

Town of Clarence
Planning Board Minutes
Wednesday October 15, 2008

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

Donald Steinwach/Metzger Civil Engineering
Agricultural Rural Residential

Requests Development Plan Approval for a 4-lot
Open Development Area on the north side of
County Road, west of Heise Road.

Item 2

North Forest Office Providers
Major Arterial

Requests Concept Plan Approval and
Recommendation on Rezoning for a proposed
office park at 6031-6051 Transit Road.

Chairman Gerald Drinkard called the meeting to order at 7:30 p.m. Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard
2nd Vice Chairman Timothy Pazda
George Van Nest
Albert Schultz

1st Vice Chairperson Wendy Salvati
Jeffrey Grenzebach
Richard Bigler
Gregory Todaro

Other Town Officials Present:

Director of Community Development James Callahan
Councilman Peter DiCostanzo
Deputy Town Attorney David Donohue

Other Interested Parties Present:

Roy Jordan
Robert G. Poole
Cliff Benson
Doug Marzec

Clay Carson
Dave Hammond
Carol Benson
Flo Marzec

Motion by Timothy Pazda, seconded by Jeffrey Grenzebach, to **approve** the minutes of the meeting held on September 17, 2008, as written with the following corrections:

-Page 119, the word “**lost**” in the 4th sentence of the 3rd paragraph from the end of the page, shall be amended to read “**lot**”.

-Page 121, the word “**food**” in the first paragraph under item “B” shall be amended to read “**foot**”. The word “**road**” shall be stricken from the first sentence in item “D”. The last sentence in the 5th paragraph shall read, “He **is** against a loop road...”

-Page 123, the measurement “**45’** ” in the 3rd sentence of the 3rd paragraph is corrected to read “**25’** ”. The 4th sentence shall read, “The project at hand is Residential Single-Family zoning to Residential Single-Family zoning and **since** the Right-to-Farm group indicated a 25’ buffer with a living fence is sufficient **to protect horses**, with clear delineation to the horse farm to the north and the residences to the south, **a larger buffer should be sufficient.**”

-Page 124, the second sentence of the third paragraph shall read, “The southeast corner **of the total Casilio properties** is his late father’s former residence; it does not have a buffer.” The 4th sentence shall read, “...the **Casilio** property to the north.” The last paragraph shall read, “Chairman Drinkard said an analysis was done of the entire Gott Creek corridor by the Buffalo State College Watershed Analysis Group. This group outlined statements of observations in many areas. The Gott Creek study is available in the Planning and Zoning Office. It is dated December 2005.”

-Page 125, 1st paragraph, 2nd and 3rd sentences shall read, “Mr. Schultz refers to the Agricultural Right to Farm Code. **It** does not provide a specific requirement for what the buffer needs to be.

-Page 126, the word “**the**” shall precede the word “proposal” in the last sentence of the 3rd paragraph. The figure of “**\$2,000**” in the 5th sentence of the 5th paragraph is corrected to read, “**\$50,000**”.

-Page 128, the second “**the**” is stricken from the 7th sentence of the 1st paragraph under the heading “Miscellaneous”.

Albert Schultz	Aye	Richard Bigler	Aye
George Van Nest	Abstain	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Motion by Wendy Salvati, seconded by Albert Schultz, to **approve** the minutes of the meeting held on October 1, 2008, as written.

Albert Schultz	Aye	Richard Bigler	Aye
George Van Nest	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Wendy Salvati	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 the item. 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

Donald Steinwach/Metzger Civil Engineering
Agricultural Rural Residential

Requests Development Plan Approval for a 4-lot
Open Development Area on the north side of
County Road, west of Heise Road.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the north side of County Road, west of Heise Road and consists of approximately 28.9 acres. The project was initially introduced to the Town Board on December 20, 2006. A Negative Declaration under SEQRA was issued by the Town Board on June 27, 2007. Concept Approval was granted by the Town Board on August 8, 2007.

Michael Metzger, of Metzger Civil Engineers, is representing the applicant. Mr. Metzger explains that the development plans have been approved by the Town Engineering Department as well as Erie County Public Works for the work that needs to occur within the right-of-way. There have been no changes to the layout since the Concept Plan Approval. The plans are in compliance with the Town's Open Development Regulations. The applicant has spent time with Mr. Hammond, neighbor to the project site. They have come to an agreement in which the applicant proposes to relocate Mr. Hammond's driveway. Mr. Metzger points out that drainage concerns were voiced from the Lexington Woods neighbors. The applicant has worked with the Town Engineer in making sure a drainage problem will not be created. The drainage portion of the developed site will be taken out to Heise Road; a long swale will be created across the property to transfer water to Heise Road.

