels statistically, "it's working."

Tim Pazda said he is not inclined to condition away the number of problems they have identified to another Board. He would like it described in writing how we're going to fix these problems. He would like to take this opportunity to fix these issues by coming up with some definite plans. He suggested they sit down with all involved parties to determine who will do what.

George Van Nest asked if the owner understands the magnitude of problems? Mr. Palumbo said "they absolutely understand that there's a tremendous amount of traffic there." Tim Pazda said that what they are really talking about is ingress and egress; he mentioned some previously suggested solutions. Further discussion ensued regarding a right-turn-only lane, removal of parking spaces, and traffic signal timing. Mr. Palumbo expressed that the DDR plaza is not the only "traffic generator" on Transit Road.

Phil Sgamma said that they are trying to see if there is anything within reason that his client and DDR can do - working with the Town, DOT, engineers, etc., to improve the traffic flow. Mr. Palumbo replied that he agrees, but that they believe the answers are in the access points on Sheridan and Greiner. Wendy Salvati commented that it is unknown whether Sheridan will ever be an access point. Mr. Palumbo agreed it may not, but if it does, it will certainly help the problem. He feels a Greiner Road access point will definitely help the problem.

Pat Powers asked if it would be possible to get the principals together to see if they can come to some agreement. She would like to see a written plan submitted which the Town attorney can review. Jeff Palumbo said that is possible; they are anxious to work with the Town. However, what he doesn't want to do is delay this months and months. He was very agreeable to discussing these issues with his clients if the Board would be willing to make a recommendation. He reiterated that FRA feels the important things are the access points.

Jeff Grenzebach asked if it is Mr. Palumbo's opinion that his client's want access onto Greiner. Mr. Palumbo said he believes "they want the access out to Greiner. The only question is ... who's going to pay for it." Wendy Salvati replied it is up to him to work out. Mr. Palumbo agreed, however, he said that from DDR's point of view, they don't want that to be a condition. They don't believe the approval should be tied to the satisfactory resolution of all traffic issues. Pat Powers said they would like some documentation. Though the Board trusts him, the Board would like documentation to back up their recommendation to the Town Board before issuing and recommending a building permit. Pat Powers asked him if he thought access to the Uniland property would be a problem, to which he replied, "No." She continued by stating that the largest issue is access to Greiner Road and who's going to pay for it. Again, he agreed.

Phil Sgamma commented that there is no guarantee that the Town Board will approve access to Greiner. He expressed that if they disapprove it, Mr. Palumbo and the Board will have done everything possible to alleviate the situation. Mr. Palumbo agreed. Wendy Salvati continued by saying that Mr. Palumbo is "hanging his hat" on the fact that access to Greiner will fix all the problems. But what if it doesn't? She feels that an attempt should be made to fix things internally. She would like them to take a look to see if some things inside could be changed. Tim Pazda said it requires "a long hard look" while they have the opportunity.

Pat Powers asked Mr. Palumbo how long he thought it would take to get the principals together to discuss the traffic concerns and come up with some documentation? Mr. Palumbo said it will not take them any time at all because they would like to keep things moving. It was decided that the group will meet with the Executive Board on Tuesday, October 18th, and if they have written documentation compiled before that date, they will forward it to the Board for review. It was also agreed that this project will be on the October 19th Planning Board agenda.

Pat Powers asked if there was anybody in the audience who wished to speak to this issue. Ann Case, of 10013 Greiner Road, commented that she disagreed with Mr. Palumbo and his traffic experts. She described the frustrating traffic issues she encountered that afternoon around 2 pm. She stressed that it was a normal day – not a holiday and that there were no extenuating circumstances. Traffic was completely jammed and couldn't move. In conclusion she said, "Your experts are wrong."

Roy McCready said the DOT should be made aware of the fact that the light at that intersection don't stay green long enough. There were no further comments.

Pat Powers asked Mr. Palumbo if he would send written documentation ahead of time so that the Town attorney could review it – particularly with reference to the egress onto Greiner Rd. and access to the Uniland property. Mr. Palumbo agreed.

