

Town of Clarence
Planning Board Minutes
Wednesday December 10, 2008

Work Session 6:30 pm

Roll Call
Update on Pending Items
Zoning Reports
Committee Reports
Miscellaneous

Agenda Items 7:00 pm

Approval of Minutes

Item 1

Patrick Development/Metzger Civil Engineering
Residential Single-Family

Requests Preliminary Concept Plan Review of a
proposed Subdivision and 2-lot Open
Development Area on Roll Road west of
Shimerville Road.

Item 2

Epiphany Church
Agricultural Rural-Residential/Industrial

Requests Preliminary Concept Review for the
construction of a new church and church campus
at 9520 Wehrle Drive.

Chairman Gerald Drinkard called the meeting to order at 7:00 p.m. Councilman Peter DiCostanzo led the pledge to the flag.

Planning Board Members Present:

Chairman Gerald Drinkard
Jeffrey Grenzebach
Richard Bigler
Gregory Todaro

2nd Vice Chairman Timothy Pazda
George Van Nest
Albert Schultz

Planning Board Members Absent:

Vice-Chairperson Wendy Salvati

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:

James Radwan
 Jim Sendker
 Robert Sackett
 Al Herrscher

David Hess
 Steve Campanello
 Fred Kraft
 Rene Herrscher

Chairman Drinkard notes that in the absence of Wendy Salvati, alternate member Gregory Todaro will be participating in all discussions this evening and voting on all agenda items.

Motion by Jeffrey Grenzebach, seconded by Timothy Pazda, to **approve** the minutes of the meeting held on November 12, 2008, with the following changes:

-Page 154, second paragraph, seventh sentence, the word “were” is replaced with “where”.

-Page 154, third paragraph, second sentence, the word “if” is replaced with “it”.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	George Van Nest	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	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.

Chairman Drinkard recuses himself. 2nd Vice Chair Timothy Pazda will run the meeting for the agenda item #1.

Item 1

Patrick Development/Metzger Civil Engineering
 Residential Single-Family

Requests Preliminary Concept Plan Review of a proposed Subdivision and 2-lot Open Development Area on Roll Road west of Shimerville Road.

DISCUSSION:

Jim Callahan provides the background on the project. The property is located on the south side of Roll Road, west of Shimerville Road and contains approximately 8.37 acres. The applicant is

proposing a frontage lot split and an Open Development Area. The applicant was tabled at the October 29, 2008 and November 12, 2008 Planning Board meetings pending discussion on clarification of the Law. The applicant has prepared a revised site plan based upon meetings with the Planning Board Executive Committee.

Kevin Curry, of Heather Court, said the most recently submitted plan shows one frontage lot and three Open Development lots, each at 2 acres or above in size; he believes this plan meets all aspects of the Town Code. With regards to the frontage lot, Mr. Curry said he is amenable to either a curb cut off Roll Road or a driveway off the proposed private road. Jeffrey Grenzebach voices his concern regarding the location of the pipe line and the need to work around it. Depending on where the driveway is placed, Mr. Curry said he is amenable to relocating the house on the lot if necessary. Mr. Pazda voices his concern with putting the driveway in the one acre lot; this situation becomes problematic with regard to the code.

Mr. Schultz said the Board has not looked favorably on exception lots in order to increase the number of buildings. There are other choices for the applicant. He can decrease the plan to three (3) lots; he can add additional land to the project or, since the acreage is so close, petition the Town Board to allow slightly undersized lots. Mr. Schultz strongly prefers any of these alternatives to an exception lot.

Mr. Pazda asked what the plan is for water. Mr. Curry said he will bring it from Shimerville Road.

Mr. Callahan explains the Subdivision Law allows the Town Board to vary the strict application via a super majority vote by the Town Board. This has been done a few times in the past. Mr. Pazda said if Board thinks this is the preferred plan it may just need to be tweaked. He also said the Board likes to have the plans submitted in a timely manner so they can review them prior to the meeting. The entire Board did not have this opportunity as the plans were submitted earlier today, not allowing enough time for review.

Deputy Town Attorney David Donohue said if the Board wants to move forward with the possibility of this design, the mechanism would be to table it and allow the applicant to obtain the super majority vote of the Town Board; a non-conforming development should not be referred to TEQR. Mr. Pazda advises the applicant that the Board has been discouraging exception lots.

Mr. Van Nest said the Planning Board needs to be cognizant of the specifics of each parcel; what the parcel consists of and how it is laid out. He is not as troubled by the notion of an exception lot being allowed here or there.

