

Town of Clarence
Planning Board Minutes
Wednesday August 17, 2011

Work Session 6:30 pm

Status on TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:30 pm

Approval of Minutes

Item 1

Rock Oak West Manufactured Housing Park
Commercial

Requests Development Plan Approval for a 72 +/-
site expansion at 9745 Main Street.

Item 2

Cimato Bros/Passero Assoc/Northwoods OSD
Residential Single Family

Requests Preliminary Concept Review and
Recommendation to proceed with SEQRA for the
Northwoods Open Space Design Subdivision west
of 8990 Greiner Road.

Item 3

Ron Grimm
Agricultural Rural Residential

Requests SEQRA Determination and Concept
Approval of a proposed Open Development Area
at 6491 Conner Road.

Item 4

Ali Shams
Traditional Neighborhood District

Requests a Determination under SEQRA for a
Demolition Permit for 10922 Main Street.

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
2nd Vice-Chairman Richard Bigler
Robert Sackett
Gregory Todaro

Vice-Chairperson Wendy Salvati
Timothy Pazda
Paul Shear

Planning Board Member(s) absent: George Van Nest

Town Officials Present:

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

Other Interested Parties Present:

James Murphy	Paul Lagowski
Tim Ronald	Diane Ronald
Dave Horbinski	Richard Ehlers
Carol Shams	Ali Shams
Keith Pace	Kathleen Pace
Sue Gustafson	Jim Gustafson
Karen Willyoung	Noel Dill
Howard Melancon	Donald F. Schulz
Ron Grimm	Tom Aldrich
Mary Aldrich	R. J. Connelly
Rick Dahn	Susan Dahn

In the absence of Planning Board member George Van Nest, alternate member Gregory Todaro will participate in all discussions and vote on all agenda items this evening.

Motion by Gregory Todaro, seconded by Paul Shear, to **approve** the minutes of the meeting held on August 3, 2011, as written.

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

MOTION CARRIED.

Item 1

Rock Oak West Manufactured Housing Park
 Commercial

Requests Development Plan Approval for a 72 +/-
 site expansion at 9745 Main Street.

DISCUSSION:

Chairman Schultz noted that the Planning Board is the authority for the project and will decide to approve, deny or table it.

Jim Callahan provided the background on the project. The property is located on the south side of Main Street west of Kraus Road. It is an existing manufactured housing park located in the commercial zone. The applicant is proposing an expansion of the existing park to include 71/72 new sites. A Negative Declaration under the State Environmental Quality Review Act (SEQRA) was

issued by the Town Board on January 19, 2011. A Special Exception Use Permit (SEUP) was issued by the Town Board on March 9, 2011 to allow for the expansion as designed.

Noel Dill, Vice-President of Stephen Development, is present along with Mike Metzger of Metzger Civil Engineers. Mr. Dill clarified that the proposal is for 71 units.

James Murphy lives at 9809 Tobermory Avenue and is President of the Rock Oak Home Owners Association. He noted that the Association is not against the expansion. He has a few concerns which include making sure the construction vehicles are on the existing side of the park. He hopes the hours of construction will be followed. He also has concerns about the septic system. The residents have put up with the dust and dirt for seven (7) years; they do not want it with this new part. They need the road up to Main Street before any construction is done; the construction vehicles should be kept on that side of the park. There is flooding on the east side of the park near the bike path; he hopes that something can be done about this soon.

Howard Melancon, of 9775 Main Street, approves of this development.

Chairman Schultz said the Development Plans are consistent with the Concept Plan. The Town Engineer has reviewed the plans and said they are fine. A condition will be added requiring orange fencing to be installed in order protect the buffer area. Mr. Dill agreed to this additional condition.

Mr. Sackett asked if it is possible to keep construction vehicles off the existing park resident roads. Mr. Dill said that is his intention as he wants limited disruption to the people living in Rock Oak West.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, to **approve** the Development Plans for the proposed Rock Oak Manufactured Housing Park Expansion as submitted by Metzger Civil Engineering and dated April 20, 2011, identifying 71 additional sites for manufactured homes with all required park amenities per local law and subject to the following conditions:

1. Per the conditions as established by the Clarence Town Board under a Special Exception Use Permit as approved on 3/9/2011:
 - a. Subject to construction of a paved access road to Main Street for construction vehicles to reduce potential impacts to existing park residents and for required traffic distribution upon occupancy.
 - b. The above referenced access road to be open for general use and access prior to first home installation.
 - c. Approval of the on-site sanitary facility and permitting through the NYSDEC.
 - d. Ensuring that specific techniques are utilized during construction activities to reduce dust and noise impacts to existing park residents.
 - e. Construction shall be limited to Monday-Friday from 7:00am to 7:00pm and on Saturdays from 7:00am to 5:00pm.

