

Town of Clarence  
Planning Board Minutes  
Wednesday October 6, 2010

**Work Session 6:30 pm**

Roll Call  
Update on Pending Items  
Zoning Reports  
Committee Reports  
Miscellaneous

**Agenda Items 7:30 pm**

Approval of Minutes

**Item 1**

Buffalo Pharmacy  
Major Arterial

Requests Development Plan Approval for a new commercial building at 6051 Transit Road.

**Item 2**

Rockledge Professional Office Park/Steve Kieffer  
Restricted Business

Requests Development Plan Approval of a professional office park at 8175 Sheridan Drive.

**Item 3**

Rock Oak Estates/Stephen Development Inc.  
Commercial

Requests Preliminary Concept Review of a proposed expansion to an existing manufactured housing park plus commercial and high density residential uses at 10065 Main Street.

**Item 4**

Planning Process Proposal  
Code Changes

Discussion.

**Item 5**

Planning Process Proposal  
Board Membership

Discussion.

Chairman Al Schultz called the meeting to order at 7:30 p.m.

Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz  
Richard Bigler

Vice-Chairperson Wendy Salvati  
Gregory Todaro

Planning Board Members absent:

Timothy Pazda

George Van Nest

Town Officials Present:

Director of Community Development James Callahan  
Planner Brad Packard  
Councilman Peter DiCostanzo  
Deputy Town Attorney David Donohue  
Councilman Joe Weiss  
TEQR Chairman Robert Sackett

Other Interested Parties Present:

Jonathan Bleuer	Ms. Leising
David Sutton	Michael Godfrey
Devashree Desai	Asawari Thise
Robert Sackett	Noel Dill
Duane Barwell	Steve Kieffer
Michael Metzger	Denise & Browne Hunka

Chairman Schultz explained that the Planning Board is technically a seven (7) member board; presently there are five (5) appointed members, two (2) are absent, and one (1) alternate member. The alternate member, Gregory Todaro, will participate in all discussions and vote on all agenda items this evening.

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the minutes of the meeting held on September 1, 2010, as written.

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

MOTION CARRIED.

Chairman Schultz explained that the Planning Board is a recommending body that may vote to refer agenda items to other committees such as the TEQR Committee, Fire Advisory and Traffic Safety for their study and comment. A project may be tabled pending further information. The Planning Board may vote to recommend an action to the Town Board with conditions. The Town Board is the governing body and as such will have the final vote on all items. The procedure for agenda items starts with 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**

Buffalo Pharmacy  
Major Arterial

Requests Development Plan Approval for a new commercial building at 6051 Transit Road.

**DISCUSSION:**

Jim Callahan provides the background on the project. It is located on the east side of Transit Road, north of Clarence Center Road and is existing vacant land. The applicant has received a Negative Declaration under the State Environmental Quality Review Act on this proposed project. Concept Approval was granted, the applicant is seeking Development Plan Approval on the proposal as designed.

Dave Sutton, from Dean Sutton Architects, is present. Mr. Sutton explained the proposal as a 6700 square foot, single-story retail space for Buffalo Pharmacy. He has been before the Zoning Board of Appeals and has acquired a side yard setback to the south property line. The plans before the Planning Board reflect this variance. Parking for the customers is in the front of the property, while the parking in the back is for employee parking. The issues that were brought up in previous discussions have been addressed with the exception of one recent issue. It has been suggested that additional low-level landscaping be installed at the Transit Road buffer, the applicant is prepared to do this. The current drawings do not reflect that but the landscape architect is working on it. The plan is to introduce a landscape feature in the center of the property. The building will be accessed from a private road from the north. A rendering of the building has been submitted, they will use brick-like materials and Dryvit. The roof will be pitched. 90% of the building will be Buffalo Pharmacy; a portion in the back of the building will be of a related business and will be introduced in the future.

Wendy Salvati pointed out the 12 parking spaces in the back of the property are not necessary, based on the parking calculations. She suggested leaving that area natural and landscaping it if necessary. That is the applicant’s intention, to land-bank that area.

**ACTION:**

Motion by Gregory Todaro, seconded by Wendy Salvati, to **recommend** approval of the submitted Development Plan on the Buffalo Pharmacy project located at 6051 Transit Road, with the following conditions:

-Landscape Committee review and approval of the final Landscape Plan that is to be revised to show additional landscaping along the entrance drive and Transit Road frontage. Landscaping is to be done at the rear of the site that is to be land-banked.

-Open Space and Recreation Fees.