Mr. Metzger explains that the Mr. Hammonds driveway, which is currently on the applicant's property, will be extended back in order for Mr. Hammond to access his barn. Chairman Drinkard explains that when the Town Board approved the Concept Plan they were aware and understood that in their super majority vote could ok a driveway cut. It is confirmed that Mr. Hammond is aware of the proposed road.

Chairman Drinkard said there is a need for buffering and landscaping; the proposal will need Landscape Committee approval. The east side of the property is heavily treed, Chairman Drinkard asked that this area and Mr. Hammond's property be marked off with yellow tape prior to any construction. Mr. Metzger agrees and goes on to explain that the driveway is not centered on the plan; they chose to keep the driveway shifted to the east in order to minimize the intrusion on Mr. Hammond's privacy. Mr. Hammond's property will be buffered with evergreens, perhaps spruce trees. There will be no berm because of drainage reasons. It is clarified that the time to meet with the Landscape Review Committee is after the Town Board has taken action on this proposal.

Wendy Salvati refers to the plan and asked how the applicant will guarantee that no more land will be cleared than what is proposed on the current design. The applicant has not thought of this yet and at this point there is no guarantee. Ms. Salvati would like to see deed restrictions as there are wetlands in the area. Mr. Metzger said, per the Army Corp of Engineers, there are no jurisdictional wetlands on site. He understands the Town would like to keep the site as natural as possible and will discuss this with his client. Chairman Drinkard said the Landscape Law indicates that only a quarter acre can be cleared on an acre piece of property. Fill will be brought in for the immediate area of the home sites; this is part of the drainage plan in order to make the water drain in an easterly direction. The Landscape Law addresses the clearing issue. It also states that if trees are taken down, that should not have been taken down, they must be replaced two (2) for one (1). Mr. Metzger said a sand filter type system will most likely be used.

Mr. Metzger points out where the swale is proposed and explains it will guide the water east to Heise Road. The applicant has approval from the Erie County Highway Department to deepen the ditch on Heise Road.

ACTION:

Motion by Jeffrey Grenzebach, seconded by Richard Bigler, to **recommend** Development Plan Approval for a 4-lot Open Development Area on the north side of County Road, west of Heise Road with the following conditions:

- Payment of all applicable fees.
- Conditions shown in the Engineering letter dated October 3, 2008.
- Development of a Home Owners Agreement submitted to the Town Attorney's office.
- Taping of trees along the tree line from County Road to the rear of the properties on the east and west borders.
- A super majority vote of the Town Board is required for a driveway entrance less than 100' from the other drive on County Road.
- Approval of the Landscape Committee regarding buffering.

ON THE QUESTION:

Mr. Grenzebach asked where the output/discharge of the sand filters will go. Mr. Metzger said it will run through the ditch that goes to Heise Road.

Albert Schultz	Aye	Richard Bigler	Aye
George Van Nest	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 2

North Forest Office Providers
Major Arterial

Requests Concept Plan Approval and
Recommendation on Rezoning for a proposed
office park at 6031-6051 Transit Road.

DISCUSSION:

Jim Callahan provides the history on the project. The property is located on the east side of Transit Road, north of Clarence Center Road and consists of approximately 8 acres in the Major Arterial and the Residential Single Family Zone. A recent amendment to the Master Plan 2015 identifies the property in a Restricted Business Zone. A Negative Declaration under SEQRA was issued by the Town Board on July 23, 2008.

Roy Jordan, from North Forest Development, is present. Mr. Jordan goes on to explain the project as a four (4) building office park similar to what he has built at 8201 Main Street. There are two (2) wetlands on site. The first area of wetlands is back in the north west corner, he plans to leave this alone. The second wetland area is in the south west corner, he has a joint application with the Army Corp of Engineers and the Department of Environmental (DEC) to mitigate it off site; he is currently awaiting a response. It is confirmed that the wetlands are Federal.

