

Town of Clarence
Planning Board Minutes
Wednesday December 9, 2009

Work Session 6:00 pm

Roll Call
Update on Pending Items
Zoning Reports
Committee Reports
Miscellaneous

Agenda Items 6:30 pm

Approval of Minutes

Item 1

Ranchview LLC/Rubino Brothers
Residential Single-Family

Requests Development Plan recommendation on a 44 lot Open Space Design Subdivision at the southwest corner of Clarence Center and Shimerville Roads.

Item 2

Michael Brady
Residential Single-Family

Requests recommendation on a Minor Subdivision to create an additional residential building lot at 8780 Stahley Road.

Item 3

Stahley Road LLC
Residential Single-Family

Requests recommendation on a subdivision for residential building lots at 8315-8385 Stahley Road.

Chairman Gerald Drinkard called the meeting to order at 6:30 p.m.
Director of Community Development James Callahan led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard
2nd Vice Chairman Wendy Salvati
George Van Nest
Gregory Todaro

1st Vice Chairman Albert Schultz
Jeffrey Grenzebach
Richard Bigler

Planning Board Members Absent:

Timothy Pazda

Other Town Officials Present:

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

Other Interested Parties Present:

Kevin Curry	John Rubino
Joe Rubino	Liz Benkovich
Todd Leising	Ed Burkard
George Tinklepaugh	Robert Altman

Motion by Jeffrey Grenzebach, seconded by Al Schultz, to **approve** the minutes of the meeting held on November 25, 2009, as written with the following correction:

-Page 143, first sentence in the fourth paragraph is amended to read, “There were **two (2)** requests to amend the Master Plan in 2009.”

Gregory Todaro	Abstain	Richard Bigler	Aye
George Van Nest	Aye	Jeffrey Grenzebach	Aye
Wendy Salvati	Aye	Al Schultz	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

In the absence of Planning Board member Timothy Pazda, Planning Board Alternate Gregory Todaro will be participating in all discussions and voting on all agenda items.

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 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

Ranchview LLC/Rubino Brothers
 Residential Single-Family

Requests Development Plan recommendation on a 44 lot Open Space Design Subdivision at the southwest corner of Clarence Center and Shimerville Roads.

DISCUSSION:

Jim Callahan provides the history on the project. It is located at the southwest corner of Shimerville Road and Clarence Center Road. It is existing vacant land located within the Residential Single Family zoning classification. The applicant is proposing an open space design subdivision. A Negative Declaration under the State Environmental Quality Review Act was issued by the Town Board on this design on March 11, 2009. Concept Approval was granted on the proposed design on May 13, 2009.

John Rubino is present and said the plan in front of the Board has some extensive landscaping they are proposing. The natural area will be kept that way; however approximately 75-85 trees will be added to the outline of the Shimerville Road and Clarence Center Road areas.

Mr. Schultz asked if the applicant would be willing to install the bike path along the Shimerville Road side in lieu of any interior sidewalks and recreation fees. Mr. Rubino has heard that other developers have paid for the materials for a bike path; he would be willing to do this, if it is acceptable to the Board. After further discussion, Mr. Rubino agreed to construct the bike path as long as that strip is deeded to the Town of Clarence. Ms. Salvati said the bike path would be in the right-of-way. The Town would be responsible for maintaining the bike path.

This project does not have landscape approval yet; however the Rubino's have approached the Landscape Committee with a good plan. As soon as the Town Board gives Development Plan Approval, presumably, conditioned on the Landscape approval, there should be no problem with the Landscape Plan unless something changes on the plan.

Liz Benkovich, of Connor Road, loves the idea of the bike path extension. She feels it will be safer.

Todd Liesing, of Stahley Road, asked what the plan is to connect the bike path passed Clarence Center Road as there are residences there. If the developer planned sidewalks within his subdivision he would need to supply not only the materials but the labor as well. It is clarified that the developer has already agreed to this.

Mr. Callahan identifies that a potential extension on the north end of Clarence Center Road would most likely be within the County right-of-way, which is 66' and if there was a need to acquire an additional right-of-way to put the path in, the Town would be responsible.

ACTION:

Motion by Al Schultz, seconded by George Van Nest, to **recommend** Development Plan Approval for the project currently designated as Amber Meadows located at the intersection of Shimerville and Clarence Center Roads. The motion is subject to the conditions previously designated by the Planning Board, Town Board and Town Engineer, plus the installation of the bike path along the eastern boundary in lieu of internal sidewalks and recreation fees.

ON THE QUESTION:

Chairman Drinkard added the following to the motion:

-Recommended Approval is based on the conditions outlined in the DEC letter dated 11-3-09.