- f. No construction vehicles on existing park roads.
- g. Subject to conditions of the Town Engineer and Town Engineer issuance of PIP Permits.
- h. Subject to appropriate fees.

2. Subject to Landscape Committee approval on tree replacement plan and to provide adequate screening to existing park residents.
3. Appropriate fencing will be installed to protect the buffer areas during construction.

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

MOTION CARRIED.

Item 2

Cimato Bros/Passero Assoc/Northwoods OSD Residential Single Family

Requests Preliminary Concept Review and Recommendation to proceed with SEQRA for the Northwoods Open Space Design Subdivision west of 8990 Greiner Road.

DISCUSSION:

Chairman Schultz explained that an Open Space Design Area falls under the Town Board’s jurisdiction, the Planning Board, in this case, is a recommending body only.

Jim Callahan provided the background on the project. The property is located on the south side of Roll Road, west of Thompson Road. It is existing vacant land. The applicant is present seeking recommendation to initiate the SEQRA review process on the preliminary concept.

Timothy Pazda recuses himself from the meeting as he owns property in close proximity to the project site.

Jess Sudol, from Passero Associates, is present. Fred Cimato from Cimato Brothers is also present. Mr. Sudol explained that the proposed subdivision is approximately 154 (maximum) lots. There have been some changes to the original plan and he would like to address them. He would like also to address the layout, the Environmental Assessment Form (EAF), wetlands and the procedure going forward. Mr. Sudol said one of the concerns was how they treated the open space. There were a lot of small wedges of open space between different lots. They have taken the open space and moved it out to the perimeter of the project. They were able to increase the separation between the lots and the adjacent homeowners on all sides of the development. The number of units on the extension road has been reduced. The entrance on Greiner Road has been moved more to the east to align with Brookfield Lane; this creates more contiguous open space at the front of the project. There have also been some revisions made to the cul-de-sac to allow a maximum of 12 lots per code. They kept the open space in

the center of the development; it is about six (6) acres in size. They will provide access to this open space so it can be used by others in the development, not just those who own lots that back up to it.

Chairman Schultz said the idea of Open Space Design is to preserve vistas and open space in the Town of Clarence. The open space in the center of the development is nice for the residents of that circle but it does not do what the Open Space Design is expected to do for the Town.

The Town Board referred the project to the Planning Board with three (3) issues: lot density, sewer availability and bike path. The next step would be a coordinated SEQRA review.

Mr. Sudol said the Long EAF was submitted and it will be a living dynamic document, it will change as the project progresses and studies are completed and they are okay with amending it as it moves along. Chairman Schultz noted that the SEQRA document is what is sent to the involved agencies in which they base their assessment on. Mr. Sudol states that it is not an official SEQRA document until it is signed and a Negative Declaration is made. He is ok with the Town amending that document to more accurately reflect the project. Mr. Sudol said based on the Concept Plan the area of wetland they will be disturbing was roughly determined. As it turns out that area of wetland is approximately the same as what was being put back in the mitigation area. The design and grading would have to be done in order to get an accurate calculation.

A previous attempt to obtain a Fill Permit to construct a wetland was not approved by the Town Board on the belief that if it was approved, it would "handcuff" the Planning Board. The applicant has never seen that land as suitable for anything other than wetland. The Town Board is looking to the Planning Board to see if they are comfortable with where the wetland mitigation is going to be.

Mr. Sackett explained that the SEQRA process starts with accepting the EAF Part I. He would vote against the acceptance at this point because the EAF deviates substantially from the diagram. There is no documentation on adequate public facilities as indicated in the EAF. Mr. Sackett is very concerned with the wetland acreage as those numbers are substantially off between the EAF and the diagram. Until those numbers agree he will vote no to accept the EAF.