ACTION:

Motion by Wendy Salvati, seconded by Tim Pazda, to TABLE this project until they receive further documentation from the applicant

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

MOTION CARRIED.

Item 3

David De Marie Dance Studio
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 2-¾ acres with approximately 313' of road frontage on Sheridan Drive. There is an existing single-family residence located on the property. It is zoned commercial and the Master Plan identifies the area in a commercial classification. The Planning Board tabled the item at the last meeting to work on some design issues.

After greeting the Board, Mark Mussachio, of Mussachio Architects, commented on the 45' setback from the existing residence as mentioned at the September 21st meeting. They have redeveloped the site plan indicating the 45' setback. As a result, the proposed parking has been reduced down to approximately 82 spaces. He said he feels they can achieve the 45', keep the circulation and maintain just enough parking for the facility.

The other issue mentioned at the last meeting was the site lines to the sides of the building on the west and east sides. Mr. Mussachio photographed these areas and presented the pictures to the Board at the work session. They show the heavy vegetation present on this property. He feels the buffer will provide a nice screen on the east and west sides of the building. Further, he said that even without the vegetation, the existing house blocks the west side view making it physically impossible to see the west side of the building. He said they have retained the vegetation on the west side with the same result – the side of the building is not visible from Sheridan Drive. He said that as shown on the site plan, the only way to see the east side of the building is through the driveway cut. Consequently, they would like to retain the panels on those elevations. He described to the Board some of the changes he and his client are discussing relative to the front of the building. He felt it would be a good idea to put some signage on the front of the building which would also hide some of the metal panels as well as give identity to the dance studio.

Pat Powers asked if there were questions from the Planning Board. Phil Sgamma mentioned that the Board is concerned with the amount of metal panel on the side. He

reminded the applicant that he said he would provide a tree survey indicating which trees would remain on the site. Mr. Mussachio said it was in process. He also said they would be willing to landscape both sides of the building to provide even more of a buffer.

Tim Pazda asked if Mr. Mussachio had discussed with the owner the use of split block on the lower third or so, to break it up a bit. Mr. Mussachio has discussed different options with the owner however, he is working with a tight budget, though he does remain open to new ideas. Mr. Pazda pursued the topic of buffers, vegetation, and tree selection. He felt that scrub and bush would produce good shielding results in the winter.

George Van Nest asked whether 82 parking spots was enough. Mr. Mussachio replied that he thought so. Tim Pazda asked if he thought the two businesses would be of a similar nature. Mr. Mussachio said, "Yes, we do."

There were no further questions from the Board or audience members.

ACTION:

Motion by Roy McCready, seconded by George Van Nest, to refer this project to MRC, traffic safety, and fire advisory with the stipulation that the tree survey is to be completed by the time it goes to the MRC.

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

MOTION CARRIED.

Item 4	Requests a 2-lot Minor Subdivision to accommodate a new industrial use at 8550 Roll Road.
Dominic Piestrak	
Industrial Business Park Zone	

DISCUSSION:

Jim Callahan gave a brief description of the project that is located on the north side of Roll Road, opposite and east of Harris Hill Road. The property consists of approximately 102 acres zoned Industrial Business Park. The Master Plan identifies the area in an Industrial Business Park classification. The applicant is seeking approval for a 2-lot Minor Subdivision as designed.

Chairman Powers invited Dominic Piestrak to speak. He advised the Board that he has been out of town; he offered to try to answer any questions the Board might have. Phil Sgamma asked if it is Mr. Piestrak's intent to sell off Lot No. 1 to the applicant, Mark Zografos. It is. Mr. Sgamma asked if it was true that Mr. Zografos will own the property "free and clear," completely divorced from anything else they might have in the future? Mr. Piestrak replied, "That is correct."

After asking if anyone in the audience wished to speak on this agenda item, Pat Powers explained that this is a request for a 2-lot Minor Subdivision. She explained that she would like to deal with it in two separate motions for the sake of clarity.

ACTION:

Motion by Pat Powers, seconded by Jeff Grenzebach, that based on the information and analysis contained in the EAF, this 2-lot Minor Subdivision, the proposed action, will not result in any significant adverse environmental impacts. I move to recommend a negative declaration to the Town Board, however, any further splits on this land will be subject to a full environmental review.