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

**MOTION CARRIED.**

**Item 2**

Rockledge Professional Office Park/Steve Kieffer Requests Development Plan Approval of a Restricted Business professional office park at 8175 Sheridan Drive.

**DISCUSSION:**

Jim Callahan provides the history on the project. It is located on the south side of Sheridan Drive, east of the Eastern Hills Mall entrance. It is existing vacant land. The applicant has received a Negative Declaration under the State Environmental Quality Review Act in May 2008. Concept Approval was granted and the applicant is requesting Development Plan Approval on that plan.

Steve Kieffer, owner and developer of Rockledge Professional Office Park, is present.

Wendy Salvati noted that there are a number of mechanical units behind the building; she suggested leaving the vegetation in the 25' setback area to screen those mechanical units, if there is no vegetation in that area, she suggested adding some. Mr. Kieffer said they plan to leave any nice trees in that area and he agreed to augment the landscaping if necessary. Ms. Salvati asked if the 45' greenbelt along the western property line could be continued to the rear parking lot, Mr. Kieffer agreed.

Chairman Schultz explained that the trees worth saving on the property were previously identified; he would like to have this done again by the Landscape Committee once the applicant is ready to begin work on the project. He suggested the applicant put up orange construction fencing to protect those areas that are to remain untouched; Ms. Salvati said the fencing should be put up on the eastern side of the property as well. Mr. Kieffer agreed. He explained that he intends to clear the property as the new sewer septic system goes deep into the property. Mr. Kieffer clarified that he plans to clean up the 45' buffer area as there are a lot of dead trees and bad undergrowth there. Ms. Salvati pointed out that the trees in the State's right-of-way cannot be removed except for where the driveway is, this is along Sheridan Drive. Mr. Kieffer said he had a tree expert look at them and was told they were dying, Ms. Salvati said he will have to get approval from the DOT to clean up and/or remove any trees in that right-of-way. Chairman Schultz suggested the applicant request a meeting with the Landscape Committee as soon as possible if this proposal obtains approval.

Ms. Leising, of 8205 Sheridan Drive, is concerned with the traffic impact. She said from 3:00pm to 6:00pm vehicles cannot get out the drive, the traffic is horrendous. She wondered how many more cars will be there.

Mr. Kieffer said the project is office space so the hours of use will be primarily 8:00am to 5:00pm. They have designed the property to eventually have an exit out the back. Ms. Salvati asked if the road could be installed even though the rest of the development won't be back there. Mr. Kieffer said he would have to obtain an easement, he will look into it.

Ms. Salvati said until Phase II is started, clearing should not occur at the back of the site with the exception of where the septic system is to be installed. Mr. Kieffer said it will save him money if he clears the entire parcel at once.

**ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler, to **recommend** approval of the submitted Phase I Development Plan on the Rockledge Professional Park located at 8175 Sheridan Drive, with the following conditions:

- Temporary orange fencing is to be used during construction activities to protect the 45' greenbelt to the west, and where possible that greenbelt will be extended further back into the Phase II area. Specific diseased trees and dead trees that are identified in conjunction with the Landscape Committee review and approval be removed in order to enhance the 45' greenbelt area.
- Any disturbance within the 25' setback area on the eastern side of the property will require a Landscape Committee review and approval. Adequate screening of exterior utility structures/equipment will be required to buffer views of adjoining properties as well as views from Sheridan Drive, including but not limited to the retention of existing vegetation in that area.
- All lighting fixtures to be dark sky and shielded from spilling on to adjoining properties.
- Landscape Committee review and approval of the final Landscape Plan. Trees in the right-of-way, with the exception of those in the entrance that are to remain on the site, must obtain approval from the NYS DOT to remove or alter the trees. If the trees are in good condition, they should remain on site.
- Open Space and Recreation Fees are required for this project.

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

MOTION CARRIED.

**Item 3**

Rock Oak Estates/Stephen Development Inc.  
Commercial

Requests Preliminary Concept Review of a proposed expansion to an existing manufactured housing park plus commercial and high density residential uses at 10065 Main Street.

**DISCUSSION:**

Jim Callahan provides the history on the project. It is located on the south side of Main Street, east of Gunnville Road. It is an existing manufactured housing park proposing an expansion and development of commercial and higher density residential. This represents the introduction of the project to the full Planning Board.

