

Town of Clarence
Planning Board Minutes
Wednesday July 20, 2011

Work Session 6:30 pm

Roll Call
Update on Pending Items
Zoning Reports
Committee Reports
Miscellaneous

Agenda Items 7:30 pm

Approval of Minutes

Item 1

Arista Development/Robert Nuchereno
Agricultural Flood Zone

Requests Approval of a proposed Minor
Subdivision on the north side of Lapp Road, west
of Kenfield Road.

Item 2

Joseph Mattina
Agricultural Rural Residential

Requests Approval of a proposed Minor
Subdivision on the north side of Salt Road.

Item 3

Hidden Pond Phase 2, Part 4
Residential Single Family

Requests Development Plan Approval for a
proposed Major Subdivision on Meadow Glen
Drive and Glen Iris Drive.

Item 4

Spaulding Green Phase 2
Residential Single Family

Requests Development Plan Approval for Phase II
on Spaulding Green Open Space Design
Subdivision.

Chairman Al Schultz called the meeting to order at 7:30 p.m.

Deputy Town Attorney David Donohue led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz
Timothy Pazda
Robert Sackett

2nd Vice-Chairman Richard Bigler
Paul Shear
Gregory Todaro

Planning Board Members absent:

Vice-Chairperson Wendy Salvati George Van Nest

Town Officials Present:

Planner Brad Packard
Deputy Town Attorney David Donohue

Other Interested Parties Present:

Richard Biddlecom	Mike Knavel
Rondina Schmitz	Joel Schmitz
Angeline Costilow	Gary Brauer
Marsha Brauer	Roy Olsen
Bob Geiger	

In the absence of two (2) Planning Board members this evening, Planning Board alternate Gregory Todaro will participate in all discussions and vote on all agenda items.

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the minutes of the meeting held on July 6, 2011, as written.

Gregory Todaro	Abstain	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Al Schultz	Aye

MOTION CARRIED.

Chairman Schultz noted that all agenda items this evening are under the Planning Board's jurisdiction. Mr. Packard will introduce the agenda item; the applicant will discuss the project with the Planning Board. Before any action is taken by the Planning Board the public will be invited to voice their opinion on the project.

Item 1

Arista Development/Robert Nuchereno
Agricultural Flood Zone

Requests Approval of a proposed Minor
Subdivision on the north side of Lapp Road, west
of Kenfield Road.

DISCUSSION:

Brad Packard provided the background on the project. The project site is located along the north side of Lapp Road, west of Kenfield Road and consists of approximately 33 acres in the Agricultural Floodzone zoning district. The applicant is requesting Minor Subdivision approval for the creation of one (1) new residential building lot consisting of approximately 463' of road frontage and 20 acres. The Town Engineer has reviewed the proposed building lot and the Assessor's office has issued a preliminary address. The applicant is present this evening and requesting approval of the proposed Minor Subdivision.

Charlie Kelkenberg, representing Arista Development, is present on behalf of his client who wants to build a house on the property. His client has already bought and closed on the property, but neither attorney realized it had to be subdivided. The proposed location of the home and septic field will be in front of the gas right-of-way.

ACTION:

Motion by Gregory Todaro, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Arista Minor Subdivision, located on the north side of Lapp Road, east of Transit Road. This Unlisted Action involves the subdivision of property to create one (1) additional residential building lot in the Agriculture Rural Residential Zoning classification. After thorough review of the submitted survey and Environmental Assessment Form (EAF), it is determined that the proposed action will not have a significant negative impact upon the environment.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Al Schultz	Aye

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Paul Shear, to **approve** the Arista Minor Subdivision with the following conditions:

1. Obtaining required permits as issued by the Town of Clarence Building Department
2. Obtaining required approvals from the Erie County Health Department for on-site sanitary facilities.
3. All appropriate fees, including open space and recreation fees.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Al Schultz	Aye

MOTION CARRIED.

Item 2

Joseph Mattina
Agricultural Rural Residential

Requests Approval of a proposed Minor Subdivision on the north side of Salt Road.

