

Town of Clarence
Planning Board Minutes
Wednesday July 6, 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

Stephen Development
Residential Single Family

Requests a minor subdivision approval to create two additional building lots at 4905-4915 Kraus Road.

Item 2

Peter Rizzo
Agricultural Rural Residential

Requests an action under SEQRA related to demolition of an existing structure built prior to 1950 at 10705 Miland Road.

Item 3

AVR Builders, Inc.
Planned Unit Residential Development

Requests an amendment to the Planned Unit Residential Development (PURD) to develop 20 patio homes at the southwest corner of Harris Hill & Roll Roads.

Item 4

Master Plan 2015 Amendments for 2011

Clarence Center Hamlet Traditional
Neighborhood District Expansion.

Item 5

Dominic Piestrak
Residential Single Family

Requests Development Plan Approval for Phase I of Spaulding Greens Open Space Design Subdivision.

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

Director of Community Development Jim Callahan led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz	Vice-Chairperson Wendy Salvati
2 nd Vice-Chairman Richard Bigler	Timothy Pazda
George Van Nest	Paul Shear
Robert Sackett	Gregory Todaro

Planning Board Members absent: None

Town Officials Present:

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

Other Interested Parties Present:

Noel Dill	Rebecca Pfeiffer
Ed Hewlett	Don Pfeiffer
David Audino	Peter Michael Rizzo
William Tuyn	William Reardon
Larry Cerasa	Linda Nastasi
Kathleen Hallock	Sandra Baker
Dominic Piestrak	Susan Green
Esta Joseph	

Motion by George Van Nest, seconded by Paul Shear, to **approve** the minutes of the meeting held on June 1, 2011, as written.

ON THE QUESTION:

Chairman Schultz made the following correction: page 2011-86, third paragraph from the bottom shall read, "Chairman Schultz explained that with the dissolution of TEQR Committee, the Planning Board is responsible for assessing the Environmental Review and, since the proposal represents a zoning overlay, recommending an action under SEQRA to the Town Board."

Mr. Sackett made the following correction: page 2011-89, last sentence before the "Action" the word "unilaterally" is to be replaced with "uniformly".

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Abstain	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Abstain
Al Schultz	Aye		

MOTION CARRIED.

Motion by George Van Nest, seconded by Richard Bigler, to **approve** the minutes of the meeting held on June 15, 2011, as written.

ON THE QUESTION:

The minutes will be corrected to reflect Robert Sackett present at the meeting.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Chairman Schultz explained that Mr. Callahan will introduce each agenda item and an explanation will be provided as to what type of action can be taken. The Planning Board will discuss the application with the applicant. The public will have the opportunity to speak and ask questions prior to the Board taking any action.

Item 1

Stephen Development
Residential Single Family

Requests a minor subdivision approval to create two additional building lots at 4905-4915 Kraus Road.

DISCUSSION:

Mr. Callahan provided the background on the project. It is located on the east side of Kraus Road, north of Main Street and is existing residential property. The applicant is proposing to split the property to create two (2) additional residential building lots. A variance has been granted by the Zoning Board of Appeals to allow reduced frontage lots with specific conditions associated with that reduction. The applicant is present seeking subdivision approval on the lots as presented.

The Planning Board can either approve or disapprove the project; they are the final authority in either case. They would also have to make a determination under NYS SEQRA.

Noel Dill and Paul Stephen, of Stephen Development are present.

Chairman Schultz explained that the conditions set forth by the Zoning Board of Appeals are law and must be adhered to. They are: no rentals, maximum 2250 square feet of living space per home, the two (2) existing homes will be removed, the first one within a year of this approval (both of the homes were built prior to 1950, which means they fall under the Historic Preservation Law), four (4) single-family homes maximum, two (2) homes will be build within the first year, one will be stick-built and the other a modular home. Mr. Dill agreed to these conditions but said the two (2) homes are to be built within one (1) year from the demolition of the existing homes. Chairman Schultz said that should be clarified in the Zoning Board of Appeals minutes.

In response to Mr. Shear's question regarding blasting, Mr. Dill said there will be none.

