

Town of Clarence
Planning Board Minutes
Wednesday November 14, 2007

Work Session 6:30 pm

Roll Call
Minutes

Update on Pending Items
Committee Reports

Zoning Reports
Miscellaneous

Agenda Items 7:30 pm

Item 1

Essex Homes/Shadow Woods
Residential Single-Family

Request for Recommendation of Density
Determination of Sixty-Four (64) Residential Lots
for Proposed Open Space Design Development
Subdivision on approximately 68 acres of
property situated north of 6440 Goodrich Road.

Item 2

North Forest Office Providers
Major Arterial

Requests Preliminary Concept Review of a
proposed Office Park at 6051 Transit Road.

Item 3

Benderson Development, Inc.
Major Arterial

Requests a Recommendation on Development
Plan Approval for a Mixed-Use commercial
building at 5965 Transit Road.

Item 4

Steve Kieffer
Restricted Business

Requests Preliminary Concept Review of a
proposed Office Park at 8175 Sheridan Drive.

Item 5

First Presbyterian Church
Community Facility

Requests Preliminary Concept Review of a
proposed addition to existing church at 9675 Main
Street.

Item 6

Four M's Development
Industrial

Requests a Recommendation on Development
Plan Approval for an Industrial Business Park at
10120 County Road.

Item 7

Sign Review

Discussion.

Second Vice-Chairperson Gerald Drinkard called the meeting to order at 7:30 p.m. Councilman Scott Bylewski led the pledge to the flag.

Planning Board Members Present:

2 nd Vice Chairperson Gerald Drinkard	Jeffrey Grenzebach
Timothy Pazda	Richard Bigler
Albert Schultz	

Planning Board Members Absent:

Chairperson Patricia Powers	1 st Vice Chairperson Wendy Salvati
George Van Nest	

Other Town Officials Present:

Director of Community Development James Callahan
Councilman Scott Bylewski
Deputy Town Attorney David Donohue

Other Interested Parties Present:

George Deal	Daniel Mulaniff
Chuck Bernd	Harry Lipka
Jane Sweet	Lois Daigler
Dan Cariglia	Richard Shire
Carol Shire	Donald Aubrecht
Mark Meiler	Karla Meiler
Michael Mammano	Roy Jordan
Steve Kieffer	Dave Sutton
Leanne Voit	

Motion by Timothy Pazda, seconded by Albert Schultz, to **approve** the minutes of the meeting held on October 17, 2007, as written.

Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Gerald Drinkard explains that Albert Schultz will be participating in all discussions and voting on all agenda items due to the absence of three (3) Planning Board members.

Item 1

Essex Homes/Shadow Woods
Residential Single-Family

Request for Recommendation of Density
Determination of Sixty-Four (64) Residential Lots
for Proposed Open Space Design Development
Subdivision on approximately 68 acres of
property situated north of 6440 Goodrich Road.

DISCUSSION:

Jim Callahan provides the background of the project. It is located on the west side of Goodrich Road North of the Pine Breeze Subdivision. The project was tabled at a previous meeting after being referred from the Town Board.

Sean Hopkins, of Hopkins, Garas and Sorgi LLC, is representing the applicant. Updated plans have been submitted showing a layout for Phase II, which consists of a maximum of ten (10) lots, making the total density for the project 64 lots. Mr. Hopkins points out that the placement of the conservation area on the proposed plan was to protect the adjoining residents. There is a small gray triangle on the plan, Mr. Hopkins said this will be part of the 100' regulated adjacent area for all New York State DEC Wetlands; the applicant would have to acquire a permit.

Al Schultz explains that he did the calculations for the plan, he took the wetlands and the buffer out and he came up with a density calculation that is about ten (10) lots more than the proposal, then he took all the woodlands out and came up with about ten (10) lots lower than the proposal. From a number standpoint the proposal appears to be a reasonable compromise.

Mr. Drinkard said the Phase II does not delineate the detention pond.

Mr. Schultz suggests the applicant be creative as they build out of the easement and buffer.

Harry Lipkus of 6430 Goodrich is concerned with road access and increased speed limit that will be generated from additional traffic.

Deputy Town Attorney David Donahue explains that the speed limit concerns would be handled out of the Highway Department. Mr. Drinkard said the Planning Board could recommend that the speed limit be looked at in a more formal way.

ACTION:

Motion by Gerald Drinkard, seconded by Jeffrey Grenzebach, to **accept** the 64-lot yield with up to 54 lots in Phase I and up to 10 lots in Phase II on approximately 68 acres on what is referred to as the Shadow Woods Subdivision subject to the following conditions:

-The Open Space Design submitted be considered for adjustment in order to have lots numbered 13 through 16 considered for adjustment in order to reduce or eliminate back to the New York State wetland buffer.