Mr. Bigler is not in favor of an exception lot, he likes the four (4) lot plan. Mr. Curry thinks the plan meets the code. Mr. Schultz reminds Mr. Curry that an Open Development Area is not an As-of-Right use; it is a use specifically granted by the Town Board for a specific proposal on a specific piece of ground.

Deputy Town Attorney David Donohue said the Planning Board could refer the project to TEQR and deal with the lot lines after TEQR reviews the environmental issues.

Mr. Schultz is reluctant to send an exception lot to TEQR, nor does he want to send a non-conforming proposal to TEQR.

Two potential areas where Mr. Curry could purchase additional land is the land immediately to the west and immediately to the south. The land to the west is zoned Industrial and Mr. Curry does not know how the Town looks upon split zoning within a project. He also explains that it would be very difficult to buy a tenth of an acre.

Mr. Callahan explains that if the proposal is for an Open Development, it clearly does not comply but if it is a Subdivision in general and you look at how to incorporate a Subdivision with an Open Development it complies.

Mr. Schultz would like to see the applicant come back with the boundaries of the exception lot tweaked and come as close to two (2) acre lots as he can. If the applicant is not willing to decrease the number of lots to three (3) then he can go to the Town Board with a four (4) lot Open Development and look for an exception on lot size.

Mr. Van Nest would like to see the project to go to the Town Board for relief from the code, then back to the Planning Board. The applicant would make a decision on which plan he favors and present it to the Town Board.

Mr. Schultz understands Mr. Van Nest's point and the need to move the project along, but he would like to see the Planning Board make a specific recommendation to the Town Board, not send them something "up in the air". The Planning Board also needs time to review the dimensions as the plan was just submitted today. The applicant needs to make his decision on what plan he wants to submit and bring it back to the Planning Board, the Planning Board can then make a recommendation.

Mr. Van Nest does not see the point in making a recommendation on something the applicant may change before he presents it to the Town Board, this does not make much sense.

ACTION:

Motion by Jeffrey Grenzebach, seconded by Gregory Todaro, to **table** the project to allow the applicant the opportunity to submit two (2) plans to the Town Board. One plan will be a four (4) lot Open Development coming as close to the 2 acre minimum per lot as possible, the second is a three (3) lot Open Development with an exception lot.

ON THE QUESTION:

Mr. Schultz does not think the applicant should take a plan to the Town Board without a Planning Board recommendation. The applicant should come back to the Planning Board with a plan and then the Planning Board can make a recommendation to the Town Board. Mr. Pazda agrees. Mr. Van Nest does not think this is a good process for a four (4) lot Open Development, the Planning Board should be in a position to be as definitive as they can be. The applicant should present the plan he favors to the Town Board.

Gregory Todaro	Aye	Albert Schultz	Nay
Richard Bigler	Nay	George Van Nest	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Nay
Gerald Drinkard	Recuse		

MOTION FAILED.

ACTION:

Motion by Albert Schultz, seconded by Jeffrey Grenzebach, to **table** the project to allow the applicant the opportunity to submit the proposal he favors. The Planning Board will review the project and the measurements and subsequently make a recommendation.

ON THE QUESTION:

Mr. Van Nest said it is his understanding that there isn't anything to prevent the applicant from taking a new plan to the Town Board. Deputy Town Attorney David Donohue concurred.

Mr. Schultz said the Planning Board frequently recommends projects that require special action by the Town Board such as a Special Exception Use Permit (SEUP), the Planning Board provides their opinion on these special actions.

Jeffrey Grenzebach likes the 4-lot Open Development because it takes a curb cut off Roll Road.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	George Van Nest	Nay
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
Gerald Drinkard	Recuse		

MOTION CARRIED.

Chairman Drinkard rejoins the meeting and explains his recusal is because his daughter owns property adjoining the project site.

Item 2

Epiphany Church
Agricultural Rural-Residential/Industrial

Requests Preliminary Concept Review for the construction of a new church and church campus at 9520 Wehrle Drive.

DISCUSSION:

Jim Callahan provides the history on the project. It is located on the north side of Wehrle Drive west of Gunnville Road and consists of just over 14 acres and is zoned Agricultural Rural Residential along the Wehrle Drive frontage and Industrial Business Park to the rear. The site plan was tabled at the November 22, 2006 Planning Board meeting to allow the applicant to submit formal site plan. A revised site plan has been submitted.

