

A Work Session of the Clarence Town Board was held on February 27, 2008 at Clarence Town Hall, One Town Place, Clarence, NY.

Supervisor Scott Bylewski called the meeting to order at 6:00 P.M. Members of the Town Board present were Council members Joseph Weiss, Bernard Kolber, Patrick Casilio and Peter DiCostanzo. Other Town Officials present were Director of Community Development James Callahan, Assistant Director of Community Development Brad Packard, Town Attorney Steven Bengart, Town Engineer Joseph Latona, and Director of Administration and Finance Pam Smith.

### **Director of Community Development – James Callahan**

#### ***Public Hearings:***

A public hearing is scheduled for 7:45 P.M. - Annual Review of Master Plan 2015. There will be three requests for amendments to the Master Plan:

- North Forest Office Providers – 6051 Transit Road/Roy Jordon is requesting the Town Board consider extending the Restricted Business Zone back further to the entire depth of that property. This will allow him to build an additional office park in that area.
- Sean Hopkins, attorney representing the Denny family will be introducing a request to the Board regarding property on Transit Road north of Miles Road. They are seeking an extension of the Major Arterial Zone – increasing the depth of that zoning classification to allow for a more detailed/expansive commercial project in that zone.
- The Denny family is also requesting the Town Board consider expanding the Industrial Business Park Zone along Harris Hill Road north of Greiner Road to allow for additional commercial growth.

Per the Master Plan, the Town Board has the ability to identify that they would be interested in proceeding however, the Master Plan requires that the Planning Board review and recommend an Environmental Review be done before any action is ultimately taken by the Town Board to amend the Master Plan.

#### ***Formal agenda items:***

Hardee Brothers Dry Cleaners 8584 Main Street

Applicant is proposing to relocated existing dry cleaning operation from down the street to this new located and construct an addition to the rear of the structure. The proposed site is located on the north side of Main Street, east of Harris Hill Road in existing tailor shop located on approximately one acre in the Traditional Neighborhood District. The front façade is to remain substantially unchanged. Vinyl siding is proposed for the rear addition.

First Presbyterian Church 9675 Main Street

Applicant is proposing a major expansion to the existing facility. The proposed site is located on the south side of Main Street, east of Gunnville Road at existing church located on 5.5+/- acres in the Community Facility Zone. The Planning Board has forwarded a recommendation on the Development Plans as submitted. A final Landscape Plan has been approved as well as engineering.

Steve Carmina/Extra Mile Transportation 4295 Harris Hill Road

Applicant is proposing a second office building on the property fronting on Oakwood Drive. The proposed site is located on the east side of Harris Hill Road, west side of Oakwood Drive in existing professional office building along Harris Hill Road and existing vacant land along Oakwood Drive. The property consists of approximately 2.3 acres in the Traditional Neighborhood District. Several areas of concern include on-site sanitary system, community character, parking and green space.

#### ***Work Session items:***

Visone Office Park 8766 Main Street

Applicant is proposing to develop an eight building professional office park. The proposed site is located on the north side of Main Street, west of Overlook Drive

(next to Samuel's Grand Manor) on existing vacant land consisting of approximately 8.9 acres zoned Traditional Neighborhood District. This represents the initial introduction of the project proposal to the Town. Town Engineer Latona stated that several years ago the applicant requested a fill permit and exceed their parameters for fill by 50% and the site was closed down. There are wetlands to the rear of the property.

#### Meteor Enterprises – Jones Road

Applicant is proposing a minor subdivision to create two additional residential building lots in conformance with zoning. The proposed site is located on the north side of Jones Road, east of Ransom Road on existing vacant land consisting of approximately 160+/- acres in the Agriculture Rural Residential Zone. Property is the previously denied Gables on the Green development. Applicant is proposing a minor subdivision to create two additional residential building lots in conformance with zoning. Areas of concern include segmentation.

#### Frey's Old Time Furniture 9992 Main Street

Applicant is proposing a large addition to the existing retail furniture use. The proposed site is located on the north side of Main Street, east of Kraus Road in a commercial classification. As the proposed addition will exceed 30,000 square feet, approval will require a Special Exception Use Permit. Per the zoning Law, the Town Board has authority to approve Special Exception Use Permits after a required public hearing. The Planning Board has approved the concept for the project and recommended a Negative Declaration under SEQRA. There remains concern from the Planning Board members about the size of the proposed addition.