-Recommended approval is based on conditions in the Town Engineers letter dated 11-20-09.

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Jeffrey Grenzebach	Aye
Wendy Salvati	Aye	Al Schultz	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 2

Michael Brady
Residential Single-Family

Requests recommendation on a Minor Subdivision to create an additional residential building lot at 8780 Stahley Road.

DISCUSSION:

Jim Callahan provides the background on the project. It is located on the north side of Stahley Road, west of Connor Road. It is existing residential property located in the Residential Single Family zone along the frontage with Agricultural Rural Residential zoning to the rear. The applicant is proposing to split the property to create one (1) additional residential building lot. The application was forwarded by the Town Board at the November 18, 2009 meeting seeking review and recommendation from the Planning Board.

There is no representative present for the project. The agenda item is moved to the end of the agenda to allow time for a representative to arrive.

Item 3

Stahley Road LLC
Residential Single-Family

Requests recommendation on a subdivision for residential building lots at 8315-8385 Stahley Road.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the south side of Stahley Road, east of Miles Road. It is existing vacant land located in a Residential Single-Family home. The applicant is present seeking a recommendation from the Planning Board to create a major subdivision along road frontage. The application was referred by the Town Board at the November 4, 2009 meeting.

Kevin Curry, of Patrick Homes, explained that he has approvals from various agencies. These approvals are from the 1990's when he bought the land. The approvals include SEQRA studies with a Negative Declaration, DEC approvals, archeological and wetland approvals, Army Corp of Engineers approvals, Erie County Health Department and Erie County Sewer Department approvals and the Town of Clarence Engineer approval. He has done a significant amount of improvements to the parcels including the installation of sanitary sewers along the entire frontage. He has also done a significant amount of drainage work on the parcels. He has done a Letter of Map Revision (LOMR) with Federal Emergency Management Agency (FEMA). The only thing that did not occur was the

Map Cover. Mr. Curry is aware of the concerns from the neighbors regarding drainage; he will work with them and the Town Engineer to resolve any issues.

Chairman Drinkard said the proposed 5-lot plan conforms to the current law. Ms. Salvati clarifies the reason this plan must be 5 lots is because during the course of the history the Town Board adopted a moratorium because they were in the process of updating their subdivision standards. At the time Mr. Curry had approval from the Town for only three (3) lots. When the moratorium was done, the subdivision regulations were updated which changed the minimum lot size requirements. The minimum frontage is now 125'. Mr. Schultz explained that the current code does not allow duplexes to be put on any of those 5 lots. Mr. Curry is aware of this; his intent is single family residences. There have been no drainage issues with the duplexes that Mr. Curry previously built on the surrounding lots.

Mr. Curry said the smallest proposed lot is over .5 acres and the largest lot is 1.2 acres. Currently the property drains to the creek.

Ed Burkard owns the lot to the east of the property in question. Mr. Burkard said if the minimum frontage is 125' how can the applicant ask for 5 lots when the latest map shows 590' of frontage. He is also concerned with drainage; just a week ago he had six inches (6") in his barn. The water comes over the creek. There was a natural drain in the area that is now blocked. The water now has to go to the back of Mr. Burkard's property to drain. He feels Stahley Road is getting closed in and the waterway is getting narrow. His property used to flood every five or six years, now it floods as soon as there is a heavy rain. If the proposed houses are built, the water issues will be worse. There are many issues on this street but they can be resolved with a lot of effort.

The Planning office has been supplied with licensed certified surveys from a private firm that shows there is sufficient frontage. If there is a frontage issue it will be addressed at the time of building permit issuance. The Planning office will look to see if there are any discrepancies.

George Tinklepaugh, of 8384 Stahley Road, said there is definitely a drainage problem. He explained that the drainage from Mr. Curry's land should drain south, but it drains north out onto the road and into Mr. Tinklepaugh's yard. All the north water has to go east before it comes around to drain. Mr. Tinklepaugh said when the houses were built across the street from him they brought in fill and raised it high enough to make it drain north.

Todd Liesing, of 8340 Stahley Road, said the property was filled and now there are drainage issues. His basement takes on water all year long; it's not just Mr. Curry's property causing the drainage issue but Manchester Park as well. He is not opposed to the project; he just asks that the drainage be fixed.

Robert Altman, of 8390 Stahley Road, is also concerned with drainage issues. He also voices his concern hoping more effort will be put forth to build homes that will fit in to the neighborhood so his property value will not decrease. He would like to see the property maintained from now until the start of the project.

Mr. Grenzebach asked if storm drainage will be in the front of the proposed homes, Mr. Curry is unsure at this time. Mr. Callahan explained that each lot, if approved, are subject to grading and drainage plans as reviewed and approved by the Town Engineers Department when the building permit is applied for.

