

Clarence Planning Board Minutes Wednesday, December 14, 2005

Work Session (6:30 PM)

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| <ul style="list-style-type: none"> ➤ Roll Call ➤ Minutes ➤ Sign review ➤ Update on pending items | <ul style="list-style-type: none"> ➤ Committee reports ➤ Zoning reports ➤ Miscellaneous ➤ Agenda Items |
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Agenda Items (7:30 PM)

Patricia Powers, Chairperson, called the meeting to order at 7:30 PM. Dave Donohue led the pledge to the flag.

Planning Board Members Present:

Patricia Powers	Wendy Salvati
George Van Nest	Roy McCready
Phil Sgamma	Gerald Drinkard
Tim Pazda	

Other Town Officials Present:

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

Other Interested Parties Present:

Mark Zografos	Christine Benquist
Frank Wailand	Laura Leone
Irv Roy	James Cius
Mark Eiden	Janet Callahan
Georgine Walter	Richard Dudkowski

Motion by Gerald Drinkard, seconded by Timothy Pazda, to approve the minutes of the meeting held on November 30, 2005, as written.

Patricia Powers	AYE	Wendy Salvati	ABSENT
George Van Nest	ABSTAIN	Roy McCready	AYE
Phil Sgamma	ABSTAIN	Gerald Drinkard	AYE
Tim Pazda	AYE		

MOTION CARRIED.

Pat Powers gave a speech to thank Roy McCready for his work on the Planning Board and to wish him the best of luck as this is his last official meeting as a Planning Board member.

Item 1

Casilio Office Building
Restricted Business

Requests

8755 Sheridan Drive, Requests Concept Plan Approval for a 38,342 square foot office building.

DISCUSSION:

Jim Hartz provides a description of the plan. The property is located on Sheridan Drive. The plan first went to the Town Board in February 2005, then to the Planning Board in March 2005 and May 2005. An Environmental Review was performed and on November 21, 2005 the Municipal Review Committee made the recommendation for a Negative Declaration. The Town Board granted the Negative Declaration on December 7, 2005. The applicants are present.

Steve Carmina, of Carmina & Wood, P.E., speaks to the issue. Mr. Carmina states that he is prepared to talk about a preliminary landscape plan. He has made a formal submission to the Engineering Department for engineering approval. He is ready to answer any questions the Planning Board members have.

Pat Powers advises Mr. Carmina that the Planning Board is a recommending body and can not recommend beyond the zoning code. A Special Exception Permit will be involved. If the Planning Board is able to move ahead at this meeting, the Concept Plan Approval will be recommended and sent to the Town Board. The Town Board will, in turn, call for a public hearing, which may take place in the month of January 2006. At the Town Board public meeting Mr. Carmina will have a chance to speak again. Mr. Carmina understands.

Timothy Pazda asks if there are any plans for the lot next door. Mr. Carmina says, "No, not really. I think it's as the property goes." There has not been a user that has approached the Casilio Companies to build a building or occupy that site. Until that time comes, the property will remain vacant.

Mr. Carmina advises there will be no medical uses in this building; it will be strictly an office building. Therefore, an additional site will not need to be added to extend the parking area.

Mr. Carmina states the plan is for the drive to the west be used as a common entrance into the site. There would, probably, be a second exit out the

other side. The second exit is for firefighting purposes, to make sure that there are two ways into the site if their assistance is needed. There would still only be one primary entrance between the two buildings, if and when that piece is developed. There are no plans at this time for this property; therefore it will remain in its original state. Timothy Pazda asks if Mr. Carmina is agreeing, with the Planning Board, that shared access is part of the plan and the driveway will be the primary driveway for the site. Mr. Carmina agrees

Pat Powers asks if Mr. Carmina would be willing to pave to the point where this particular parcel would connect with a future development on the other portion of this parcel. At this point, the other parcel will remain in its vegetative state until such time that another project presents itself. Mr. Carmina states that he would not pave to the property line at this point, he thinks they will keep the green space along the property line. Once a development opportunity presents itself for this part of the property, Mr. Carmina will be back to present the project to the Planning Board and work with them to develop where the connection point will be. Roy McCready advises Mr. Carmina to illustrate this issue on the plan, Mr. Carmina advises he will do that and provide a copy to the Planning Board for review. Wendy Salvati would also like to see where the driveways are on the opposite side of the road on the revised plan. Mr. Carmina will provide the Planning/Zoning Department with this information.