Mrs. Salvati said the EAF is confusing, for example it shows wetlands and forested areas at 50 acres but the design shows about 35 acres. The EAF project description is about 60 acres, the plan says 73. The soil types are not described, they need to be. Mr. Sudol said he will be happy to clarify the numbers. He explained that some confusion may be due to the forested areas overlapping with the wetland areas. Mrs. Salvati said there should be no confusion with these numbers. The Planning Board needs solid numbers to submit for the SEQRA process.

Mr. Shear asked how large the proposed wetland mitigation area in the center of the site is. Mr. Sudol said it is approximately six (6) acres; it was counted towards the total for the developed area. He also explained that the plan shows them disturbing six (6) acres of wetland and the mitigation area is six (6) acres, so it is roughly equal. Chairman Schultz said the six (6) acres are being put in because a wetland was destroyed someplace else; it appears there are two (2) areas that need to be mitigated. The Board needs understandable numbers that are reasonably close that can be distributed to others for review and recommendation. Mr. Sudol said the numbers are not arbitrary, they are calculated measured numbers. If they don't match the design it may be due to some revisions that have been made to the plan. It appears the full EAF was not updated. Mr. Sudol said the EAF can be amended by the end of the week.

Tom Aldrich of Shadyside Drive moved here 7 years ago because of the vistas. This proposal looks like every development in southern Lancaster. Every year he lived in Lancaster there was a school redistrict, that is why he moved. There are four (4) lots that will be against the back of his property. The intersection of Thompson Road and Greiner Road has had deaths from the traffic; he wondered how much this development will increase the traffic. When he bought his property he understood that there was likelihood for development on the open lot behind him but the proposed lots do not seem to match up with the rest of the community.

Timothy Ronald of 5275 Shimerville Road has concerns about drainage. His property is to the back of the proposed development. Chairman Shultz assured him that drainage is a part of the plan going forward. Sometimes a drainage plan for a proposal will improve the surrounding area; it certainly will not make it any worse. Mr. Ronald referred to green space and asked if the plan for Greiner Road could be modified to have no homes built there; those homes would block the view from what he has seen for the last 25 years. For decades the deer have come across Greiner Road from the Country Club to feed. Mr. Ronald said there was an agreement in 1925 with an Atlas Gypsum Company; he thinks it had to do with all these properties. The agreement continued until 1982 when National Gypsum ended their interest with that. He asked if there are Gypsum Mines in this area. Mr. Ronald said Country Club was supposed to be refurbished but he thinks it was left out of the last plan. He asked that Country Club not be a construction entrance for the site.

Mary Aldrich of 5435 Shadyside Drive asked what size the lots are that will back up to her property. She asked what the depth will be between her back property line and the end of those lots. lot size is 65' x 125'. The lots between her home would be 100'/150'.

Don Schulz of 8902 Greiner Road is also concerned with drainage. He asked if there will be a traffic study done. Chairman Schultz responded yes; that is part of the coordinated review.

Chairman Schultz said the Town Board did not want to see a specific plan approved as part of the overall Concept until there was a good sense of what the overall Concept would be.

Mr. Sudol said the lots behind the Aldrich's home are 65' wide by 125' deep, it is about 100'-150' between the lot line and the home.

ACTION:

Motion by Robert Sackett, seconded by Wendy Salvati, to **table** this agenda item until an amended EAF can be brought to the Board for approval and acceptance.

ON THE QUESTION:

Mr. Shear said the Planning Board would like to see this project move forward in a timely manner, the paperwork has to be reasonably correct in order to do so.

Gregory Todaro	Aye	Robert Sackett	Aye
Paul Shear	Aye	Richard Bigler	Aye
Wendy Salvati	Aye	Al Schultz	Aye

MOTION CARRIED.

Chairman Schultz advised the applicant the next Planning Board meeting will be August 31, 2011. The revised EAF should be submitted as soon as possible.

Timothy Pazda returned to the meeting.

Item 3

Ron Grimm
Agricultural Rural Residential

Requests SEQRA Determination and Concept Approval of a proposed Open Development Area at 6491 Conner Road.

DISCUSSION:

Chairman Schultz explained that under most circumstances an Open Development Area would be under the authority of the Planning Board. If there is a requirement for a Town Board variance, it would be a Town Board decision.