Chairman Drinkard refers to the Table of Considerations dated 10-15-08. The table is on file. The first issue is Zoning with relevant factors as follows: Westerly 700 feet of the parcel is zoned Major Arterial (MA); balance is Residential Single-Family (R-SF). The Town Board has voted to consider the entire parcel Restricted Business (RB) on Master Plan Revisions. Considerations for the Zoning issue are as follows: In order for the project to proceed, the Master Plan revision must be placed in effect, and the entire parcel must be zoned in a "commercial category". Based on the October 7, 2008 drawing, *which* zoning classification would not matter *except* for building size, Item 4 below. Assumption is Restricted Business (RB) classification will be used.

The second issue is the SEQRA Review. A Negative Declaration had the following relevant conditions: 1.) Federal wetlands must be avoided. 2.) Impacts associated with alteration of drainage patterns will be mitigated by a stormwater management plan as required by Town Law. Because of recent changes in the Federal wetland delineation, the applicant must either negotiate a wetlands trade-off with the Army Corp of Engineers, or completely redesign the site. The October 7, 2008 print showed issues with the back side of the property with regards to the proximity to the residential area and the applicant's parking lot. Stormwater management will be part of any Development Plan. The following analysis assumes that: A wetlands tradeoff is negotiated by the project sponsor, buffer for remaining wetlands (NE corner) is negotiated and acceptable as shown, parcel is rezoned as Restricted Business.

The third issue is Lot Coverage, Section 229-82 of the Town Code which indicates all...buildings...and impervious surfaces...may not exceed 70% of the gross area of the lot. As drawn, this area appears to be less than 70% of the lot, meeting this standard; this must be verified, particularly as any changes are made.

Mr. Schultz refers to the fourth issue which is building size. Section 229-76 Permitted Uses of the Town Code allows individual structures measuring up to 10,000 square feet, with a cumulative total of 30,000 square feet. Each of the four (4) buildings is larger than 10,000 square feet, and the total is just over 61,000 square feet. These sizes are allowed with a Special Exception Use Permit.

The fifth issue is frontage. With reference to Section 229-79 (A) Development and design provisions, minimum lot size, it is noted that a minimum of 100 feet public road frontage is required. The only frontage on the parcel as shown is the entrance driveway, which is less than the required 100 feet wide. The applicant must either expand the Transit Road frontage by negotiating a different lot line or seek relief from the zoning requirement. The revised drawing must show nearby curb cuts.

The sixth issue is setbacks. Town Code is referenced as follows: Section 229-79 Development and design provisions, (B) Minimum development setbacks, (5) Any commercial uses shall not be located adjacent to residential uses unless separated by a minimum forty-five foot (45') greenbelt. Greenbelt is defined as a buffer area between new construction and other properties consisting of various forms of vegetation. The drawing shows setbacks from the parking to the east of building D, and the eastern part of the property in general, are considerably less than the 45' minimum. A stormwater retention pond does not qualify as greenbelt. The applicant needs to address this issue; Mr. Jordan agrees to do so. It is noted that the write up on the project makes no mention of retention ponds; retention ponds need to be noted on the plan. The property has been damaged (by previous use) to the extent that a greenbelt will probably have to be "constructed" with the oversight of the Landscape Committee.

The seventh issue is building height. Per section 229-79 of the Town Code, entitled Development and design provisions, item (D) states the maximum height is 35 feet. The plan appears to be ok based on architectural renderings, but must be verified.

The eighth issue is dumpsters. Per section 229-80 of the Town Code, entitled Site design standards, item (E) states that dumpsters need to be in parking areas, obscured from public view. There are no dumpsters shown on the plan, the applicant needs to show the dumpsters and how they are screened.

The ninth issue is parking. Town Code section 131-8 General standards and criteria, item (C) states a minimum interior greenspace shall be 8%. Greenspace is not calculated for the plan, but probably meets 8% criterion. Section 229-20 Parking, item (F) requires 1 space per 200 square feet of general office space, and 1 space per 100 square feet of medical office space. The applicant is showing approximately 1 space per 200 square feet; 376 parking spaces. The number of spaces will probably be reduced based on the setback issues listed. The project will have "about the right number" for professional offices, and "about half" the number required for medical offices.

The tenth issue is lighting. Town Code section 229-14 Vibration, noise, odor and lighting is referenced along with sections 229-55 General site plan performance criteria, item (D) Lighting- defines details of lighting requirements. The applicant must be aware of lighting requirements, and ultimately address these specifics in the Development Plan.

Ms. Salvati said the 45' greenbelt is going to present an issue because the retention basins can not be there. Mr. Jordan said he is willing to work with the Town regarding the issue.

