

Clarence Planning Board Minutes
Wednesday, November 30, 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 P.M.
Councilman Scott Bylewski led the pledge to the flag.

Planning Board Members Present:

Patricia Powers	Wendy Salvati
Roy McCready	Jeff Grenzebach
Gerald Drinkard	Tim Pazda

Other Town Officials Present:

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

Other Interested Parties Present:

Helen Turyk	Joyce and Steve Bakowski
Fred Cimato	Harold Frey Sr.
Ben Oliveri	Florence Kirk
Katie Kirk	Marc Mussachio
William Schutt	

Motion by Gerald Drinkard, seconded by Timothy Pazda, to approve the minutes of the meeting held on November 9, 2005, as written.

Patricia Powers	AYE	Wendy Salvati	AYE
Roy McCready	AYE	Jeff Grenzebach	AYE
Gerald Drinkard	AYE	Tim Pazda	ABSTAIN

MOTION CARRIED.

Item 1
Lakeside Industrial Park
Industrial Business Park Zone

Requests
Requests Concept Plan Approval for
Development of an Industrial Business
Park.

DISCUSSION:

Jim Callahan provides the history of Item number 1. The property is located on the south side of County Road, west of Goodrich Road. It consists of approximately 19.2 acres, it is zoned Industrial Business Park. Amended proposed concept consisting of eleven lots was referred to the Municipal Review Committee and the Traffic Safety Advisory Committee and the Fire Safety Advisory Board on July 20, 2005. The Municipal Review Committee has forwarded a recommendation for a negative declaration under the State Environmental Quality Review Act for the concept for individual on site septic systems. The applicant is present for consideration of the concept plan.

William Schutt of William Schutt and Associates introduces himself and John and Edward Braddell of Lakeside Sod. He advises they are in attendance seeking recommendation for concept plan approval. They have obtained a recommendation from the Municipal Review Committee for a SEQR negative declaration. Through the SEQR process they were engaged in discussions with the DEC. They've also received recommendations from the Fire Safety Advisory Board, which involved installing some hydrants along the road, which they certainly will agree to comply with and will show in the final design. Also, through the SEQR process they had contact with the Erie County Department of Public Works Division of Highways, who had no objections with the Concept Plan or the SEQR documents. The only comment from the Erie County Department of Public Works was they would prefer there was no increase in the storm water run off going to their highway. Mr. Schutt advises this comment will be complied with and will be reflected in the final design. Likewise, a highway work permit is required for any work that is done on the highway, which is standard.

Mr. Schutt advises the project involves approximately 19 acres which would be subdivided into a Right-of-Way for a 1,000' road and the remaining land will be divided into eleven lots.

Timothy Pazda asks what the applicant would like to see regarding the road, a public or private road. Mr. Schutt advises that, as it is structured now, it is a public road. The waterline and the fire hydrants, as per the Fire Advisory Board, are public as well. The development itself would be integrated into the Town's March 2005 Zoning Law and would adhere to the setbacks for a public road and the architectural standards based on public road frontages, etc...

Roy McCready asks where the road will ultimately end. Mr. Schutt advises it depends on if the project is continued beyond these eleven lots. Essentially,

the road will circle around and have another exit out on to County Road and/or continue to the south and connect to possible future developments south of this project.

Gerald Drinkard asks if, in the context of this request, this is a private road? Mr. Schutt advises, "No."

Pat Powers believes that, at this time, the Planning Board is not in favor of the particular plan that is currently before them. The Planning Board feels that the road should remain a private road. It may change to a public road in the future if the expansion, which Mr. Schutt speaks of, takes place.

Mr. Schutt assumes, then, if it is not a public road then the project is not subject to the departments for offsets for public roads, etc., and the zoning ordinances. He asks for clarification.

Jim Callahan advises that the Subdivision Law will allow private roads; it would be subject to the overall park approval.

Gerald Drinkard reads a letter dated July 28, 2005, addressed to the Town of Clarence Planning Board, from Mrs. Florence M. Kirk. Mrs. Kirk owns Volante Farm, LLC located at 6705 Heise Road; this location is also her primary residence. The letter sites Mrs. Kirk's objections and concerns regarding the development of the land as an industrial park. The letter is on file.