-The Conservation Easement be extended to lot 18 through lots 9 through 17, with proper deed restrictions.

-The Storm Water Retention in Phase II will be determined and shown on subsequent prints.

-A Homeowner Agreement expressly identify what can and/or can not be done in the Conservation Easement area.

-Subsequent prints presented will preserve the treed areas noted on the prints that are presented.

ON THE QUESTION:

Mr. Schultz suggests wording be included in the Motion to specify a total of up to 64 lots. Mr. Drinkard and Mr. Grenzbach agree.

Gerald Drinkard	Aye	Jeffrey Grenzbach	Aye
Timothy Pazda	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Item 2

North Forest Office Providers
Major Arterial

Requests Preliminary Concept Review of a
proposed Office Park at 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. The applicant is proposing to develop an office park and is seeking referral to the TEQR Committee to initiate the SEQRA Review on the project. The applicant was tabled at a previous meeting.

Roy Jordan, of North Forest Office Providers, is present. He is hoping for a preliminary approval so the project can move forward to the TEQR Committee and the environmental reviews that will be required can begin.

Mr. Drinkard said a 45' greenbelt to the Residential Single-Family zone that is adjacent to the property needs to be shown on the print. Mr. Jordan has no problem with this condition.

Mr. Jordan said the building currently on the site will be demolished. The retention pond is planned for the south side of the property.

ACTION:

Motion by Albert Schultz, seconded by Timothy Pazda, to **refer** the North Forest Office proposal to the TEQR Committee for review under State Environmental Quality Review Regulations with the following conditions:

-The Concept reviewed is the one received by the Town Planning and Zoning Office on September 25, 2007.

-The Concept is to be modified to include a 45' greenbelt between the rear of the proposed buildings and parking and the adjacent residential zoned property.

-The Planning Board requests the TEQR Committee consider potential segmentation issues for the entire parcel. This referral to TEQR is a matter of record and provides no guarantee that the project will be recommended or approved by the Planning or Town Boards.

Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Item 3

Benderson Development, Inc.
Major Arterial

Requests a Recommendation on Development Plan Approval for a Mixed-Use commercial building at 5965 Transit Road.

DISCUSSION:

Jim Callahan provides the background on the project. It is located on the east side of Transit Road, south of Clarence Center Road and consists of just over 3 acres. The project has received a Negative Declaration under SEQRA and a Concept Plan recommendation on the amended design.

Brad Davidzik, of Damon & Morey, is representing the applicant. He explains that recently Engineering has signed off on the project. As of today the Landscape Committee has approved the project.

Mr. Drinkard reads, for the record, a list of conditions that have been met by the applicant, they include: Landscape to minimize additional impact to neighbors, especially on the north side, sidewalks from the building to existing Transit Road sidewalk, no wet pond, only detention as designed, no fence around the pond, reduce parking by eight (8) spaces, no sidewalks to Roseville Lane and the dumpster will be located on the southeast corner of the property.

Mr. Callahan asked for a description of the architectural style and the materials to be used on the building. Jim Rumsey, architect with Benderson Development, explains that the architecture has not changed; it still has a pitched roof, dormers, masonry, Eifs and architectural shingles. The lighting will be dark sky fixtures. The applicant is willing to put the lights on timers so they will shut off at a reasonable time.

ACTION:

Motion by Gerald Drinkard, seconded by Richard Bigler, to **recommend** Development Plan approval with the following conditions:

- Tree preservation for trees on the east side of the property at the back end of the project; all areas not to be disturbed starting at the edge of the parking area will be marked with yellow marking tape prior to beginning the grading of the building.
- No sidewalk to Roseville Lane.
- No fencing in the retention pond.
- The appropriate fees will be remitted.
- The dumpster will be located on the southeast corner of the paved parking area according to the blueprint.
- Lighting in the parking areas will be turned off after business closure in the late evening, to be determined by the business.
- Commercial Open Space Fees.

ON THE QUESTION:

It is indicated that there will still be security lighting on the building; Jim Rumsey said the security lights will be shielded as well as all the other lights.

Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Item 4

Steve Kieffer
Restricted Business

Requests Preliminary Concept Review of a
proposed Office Park at 8175 Sheridan Drive.

DISCUSSION:

Jim Callahan provides the background on the project. It is located on the south side of Sheridan Drive, east of the entrance to the Eastern Hills Mall and consists of 3.8 +/- acres. The property is zoned Restricted Business and Commercial.

Steve Kieffer explains that he is proposing a 23,000 square foot professional park. It is a four (4) building multi-tenant type of structure. The target tenants are professional offices.