Rebecca Pfeiffer is confused on the number of lots the applicant is asking for. Chairman Schultz clarified that the proposal is for a total of four (4) lots.

Ed Hewlett lives contiguous to the property in question. He is impressed with what the Planning Board is requiring for this proposal and thanked the Board.

Don Pfeiffer, of 4081 Kraus Road, asked how far back the homes will be built from Kraus Road. Chairman Schultz said the homes would be built with setbacks that are consistent with and meet the Town Code; the setback will be established by the existing homes.

David Audino asked who governs the noise and the debris that will be left in the street by the construction vehicles and so the trucks aren't pulling in and out of his driveway. Chairman Schultz said that will be discussed with the applicant. Mr. Audino asked if the people who purchase the homes have the ability to come to the Board and ask for a size variance for the home. Chairman Schultz said anyone can ask for anything but the Board of Appeals set a condition which is law.

Mr. Callahan noted that there are standards associated with the issuance of the demolition and the building permits.

Mrs. Salvati asked the applicant to address the noise and debris issue. Mr. Dill said they intend to be the least disruptive as possible. They will cooperate with the building inspector every step of the way. Mrs. Salvati noted for the record that the Historic Preservation Commission reviewed the project and although the homes were built prior to 1950, they have no historic significance and a Negative Declaration was recommended.

ACTION:

Motion by George Van Nest, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board **issue** a Negative Declaration on the proposed minor subdivision at 4905-4915 Kraus Road. This Unlisted Action involves the subdivision of property to create two additional residential building lots in the Residential Single-Family Zoning classification and the demolition of existing structures on site. After thorough review of the submitted surveys and Environmental Assessment Forms, it is determined that the proposed action will not have a significant negative impact upon the environment.

ON THE QUESTION:

Chairman Schultz confirmed that the Historic Preservation Commission has reviewed the two (2) existing homes and concluded that there is no historic value and has agreed to proceed with demolition. The minutes of the Historic Preservation Commission will be made part of the file.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda, to **approve** the minor subdivision with the following conditions:

1.) Compliance with the conditions established by the Town of Clarence Zoning Board of Appeals. These are:

- No Rental Units.
- Maximum 2250 square feet of living space per home.
- Two (2) existing homes will be removed; the first one will be removed within one (1) year of this approval.
- Four (4) single family homes, maximum.
- Two (2) homes will be built in the first year, one will be stick built and the other will be a modular home.

2.) The homes are to be built at a setback that is consistent with the setback of homes on adjacent properties in the area.

3.) Since both existing homes were built prior to 1950, each will require review under Town of Clarence TEQR Law. This has been done.

4.) No blasting associated with future home development or demolition activities.

5.) Homes are to meet all regulations set forth in the Town of Clarence regulations, including setback requirements.

6.) Applicant will obtain all necessary approvals before commencing construction, including Erie County DPW, DOT, Health Department and the Clarence Town Engineer.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 2

Peter Rizzo
Agricultural Rural Residential

Requests an action under SEQRA related to demolition of an existing structure built prior to 1950 at 10705 Miland Road.

DISCUSSION:

Jim Callahan provided the background on the project. It is located on the south side of Miland Road, north of Salt Road. It is an existing two (2) family home. Since the structure was built prior to 1950, it is considered a Type I Action under the local TEQR Law. Coordinated review was initiated in May 2011 with review and comment from the Town Historic Preservation Commission. The applicant is seeking determination under the State Environmental Quality Review Act (SEQRA).

Peter Michael Rizzo is present and explained that he has tried to make the property energy efficient but to no avail. He would like to remove the structure and build a new duplex on the property.

Chairman Schultz clarified that only the demolition is being reviewed at this meeting.

ACTION:

Motion by Paul Shear, seconded by George Van Nest, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board **issue** a Negative Declaration on the proposed demolition permit at 10705 Miland Road. This Type I Action involves the demolition of a structure built prior to 1950. After thorough review of the submitted EAF and proposal and including coordinated review with review and comment from the Town of Clarence Historic Preservation Commission, it is determined that the proposed action will not have a significant negative impact upon the environment.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 3

AVR Builders, Inc.
Planned Unit Residential Development

Requests an amendment to the Planned Unit Residential Development (PURD) to develop 20 patio homes at the southwest corner of Harris Hill & Roll Roads.