On the Question:

Tim Pazda said he thinks the Board needs to review some of the factors that were previously discussed. He asked Town Attorney, Dave Donohue, what would be the effect on the applicant in developing this property?

Mr. Donohue affirmed that the Board would like to see the applicant be able to proceed to build in this town. However, he felt that it may be impossible to avoid a little more thorough environmental review. He thought the Town Board may not accept the recommendation for a negative declaration based upon issues presented. Further, he commended the applicants on their efforts in completing everything asked of them. The segmentation issue – which is an issue in the SEQR law in the DEC handbook – would most likely need to be addressed were they to pass this on. He thinks it would require much more review. He said the review will need to be done whether a month down the road or whether it's started now. He said he has a lot of concerns about the segmentation issue based upon his study of various cases.

Mr. Piestrak asked if he could produce a letter from the DEC stating they had no problem with it, would that alleviate the problem? Mr. Donohue said it would depend on how the question was posed. "It might."

Wendy Salvati said she didn't think Mr. Doleski, of the DEC, would be able to side-step a legal precedent by submitting such a letter. They are pushing up against state environmental review regulations and they have case law that clearly shows where it is not justified to segment the project. Further, she said that if they issue a negative declaration on the minor subdivision, when the applicant comes back to undergo site plan review, she doesn't know how it can be separated from what could potentially happen on the rest of the site. There clearly is intent to develop the rest of the land.

Mr. Donohue read a passage for the Board. Mr. Piestrak said that they only bought the front part (approximately 30 acres). His opinion is that the whole site is not a major impact. He was told it's what he plans to *do* with the site that is the issue. Mr. Donohue suggested they do the environmental impact study on the 30 acre site to see if there's a negative or positive declaration before he can segment out the one site.

George Van Nest clarified that it is New York State that ultimately will decide this issue, regardless of letters or opinions. Wendy Salvati thought Mr. Doleski would agree that there is precedent here that this is potentially segmentation.

Phil Sgamma voiced his opinion that to him, it seems this is simply a case of selling off a lot and that what happens in the future is independent of this application. Wendy Salvati reminded him that the DeBlasi piece needs frontage and that frontage will come when the road is built. The road, which is part of the construction of Lot No. 1, has to be constructed to where it is shown. That will provide legal frontage for the DeBlasi piece.

Mark Zografos interjected that DeBlasi was always a non-conforming lot. He thought they had discussed that DeBlasi was "grandfathered" in. He said that when the road is constructed, DeBlasi will actually gain frontage to in excess of 600' which will bring him into compliance. Dave Donohue said that there was no development in front of that flag lot. They never said he was "grandfathered."

Pat Powers	AYY	Wendy Salvati	NO
George Van Nest	AYE	Jeff Grenzebach	AYE
Tim Pazda	NO	Phil Sgamma	AYE
Roy McCready	AYE		

MOTION PASSED.

ACTION:

Motion by Pat Powers, seconded by Jeff Grenzebach, to approve a 2-lot Minor Subdivision at 8550 Roll Road, subject to the previous motion's conditions that any future split on this land will be subject to a full environmental review. The 2-lot Minor Subdivision is creating 2 lots, one a 3.14 acre industrial business park lot with 327 ft. of frontage on Roll Road, and a 2nd 99 +/- acre industrial park lot with 301 ft. of frontage on Roll Road.

On the Question:

Phil Sgamma asked about the public road right-of-way and wondered if it was in one or the other lot. Part of it is on the DeBlasi lot and part on the parent lot. The Board discussed briefly the Harris Hill extension and what was required from DeBlasi. As a simple minor subdivision, Jim Callahan confirmed that there wouldn't be any potential impacts associated with extending Harris Hill. This issue will be dealt with at a future time.

Pat Powers	AYY	Wendy Salvati	NO
George Van Nest	AYE	Jeff Grenzebach	AYE
Tim Pazda	NO	Phil Sgamma	AYE
Roy McCready	AYE		

MOTION PASSED.

Meeting adjourned at 8:50 p.m.

Patricia Powers,
Chairperson