James Radwan, of Trautman Associates, is present along with David Hess who is chairman of the site plan committee for the church.

Mr. Radwan explains Phase I of the plan. It is development of a 10,000 square foot multi-purpose building. This building will consist of offices, toilet rooms and a sanctuary where banquets or parties may be held. The development is for 1/3 of a 14 acre piece of property. Phase I will be developed in the Industrial zoned area, Phase II is shown as a placeholder; nothing has been designed for the ultimate sanctuary and is proposed as a 125' x 125' square.

In Phase I there are 76 parking spaces proposed. The spaces are to be located in front of the multi-purpose building. Ultimately, the majority of this parking would be shifted to the rear behind the multi-purpose building. The septic system would be maintained above grade. The septic field would be in front, off Wehrle Drive, behind that would be a retention basin. The applicant is looking to do some sort of angulation with the septic field. The applicant likes the idea of coming in off 250' where the asphalt driveway drops away and the road will go around and behind the septic field, the cars should be hidden because of the rise in the septic field. The parking lot is approximately 225' off the right-of-way from Wehrle Drive. They are proposing the utilities come in along the west property line. David Hess said they want to keep the site as "park like" as possible, providing green space for the community. They do not want parking in the front, but it makes sense in order to build Phase I now as it will cut down on the site costs. Once Phase II is complete the parking will be in the back. A maintenance building is proposed, this will be used for storage until Phase II is complete. Once Phase II is complete it is possible that the maintenance building will be a picnic shelter. An average Sunday will have approximately 100 people attending a service; this would translate to approximately 50 cars in the parking lot. Currently the plan is for 75 parking spaces. The multipurpose room seats 200 people; this is what the applicant based the 75 parking spaces on. Chairman Drinkard reminds the applicant that the Code states 1 parking space for every 4 seats. At this point parking is adequate.

Mr. Schultz asked for an explanation regarding the placement of the driveway. Mr. Hess said he did not like the "runway" look when the driveway was placed across from Faber Lane, nor was it compatible for a "drop-off" point to the building. The proposed building was moved to the west to accommodate the set back between the industrial area and the residential area.

Mr. Hess said Phase II is undecided as to when it will begin; he hopes it will be within 10 years. He explains that currently there is one service on Sunday, but would like to have two in the future. Meetings will also be held on site during the week.

Mr. Schultz said there is some confusion as to the proposed building existing in two different zoning codes, so that the setback requirements are different, the sign requirements are different; this can be handled at the Zoning Board of Appeals level. The applicant may need a Special Exception Use Permit (SEUP) for the size of the building; this approval needs to come from the Town Board.

Chairman Drinkard refers to the draft copy of the Concept Plan Factors and Considerations and refers to Article XII Section I Industrial Business Park, sub-section 229-100 Permitted Uses A(7) Community Facilities. Article V Section A-RR Agricultural Rural Residential, sub-section 229-38 Uses permitted with a Special Exception Use Permit (H) Churches (over 10,000 square feet). The front portion of the property is zoned Agricultural Rural-Residential, and the rear of the property (representing the bulk of the acreage) is zoned Industrial Business Park. Community Facilities are allowed in the rear portion without size restriction, and churches (apparently a significant uses of this proposal) are allowed with a 10,000 square foot size restriction in the front portion. A Special Exception Use Permit would probably be required for facilities of this size, due to the A-RR portion of the property. (First phase appears to be just over 10,000 square feet; second phase would add over 17,000 square feet).

Article V Section A-RR Agricultural Rural Residential sub-section 229-36 Intent...to maintain a rural boundary, preserving agricultural, open space, and forested areas on the perimeter of Clarence... Article XII Section I Industrial Business Park sub-section 229-99 Intent (B)...to facilitate convenient access, minimize traffic congestion, and reduce visual clutter within this district. Both zoning codes are specific with regard to maintaining a natural buffer and/or reducing visual clutter.

Preservation of the wooded areas as a natural buffer and landscaping the property are essential elements of this proposal.

Article V Section A-RR Agricultural Rural Residential sub-section 229-41 Setbacks (A) Setback shall be equal to the average setbacks for principal buildings on the same street within 500 feet. Since the front of the property is zoned A-RR, it is presumed that the A-RR setback requirements apply. (B) Where there are no such buildings, minimum setbacks shall be as follows: (1) Front: 45 to 200 (maximum) feet. Multi-purpose building setback is approximately 400 feet. Future sanctuary setback is approximately 300 feet. Front setback would likely require exception from Zoning Board of Appeals.