DISCUSSION:

Jim Callahan provided the background on the project. It is located at the southwest corner of Roll Road and Harris Hill Road. It is existing vacant land located in the PURD Zone. The applicant is seeking an amendment to that PURD Development Plan to identify patio homes as opposed to commercial use that was previously approved. The proposal has been forwarded by the Town Board for review and comment by the Planning Board.

William Tuyn, of Greenman Pedersen, is present.

Chairman Schultz explained that the Town Board is the ultimate authority on this project; the Planning Board will be a recommending body.

Mrs. Salvati explained that originally this area was approved for 45,000 square foot of commercial use.

Mr. Callahan explained the site is in Erie County Sewer District #5; the site plan and EAF will be forwarded to their office for review and comment.

Chairman Schultz said the Town Board had questions. One question was regarding sewer capacity and the conveyance of capacity through the Amherst treatment plant; this will be part of the environmental review. Another question had to do with density and yet another had to do with buffering, this concerns will be addressed when the project reaches that stage.

Mr. Bigler thinks this is an excellent fit on this corner; a better proposal than a 45,000 square foot strip mall.

Mrs. Salvati noted that the allowed density per the PURD was 3 units per acre. The current density including this proposal will be 1.74 units per acre.

Mr. Todaro asked if there is a Homeowners Association for the current PURD and if there needs to be another one for this additional proposal. Mr. Tuyn said there is an association for the patio homes in Loch Lea that will be separate and distinct from this. A new one will be formed for this development.

Chairman Schultz said density calculations will be desired by the Planning Board. Mr. Tuyn agreed.

William Reardon, resident of the Hollows at Loch Lea, voices his concern with the density of the project. He is also concerned with drainage and sewer capacity. Traffic is another concern along with the value of existing property. He is also concerned with the private road and what it means to existing residents.

Chairman Schultz noted that this project will require a coordinated review which will include a review of things like traffic and drainage.

Mr. Pazda said if residents have planning and zoning issues they need to bring them up before the Board so it will be on the record.

George Stiegler, of 5533 Hemdale, is concerned with the status the homes are going to be given, are they condos or townhouses? This would be decided between the residents, the State and the developer working with the Town.

Larry Cerasa noted that currently they are listed as single family homes and pay taxes on that basis, he is concerned that the proposed homes would go in as condo status and would be a detriment if he ever wanted to sell his home. Condo status would really be a problem.

Linda Nastasi, of 5905 Goodrich Road, asked if the public would have the opportunity to see what the design and style of the homes would look like.

Mr. Tuyn said the building envelope is identical to that of the existing homes. The proposal is for patio homes on a private street and is the same density as the adjoining development. It is consistent with everything else that is built at the Hollows of Loch Lea.

Mr. Tuyn noted that a SEQRA process has already been conducted, the Town has already been designated Lead Agency, the project has been through a DEIS, an FEIS and a statement of findings has been done. This request is to modify something that has already been done.

ACTION:

Motion by George Van Nest, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board **recommends** the Town Board seek Lead Agency Status and initiate Coordinated Review for this proposed amendment to the FEIS and Final Findings Statement associated with the Loch Lea Planned Unit Residential Development. This Type I Action involves an amendment to the FEIS and Findings that includes the elimination of previously approved commercial development at the corner of Harris Hill Road and Roll Road and proposes 20 +/- Patio Homes.

ON THE QUESTION:

Chairman Schultz noted that information has been received from nearby residents regarding the project, more will be collected. The applicant will be required to verify the exact density.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 4

Master Plan 2015 Amendments for 2011

Clarence Center Hamlet Traditional
Neighborhood District Expansion.