#### Ralph Fink 8947 Candlewood Lane

Mr. Fink requested he be put on the agenda to discuss water in his basement, this problem has been on-going for 35 years.

#### **Supervisor Scott Bylewski**

Supervisor Bylewski has several items to discuss in Executive Session regarding the employment of history of individuals and pending litigation.

The Town has the Certificate of Occupancy for the Youth Building on Main Street. Supervisor inquired of the Board as to what should be done with the Council/ former Youth Department office. It was suggested that the room could be used for additional meeting space by moving the desks to the outside walls and adding a conference table. Councilman Casilio stated that he needs a secure place for his files. If anyone has any further suggestions for utilizing the space, see Supervisor Bylewski.

If any Board member has any administrative/secretarial work to be done, contact Karen Jurek.

There were ten gardens originally planned for the arboretum. The Arboretum Committee is suggesting several groups or organizations sponsor one of the gardens, they would be responsible for the initial planting. Questions have come up as to the long term maintenance of these gardens. The Arboretum Committee has also been trying to raise funds for the rock wall entrance way. They are still looking to the town to provide \$5,000 of the overall \$38,000 cost of the way.

The Ethics Rules and Procedures will be discussed at the March 5<sup>th</sup> Work Session.

Tony Pacenzia, Jim Morabito and possibly Dan Hanley would like to meet with the Town Board to discuss the Sign Law. Councilman Weiss will schedule a meeting.

A special meeting has been scheduled for February 28, 2008 at 3:30 PM to discuss appointments to committees.

Supervisor Bylewski received a letter from the Town of Amherst pertaining to Erie County Department of Senior Services for the Senior Outreach Program. The Town's contribution to the program is \$9,500. The total amount of the program is \$200,000.

Town Engineer Latona met with Highway Superintendent Ted Donner regarding Joseph Tripi 9040 Cliffside Drive So. Mr. Donner along with Town Attorney Bengart will draft a letter to Mr. Tripi.

Supervisor Bylewski has a resolution authorizing the Town of Clarence Baseball Association to install advertising signs along the outfield fencing at several town parks. The signs are to be white with green backing and are to be taken down at the end of the baseball season. Any existing signs that need replacement should conform to the color requirements.

Town Engineer Latona is waiting for price from another consultant to do a study on solar panels.

The acquisition of Beeman Creek Park has been brought up again and the potential of Erie County turning it over to the town. Currently the County is maintaining the park and they have no intent of selling it off and have no intent of doing anything with it other than to preserve it. Supervisor Bylewski asked if the Board their position on this matter. Councilman Weiss stated that he would not have a problem taking over the park as long as there were "no strings attached" and no cost to the tax payers for maintenance. Town Engineer Latona asked what maintenance would be involved and there are drainage issues in that area as well. Supervisor Bylewski stated that if there are maintenance issues, does the Town want to take over the park that is already being maintained by the County. Councilman Weiss will discuss this further with the Conservation Advisory Board.

Supervisor Bylewski had originally heard that in conjunction with the bicentennial, the library wanted to bury a time capsule near the library however that is not the case.

Supervisor Bylewski received a call from Friends of the Library. They are potentially interested in an outside storage shed and a changeable sign. The Friends of the Library will forward the information to Councilman Kolber for further discussion.

Supervisor Bylewski will make a motion awarding FWS Custom Cabinetry and Millwork, LLC the contract for finish carpentry and millwork for the Main Town Park Clubhouse.

#### **Councilman Joseph Weiss**

The Fishing Derby will be held the second or third week in April. A definitive date will be confirmed by the end of the week.

Councilman Weiss will give an update on the TCBA winter baseball game.

Councilman Weiss will comment on the sewer consolidation.

#### **Councilman Bernard Kolber**

The Town of Amherst had their Adult Zoning Law ruled unconstitutional. Councilman Kolber asked James Callahan to review our law.

Councilman Kolber will make an appointment to the Library Board at the next Town Board meeting.