Noel Dill, of Stephen Development, is present along with Paul Stevens and Michael Metzger. Mr. Dill said there are three (3) elements to this project. In the rear of the property would be the expansion of Rock Oak West, there will be approximately 71 units built targeted for people 55 years of age and older. This will preserve the people which will preserve the character of the community. There will be mixed-use buildings on the Main Street frontage consisting of second floor residential and first floor commercial use. There will be an additional point of exit and entrance to all the communities with cross easements. Town homes are proposed for the center area of the property.

Chairman Schultz noted that there were meetings held with the Engineering Department, the Traffic Safety Board and the Traffic Superintendent to discuss this project. The applicant has addressed all the issues that were discussed. Mr. Metzger did a waste treatment analysis and concluded that what the applicant has is adequate, but he may want to put in more. There is a letter from the NYS DEC that indicates they would prefer the applicant to add sewage treatment capacity but it would not involve the transportation corporation. The DEC would also like the applicant to hook into ECSD#5 at Research Parkway.

Mr. Metzger explained the bike path connectivity and the stonewall has been added to the plan. The applicant will preserve as many mature trees as possible. If the applicant obtains the piece of property in the center of the project they will bring a road across the project. The DEC asked the applicant to put the septic as far back as possible on the property; the plan shows it in the greenbelt. There are other locations where the septic could be placed but the applicant would like to do what the DEC prefers.

James Murphy, president of the Rock Oak Homeowners Association, is concerned with the sewage and if there is capacity. Mr. Murphy does not understand what the applicant did with the road. Chairman Schultz said the road was moved just a bit so there could possibly be a connection in the future. Mr. Murphy is also concerned with the stub road; he thinks it is too small. The dust from the construction is a concern for him as well.

Richard Ehlers, treasurer of the Rock Oak Homeowners Association, is concerned with access and ingress, the leach bed and the sewerage issues. There is a concern that the system has been pumped out so many times that there may be a problem.

Joe Weiss, 4575 Timberlakes, asked the applicant what is going on with the old train station that is in the area. Mr. Stevens said the owner's health is failing but he is making progress in improving the property.

Mr. Dill said the septic system is pumped 2 times a year; they are now looking to improve their contract which would include having it pumped 3 times a year. Wetting down the dust from the construction will be discussed at a later date.

Mr. Murphy voices his concern with the smell that comes from the leach bed. Mr. Metzger said a system has recently been installed to help eliminate the odor.

**ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler, to **refer** the Preliminary Concept Review for the Rock Oak Estates to the TEQR Committee for coordinated review. The project is also referred to the Traffic Safety Advisory Board and the Fire Advisory Board for further review.

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

MOTION CARRIED.

**Item 4**

Planning Process Proposal  
Code Changes

Discussion.

**DISCUSSION:**

Jim Callahan provides the history on agenda item 4. The proposed changes that would identify the recommendations that the Planning Board previously forwarded to the Town Board would involve the TEQR Law. The amendment would be to identify the Planning Board as the TEQR Committee. The duties and responsibilities of the TEQR Committee would be folded into the Planning Board to streamline the process, in so doing the TEQR Committee would be eliminated.

Chairman Schultz said there are several ways to handle this issue. One is to completely eliminate the TEQR Law. The simpler way is to continue with the TEQR Law as it allows a Type I Action; the TEQR Committee and the Planning Board would be considered the same. This eliminates the TEQR Committee and gives the responsibility to the Planning Board.

**ACTION:**

Motion by Richard Bigler, seconded by Wendy Salvati, that the proposed amendment changes the definition of the TEQR Committee membership, essentially folding the TEQR responsibilities into the Planning Board. After review of the prepared Environmental Assessment Form (EAF), a motion is made to **recommend** the Town board issue a Negative Declaration for the proposed changes to Chapter 91 of the Code.

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

MOTION CARRIED.

**ACTION:**

Motion by Richard Bigler, seconded by Wendy Salvati, to **recommend** changes to Chapter 91 of the Code of the Town of Clarence, Environmental Quality Review Local Law, as prepared. The changes make the Planning Board the TEQR Committee.

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

MOTION CARRIED.

**DISCUSSION:**

Chairman Schultz explained there are several proposed changes in the Subdivision Law, one of which would be final approval authority for both minor and major subdivisions will be the responsibility of the Town Planning Board.

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro to **recommend** the following change to the code:

-Page 2 under General Provisions, the sentence in the first paragraph that reads, "It shall be the sole discretion of the Town Board to accept roads for public dedication." shall be moved to the end of the paragraph.

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

MOTION CARRIED.

**ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler, to **recommend** the following change to the code:

-Page 5 under Procedures, section 1 (A) (4), the second sentence shall read, "The Planning Board, upon initial review of a Concept Plan for Subdivision, may recommend that clustering be employed and shall refer the application to the Town Board for consideration of clustering."

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

MOTION CARRIED

Ms. Salvati noted that George VanNest agreed with the proposed changes.

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, that after a thorough review of the prepared Environmental Assessment Form (EAF), a motion is made to **recommend** the Town Board issue a Negative Declaration for the proposed changes to Chapter 193 of the Code.

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

MOTION CARRIED

**ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler, to **recommend** changes to Chapter 193 of the Town of Clarence, Subdivision Law, as prepared.

**ON THE QUESTION:**

Chairman Schultz said this puts Clarence “in-line” with many other communities.

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

**MOTION CARRIED**

Chairman Schultz explained another proposal was the Land Use Concept and Development Plan approvals become Planning Board responsibility, with exceptions such as Open Space Design Overlays, Special Exception Use Permits and Temporary Conditional Permits. The Town Board shall act as “gate keeper” for all new projects. The proposed changes do not adversely impact the public’s ability to comment/participate in the process.

Joe Weiss supports this proposal. He sees no adverse output at this meeting.

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** the following change to § 229 of the Code:

-§229-150 (B) shall read, “All other uses will require approval of the Town Board and/or Planning Board. Depending on the complexity of the application the approval process will vary. All applications for Special Exception Use Permits and applications for Temporary Conditional Permits will be forwarded by the Town Board to the Planning Board for review and recommendation. All proposed uses of previously unimproved property and all uses requiring Site Plan review will be forwarded to the Town Board for review and referral to the Planning Board for review and approval. The following flow chart identifies the typical review process for applications forwarded by the Town Board for further detailed review.”

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

**MOTION CARRIED**

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** the following change to § 229 of the Code:

-§229-152 (C) the last sentence shall read, “The Town Board shall identify any specific concern related to architectural style, landscape buffering and general use prior to forwarding the application for further review and determination.”

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

**MOTION CARRIED**

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** the following change to § 229 of the Code:

-§ 229-153 the last sentence of the paragraph shall be removed.

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

MOTION CARRIED

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** the following change to § 229 of the Code:

-§ 229-154 shall read, “Concept Plan Approval will require Town Board approval only if re-zoning of land is required as a part of the application. A Concept Plan Approval issued by the Planning Board shall become null and void after two (2) years if no action to further the review process has occurred.”

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

MOTION CARRIED

**ACTION:**

Motion by Wendy Salvati, seconded by Al Schultz, to **recommend** the following change to § 229 of the Code:

-§ 229-164 the first sentence shall read, “A Planning Board is established to review projects and make final approvals on site plan reviews and changes in use and make recommendations to the Town Board on matters referred by the Town Board, including but not limited to Temporary Conditional Permits, Special Exception Use Permits and long range planning and land use issues.”

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

MOTION CARRIED

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** the following change to § 229 of the Code:

-§ 229-164 (E) “In addition to Concept and Development Plan reviews” shall be stricken from the second sentence.

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

MOTION CARRIED

**ACTION:**

Motion by Al Schultz, seconded by Wendy Salvati, to **recommend** the Town Board issue a Negative Declaration for the proposed changes to Chapter 229 of the Code.

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

MOTION CARRIED

**ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler, to **recommend** changes to Chapter 229 of the Code of the Town of Clarence, Zoning Law, as prepared and amended.

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

MOTION CARRIED

Chairman Schultz said it is a luxury to have the president of the New York State Planning Federation, Wendy Salvati, on the Planning Board.

**Item 5**

Planning Process Proposal  
Board Membership

Discussion.

**DISCUSSION:**

Chairman Schultz explained that the Planning Board reviewed alternate Board Memberships; one was reducing the board to five (5) members. Another was to maintain a seven (7) member Board with two (2) alternates. The recommendation in front of the Planning Board is to maintain the current Board at seven (7) members, a three (3) member Executive Committee and one (1) alternate member.

**ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler, to **recommend** maintaining the current Board of seven (7) members, with a three (3) member Executive Committee and one (1) Planning Board alternate.

**ON THE QUESTION:**

Gregory Todaro suggested consideration be given to TEQR Committee members as potential Planning Board members.

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

**MOTION CARRIED**

Meeting adjourned at 8:45 p.m.

Carolyn Delgato  
Senior Clerk Typist