DISCUSSION:

Brad Packard provided the background on the project. It is located along the east side of Salt Road at 7141 Salt Road and consists of approximately 10 acres in the Agricultural Rural Residential zoning district. The applicant is requesting Minor Subdivision approval for the creation of one (1) new residential building lot consisting of approximately 150' of road frontage and 8 acres. The Town Engineer has reviewed the proposed building lot and the Assessor's office has issued a preliminary address. The applicant is present this evening and requesting approval of the proposed Minor Subdivision.

Joseph Mattina, of 7141 Salt Road, is present. He would like to build a house on the right side of his property. He owns the entire parcel. He received approval for his pond last week. Mr. Mattina does not live on the property, yet. The septic system will be just for the new house. The existing pole barn will be left on the other property and will be used for storage.

Mr. Shear said the Planning Board has been assured that the side and rear setbacks of the proposed house is in compliance with Town Code. Mr. Packard and Mr. Mattina both concur. Mr. Packard explained the rear setback is 25’ and the side setback is 15’. No variances are required.

Mike Knavel, of 7225 Salt Road, asked for clarification on what Minor Subdivision means. Can the applicant put more houses on the property in the future? He asked for clarification on how far back the pond is. Mr. Mattina said it is about 1300’ back. Mr. Knavel is also concerned with privacy.

Chairman Schultz explained that the barn will remain as is; the lot line has to be 15’ off the side yard and 25’ off the rear yard. It is clarified that this approval is for only one (1) house. Mr. Mattina agreed. Mr. Packard explained that this approval would be full build-out of the property.

ACTION:

Motion by Robert Sackett, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Mattina Minor Subdivision, located on the north side of Salt Road, east of Lapp Road. This Unlisted Action involves the subdivision of property to create one (1) additional residential building lot in the Agriculture Rural Residential Zoning classification. After thorough review of the submitted survey and Environmental Assessment Form (EAF), it is determined that the proposed action will not have a significant negative impact upon the environment.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Al Schultz	Aye

MOTION CARRIED.

Chairman Schultz explained that any decision made by any governing body in the State of New York has to go through a fairly rigorous review under the State Environmental Quality Review Act. It looks at things like view shed and traffic. The motion must be technically accurate and comply with the New York State Law.

ACTION:

Motion by Robert Sackett, seconded by Gregory Todaro, to **approve** the Mattina Minor subdivision with the following conditions:

1. Obtaining required permits as issued by the Town of Clarence Building Department.
2. Obtaining required approvals from the Erie County Health Department for on-site sanitary facilities.
3. All appropriate fees, including open space and recreation fees.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Al Schultz	Aye

MOTION CARRIED.

Item 3

Hidden Pond Phase 2, Part 4
Residential Single Family

Requests Development Plan Approval for a proposed Major Subdivision on Meadow Glen Drive and Glen Iris Drive.

DISCUSSION:

Brad Packard provided the background on the project. The site is located along the east side of Goodrich Road and south of the existing Hidden Pond development and consists of approximately seven (7) acres in the Residential Single Family zoning district. The applicant is requesting Development Plan approval for the creation of seven (7) new residential building lots included within this phase and the extension of two (2) existing public right of ways, Meadow Glen Drive and Glen Iris Drive. The Town Engineer and related involved agencies concerning public infrastructure have reviewed and approved the proposed development plan design sets which are consistent with the previously reviewed and approved Concept Plan. The applicant is present this evening and requesting approval of the Development Plans.

Susan Green from Spaulding Green Development and Dominic Piestrak, developer, are present. Mr. Piestrak said these are the remaining lots and they go into the cross-town sewer abatement program. The seven (7) lots backup to an existing lake, there are wetlands on both sides of the project which have been avoided.