Dave Sutton, architect with Dean Sutton Architects, explains the plan is for a mix of professional offices as well as medical. Mr. Sutton said it will be dictated by parking; currently there is approximately 25% allotment for medical offices. Mr. Drinkard said if there are medical offices the parking ratio is 1 parking place per 100 square feet. The Planning Board generally recommends 1 parking space per 150 square feet. The availability of an option of expanding the parking in the future becomes an issue.

Mr. Schultz said the building listed on the table is different than the size of the building on the print. Mr. Sutton has an updated print that matches the table; he will forward them to the Board.

Mr. Pazda asked how the applicant will comply with the 45' greenbelt area. The next print submitted must show the 45' greenbelt. Mr. Schultz said there are letters on file from the adjacent neighbors asking that the 45' greenbelt requirement be enforced.

Mr. Sutton said, at this point, there are no plans for connectivity with the adjacent property. Mr. Pazda said the Planning Board highly recommends connectivity, Mr. Sutton understands.

Mr. Drinkard said a tree survey done by a certified professional is required. No trees can be taken out of the 45' greenbelt; it must remain in a natural state. Mr. Callahan clarifies that the 45' greenbelt must be maintained, dead or diseased trees should be removed. It should also be allowed to improve upon the area if necessary. The applicant plans on keeping as much forestry as he can.

Mr. Schultz reads a letter dated November 14, 2007: 'Dear Planning Board Members, Due to a family emergency we are unable to attend tonight's meeting, as we are out of state at this time. This is in regards to Mr. Kieffer's Medical Facility on Sheridan Drive. We reside and own 8155 Sheridan Drive, the residential property next door. And we would urge the Board to have them maintain the forty-five foot (45') buffer zone between our residence and his commercial office complex. Sincerely, Mr. & Mrs. Duane Barwell.' The letter is on file.

Mr. Sutton explains that it has been designed for possible acquisition of that property and provide for greenspace there and a smaller building towards the front.

Mr. Drinkard said the updated print must show a dumpster in the parking area; there must be 8% greenspace landscaping within the parking area. Mr. Sutton said the revised plan shows the requested location of the dumpster.

ACTION:

Motion by Gerald Drinkard, seconded by Timothy Pazda, to **table** the project with the following conditions:

1. A tree survey from an arborist, professional landscape forester, an architect or a plant biologist is required identifying all trees four inches (4") in diameter.
2. No parking in the greenbelt setback, which is 45' on the west side and 25' on the east side of the property. There will be no paving in this area.
3. The plan needs to show adjoining properties of roadways on the north of Sheridan Drive, as a proposed exit on to Sheridan Drive; identify the curb cuts on Sheridan Drive.
4. The parking spaces provided will be determined at a 1:150 ratio, plus handicapped spaces.
5. The dumpster will be located within the parking area.
5. Lot coverage will be no greater than 70%; the calculation must be shown.
6. All parking will be interconnected.
7. Show the actual size of buildings on the print and show the key schedule.

ON THE QUESTION:

It is recommended that condition number 2 above be amended to include the word "greenbelt" and the wording "there will be no paving in this area" is added to the sentence.

In reference to the 45' greenbelt, section 229-79 (B) (4) of the Town Code applies. Mr. Schultz believes that there is no parking or anything allowed in the greenbelt, however, a driveway is allowed in the 25' setback. He suggests the motion be amended to specify and clarify.

The motion is amended to reflect the deletion of condition number 2 and replace it with the following:

- 2.a. The 45' greenbelt adjacent to the residential property shall be preserved.
- 2.b. There is a 25' setback on the eastern property.

Gerald Drinkard and Timothy Pazda accept the amended motion.

Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED.

Item 5

First Presbyterian Church
Community Facility

Requests Preliminary Concept Review of a
proposed addition to existing church at 9675 Main
Street.

DISCUSSION:

Jim Callahan provides the history of the project. It is located on the south side of Main Street, east of Gunnville Road and consists of 5+ acres. It is zoned Commercial. The proposal was tabled at a previous meeting pending updated information. The applicant is requesting a referral to TEQR to begin the review process.

Don Aubrecht, architect, said the proposal is principally a worship space that is set down very close to grade. The total addition is approximately 6,000 square feet, plus some corridors. There will be two levels; one level will be used for storage. The materials will be similar to the existing building. The existing entrance and exit drives will be maintained. Some trees have been damaged from the October 2006 storm, they will be replaced. The parking spaces went from 122 to 105; the applicant thinks this is sufficient. If, in the future, more parking spaces are needed there is an area to the south where spaces could be added.