Mr. Jordan explains the agreement with the adjacent neighbors is to build single story buildings with peaks at approximately 21' and the lower parts of the buildings at 10' high.

Mr. Jordan refers to the Table of Consideration and commends the Planning Board and Mr. Schultz on its organization.

Chairman Drinkard asked if there has been any soil testing at the site. Mr. Jordan said the Phase I Environmental Study is complete and acceptable except for the garbage and oil containers. He has no plans to take over the front of the parcel. Currently there are two (2) curb cuts on the property; Chairman Drinkard suggests cross access on the driveway. Mr. Jordan agrees and said his company is all for cross access.

Mr. Jordan said he is seeing more and more medical uses within his buildings, depending on what is going on with the insurance companies.

Mr. Callahan asked Mr. Jordan to comment on the proposed parking, Mr. Jordan said the plan is a little "over parked". He needs approximately 5 or 5 ½ spots per 1,000 foot of floor area; which is about 320 spaces. The intent is to build one building at a time with a four (4) year build out. Chairman Drinkard suggests "banking" parking spaces using grass and trees.

Douglas Marzec, of 8080 Roseville Lane, asked what the setback is off Transit Road to the back of the proposed buildings. Mr. Jordan said it is 931'. Mr. Marzec thought there was a limit of about 400' to 480' maximum per the Master Plan. Mr. Pazda explains that this parcel just went through a Master Plan amendment; a change which allows a greater depth on this parcel. Chairman Drinkard said the depth allowed depends on each individual parcel and the zoning of that parcel. Mr. Callahan explains that the parcel is proposed to be Restricted Business. Mr. Marzec wonders why an exception would be made for this parcel. Chairman Drinkard explains what has taken place over the past year; people were given the opportunity in February 2008 to request the Town Board make changes to the Master Plan. Changes were requested and presented to the Planning Board to provide feedback to the Town Board. There were multiple Public Hearings, which were open to the public. After much review and research, the Planning Board made a recommendation to the Town Board in which this particular parcel be rezoned from Major Arterial to Restricted Business. Deputy Town Attorney David Donohue said many Woodbridge neighbors voiced their opinion saying they were happy with the proposal because it would be an improvement to the site and clean up the garbage that currently exists. Mr. Schultz advises Mr. Marzec there are more constraints in the Restricted Business Zone than in the Commercial or Major Arterial Zone.

ACTION:

Motion by Albert Schultz, seconded by Wendy Salvati, to **table** the proposal by North Forest Office Providers for an office complex at 6031-6051 Transit Road pending the following three items:

1. Applicant to resolve issues regarding Federal wetlands on the eastern end of the property with the Army Corps of Engineers and the DEC. Resolution might include redesigning the buildings or "banking" wetlands utilizing another site, and must include buffers acceptable to the Corps along any remaining wetlands.
2. Applicant to provide site plans that show a minimum forty-five foot greenbelt buffering the development from adjacent Residential-Single Family zone.
3. Applicant to resolve the issue of adequate frontage along Transit Road by either increasing it to one-hundred feet minimum, or securing approval for existing frontage, which is slightly less than 100 feet, from the Zoning Board of Appeals.

The new site plan must show all three of the items listed above, as well as curb-cuts on adjacent property.

Albert Schultz	Aye
George Van Nest	Aye
Timothy Pazda	Aye
Gerald Drinkard	Aye

Richard Bigler	Aye
Jeffrey Grenzebach	Aye
Wendy Salvati	Aye

MOTION CARRIED.

ACTION:

Motion by Wendy Salvati, seconded by Jeffrey Grenzebach, to **recommend** rezoning the property as depicted in the Master Plan change that was reviewed by the Town Board at the previous Town Board meetings.

ON THE QUESTION:

Jim Callahan clarifies that the parcel has been rezoned from Major Arterial and Residential Single-Family to Restricted Business. The address in which the motion applies to is 6031-6051 Transit Road.

Albert Schultz	Aye
George Van Nest	Aye
Timothy Pazda	Aye
Gerald Drinkard	Aye

Richard Bigler	Aye
Jeffrey Grenzebach	Aye
Wendy Salvati	Aye

MOTION CARRIED.

As a point of information, Chairman Drinkard explains that the Planning Board must approve pole signs for a plaza; as such the next Planning Board agenda will have a pole sign listed as an item. All Planning Board members are encouraged to review the Sign Law prior to the next meeting.

Meeting adjourned at 8:35 p.m.

Carolyn Delgato
Senior Clerk Typist