Jim Callahan provided the background on the project. It is a proposed 4-lot Open Development Area located on the east side of Conner Road, north of Stahley Road. It is existing vacant land located in the Agricultural Rural Residential zone. The applicant is proposing to develop a 4-lot Open Development area and is present seeking recommendation under SEQRA and a Concept Approval for the project.

Ron Grimm is present to accept the recommendation in regards to the location of the entrance of the 4-lot subdivision.

Mr. Callahan noted that the proposed private roadway in the proposed development as currently designed features 100' of separation to the northerly residential driveway. There currently exists a recently constructed access way 96' to the south of the proposed private roadway. That newly constructed access way was built on a property that lacks sufficient road frontage to be considered a separate building lot, as per the Town of Clarence Zoning Law, therefore the newly constructed access way does not access a permitted use and a permitted use will not be possible as the property is not a buildable lot. The Town of Clarence Zoning Law defines a driveway as a private access way that provides access to a permitted use. As a permitted use is not possible in association with the newly constructed access way to the south it is not considered a driveway, therefore does not require 100' of separation as per the Open Development Law. Mr. Grimm agreed.

Ms. Salvati said at the last meeting the applicant was asked to show the new driveway on his plan, but since it is not a driveway the Planning Board no longer requires him to show it on his plan.

Mr. Grimm assured the Planning Board and the surrounding residents that a drainage plan will be in place and water/stormwater will properly drain off his property. Wes Stone has received a confirmation letter from the County advising that the applicant is not responsible for fixing the existing water problems on Conner Road. A copy of the letter is on file. Ms. Salvati reads an e-mail from Wes Stone regarding the letter: "As per Carl Dimmig's letter of August 16, 2011, in particular item #2, would you please share the following with the Planning Board: The storm water retention system for this project will be designed to meet the NYSDEC and the Town of Clarence requirement that the 100 year post development peak flow will be the same as or less than the 10 year existing peak flow. This requirement is more stringent than the Erie County requirement of a 25 year developed and a 10 year existing. The Erie County DPW will be kept in the loop for their review, comments and approval

pertaining to this project. Any questions, please contact me, Wesley D. Stone.” A copy of the e-mail is on file.

Ms. Salvati said it is important to note that the existing drainage conditions are not being caused by the applicant’s property, it is a culmination of many things, all those properties are contributing to it.

RJ Conlin, of 6591 Conner Road, is not opposed to development and is glad the Planning Board is doing its due diligence concerning the drainage, as it is deplorable on Conner road. His farmland to the north of the project has periodically flooded. The ditch has not been cleaned out in years. Mr. Conlin asked what the setback is for the detention pond from the road. Ms. Salvati said it is 50’. She also explained that the engineer on the project does not yet know how big the pond has to be so it may come a little closer to the road depending on its required size. Mr. Conlin wondered if that would be a safety hazard if the road was ever widened. Ms. Salvati said the Planning Board would make sure the pond stays a certain distance from the right-of-way; it wouldn’t be allowed to be at the edge of the property line. Mr. Conlin asked if there are provisions to provide a berm, maybe trees, at the north end of the project site.

Keith Pace of 6451 Conner Road is concerned with the proximity of the pond to the property line and what effect it may have on his property. Mr. Grimm said his intention is to save as many trees as possible. Mrs. Salvati said the setback is 20’.

Kathy Pace of 6451 Conner Road asked for clarification on the rules that apply to the location of the detention pond. Mr. Callahan said it is not specified in the Open Development Law but is subject the Town Engineer’s approval. Mrs. Salvati said the applicant has indicated that they want to make every effort to save the existing hedgerow and the hedgerow is within the first 15’-18’ of the property. Mr. Sackett noted that there must be public access to the detention pond in order to maintain it.

Richard Dahn of 6421 Conner Road is concerned with the depth of the retention pond and asked how deep it will be. It is confirmed that the pond will be approximately 6’ deep. Mr. Dahn is concerned with the safety of the children in the area. Mrs. Salvati said this pond is not designed to be a wet pond. Chairman Schultz noted that these specific concerns can be addressed at a later date. Mr. Todaro explained that the pond is sloped; it does not have an immediate drop-off at its bank. Mr. Dahn asked if the back of the property has been considered for the location of this pond. Mrs. Salvati explained that a detention pond needs to go on the lowest elevation of the property. Chairman Schultz clarified that there is no law that requires a fence around a retention pond.