Chairman Schultz suggested monumenting the open space; the applicant should discuss the details with the Town Attorney. SEQRA determination has already been done. If the project is approved the following conditions apply:

1. Phase 2 Part 4 to include seven (7) single-family lots, substantially the same as approved in the Concept Plan Approval. All conditions as required by the Town of Clarence in the Development Plan Checklist for Major Subdivisions have been received and accepted by the Planning and Zoning Department as complete.
2. Conditioned on approval by and including all conditions of the Town Engineer.
3. Required easements subject to approval of the Town Attorney. Monuments shall be placed to identify conservation areas.
4. Sewer taps shall be designated by the Town Engineer.
5. Sidewalks required as per Concept Plan approval.
6. All appropriate fees to be paid, including but not limited to Open Space and Recreation Fees per lot, PIP, and any required stewardship fees, if applicable, at time of easement filing.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** Development Plans for Phase 2 Part 4 of Hidden Pond Subdivision, including 640 +/- lineal feet of Glen Iris Drive and 540 +/- lineal feet of Meadowglen Drive, with the previously stated conditions.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Al Schultz	Aye

MOTION CARRIED.

Item 4

Spaulding Green Phase 2
Residential Single Family

Requests Development Plan Approval for Phase II
of Spaulding Green Open Space Design
Subdivision.

DISCUSSION:

Brad Packard provided the background on the project. The site is located along the east side of Goodrich Road and south of the existing Hidden Pond development and consists of approximately 25 acres in the Residential Single Family zoning district. The applicant is requesting Development Plan approval for the creation of 71 new residential building lots included within this phase, the extension of 2 existing public right of ways, and the construction of 5 new public right of ways. The Town Engineer and related involved agencies concerning public infrastructure have reviewed and approved the proposed development plan design sets which are consistent with the previously reviewed and approved Open Space Design Concept Plan. The applicant is present this evening and requesting approval of the Development Plan as presented.

Susan Green from Spaulding Green Development and Dominic Piestrak, developer, are present. Mr. Piestrak said they tried to create a development where the neighbors all have a view; there is a lot of open space. There are six (6) different builders all with different styles; they will judge the market to see what size homes they will build. Ranches may start at 1500/1600 square feet and go up to 2500 square feet.

Mr. Pazda asked how quickly the applicant thinks these homes will be sold. Ms. Green said there is a lot of interest. They are using many of the same builders that they used for Spaulding Lake. Mr. Pazda asked what the proposed tax status is. Mr. Piestrak said he has not made a final determination on that yet.

Sharon and Steve Frisicaro live in Spaulding Lake; they are both real estate agents. They feel there is a big market for this type of development. There are a lot of people in Spaulding Lake who want to downsize, just as the Frisicaro's do. Mrs. Frisicaro thinks this mixed neighborhood development is a great idea. Chairman Schultz pointed out that this development is close to Clarence Center as a destination.

Chairman Schultz noted the conditions as follows if this proposal is approved:

1. Phase 2 to include 71 patio home lots and amenities and identifying that the designed Phase 2 is substantially the same as approved in the Concept Plan Approval and all conditions as required by the Town of Clarence in the Development Plan Approval Checklist for Major Subdivision Review have been received and accepted by the Planning and Zoning Department as complete.

2. Conditioned on approval by and including all required conditions of the Town Engineer.
3. Maintaining all baseline requirements and guidance as identified in the Final Table of Facts as prepared and approved by the Planning Board on June 17, 2008.
4. Required easements subject to approval of Town Attorney as guided by the Spaulding Greens Conservation Area and Easement map as previously approved. Monuments shall be placed to identify conservation areas.
5. Sewer taps shall be as designated by the Town Engineer.
6. Construction hours limited to 7:00 am-7:00 pm Monday-Saturday.
7. Landscape Committee approval for Street Trees per Landscape and Tree Local law.
8. Sidewalks required as identified on Development Plans. Recreational Trail as approved with the Concept Plan Design shall be identified as a public recreational amenity and deeded to the Town and completion shall be extended by individual phase as the project is build out and must be complete through Phase 2 upon sale of 75% of the patio homes (53 +/- lots). Recreation Trails will be subject to approval of all title descriptions, title documentation and policies as required by the Town Attorney.
9. All appropriate fees to be paid, including but not limited to PIP, Open Space Fee per lot, any required stewardship fees, if applicable, at time of easement filing.