DISCUSSION:

Jim Callahan provided the background on the project. It is located along the Goodrich Road corridor from Maple Street to the Peanut Line within the Hamlet of Clarence Center. It is existing residential zoning being analyzed by the Planning Board under review of Master Plan 2015. This represents the third public meeting concerning this zoning in the hamlet. Historic review, since the last Planning Board meeting, identified and discovered that this portion of Goodrich Road has been zoned Commercial in the past; this per an official 1961 zoning map of the Town. In 1976 the Town Board made that stretch Neighborhood Business and the surrounding property Residential B zoning. The Neighborhood Business classification was repealed in the early 1990's. In 2004 the zoning was changed to Residential Single-Family with a Comprehensive Zoning Code update. Under review at this time is that stretch of Goodrich Road only from Maple Street to the Peanut Line.

Paul Shear recuses himself from the discussion and the vote because he lives in the hamlet.

Chairman Schultz noted that this is specifically a Land Use determination; there is an applicant that requested this. There was much opposition to extending the TND to the side streets. The proposal before the Planning Board this evening is strictly restoring the ability to do Traditional Neighborhood things down Goodrich Road and up as far as the bike path. The emphasis is that Traditional Neighborhood design is basically a residential design that allows certain other lower impact uses. Mr. Callahan explained that the TND was specifically designed to fit in the hamlet areas; it has a reduced lot size. The problem is every lot within that residential single family area is not compliant; there is not enough lot size or frontage. While it is fine to continue the use, it is difficult to expand the use because of the lot sizes. The TND is a better fit because it does reduce the lot size and allows for some flexibility.

Chairman Schultz noted that the Planning Board is aware that parking is needed, lots are split zoning and there are traffic concerns. These issues will be addressed if the Town Board decides to proceed with the proposal.

Linda Nastasi, of 5905 Goodrich Road, is opposed to the change. She would like it to remain Residential Single Family. She is concerned with what Goodrich Road is becoming. She is for whatever protects single family homes only.

Kathleen Hallock, of Long Street, noted that there are wider properties in the area. She is concerned with the potential for Commercial Use; if a 10,000 square foot building is put on a lot that is 300' wide it will negatively impact the neighborhood.

Sandra Baker, of 6070 Railroad Street, moved to Clarence in 1971 and in 1976 the zoning on Railroad Street was changed from Commercial to Residential B; the Commercial zone was taken from her at that time. Her beauty salon is grandfathered in; she also has a Temporary Conditional Permit to have an antique store and gift shop in that area. Her concern is at that time the zoning did not get changed from High Street up and remained Commercial. Mr. Callahan is going to forward information to Ms. Baker indicating that the zoning was changed up to the bike path; she still feels that it has not been changed. The Leamer's bought the property when it was Commercial and she feels they have every right to do what they want with this property. She is for Goodrich Road and Railroad Street to be zoned Commercial because that is the way it was when she moved in. She believes the Planning Board is protective of Clarence Center and will watch closely anything that goes in there. Ms. Baker thinks the zoning map is still wrong and she thinks this is a good use of the land.

Chairman Schultz noted that the action this evening would be to recommend Town Board initiate a coordinated review and develop environmental impact information.

Mrs. Salvati noted that the original request was to rezone one piece of property. Does it make sense to rezone that property along with some additional property? She is not opposed to looking at the environmental impacts. Mr. Pazda agreed.

Mr. Van Nest agreed with moving forward with the environmental review process and look at this proposal objectively and comprehensively.

Linda Nastasi asked if small businesses are allowed does that mean people on Long Street and further down would be looking at the back of businesses from their backyards.

Chairman Schultz reminded Ms. Nastasi that the discussion this evening is on land use not a specific business. Mrs. Salvati said any proposal would have to go through a site plan review process in which dumpsters, lighting, buffering and a plethora of other impacts are looked at.

Mr. Sackett supports an environmental review on the full build out.

ACTION:

Motion by George Van Nest, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, the Planning Board **recommends** that the Town Board seek Lead Agency status and commence coordinated review on the proposed Master Plan 2015 amendment related to the Clarence Center Traditional Neighborhood District. This Type I Action involves the extension of the Traditional Neighborhood District from Maple Street north to the Peanut Line for Goodrich Road Properties only, per the attached map.

ON THE QUESTION:

Chairman Schultz said, as a result of neighbor input, this proposal is much smaller than what the Planning Board first started looking at.