Councilman Kolber received library circulation statistics for 2007.

The Town received the franchise check from Time Warner in the amount of \$96,068.30.

Councilman Kolber has received numerous comments and complaints from Senior Citizens regarding the senior discount on cable. The senior discount is for any subscriber over 65 years of age who is the principal resident of the service dwelling will be entitled to a discount of 10% on basic cable television services including installation. The discount will be extended to limited basic customer subscribers and the basic plus customer or its equivalent. Councilman Kolber will make this information available to the Senior Center.

Councilman Kolber received information from Hans Mobius regarding agricultural tax exemptions for newly constructed and reconstructed agricultural structures. It entails a lot of "leg work" but it is possible.

#### **Councilman Patrick Casilio**

Councilman Casilio has received one quote for the security cameras. Amherst Alarm submitted a bid price of \$53,000 for equipment. There is private funding available. Clarence Hollow Association has raised money as well but that is to be used for cameras in Clarence Hollow.

Councilman Casilio has received a request for jackets for our Disaster Coordinator.

Several requests have come in for traffic lights; the requests will be forwarded to Highway Superintendent Ted Donner. People Incorporated is requesting a signal at the entrance to Eastern Hills Mall off Sheridan Drive and residents at Laurel Park along Transit Road are requesting a signal as well.

Councilman Casilio will make a motion appointing Waterford Village Bank as an additional designated depository for the Town of Clarence.

There was discussion regarding liability insurance policies. Additional liability policies restrict non-for-profit groups.

Councilman Casilio has been working on a request from resident requesting sidewalks from Main and Transit to the high school.

Councilman Casilio has received complaints regarding a house on Harris Hill and one on Goodrich near Tonawanda Creek Road.

Councilman Casilio also received a complaint letter regarding someone running a business on Lapp Road however, the letter was not signed.

#### **Councilman Peter DiCostanzo**

Councilman DiCostanzo has four applicants interested in the Planning Board position and three applicants for the TEQR Committee position.

The next Historic Preservation meeting is scheduled for March 3<sup>rd</sup>.

Councilman DiCostanzo will make a motion authorizing the Supervisor to sign an agreement with NYS Historic Preservation Officer for certification to participate in the National Historic Preservation Program.

Councilman DiCostanzo discussed the Clubhouse paintings with the Historical Society. The Historical Society would not agree to the selling of original paintings. The paintings are not the property of the Historical Society.

In speaking with the Director of Administration and Finance Pam Smith, Councilman DiCostanzo was informed as to how the fire companies are reimbursed. Pam Smith informed the Town Board that according to the contracts we have now, all the fire districts are to receive their budgeted money in one lump sum. Supervisor Bylewski stated that one of the checks goes to a fire district and by law we have to cut the entire amount.

The TEQR Committee has forwarded several recommendations from their meeting of February 25, 2008 meeting:

- To accept the Final Supplemental Environmental Impact Statement (FSEIS) for the proposed Spaulding Greens Open Space Design Subdivision as complete.
- Seek Lead Agency status and commence a coordinated review among involved agencies for the proposed Doodle Bugs Office Park located at 8574 Sheridan Drive
- Seek Lead Agency status and commence a coordinated review among involved agencies for the proposed Rockledge Professional Park located at 8175 Sheridan Drive.

Councilman DiCostanzo will make a motion to have the Planning Board review and recommend changes to the Zoning Law, Chapter 229, §229-49 known as lot area provisions as relates to incentive lot requirements and §229-106 as relates to incorporating the incentive lot provisions into this section.

**Senior Building Inspector David Metzger**

Senior Building Inspector Metzger stated that he is in the middle of an enforcement issue on abandon structures along Transit Road, several of the houses are on the Historic Preservation list. Since these homes are uninhabitable and pose hazards, he does not see a problem with getting them removed from the list.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to enter into Executive Session pursuant to § 105(1) F of the Open Meetings Law to discuss the employment history of several individuals and § 105(1) D of the Open Meetings Law to discuss pending litigation regarding EEOC matters. Upon roll call - Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 7:10 PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Bernard Kolber to adjourn the Executive Session at 7:26 PM. Upon roll call - Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held Wednesday, February 27, 2008 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:33 P.M. Pledge to the flag was led by Councilman Patrick Casilio, followed by a moment of silence in memory of our men and women serving overseas.