Philip Sgamma is concerned with the size of the building; he believes that the size of the building is too large for the lot, especially given the elevation of the area. Pat Powers shares this concern. She states that the Planning Board can make a positive recommendation to refer the Concept Plan Approval to the Town Board under the following condition: Chapter 3.6.3 of the Zoning Law and Map Chapter 229 of Town Law (March 9, 2005). This chapter states that any structure in excess of 10,000 square feet or a cumulative total of 30,000 square feet of building area on an individual property would be required to have the Special Exception Use Permit. This would move the project to the Town Board level. The Planning Board can not recommend outside the Zoning Code, therefore the Planning Board can not recommend a 38,000 square foot building, but can recommend a 10,000 square foot building and let the Town Board make their decision.

Mr. Carmina states that he designed the Erie & Niagara Building located on Sheridan Drive. He advises that this is a similar situation and he doesn't believe that there was one neighbor that has ever objected to what was built.

Mr. Carmina states that this proposed building is well within the allowable height requirement for the Restricted Business zone. It is, at least, 9' below what is allowed by code. This building plan started out at 52,000 square feet and is now 38,000 square feet, the plan was originally for a 37' tall building and now the plan is for a 29' tall building. He has flown balloons over the site. There are

many things that Mr. Carmina has done to mitigate the concerns of the Planning Board.

Mr. Carmina is prepared for a public hearing at a Town Board meeting or a series of Town Board meetings to get to the next step, which is back to the Planning Board for Development Plan Approval.

Wendy Salvati appreciates all that Mr. Carmina has said, but also agrees with the concerns of Philip Sgamma. She feels the building is too large. Another concern is the green space. Although this plan meets the green space requirement, the bulk of the green space is located at the back of the site; the remainder of the site is covered with parking and the building.

Wendy Salvati refers to the action taken by the Municipal Review Committee at the November 21, 2005 meeting. The MRC chose to issue a negative declaration based on the fact that this design would come back before the Planning Board and the Planning Board could work to mitigate the visual impacts of the design. The MRC was not only concerned with the height of the building but the overall size of the building as well. When the MRC did the Part III analysis the ultimate finding was in order to mitigate the impact of the building it would need to be reduced in size to a one story building. It could be reduced to a smaller moderate impact if a sufficient mature tree canopy were to remain after construction and new trees installed to allow the larger structure to blend with the wooded area. The problem is, if you look at the site plan, the parking and the building are going to take out most of the mature tree canopy with the exception of what remains in the back.

Mr. Carmina advises that a plan, with a tree survey on it, has been submitted. Per this plan 90 percent of the mature tree canopy is in the rear of the site. There really is no mature tree canopy in the front; however, there are some trees that they are trying to save in the front. It is more difficult to save or install trees at a sloped site as opposed to flat land, this is a sloped site.

Phil Sgamma asked about the development of the Erie & Niagara building on Sheridan Drive. Mr. Carmina further explained the procedure for developing that site.

Timothy Pazda restates the fact that this item needs to be sent to the Town Board for a decision, the Planning Board can not make this decision. He sincerely hopes that the Town Board studies the Zoning Code very closely, specifically section 3.6.1. Timothy Pazda reads part of the code, "The regulations are designed to be more compatible with residential areas of the town and are intended to be less traffic generating than retail businesses...designs should reflect a more open character."

George VanNest voices his concern with the location of the driveway. It is critical regarding the line-of-site and safety issues. Mr. Carmina states that he's pretty sure that the driveways align for traffic purposes. The Plan has already been submitted to the Department of Transportation and a traffic study has been submitted to the Municipal Review Committee. Neither report point out any traffic issues which exceed the road's capacity or the capacity or conditions of any of the traffic devices on Sheridan Drive. Mr. Carmina will make sure that any traffic studies are forwarded to the Planning/Zoning Department. George Van Nest advises that a traffic study does not address the line-of-site issue.

Mr. Carmina recalls a discussion regarding exiting purposes only. The east exit was going to be a right hand turn exit only, because there is a hill there. This is also the reason that this project came back, when approval was requested for access on to Shimerville Road with the Phase II building, so that, now, 99.9 percent of the people that exit the site on to Shimerville Road will have access to a traffic device.

Wendy Salvati asks how the Planning Board will be assured that this building will never be leased for medical use. Mr. Carmina advises that they would have to submit a building permit to the Town for every use that is put in the building. So when the permit is submitted and it's for a doctor, Mr. Carmina hopes that a "red flag" will go up. Wendy Salvati wonders if the building department will catch this.

Jim Hartz explains that after the space is built out, in general, if it is all deemed professional space from the start, there is no enforcement mechanism when there is a tenant change to see what type of tenant moves in.