Pat Powers asks if Mr. Schutt has any response to the letter from Mrs. Kirk. Mr. Schutt advises that he certainly does have responses; however, he indicates there is a letter from Mrs. Joyce Bakowski in response to the letter received by Ms. Kirk.

Timothy Pazda asks where the property owner is located in relationship to the project. Mr. Schutt advises the property owner is southwest of the project and points out the location on the Concept Plan that is displayed for all to view. The southwest corner will be green space.

Gerald Drinkard has identified the letter from Mrs. Joyce Bakowski, it is in the file. Mr. Steven Bakowski and Mrs. Joyce Bakowski have a pending project in this Industrial Park once it is ready to accept tenants. The letter is dated August 26, 2005 and is addressed to the Town of Clarence Municipal Review Committee Chairman, Matt Balling. For the record, Gerald Drinkard reads the letter. As stated above, the letter addresses the concerns of Mrs. Kirk.

Mr. Schutt advises there will be, at least, a 300' buffer between Mr. & Mrs. Bakowski's development and Mrs. Kirk's property. Mr. & Mrs. Bakowski's development is a quiet, unobtrusive type of development.

Mr. Schutt also advises that this project is for an Industrial Business Park with the emphasis on "business". He does not anticipate any heavy industrial use at this location.

With respect to the issues of the storm water and the septic systems, the existing topography for this site is primarily in the north to northeast direction so the water that sheds off the property is shedding away from Mrs. Kirk's property. The project will have storm drainage along the right-of-way of the road as well as detention basins as depicted on the plan. This will force any development that takes place to direct the drainage from their particular development to be picked up in the central drainage system which will then take it to County Road. The drainage will be controlled on each lot, brought to the road and then discharged north of County Road. There will be no drainage discharge at Mrs. Kirk's property.

This project is not in a sewer district and is designed to be on septic systems. As the separate lots are developed, those developers will be encouraged to put their septic systems in their front yards to facilitate future connections to a public sewer that would go up the right-of-way of the road, so, likewise, the septic systems would be at the furthest point away from the Mrs. Kirk's property as possible.

Roy McCreedy asks what type of screening Mr. Schutt proposes for the property owners to the south. Mr. Schutt advises that the project is before the Board tonight strictly for the building of the infrastructure of the road and the subdivision of the lots. Each individual project will come before the Planning Board and the Municipal Review Committee for approval.

Pat Powers advises that the Planning Board would like to see a map showing where the adjacent property owners are located relative to this project. It should be submitted to the Planning and Zoning Office. The Concept Plan approval is not in jeopardy due to the request of this map. Wendy Salvati clarifies that the Planning Board asked for the plan that is in front of them tonight, knowing that there is a larger parcel. The Planning Board was trying to obtain an idea of what the plan is for the future, "are we dealing with permissible segmentation?" The Planning Board also wanted to provide the Municipal Review Committee with as much information as possible.

Mr. Schutt clarifies, "So we need to provide a map showing all the neighboring properties and their respective owners and their subsequent zone." He adds, "We can certainly do that."

Pat Powers advises that the Planning Board will be requiring this information on all Site Plans that come before the Board in the future.

With no further questions or comments from the Planning Board, Pat Powers asks if there is anyone in the audience who would like to speak to this agenda item.

Mrs. Florence M. Kirk introduces herself and advises that she is very confused because she did not receive any notification regarding this project until the Planning Board meeting of July 20, 2005. She borders the west side of the site, she has 6 acres and is not exactly sure where her property is on the map that is on display.

Pat Powers advises that the notification she received is the proper notification. Mrs. Kirk advises that prior to this project going before the Planning Board on July 20, 2005, it was at the Town Board and she was not notified of that meeting. Jim Callahan clarifies that it is Town Board Policy not to send notifications until the Town Board refers the project to the Planning Board; therefore, Mrs. Kirk received proper notification.

Mrs. Kirk wants to make sure that there is a buffer zone between her property and this project.

Timothy Pazda asks Jim Hartz to show Mrs. Kirk where her property is on the map.