Article XII Section I Industrial Business Park. Unlike other codes, this one does not require a “greenbelt” nor does it refer to residential use, only to residential zone. Section 229-102 Development and design provisions (H) Setback to adjoining residential zone (minimum): 100 feet. Potential areas of conflict with residential use (A-RR zone) are: Phase 1 driveway-25 feet from property line, Phase 2 parking-70 feet from property line, Future Sanctuary-90 feet from property line.

Article XII Section I Industrial Business Park sub-section 229-104 Architectural Standards, lists several elements for the zone. While not specifically part of Concept Approval, design and architectural standards could be a critical part of ultimate approval, and it seems prudent to have a feeling for how the project would look when fully built. The Board would like to see elevations after the environmental reviews of the project to make sure they comply with the law.

Article VIII Section CF Community Facilities sub-section 229-71 Development provisions, 229-72 Design standards; codes list several elements of design for this type of facility. Since the project represents a “community facility” it seems reasonable to expect it to meet the CF design standards.

Article II Section General Provisions sub-section 229-20 Parking (F) Minimum parking requirements. Religious institutions/cultural facilities-1 per 4 seats. Needs an estimate of number of seats to determine if 75 parking spaces are appropriate.

Steve Campanella, of 4170 Gunnville Road, voices his concern with the pond in front, as is proposed in Phase I. In Phase II the parking area is larger and he does not see a retention area. He currently has water problems. Outside of the project site, at Wehrle Drive and Gunnville Road, there are a lot of retention ponds which overflow. Other concerns are traffic flow, parking and lighting. In Phase I there is a road that goes to the back of the property, is there a building there? Chairman Drinkard explains that it is very early in the process. The Planning Board will ask the applicant for more information which will be forwarded to the TEQR Committee who will perform an exhaustive study on such things as traffic and water flow. Mr. Campanella will be advised via US mail of any future Planning Board meetings regarding this project.

James Sendker, of 9530 Wehrle Drive, voices his concern with increase in traffic. He is also concerned with Phase II in which the applicant will build a giant building, dwarfing everything else in the area. A final concern is the septic system; what will happen with the run-off?

Al Herrscher, of 4080 Gunnville Road, wants to see the proposed buildings conform to the historical character development and blend in with the landscape if it is to proceed.

Dennis Sendker, of 9530 Wehrle Drive, asked what prevents the applicant from moving the whole project back 500', the proposed building will dwarf his property. He also questions the location of the proposed driveway in relation to Farber Lane.

Mr. Radwan said there tests being done on the site such as percolation tests. With regards to the parking in the back, there would be a similar pond or drainage in the back behind the parking. The applicant will do due diligence with regards to the lighting of the project site. The road that goes to the back is proposed as a gravel road leading to a maintenance building. Mr. Hess said there are no intentions to having a 2nd floor or a basement on either proposed building.

Mr. Schultz explained the traffic impact and where the curb cut is will be addressed by the TEQR Committee. He also explained that Federal Laws have gone into effect that rigorously control storm water run-off, particularly in areas such as large parking lots. The applicant is required by law to have a specific engineered solution to prevent impacting the area.

Mr. Hess said the building materials will have an historical look; the façade is cedar and stone with some Dryvit. He is trying to keep as much of the historical look of Clarence as possible.

The trees have not been assessed on the property. Chairman Drinkard said the trees will have to be assessed by an arborist. Mr. Hess said he plans on leaving as many trees as possible.

ACTION:

Motion by Albert Schultz, seconded by Richard Bigler, to **refer** the Epiphany Church proposal to the TEQR Committee for review under the NYS Environmental Quality Review Act (SEQRA). The TEQR Committee should pay particular attention to traffic patterns and the proposed driveway location. This recommendation is made with the caveat that two setback exemptions may be required from the Zoning Board of Appeals related to the front and corner setbacks of the worship hall proposed for Phase 2, and a Special Exception Use Permit may be required related to the size of this same worship hall. Requirements will be determined by legal interpretation of zoning codes and the fact that the land parcel is split into two different zoning classifications.

Gregory Todaro	Aye	Albert Schultz	Aye
Richard Bigler	Aye	George Van Nest	Aye
Jeffrey Grenzebach	Aye	Timothy Pazda	Aye
Gerald Drinkard	Aye		

MOTION CARRIED.

Meeting adjourned at 8:45 p.m.

Carolyn Delgato
Senior Clerk Typist