Wendy Salvati advises what the Planning Board has done in similar situations is require that a different standard is used. Rather than using the 200 square feet for professional and 100 square feet for medical, the Planning Board requested the project use 150 square feet per parking space to calculate their parking.

Mr. Carmina disagrees with the above mentioned request of the Planning Board. He feels it is penalizing the developer and the Town. There will be more paved area to protect something that is never going to happen. Mr. Carmina suggests that when the Planning Board makes their resolution to the Town Board for final approval, a condition is put in the resolution stating that there be no medical use. After that, it's really up to the Planning Board staff and the building department to police the use. Mr. Carmina feels that it is bad business for the Town, with all due respect. He indicates that the Town has allowed some of his other clients to bank parking spaces and show them as future parking spaces, rather than put the pavement in and not see anyone parking there, ever. Mr. Carmina does not believe that this site will be fully parked with the spaces that are proposed now.

Gerald Drinkard states that what is being debated is the building and parking together on that lot. "You might contend that more parking does a disservice to the Town, we might contend that a smaller building, that has more parking, that fits into the zone in the code, would be more appropriate."

Mr. Carmina states that if the Town Fathers want to change the zoning ordinance to protect against the potential for someone to put in a use, that is one of a million uses that could go in that building, they can do that. Mr. Carmina would not argue against that as a planner and an architect.

Gerald Drinkard advises that when the lot is fully built out you have no options. Mr. Carmina says, "There are options." He states that if there is not enough parking to meet the ordinance, a variance can be requested to ask for relief of the requirement for the space that was leased for that use. The Zoning Board of Appeals has the option of granting or not granting the variance. Wendy Salvati advises this is why she thinks things have to be done properly, up front, so that a variance doesn't have to be requested in the future. Mr. Carmina advises he is not talking about what Wendy Salvati is referring to. What he is trying to explain is, in his case, there is not going to be any medical use. The Town Board and the Planning Board can make this a Condition of Approval. It's up to the Building Department to make sure that Mr. Carmina and his clients are being honest. It's up to Mr. Carmina's clients to make sure they are following that restriction. If they are not, they can be penalized.

Pat Powers states that one of the conditions of the Planning Board will be, as Mr. Carmina has stated several times, there will be no medical offices in the building, therefore, no additional parking spaces will be required.

Gerald Drinkard suggests that any future plans should show no parking in the front setback. Mr. Carmina indicates that the plan on display appears to be an old plan. Mr. Carmina confirms that there will not be any parking in the front setback and will forward the updated plan to the Planning/Zoning Department.

Pat Powers opens the meeting to any member of the audience who wishes to speak to the item.

Irv Roy of 4715 Boncrest Drive East introduces himself and his wife Janet. Mr. Roy shares the concerns of the Planning Board regarding the building being too large for the space. He states the concerns that were discussed this evening: safety, traffic flow, number of parking spaces.... He believes that all these concerns stem from the building being too large. If the building was smaller and actually fit the site there would be less traffic concerns coming onto and off of Sheridan Drive. It would be very well suited for the neighborhood of Boncrest. Mr. Roy and his wife are strongly opposed to this project and would like to see the building at 10,000'.

Jim Cius of 4725 Boncrest introduces himself. He believes this building is much too large for this site.

Mark Eiden of 4695 Boncrest Drive East introduces himself. Mr. Eiden advises that the last time he was at a meeting regarding this project; balloons were requested to be put up at the site. He has not seen balloons at the site. Pat Powers advises Mr. Eiden that the balloons were put up. They were approximately 10 feet higher than the actual proposed building. Pat Powers advises that there are photos in the file that show where the balloons were before they were blown away by the wind. Mr. Eiden is welcome to view the photos at any time by going to the Planning/Zoning Department. Mr. Eiden also agrees with his neighbors that there would be less concern regarding traffic and parking, if the building were smaller and fit the lot.

Mr. Eiden hopes that the developers conform more to the zoning code of 10,000 square feet. He doesn't understand why they would start out at 50,000 square foot. He is concerned on what appears to be an approach to ask for a 50,000 square foot building and when denied, the neighbors would be more accepting of a something that is still 3 times the size than it is supposed to be.

Janet Callahan of 4705 Boncrest Drive East introduces herself. Mrs. Callahan would also like to be put on the record as saying the building is too big, if it could be downsized, it would be great.

Georgine Walter of 4706 Boncrest Drive East introduces herself. She concurs with her neighbors. The size of the building has been a concern from the beginning. Just because it is now 38,000 square feet doesn't mean we are any less accepting of the building. If it would model more of the buildings that are on the street, it would be more acceptable.