Mr. Drinkard explains that 8% of the space inside the parking area must be dedicated to landscaping.

Mr. Pazda asked the applicant if he would consider a stonewall along the front of the property; Mr. Aubrecht said they are working with a tight budget and would like to keep the front of the property as is.

Mr. Drinkard asked the applicant if he considered a sidewalk from the property to Main Street. Mr. Aubrecht said the sidewalk was discussed; however there are no know members that walk to church.

Mr. Aubrecht also discussed an additional dormer to match the current architecture; however it would not fit in with the purpose of what the space would be used for on the inside of the building.

ACTION:

Motion by Gerald Drinkard, seconded by Albert Schultz, to **refer** the project to the TEQR Committee. Future prints of the project should show an 8% internal landscape in the parking lot.

Gerald Drinkard	Aye	Jeffrey Grenzebach	Aye
Timothy Pazda	Aye	Richard Bigler	Aye
Albert Schultz	Aye		

MOTION CARRIED**Item 6**

Four M's Development
Industrial

Requests a Recommendation on Development Plan Approval for an Industrial Business Park at 10120 County Road.

DISCUSSION:

Jim Callahan provides the history of the project. It is located on the north side of County Road, west of Strickler Road and consists of approximately 4.2 acres. The project received a Negative Declaration under SEQRA and a recommendation on the Concept Approval on the design as amended; the applicant is requesting a recommendation on Development Plan Approval on the submitted design.

Leanne Voit, of Greenman Pedersen, is representing the applicant. The proposal consists of six (6) warehouse buildings, 5,000 square feet each. Each warehouse has a building attached to it; the attached building is approximately 1100 square feet and will hold office space. There is onsite detention and the parking facilities that are needed. One major change to the plan is the location of the detention pond, due to engineering it has been moved from the rear of the property to the front of the parcel. If it was kept at the rear of the property, so much fill would have had to be brought in for buildings 5 and 6 that they would have been sitting significantly high; the applicant did not want to do that to the neighbors. Another reason for moving the detention pond is that it would have impacted the hedgerow if it was kept at the rear of the property. The buildings have been shifted slightly to the rear of the parcel due to the relocation of the detention pond; there is still a significant buffer. It was requested that the applicant add an additional buffer between the property line and the hedgerow, the applicant is currently proposing 13 Spruce trees to be placed in that space.

Ms. Voit refers to Engineering comments that were received for the project; they will all be addressed at the appropriate stage of the project. She received an e-mail comment from the Fire Safety Board with regards to the hydrant. The hydrant has been moved to a minimum of 40' away from the building as requested by the Board. Approval has since been received from the Fire Safety Board. The comments from the Erie County Health Department have been addressed. A Landscape Review Committee report was received, late today, and Ms. Voit said all the concerns will be addressed.

Ms. Voit requests a recommendation for Development Plan Approval conditional upon the Landscape approval.

Mr. Pazda asked how far back the buildings have been moved compared to the other plan. Mr. Callahan believes it is 25'.

Mr. Drinkard recommends the landscaping be put in now so it can begin to grow. Ms. Voit will pass this request on to the applicant. The landscape print that was submitted is not stamped or signed by a certified professional. Ms. Voit said the print was done by a professional and the resubmitted print will be signed and stamped.

Deputy Town Attorney David Donohue said the setback requirements are met, even with the buildings being shifted. He suggests the specific landscape requests be part of the motion.

The total distance to the back lot line is now 75'.

Ms. Voit said the hedgerow in the front will have to be disturbed during the construction of the road, this hedgerow is not owned by the developer, it is in the County right-of-way. She is unsure if any part of the hedgerow that is disturbed will be replaced.

Ms. Voit thinks the developer will lease the buildings.

Mark Meiler, adjacent land owner, wants an explanation as to why the buildings are all turned around the other way. He thinks the Town cares more for the hedgerow on County Road than the one in the rear of the property. Mr. Drinkard explains that in the earlier part of the meeting it was indicated that the retention pond had to be brought to the front of the property due to topology, thus the buildings were moved back. Mr. Meiler said now the parking will be a big mess and the lighting will have to be in the front of the buildings because the parking is there and the area will be all lit up no matter what type of lights they put in. Mr. Meiler said the plan has completely changed from the original drawing. Various members of the Planning Board said the plan is basically the same layout.