Mr. Pazda said condition #3 said all baseline requirements must be maintained, he feels they are not being maintained. Based on the proposed conditions listed he would not be able to vote in favor of this project. Mr. Pazda wants to see what the applicant's interest is in doing the bike path sooner, this is what was agreed to in the baseline agreements dated June 17, 2008.

Ms. Green explained the bike path runs parallel to the gas line, that part is easy. The tricky part of the bike path goes from Goodrich Road to the gas line. Mr. Piestrak said the Army Corp of Engineers is going to walk the property with him to decide the best location for the bike path. Part of the deal is to do mitigation along the path in areas that fit. Mr. Piestrak said he has the same interest in the bike path as the Town does, to get it done as soon as he can. But rather than do it quick, it should be done right so that everyone agrees on the location of the path.

Mr. Pazda said one of the only benefits of this development to the residents of the community is the bike path. He would like to see a north/south path done. Mr. Piestrak said that would be a bicycle path that leads to nowhere. Mr. Pazda said the path would go from Clarence Center Road to Greiner Road. Mr. Piestrak said it might not be the best place for a bike path to come out on Greiner Road where there are no sidewalks, and that particular area is curved which limits sight distance. Mr. Pazda said this is the problem with approving a concept plan before all the i's are dotted and t's crossed. Mr. Piestrak said his commitment with the Army Corp is to do stream plantings and overlook areas. Mr. Pazda said at this point there is no plan at all for where the bike path will be. Mr. Piestrak said that is not true, the path is indicated on the map. Mr. Pazda's concern is if it takes 10-15 years to build out the Phase, the Town won't have a completed bike path for 10-15 years. Mr. Pazda suggested at least putting the binder down for the bike path from Clarence Center through the easy part. Mr. Piestrak

said he would agree with a condition that stated the bike path must be completed with four (4) years of the start of construction.

Mr. Pazda believes that by not taking the bike path to Greiner Road, the applicant is renegeing on the deal; he will further research this issue. He suggested that the condition be set to have the bike path finished from Goodrich Road to the gasline then to Clarence Center Road by the time 60-70% of those properties are sold.

Mr. Piestrak said no one is renegeing on this. The question of bikes on Greiner Road was brought up as a safety issue.

Mr. Piestrak clarified that the Corp is working with him and providing guidance throughout the planning and development of this project. The Corp understands that the bike path is to be installed at Goodrich Road and head east.

It is confirmed that the Town receives updated versions of the completed phases of developments.

Condition No. 8 is amended to read: 8. Sidewalks required as identified on Development Plans. Recreational Trail as approved with the Concept Plan Design shall be identified as a public recreational amenity and deeded to the Town. The trail must be completed from Goodrich Road east to the gas line and then north to Clarence Center Road as drawn, upon sale of 75% of the patio home lots (53 +/- lots). This requirement is conditioned on Corps of Engineer approval of trail layout between Goodrich Road and the gas line. Recreation Trails will be subject to approval of all title descriptions, title documentation and policies as required by the Town Attorney.

ACTION:

Motion by Robert Sackett, seconded Timothy Pazda, to **approve** Development Plans for Phase 2 of Spaulding Greens Open Space Design Subdivision, including 1240+/- lineal feet of Meadowglen Drive, 1200 +/- lineal feet of Garden Walk, 160+/- lineal feet of Glen Iris Drive, 280 +/- lineal feet of Sandcherry Court, 280 +/- lineal feet of Golden Aster Court, 280 +/- lineal feet of Foxglove Court, and 240 +/- lineal feet of Silver Birch Court and including required wetland and retention ponds per submitted completed phase plan designs from Greenman-Pederson, Inc. dated July 5, 2011 with the conditions previously stated.

Gregory Todaro	Aye	Paul Shear	Aye
Robert Sackett	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Al Schultz	Aye

MOTION CARRIED.

Meeting adjourned at 8:30 p.m.

Carolyn Delgato
Senior Clerk Typist