Mr. Shear referred to the EAF, Part II, page 11 where it is indicated that the proposed action will not result in a physical change to the project site, specifically, construction on land where the depth to the water table is less than three (3) feet. Mr. Shear noted that in the EAF Part I it was indicated that the water table is between .5 and 1.5 feet. The applicant will attempt to build on a set of circumstances where the water table is less than three (3) feet. This would be a potentially large impact but will be mitigated. Mr. Shear referred to page 13 in which it is indicated that the proposed action will affect surface or groundwater quality or quantity. The first item indicated the action will require a discharge permit; this is not a great impact. The proposed action will adversely affect groundwater; this is a potentially large impact but can be mitigated.

ACTION:

Motion by Robert Sackett, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **accept** as complete the Environmental Assessment Forms Part 1, 2 and 3 as prepared and filed and amended by Mr. Shear.

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

MOTION CARRIED.

ACTION:

Motion by Robert Sackett, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Grimm 4-Lot Open Development Area located at 6491 Conner Road. This Unlisted Action involves the development of a 4-Lot Open Development Area on 8.8 +/- acres on the east side of Conner Road north of Stahley Road in the Agriculture Rural Residential Zone. After thorough review of the submitted site plan and Environmental Assessment Form and including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment.

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

MOTION CARRIED.

ACTION:

Motion by Robert Sackett, seconded by Timothy Pazda, to **approve** the Concept Plan for a 4-Lot Open Development Area at 6491 Conner Road, subject to the following conditions:

1. Per the final submitted Concept Plan design as revised by Bissell-Stone, dated August 10, 2011.
2. The project sponsor must demonstrate by engineering calculations that the project will neither create new nor exacerbate existing drainage problems along Conner Road. This must be demonstrated at the Development Plan stage to the satisfaction of Erie County Department of Public Works and the Clarence Town Engineer.
3. Development must comply with all requirements as listed in paragraph 193-32 of the Town of Clarence Subdivision Code and the Town of Clarence Subdivision Checklist for Development Plans.
4. Development Plan to identify location of any trees on the property 6-inch DBW or greater, and to specify which of those trees are to be removed. Removed trees are to be

replaced on a 2 for 1 basis per Clarence Town Code, chapter 131, with the approval of the Town Landscape Committee. Landscape Plan must include screening from driveway traffic for the existing homes to the west along Conner Road.

5. Potential property owners must be notified, in writing, that the Town of Clarence is a Right-to-Farm Community and that the adjacent property to the north is a working farm, and will continue as such until the time the property owner chooses to stop agricultural activities.

6. Subject to Open Space and Recreation Fees.

ON THE QUESTION:

Mr. Packard noted that the drawing on file dictates 100’ of separation to the northerly driveway.

Mrs. Salvati noted that the width of driveways can vary, so the Planning Board feels it is safer to measure from edge to edge.

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

MOTION CARRIED.

Item 4

Ali Shams
Traditional Neighborhood District

Requests a Determination under SEQRA for a Demolition Permit for 10922 Main Street.

DISCUSSION:

Chairman Schultz explained that the Planning Board has approval authority for this agenda item under the SEQRA process; however they do not have authority to approve the demolition.

Jim Callahan provided the background on the project noting that it is located on the north side of Main Street in the Clarence Hollow Traditional Neighborhood District. The applicant is proposing to demolish a single-family home built prior to 1950. Per the TEQR Law this is considered a Type I Action under the State Environmental Quality Review Act (SEQRA). A determination under SEQRA must be made prior to permit issuance. The application was put through the Town of Clarence Historic Preservation Commission; they have reviewed the proposal and have no comments for the Planning Board.

Mr. Shams explained that he also owns 10928 Main Street and his wife would like to start a business there and if the house at 10922 Main Street was demolished it would make 10928 Main Street stand out more and provide more green space in the area. He said the building at 10922 Main Street is in bad shape.

Chairman Schultz asked if there is any intention to increase parking for the future business. Mr. Shams said probably but not on the side of the demolished building, it will probably be on the back side of the building.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Ali Shams single-Family Home Demolition located at 10922 Main Street. This Type I Action involves the demolition of a home built prior to 1950. After thorough review of the submitted EAF and proposal and including coordinated review with comments 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.

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

MOTION CARRIED.

Meeting adjourned at 9:05 p.m.

Carolyn Delgato
Senior Clerk Typist