Katie Kirk introduces herself as Mrs. Kirk's daughter-in-law. Katie Kirk asks when the zoning of the property changed to industrial. She advises when Mrs. Kirk bought the property she was under the impression it was zoned Commercial and Agricultural. Jim Callahan advises that the property was zoned Industrial in the early 1960's. Mrs. Kirk indicates that when she bought her property in 1986 the Town told her it was zoned Agricultural at the site where her barns are and the rest of the property was zoned Commercial, this is where her home is located. Mrs. Kirk thought the zoning was changed and she was not notified. Jim Callahan advises that there has not been a change, the location has been zoned Industrial since the early 1960's.

Wendy Salvati reads the list of uses that are allowed for an Industrial Zone: commercial uses, light manufacturing uses, telecommunication towers, landscape supply operations, public utility facilities, community facilities, assembly operations, mini storage and personal storage facilities, lumber yards, research and development operations and warehousing. None of these would be particularly heavy uses. There would be no garages or collision type uses, no hazardous materials storage, no fuel storage or anything of that nature.

Mrs. Kirk asks if she is correct in saying that there has to be a 100' berm "or something like that" between her property and the project. Wendy Salvati confirms that, in an Industrial Business Park, a 100' buffer is required from any uses and adjoining residential properties.

Pat Powers clarifies that what is happening this evening is that the Planning Board, she believes, will recommend Concept Plan approval. That doesn't mean they go out and start digging and constructing tomorrow morning. They will come back to the Planning Board at least once more and Mrs. Kirk will be notified of that meeting as well. The Planning Board recommendation would be to the Town Board and the Town Board will make the final decision. At that point Mrs. Kirk will have an opportunity to voice her concerns to the Town Board.

Denise Suzuski of 9430 Pine Meadow Drive, asks what the plan is for the bottom parcel shown on the map. The Planning board is not aware of any plan at this time.

Mr. Suzuski also voiced his concern regarding the traffic, "once this goes up that's going to be a nightmare."

David Donohue asks if the lots are of sufficient size to put a private septic under the Erie County standards. Mr. Schutt replies, "Yes."

Timothy Pazda asks what the applicant plans to do with this property. Mr. Schutt advises that the applicant intends to keep his present business operating on every piece of property that they own, so essentially the sod business will continue operating until each one of those lots is sold.

Timothy Pazda asks for clarification regarding the applicant's plan for the area in question. He wants to be assured that this project is permissible segmentation. Mr. Schutt confirms that, at this point, there are no plans and the area in question will remain farmland.

David Donohue obtains clarification that Mrs. Kirk's horse farm is zoned Industrial Business Park and the main entrance from Heise is zoned Agricultural Rural Residential.

Timothy Pazda indicates that Mrs. Kirk mentioned a 100 foot buffer and the perhaps the possibility of a berm. He clarifies that there has been no mention of a berm in this project, and he doesn't want her to assume that a berm is part of the project.

Harold Frey Sr., of Goodrich Road introduces himself. He has been a resident of the Town of Clarence for more than 70 years and a member of the Planning Board for a few years. In his opinion, he advises that the Engineer and the Developer should have called the local people that live around the proposed project site and explained to them what was they are planning. He is not against development but he would like to know what is going to be at the site in question. He also believes that the local people have the right to know what will happen to the lot in the future.

Ben Oliveri introduces himself and advises he owns land next to the proposed development. Thirty years ago when he bought the land there was a sign saying, "Welcome to Clarence Industrial Park." Some time later the sign disappeared. Mr. Oliveri asks, "Why? This is an industrial park, isn't it?" Pat Powers replies, "To the best of my knowledge it is, it is zoned Industrial."

Pat Powers reiterates that the action that is taken this evening does not give anyone permission to go out and start building.

ACTION:

Motion by Jeff Grenzebach, seconded by Roy McCreedy, to recommend Concept Plan Approval subject to the following conditions:

1. The laterals be installed in such a way as to facilitate sewer hook up if it ever becomes available.
2. The road is to remain a private drive for the present; it could become a public road sometime in the future.
3. Each project, individual site plans within the park will be subject to the Town Board review.
4. No permanent structure over the gas line.
5. When this project returns to the Planning Board the development plan check list for a commercial project is required.
6. A plan that identifies the adjacent residences is required.
7. Input on this project from the Right-to-Farm Committee.