Richard Dudkowski of 8674 Bonveiw Terrace introduces himself. Mr. Dudkowski presented a petition to the Planning Board in the spring of 2005 with over 70 signatures and wanted to make sure it was part of the file. Pat Powers confirms that the petition is part of the file.

ACTION:

Motion by Pat Powers, seconded by Gerald Drinkard, to recommend Concept Approval of the project with the following conditions:

- Any structure exceeding 10,000 square feet will require a Special Exception Permit.
- Buffering and landscaping to be maintained to protect the neighbors.
- Any area that is to remain undisturbed shall be protected by orange snow fencing prior to and during construction.

- Recommend a shared access drive for this parcel and the parcel immediately west of this site.
- No medical offices to be housed in the project.
- No additional parking will be required, at this point.
- No parking in the setback area.

ON THE QUESTION:

Gerald Drinkard asks if the neighbor comments will be summarized that were noted tonight. Pat Powers advises that the comments are a part of the minutes and the Town Board members will receive a copy of the Planning board minutes. The public will also have a chance to speak at the Town Board meeting for the Special Exception Permit decision.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Roy McCreedy	AYE
Phil Sgamma	AYE	Gerald Drinkard	AYE
Tim Pazda	AYE		

ALL AYES. MOTION CARRIED.

Item 2	Requests
Italian Marble & Granite	8520 Roll Road, Requests Concept Plan
Industrial Business Park	Approval for a 20,000 +/- square foot
	Commercial building.

DISCUSSION:

Jim Hartz provides a background on Item 2. The project was introduced to the Town Board on August 24, 2005. The Planning Board looked at the project on October 19, 2005. The project has received a Negative Declaration from the Town Board on December 7, 2005. Frank Wailand, of F. J. Wailand Associates, Inc., is present to discuss the project. The applicant is present for Concept Plan Review.

Frank Wailand introduces Mark Zografos, the owner of Italian Marble. Mr. Wailand explains that this is a 3.14 acre site, parking is on the east side of the building and the septic field is on the west side of the building.

Gerald Drinkard comments on the amount of progress that has been made on this project and indicates that it is a good print.

Wendy Salvati refers to the landscape plan. She suggests that the berm to the west be curved in order to obtain better protection from the wind.

Gerald Drinkard states that the landscape plan really made the project come to life.

Pat Powers appreciates the fact that the Concept Plan checklist was submitted and is looking forward to the Development Plan checklist.

Jim Hartz advises that the clarification of the address is currently under review with the Assessor's office.

Pat Powers states that the Fire Safety Advisory Board approved this project on November 15, 2005.

ACTION:

Motion by Phil Sgamma, seconded by Roy McCreedy, to APPROVE the Concept Plan with the following conditions:

- No outside dumpster.
- Development Plan Approval checklist when the project returns to the Planning board.
- Landscaping is to be according to the approved landscaping plan which was revised, with a revised drawing, that was submitted and was approved by the Landscape Committee on November 15, 2005.
- No sign in the right-of-way.
- Show the sign location on the Development Plan.
- Require a sign permit.
- Any area that is to remain undisturbed on the project is to be protected by orange snow fencing prior to and during construction.
- The address is to be clarified with the Assessor's office.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Roy McCreedy	AYE
Phil Sgamma	AYE	Gerald Drinkard	AYE
Tim Pazda	AYE		

ALL AYES. MOTION CARRIED.

Item 3
Cesar Banach
Residential Single Family

Requests
8500 Roll Road, Requests Preliminary
Concept Plan Review for a 15,000 +/-
square foot office building and a 15,000
square foot warehouse.

DISCUSSION:

Item number 3 was called, the applicant was not present.

Pat Powers advises that in the work session it was discovered that there is a later plan; therefore the item would have been tabled in order to provide the Planning Board with time to review the updated plan.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, to TABLE item 3 pending the Planning Board review of the most recent plan.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Roy McCreedy	AYE
Phil Sgamma	AYE	Gerald Drinkard	AYE
Tim Pazda	AYE		

ALL AYES. MOTION CARRIED.

Wendy Salvati will have copies made of the Zoning Practice November 2005 issue for all members of the Planning Board.

ACTION:

Motion by Wendy Salvati, seconded by Gerald Drinkard, to adjourn the meeting.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Roy McCreedy	AYE
Phil Sgamma	AYE	Gerald Drinkard	AYE
Tim Pazda	AYE		

ALL AYES. MOTION CARRIED.

Meeting adjourned at 8:30 p.m.

Pat Powers
Chairperson