Karla Meiler, adjacent land owner, said it was her understanding that the building had to be 100' from her property line; currently the new plan shows 75'. Deputy Town Attorney said there is nothing that requires 100'; the applicant is going to put in a row of Blue Spruce in this area. Mr. Meiler said there is a hedgerow there and now there is going to be a building right on the hedgerow, the hedgerow will be destroyed. Mr. Drinkard said a condition will be made so that the hedgerow will not be disturbed. Mrs. Meiler said the pond was originally in the rear of the property, once again it is explained by Mr. Pazda that the location of the pond has changed due to topology. She also said the buildings were turned the other way. Mr. Schultz said the building orientation is exactly the same as it was except that they have moved back because of the relocation of the pond. Mrs. Meiler is concerned with the amount of parking and the lights shining on to her property; she confirms this is her major concern. She is also concerned with noise and what it brings to that piece of property at all hours of the evening.

Mr. Drinkard said he understands the concerns of the neighbors, he explains that the owner of the land has the right to develop it per the guidelines of the Zoning Code. The applicant has explained, at past meetings, that the operation will be relatively silent after daylight hours. Mr. Drinkard said the Planning Board can make sure that the developer adheres to the law, preserves things that ought to be preserved and supplement things were it is reasonable to ask the developer to do it.

Mr. Meiler does not understand why the pond can't stay at the back of the property and ask Reliable to take a flow pipe over to the ditch. Ms. Voit explains, again, that due to the topography of the site the pond had to be moved. If the pond was at the back of the property, the amount of fill that would have had to be brought in would have lifted up the back two buildings significantly. This plan

has been fully engineered and is the best scenario. Mr. Meiler does not understand how the water will drain; Ms. Voit explains they will pipe the ditch as requested by the Health Department.

Mrs. Meiler asked what the lighting will be for the two rear buildings. Ms. Voit explains there is no lighting.

Mr. Pazda refers to Planning Board minutes from the June 20, 2007 meeting which indicate the hedgerow in the back of the property will not be touched, if the hedgerow is shown to be impacted when the applicant comes back to the Planning Board at Development Plan Approval, the Planning Board will ask the applicant to redesign the buildings. Ms. Voit agrees that a condition in the recommendation for a Concept Approval is not to disturb the hedgerow to the rear of the property.

Mrs. Meiler said that at a previous meeting she was threatened in the hallway that if she did not comply with this the developer will take all of the hedgerow down. Mr. Pazda said that can not happen.

Mr. & Mrs. Meiler asked why the two rear buildings can't be turned to block the activity from their house.

Mr. Pazda asked what the determination of significance is; how much can a project change between Concept Plan and Development Plan and is this situation a significant change. Town Attorney David Donohue said it is not just whether it is significant, does it still comply with the code, does it comply with the prior requirements. The developer has the right to develop his property in a manner that is consistent with the code.

ACTION:

Motion by Richard Bigler, seconded by Gerald Drinkard, to **recommend** Development Plan Approval for agenda item #6, with the following conditions:

- Subject to Commercial Open Space Fees.
- Engineering is based on the Engineering approval that is in the record.
- Based on the final design of prints dated October 9, 2007 and in the Planning Office.
- Subject to acquiring all necessary permits as referenced in the Engineering letter
- The northern hedgerow on the back of the property will be yellow taped and marked prior to development and will remain undisturbed throughout development
- Subject to approval of the Landscape Plan.
- The project will not be placed on a Town Board agenda until an approved Landscape Plan is obtained.
- The Blue Spruce identified on the Landscape print will be installed contiguous with the approval of the occupancy of the first few buildings on the south of the property.
- The southern hedgerow, not on the applicant's property, is to remain undisturbed during the course of construction; it will be marked with yellow tape.
- There will be no lights on the rear walls of the two northern most buildings.
- All other lights are to be wall-packs and shielded, any lot lights are required to be shielded as well.
- No outside storage.
- The retention pond, as noted on the print, is to be dry and mowed as needed.

Gerald Drinkard Aye
Timothy Pazda Nay
Albert Schultz Aye

Jeffrey Grenzebach Nay
Richard Bigler Aye

Mr. Pazda explains his vote by saying he thinks the applicant is telling the Planning Board what they want to hear at Concept Plan but changes it at Development Plan. Mr. Grenzebach said he agrees with Mr. Pazda.

MOTION FAILED

Deputy Town Attorney David Donohue dismisses himself from the meeting.

Item 7

Sign Review

Discussion.

DISCUSSION:

A sign for Dr. Mehmet Erk at 4624 Goodrich Road was approved.

A sign for Key Bank at 4401 Transit Road was approved.

A sign for Toys R Us on Transit road was denied.

A sign for Alessi Fitness for Kids at 6221 Transit Road was approved.

A sign for Clarence Fire District #1 at 10355 Main Street was approved.

Meeting adjourned at 9:05 p.m.

Carolyn Delgato
Senior Clerk Typist