ON THE QUESTION:

Mr. Schutt advises that the Right-to-Farm Committee was solicited during the MRC review. The Planning Board was not aware of this solicitation.

Timothy Pazda indicates the following as an additional condition: if any future development were to occur a full environmental review would be required.

Wendy Salvati clarifies that the Planning Board is asking for is the PLAT plan that shows the parent parcel of the splits and adjacent lots.

Patricia Powers	AYE	Wendy Salvati	AYE
Roy McCreedy	AYE	Jeff Grenzebach	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

MOTION CARRIED.

Pat Powers makes sure that Mr. Schutt understands that there is to be no building or digging until he obtains Development Approval from the Town Board. Mr. Schutt understands and indicates the only thing that will be going on out there is farming.

Item 2

Greiner Road Associates
Residential Single Family

Requests

Requests recommendation on Concept Plan Approval for a 4-lot Open Development Area with frontage lots.

DISCUSSION:

Jim Callahan provides an explanation of the project. The property is located on the south side of Roll Road, east of Shimerville. It consists of approximately 22 acres, zoned Single Family Residential. An amended concept was referred to Municipal Review Committee, Traffic Safety Committee and Fire Safety Advisory Board on November 9, 2005. The Municipal Review Committee has recommended a Negative Declaration under the State Environmental Quality Review for the Concept. The applicant is present this evening seeking Concept Approval on the amended design.

William Schutt is standing in for Neil Kochis who could not be at the meeting this evening due to illness. Mr. Schutt introduces Guy Berberich and Kevin Crotty; they are the owners of the land being discussed.

Mr. Schutt advises that all lots will be serviced by a private driveway; a portion of that driveway is already constructed. There is approximately 200 feet of paved driveway currently in place, this includes a culvert over the ditch. Mr. Schutt points out, on the map that is on display, how much of the driveway is paved.

Pat Powers advises that the Planning Board appreciates the fact that the plan was resubmitted showing 2 parcels with 5 acres in a timely fashion. A tree survey was also submitted on September 29, 2005 and the Planning Board was pleased to have received that as well.

Pat Powers and Jim Hartz met with Gary Stamps, Mr. Berberich's neighbor, on Tuesday November 29, 2005. Mr. Stamps expressed his concerns regarding the project. His first concern is lack of privacy due to where the road is located and lack of value to his property because the road comes so close to his property. Mr. Stamps' second concern was that he felt the value of his home would depreciate due to the homes that will be built behind his property. Pat Powers advised Mr. Stamps that she felt the homes that would be built behind his property would enhance the value of his property.

Mr. Stamps advises that he does not have a problem with the homes being built behind him; he only has a problem with the driveway. Pat Powers asks, "The driveway is your primary concern?" Mr. Stamps replies, "Right."

Mr. Berberich indicates that he doesn't see any problem moving the road further away from Mr. Stamps' property. Once the Concept Plan is complete the surveyors will come to put the road in and he'll have them adjust it around the trees. This will provide Mr. Stamps with a larger buffer zone.

Mr. Stamps asks for a berm parallel to his land. Pat Powers indicates that in order to do a berm all the trees would have to be eliminated. Mr. Stamps advises he's had enough of that driveway. Wendy Salvati suggests a fence. Mr. Stamps says, "Maybe that would give me privacy." Wendy Salvati then suggests installing more trees for privacy. Mr. Schutt advises they could add some evergreen trees.

Mr. Stamps indicates that he and Mr. Berberich are friends but they have had many disputes over this driveway. Mr. Stamps says, "Too many dump trucks in there, tailgates banging, diesel fuels, I've had it, I've had enough of that." Wendy Salvati asks Mr. Berberich if this will change once the homes are built. Mr. Berberich advises "Yes."

Mr. Stamps also tells the Planning Board of the dust that accumulates in his home because of the dump truck activity around his home.

Wendy Salvati makes sure that Mr. Stamps realizes that the situation with the dump trucks may continue while the homes are being built, but at some point in the future it will stop.