Mr. Packard explained that five (5) separate surveys were submitted, one for each lot. Mr. Curry said all lots have at least 125' of frontage. Mr. Schultz explained that the discrepancy may come from where the property line is measured from. Per the Town Code, the property line is measured from the center line of the road.

Ms. Salvati said she is not comfortable making a recommendation this evening without knowing the correct frontage measurements. She voices her concern saying some lots may not be graded properly and there are existing drainage problems; she believes more information needs to come from the Town Engineer in order to clarify the drainage issues. If the new lots are approved the Planning Board should set a condition stating that the applicant must remedy any existing drainage issues. Mr. Curry is amenable to this.

Mr. Schultz would like to move the project forward this evening. He suggests a condition be placed on the motion regarding the verification of sufficient road frontage.

Mr. Van Nest voices his concern with the drainage issue, which he believes to be a significant issue. He thinks it wise for the Planning Board to take a closer look, gather more information and gain further input from the Town Engineer before making a recommendation.

Mr. Schultz said the Town Engineer was in attendance at an Executive Planning Board meeting in which he indicated drainage can be dealt with as each project/lot comes forward. Mr. Van Nest said he is uncomfortable with passing along recommendations with conditions on the if come they are dealt with in a timely fashion; the Planning Board does not know what the time frame is for the full build-out of the lots.

Mr. Grenzebach asked if all the houses will drain to the creek. Mr. Curry said absolutely, currently it is an unimproved parcel, the drainage will be better once the houses are built. Mr. Curry said if the Town Engineer asks him to address the drainage issues now, he will.

Mr. Schultz said, if the Planning Board decided to act on this agenda item, part of the condition could be that the Town Board require the applicant work with the Town Engineer to resolve current drainage issues as part of the project approval.

Mr. Van Nest said the Planning Board has some control over the project now, once a recommendation is made they lose that control; this is his concern. He suggests another option would be to table the project for further detailed discussion.

Mr. Curry said he hasn't received any complaints or concerns regarding drainage at the site in a couple of years. If something needs to be done now, he will do it now. Based on what the Town Engineer recommends, Mr. Curry said he could be done within weeks. Ms. Salvati wants to see it done prior to the snow melting. Mr. Curry agrees.

Mr. Tinklepaugh said approximately two (2) years ago he contacted Erie County and they installed four inch (4") perforated tile on the north side of the road to try and alleviate some standing water in front of his house.

Mr. Schultz said the Town has known about the drainage issue for a long time; the Town Engineer said it can be handled without a problem. Mr. Schultz thinks the project should be moved forward as that will force action to take place.

Mr. Van Nest cannot think of another major subdivision that was moved forward at the first hearing of the Planning Board.

Mr. Burkard asked what defines a major and a minor subdivision. It is explained that anything more than 4 lots is a major subdivision; 4 lots and less is a minor subdivision. He does not believe there is an easy solution for what the applicant is proposing.

ACTION:

Motion by George Van Nest, seconded by Gerald Drinkard, to **table** the project until the Planning Board has the opportunity to evaluate the issue with the frontage lots and the drainage situation.

ON THE QUESTION:

Mr. Schultz said if the Planning Board tables the project now, in 2 months they will be having the same conversation as was had this evening. A condition could be put on the project to solve a problem that should have been solved six (6) or eight (8) years ago.

Ms. Salvati said tabling the project will be helpful to try and understand what the problems really are.

Chairman Drinkard said this is the first major subdivision that has not extensively dealt with reservation ponds, detention ponds and engineering involvement at this point in the process. He does not want to set a precedent.

Gregory Todaro	Aye	Richard Bigler	Nay
George Van Nest	Aye	Jeffrey Grenzebach	Nay
Wendy Salvati	Aye	Al Schultz	Nay
Gerald Drinkard	Aye		

MOTION CARRIED.

Item 2

Michael Brady
Residential Single-Family

Requests recommendation on a Minor Subdivision to create an additional residential building lot at 8780 Stahley Road.

DISCUSSION:

No representative is present.

ACTION:

Motion by Gerald Drinkard, seconded by Wendy Salvati, to **table** Agenda Item #2 until the applicant is present.

Gregory Todaro	Aye
George Van Nest	Aye
Wendy Salvati	Aye
Gerald Drinkard	Aye

Richard Bigler	Aye
Jeffrey Grenzebach	Aye
Al Schultz	Aye

MOTION CARRIED.

Meeting adjourned at 7:55 p.m.

Carolyn Delgato
Senior Clerk Typist