Members of the Town Board present were Councilmembers Joseph Weiss, Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Supervisor Bylewski. Other Town officials present were Director of Community Development James Callahan, Town Attorney Steven Bengart, Town Engineer Joseph Latona, Planner Brad Packard, Building Inspector David Metzger and Planning Board Chairman Gerald Drinkard.

Supervisor Bylewski said the minutes of the February 13, 2008 meeting were not ready for review and approval.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to award the contract for finish carpentry and millwork for the Town Park Clubhouse to FWS Custom Cabinetry and Millwork, LLC at their bid of \$17,500. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to authorize the Town of Clarence Baseball Association to install advertising signs along the outfield fencing at the following parks: Memorial, Sunset, Meadowlakes and Town Place for a period of one year to be renewed annually. The signs are to be white with green backing and are to be taken down at the end of the baseball season. Any existing signs that need replacement should conform to the color requirements. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to provide the \$750 longevity payment to William Richmond. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that there will be a special meeting held tomorrow, Thursday, February 28, 2008 at 3:30 P.M. for review of different committee appointments.

Councilman Weiss thanked everyone, on behalf of his family, who expressed their condolences in the recent passing of his mother. It was very much appreciated.

Councilman Weiss said they are working on plans for the fishing derby. It is going to be held around the second week in April for all children 12 years old and younger.

Councilman Weiss said there are plans in the making to hold a winter baseball game.

Councilman Weiss said he, along with Supervisor Bylewski, James Callahan and Joseph Latona have been attending ongoing meetings regarding consolidation of sewers.

Councilman Kolber said he will be making an appointing to the Library Board at the next meeting.

The Erie County Library system has appointed a new director. The circulation of the Clarence branch for 2007 was 285,000 items. There were also 136,000 patrons who visited the library over the last year, which was down slightly from the previous year.

Councilman Kolber said he received a communication from Time Warner that the check for the franchise fees should arrive in a few days in the amount of \$96,068.30.

He has received numerous questions about the senior discount. The contract does provide a discount for seniors at age 65 who are the primary resident to apply. They should call Time Warner. If there is a problem, they can call the town hall and leave a message for him.

Councilman Kolber said real property tax exemptions exist for certain agricultural buildings. There are procedures in place that can be done through the Assessor's office.

Councilman Casilio reported that we received quotes on the security camera system. He and the Supervisor are working on funding for the project.

Councilman Casilio said NYSEG will be replacing street lights over to high pressure sodium.

Motion by Councilman Casilio, seconded by Supervisor Bylewski to appoint Waterford Village Bank located on Main Street in the Town of Clarence as an additional designated depository for the Town of Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio reported that he attended the Association of Towns conference in New York and they were talking about regional growth. They also had County people come in and discuss the possibility of planning going through the County on a regional basis. There was also talk about it going to the State level. The City of Toronto was featured in the talk and when they regionalized, there was no cost savings at all. An example of what that would mean is applicants here tonight to have projects reviewed would probably have to go downtown in the afternoon to meet with the County to have their projects reviewed. If the State got involved, that could mean going to Albany. The feeling was that regionalism on certain levels may make sense, such as sewers, but not in all areas. You cannot get any closer to your government than coming here tonight rather than going to the county or state.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that upon recommendation from the Planning Board and pursuant to Article 8 of the Environmental Conservation Law, a Negative Declaration is issued on the proposed Frey's Old Time Furniture Addition. This Unlisted Action involves the issuance of a Special Exception Use Permit for the construction of an addition larger than 30,000 sq. ft. in the Commercial Zone at 9992 Main Street. After thorough review of the submitted site plan and Environmental Assessment Form by the Planning Board and Town Board, it is determined that the proposed addition is consistent with local land use regulations and will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that upon recommendation by the TEQR Committee and pursuant to Article 8 of the Environmental Conservation Law, the Town accepts the Final Supplemental Environmental Impact Statement (FSEIS) for the proposed Spaulding Greens Open Space Design Subdivision as complete. The Final SEIS has been developed from the previously accepted DSEIS and addresses issues identified in the public hearing held January 17, 2007, as well as further detailing potential traffic and school impacts. After thorough review of the submitted documentation, it is determined that the Final Supplemental Environmental Impact Statement shall be accepted and filed. On the question, Councilman DiCostanzo said this still will go to other involved agencies for comment. TEQR will then forward another recommendation. Supervisor Bylewski added that a Findings Statement would then be developed. James Callahan said findings from all involved agencies will be developed and coordinated through his office. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that upon recommendation by the TEQR Committee and pursuant to Article 8 of the Environmental Conservation Law, the Town of Clarence seeks Lead Agency status and will commence a coordinated review among involved agencies for the proposed Doodle Bugs Office Park located at 8574 Sheridan Drive. This Unlisted Action involves the development of an office park on 5.5 +/- acres in the Restricted Business Zone. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that upon recommendation by the TEQR Committee and pursuant to Article 8 of the Environmental Conservation Law, the Town of Clarence seeks Lead Agency status and will commence a coordinated review among involved agencies for the proposed Rockledge Professional Park located at 8175 Sheridan Drive. This Unlisted Action involves the development of an office park on 3.8 +/- acres in the Restricted Business and Commercial Zones. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to adopt the following resolution:

WHEREAS, the Town of Clarence has made application to the State Historic Preservation Officer for certification status to participate in the national historic preservation program; and

WHEREAS, the Town of Clarence has met the eligibility requirements as set forth in the “Procedures for the Certification of Local Governments” that are made part of the agreement; and

NOW THEREFORE BE IT

RESOLVED, that Clarence Town Board hereby directs the Supervisor Scott Bylewski to enter into and execute the agreement between the New York State Historic Preservation Officer and the Town of Clarence.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Supervisor Bylewski to have the Planning Board review and recommend changes to the Zoning Law, Chapter 229, section 229-49 known as lot area provisions as it relates to incentive lot requirements and section 229-106 as it relates to incorporating the incentive lot provisions into this section.

On the question, Councilman DiCostanzo said that as part of this referral the Town Board would request that the Planning Board also look at creating a mechanism and procedure for possible variances to the strict application of the open space and incentive lot requirements.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski thanked all department heads present for attending.

#### Public Participation

Marilyn Goris spoke regarding item 14 for a 7,500 sq. ft. office building at 4295 Harris Hill Road. In regard to the Zoning Law for a Traditional Neighborhood District, it states to encourage reuse of existing structures. There is a 7,200 sq. ft. building on the site. The proposed building also faces two fully residential streets with homes averaging 2,000 sq. ft.

Mrs. Goris referred to Master Plan 2015 in that it states the Traditional Neighborhood District of Harris Hill is unique and the Town should work to maintain this character. The Main Street corridor should be better defined to encourage smaller structures so as to not erode the character. It references maintaining the scale of the neighborhood, which this building does not.

Mrs. Goris said in her opinion the proposed building is not in compliance with the stated intent of the Master Plan or Zoning Law and she requests that the Town Board deny the application. She also suggested that the zoning abutting Oakwood and Nottingham be carefully reviewed.

Peter Cournan said they attended a presentation of the proposed 7,500 sq. ft. building with parking for 84 cars. He felt that the architect describing the project lacked understanding of the TND zoning as clearly indicated in the Zoning Law and Master Plan 2015. He referred to the project as a “fit” within the current zoning even though it does not meet the requirements of any zoning overlay that exists in the area of development.

Mr. Cournan said he has followed the many years of efforts to develop the Master Plan to serve in shaping the development of our town in such a way to insure that the best interests of the town and all property owners are considered.

Mr. Cournan read the TND Zoning as described on page 13 of the Master Plan.

Holly Cournan said the current and proposed usage in no way services the community. There is no residential component. It would hardly be described as a service and small retail type development. It appears to be a non-conforming use. When the zoning to TND occurred, this parcel became non-conforming by design and usage. Any further development of non-conforming design and usage is in violation of the zoning law.