Mr. Stamps asks if this location will ever be a subdivision. The response from the Planning Board is "No." Timothy Pazda advises that the property can not be further subdivided.

Wendy Salvati asks Mr. Stamps if, instead of a berm, would supplemental tree plantings suffice. Mr. Stamps indicates the trees would have to be "a pretty good size to start out with".

Pat Powers suggests having the Landscape Committee look at this situation. The Planning Board does not want to lose any mature trees. She asks, "If Mr. Berberich is willing to enhance the sparser areas along Mr. Stamps property line with additional evergreens, would that satisfy you?" Mr. Stamps advises it would satisfy him as long as he doesn't see that road.

Mr. Schutt indicates if the curvature of the road is softened it will be less intrusive and will save as many of the large trees as possible. Pat Powers

suggests submitting the plan to the Landscape Committee for their approval on the supplemental planting. She advises that this portion of the project will be referred to the Landscape Committee to review.

Pat Powers advises that when this project is at Development Plan Approval perhaps the Planning Board can set some guidelines as to the hours of operation of the dump trucks. She also suggests setting a guideline to water down the road; this can cut down on the dust.

Gerald Drinkard asks if a Homeowners Association Agreement was received. Pat Powers advises that this will be one of the conditions set forth. She advises the applicant that a Homeowners Association Agreement must be submitted to the Town Attorney's Office prior to being placed on the Town Board agenda for Development Plan Approval.

Guy Berberich wonders why he needs to obtain a Homeowners Association Agreement prior to receiving approval from the Town Board. "What if the Town Board turns you down?" Jim Callahan advises the Homeowners Association Agreement will be need for the waterline anyway. Clarification is made by David Donohue indicating that a *proposed* Homeowners Association Agreement will be required.

ACTION:

Motion by Gerald Drinkard, seconded by Jeffrey Genzebach, the Concept Approval will be subject to the following conditions:

1. A proposed Homeowners Agreement be presented to the Town Attorney's Office for review prior to being placed on the Town Board agenda.
2. Any area within the project that is to remain undisturbed is to be protected by orange fencing prior to and during the construction period.
3. The fire hydrants are to be shown on the Development Plan.
4. The driveway be re-oriented to save trees wherever possible. The Landscape Committee will review the screening along the driveway using evergreen plantings to effectively screen views from the neighboring property.

Patricia Powers	AYE	Wendy Salvati	AYE
Roy McCready	AYE	Jeff Grenzebach	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

MOTION CARRIED.

Item 3
David DeMarie Dance Studio
Commercial

Requests
Requests Concept Plan Approval for
construction of a new dance studio at
8965 Sheridan Drive.

DISCUSSION:

Jim Callahan provides a description of the project. It is located on the south side of Sheridan Drive, east of Shimerville. It consists of approximately 2.75 acres with 313' +/- of road frontage, zoned Commercial. Amended Concept was referred to the Municipal Review Committee, Traffic Safety Advisory Committee and Fire Safety Advisory Board on October 5, 2005. The Municipal Review Committee has recommended a Negative Declaration under the State Environmental Quality Review Act for the amended concept. The applicant is seeking Concept Approval on the amended design.

Marc Mussachio of Mussachio Architects introduces himself; he is representing Leonard Castilone, the owner of the building. Mr. Mussachio indicates that he has submitted the tree survey to the Planning Board. He has also redesigned the building since he last met with the Planning board. He has designed the building using split-faced block on both sides and in the front of the building. This decision eliminates the issue regarding the metal panel that was discussed by the Planning Board previously.

Pat Powers thanks Mr. Mussachio for submitting the tree survey, the photos and the Concept Plan Checklist.

Timothy Pazda thanks Mr. Mussachio for the redesign as well.

Mr. Mussachio advises that he will be putting in additional landscaping around the building and at the street area. He will be adding some evergreens to the corner that is adjacent to the existing residential area in order to provide a buffer.

Wendy Salvati asks if the trees that are on the east side of the property extend off the property or is it clear all the way to the property line? Mr. Mussachio is pretty sure it's clear close to the property line.