Mr. Van Nest said he is not sure this has a big enough impact in terms of what the Town is trying to accomplish in terms of light retail development. Mrs. Salvati agreed.

Paul Shear	Recuse	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 5

Dominic Piestrak
Residential Single Family

Requests Development Plan Approval for Phase I of Spaulding Greens Open Space Design Subdivision.

DISCUSSION:

Jim Callahan provided the background on the project. It is located along the east side of Goodrich Road, south of Boxwood Drive. It is existing vacant land. Concept Approval for the Spaulding Greens Open Space Design Subdivision was approved on August 13, 2008. The applicant is requesting Development Plan Approval for the initial Phase, which is Phase I of the project. Phase I as presented is in substantial compliance with the approved Concept Plan. Development Plan approval will allow the project to move to obtain the necessary PIP permits to begin construction.

Susan Green from Spaulding Green Development is present along with Dominic Piestrak, applicant. Mr. Piestrak said the proposal is approximately 400 acres with 188 of it planned to be park. The view across from Town Hall will be trees and part of the open space; there will be approximately 300' before the placement of the first house.

Ms. Green explained the one green area closer to Goodrich Road is mitigation for the wetlands. The other area will be a pond.

Chairman Schultz clarified that the open space areas are to be monumented and the applicant is to discuss this with the Town Attorney.

Ms. Green explained that there is a clubhouse for the four-plexes; it is a small gathering place with a pool. All agreements and all approvals from involved agencies have been obtained.

Chairman Schultz explained that the Planning Board has the authority to make the final decision on this proposal.

Mr. Bigler noted that sidewalks will be installed thus making it a walkable community. Mrs. Salvati said the long term plan is to have bike paths as well. Mr. Pazda would like to see the bike path in as soon as possible. Mr. Piestrak agreed but said he has to consider the economy as well. Ms. Green said she doesn't want to put the bike path in and then have to cross it with construction equipment.

Linda Nastasi said this development makes her want to cry. The Town does not need the traffic or the houses; it is not the only development in Town with a sidewalk. It concerns her that the statement was made that in a few years the houses will not be seen, how long will this take?

Mr. Van Nest noted that property owners have private property rights. They have the ability to develop their property consistent with the laws of the community and the state in which they live. The Planning Board worked very hard on behalf of this Town to make sure this development was consistent with the Town laws, the State laws and the applicable codes that apply to this development. He thinks this is a sound, well put together development and makes the most sense for this community and this property owner.

Esta Joseph owns property that abuts Phase I. She asked if single homes are going to be built first. Ms. Green said on Ms. Joseph's side of the development there will be single family homes. Ms. Joseph said there is a low lying area to the back of her property and asked if there will be drainage put between her property and the development.

Mr. Callahan explained that there is rear yard drainage designed for the single family lots. The Town Engineer has reviewed and approved the project and it will comply with the law. Chairman Schultz said sometimes new developments can actually improve drainage in the area.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, to **approve** Development Plans for Phase I of Spaulding Greens Subdivision, including 1400 +/- feet of Bent Grass Run and 400 +/- feet of Ferncrest Drive and including required wetland and retention ponds per submitted completed phase plan designs from Greenman-Pederson, Inc. dated November 2, 2009, with the following conditions:

1. Phase I to include 10 Single Family Lots and 5 Quad-Plex Structures plus Clubhouse and amenities and identifying that the designed Phase I 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 7, 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. Maintenance of existing construction road shall be maintained to avoid construction traffic through existing Hidden Pond Subdivision.

6. Sewer taps shall be as designated by the Town Engineer.

7. Construction hours limited to 7:00 am-7:00 pm Monday-Saturday.

8. Entrance to Bent Grass Run from Goodrich Road to provide a stone wall feature as reviewed and approved by the Landscape Committee. Landscape Committee approval for street tree design.

9. 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 built out. Recreation trails will be subject to approval of all title descriptions, title documentation and policies as required by the Town Attorney.

10. 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.

ON THE QUESTION:

Ms. Green confirmed agreement to conditions.

Paul Shear	Aye	Robert Sackett	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Meeting adjourned at 9:01 p.m.

Carolyn Delgato
Senior Clerk Typist