Mr. Mussachio advises that wherever they can maintain the trees they will.

Wendy Salvati asks what kind of signage is being proposed and where will it be located. Mr. Mussachio advises there will be a building sign that will go on the "curved area". They will also have a pole sign in front of the property.

Pat Powers reads the conditions that the Planning Board discussed:

1. Sign not being in the right-of-way.
2. Protect the trees on the property line, special care must be taken to protect the root systems.
3. Any area that is to remain undisturbed must be protected by orange fencing prior to and during the construction period.
4. Separate septic system for the dance studio.
5. The existing house on the property to be retained with its own septic system.
6. The building should have a single pitch roof, which is one half inch per foot over the entire distance; the drop is approximately 6 feet from front to rear.

Pat Powers asks if there has been a decision as to where the mechanicals will be located. Mr. Mussachio advises there has been no decision finalized yet.

Pat Powers continues with the conditions:

7. Split-faced block is to be incorporated into the design of the building.

ACTION:

Motion by Wendy Salvati, seconded by Jeffrey Genzebach, to APPROVE the Concept Plan subject to the conditions previously listed.

Patricia Powers	AYE	Wendy Salvati	AYE
Roy McCready	AYE	Jeff Grenzebach	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

MOTION CARRIED.

Item 4
Local Law review

DISCUSSION:

The Landscape and Tree Conservation Local Law Draft 2 was discussed. Pat Powers asks if this law needs to be referred to the Municipal Review Committee. Jim Callahan advises that ultimately, for adoption, it could go to MRC for environmental review. It is a discretionary act of the Town and will require SEQR.

Pat Powers refers to section 4 of the draft entitled "Species List". Roy McCready advises there are 3 lists: Undesirable Trees, Park Trees and Street Trees.

Pat Powers is pleased with the Section 5: Landscape Review Committee.

Gerald Drinkard asks about the "Good Tree/Bad Tree" list. Jim Callahan advises the list will be an appendix to the law.

Roy McCready advises that Item K.1. on page 8 should read, "Common **and** botanical name."

When the draft is ready to be referred to the Municipal Review Committee a species list will be sent along with it.

Roy McCready suggests a copy of the Landscape and Tree Conservation Local Law be sent to the Conservation Advisory Committee as well.

It is agreed to make the necessary changes to the draft this evening and have copies ready for the Conservation Advisory Committee meeting on Thursday December 1, 2005.

Pat Powers indicates that the Planning/Zoning Department will speak with the Town Attorney regarding the structure of the Landscape Review Committee. Jim Callahan advises that until such time that the law is adopted and a position is appointed, there will be a gap.

Mr. Blum speaks to the subject. The word "**significant**" should be removed from item number 10 on page 11.

Mr. Blum suggests that under Section 17. Inspections, item number one should not read, "**upon notice to the property owner**". Jim Callahan will check with the legal department regarding the correct wording.

Mr. Blum suggests that under Section 19. Penalties for Offenses "**insofar as that is possible**" should be deleted from the text.

Further discussion ensued regarding Section 14. Suspension or Revocation of Permit. It was decided to change item number one to reflect "**The Zoning Code Enforcement Officer**" as opposed to "**The Landscape Committee**".

Wendy Salvati suggests adding the word "**recommending**" to Section 14. Suspension or Revocation of Permit item number three. The revised paragraph would read, "**for recommending the revoking...**"

ACTION:

Motion by Gerald Drinkard, seconded by Wendy Salvati, to REFER the Landscape and Tree Conservation Local Law, with the changes discussed at this meeting, to the Municipal Review Committee and the Conservation Advisory Committee.

The Land Use Training Manual was discussed. Pat Powers would like for all Planning Board members start the training January 1, 2006 and complete it by July 1, 2006. She would like to see all members complete all nine chapters.

The Planning Board will present a public showing of the "Conservation Design Video: Preserving Open Space with Conservation Sub-Division" on Monday January 9, 2006 in the auditorium at the Clarence Town Hall.

ACTION:

Motion by Wendy Salvati, seconded by Jeffrey Grenzebach, to adjourn the meeting.

Meeting adjourned at 9:40 p.m.

Patricia Powers
Chairperson