Mrs. Cournan continued to refer to page 13 of the Master Plan saying that the Town should work to maintain the unique character of the Harris Hill area. They realized why the architect chose to dismiss the relevance of the Master Plan. Page 16 of the Master Plan discusses the additional pressures on north/south roads, especially Harris Hill Road. This section of Harris Hill Road is purely residential with old growth street trees and residential setbacks. It continues to say that the Town must be careful in approving land uses which could place heavier traffic volumes on Harris Hill Road.

Amanda Wolciechowski said this project is promising 40 new jobs and cars. Envision adding 40 more cars four times a day to wait at the intersection of Howard Drive and Harris Hill Road, let alone the potential for 84. This is unacceptable. Today is the day that the town must work to preserve the character.

The Master Sewer Plan states that it is a priority to service the Harris Hill area to solve a known pollution problem with on-site septic systems. She believes that 15,000 sq. ft. of office space and 84 parking spaces is not addressing the problem.

One area the Master Plan does not address is drainage. The Highway Department is constantly in the neighborhood alleviating ponding due to the failure of the injection wells. Additional demand on the sub-surface rock to carry this run-off will add to the present failures.

Mrs. Wolciechowski referred to page 23, Chapter V to preserve existing greenspace through the redesign of land use regulations and design guidelines, which includes discouraging small-scale buildings and preserving the character of the area.

Chapter X on page 39 discusses environmental resources – stream corridor preservation. Currently both storm water run-off and sewage run-off from the Harris Hill community are adversely affecting the streams. A project of this magnitude will increase this adversity. Chapter IX, page 35 refers to Adequate Public Facilities Requirements.

Mark Barone said in addition to the zoning questions, clearly the roads, water and sewer issues do not comply with the Adequate Public Facilities Requirements.

Mr. Barone read from page 34. He added that this is from Master Plan 2015, and the Harris Hill community clearly referenced here is looking for preservation of its unique inherited character. They ask that the Town Board enforces the Master Plan and it's relevance to the Zoning Laws and deny this project tonight.

Joseph Miano said he and his family have lived directly across from the site of the proposed project for 27 years. The rear corner of the 7,500 sq. ft. building would be approximately 65-70 feet from his front door.

Mr. Miano called attention to the gross misrepresentation of the area in the proposed drawings submitted by the Carmina, Woods and Morris Group. In showing the surrounding neighborhood of the proposed building, the homes are artificially placed and appear significantly larger in comparison. It also depicts a rather rural setting with 5-6 homes, when there are 15 plus on Oakwood Drive alone. The average home is 1,900 to 2,100 sq. ft. His home is portrayed as half the size of the proposed structure, when it is actually 2 ½ times the size of his home. The home adjacent to the property is only 1,100 sq. ft. and is depicted as half the size of the new building.

Mr. Miano presented a scale model that he made himself of the proposed building and surrounding neighborhood.

Mr. Miano said it is common knowledge that the corner of Oakwood and Nottingham floods significantly after a heavy rainstorm. This never occurred until the Lackawanna Products' building and parking lot were completed. He wonders what another large building and parking area will create. A detention pond to accommodate the two buildings on the site would be excessive in size and potentially dangerous for the neighborhood.

Mr. Miano said inserting a 75-80 vehicle parking lot in between these two large structures potentially creating unhealthy carbon monoxide and fuel emission conditions for the adjacent properties should be of great concern to all. He respectfully asked that the Town Board reject this project entirely. It is not important, nor does it serve the best interest of the neighborhood or the community.

Bob Altieri said he and his wife Susan have lived in this neighborhood for 30 years. Last year the Town Board asked him to put together a committee to work on restoring the entranceway from Main Street onto Nottingham Terrace and Oakwood Drive. The group is called the Morlando Committee, originating from the name that the developers gave to the neighborhood back in the 1930's.

The Committee has been hard at work planning and performing the clean-up and restoration to bring back the once beautiful sight as you entered the neighborhood.

Mr. Altieri said he believes the proposed office building is inappropriate for this park-like neighborhood. The intent of restoring the entranceway will be overshadowed by this commercial endeavor and negatively impact the neighborhood for years to come.

Anne Herman said the article in the Clarence Bee today stated that the adjacent neighbor to the project has not complained. She is that neighbor and she is complaining. No one has

contacted her. Her concerns are the same as everyone else. She likes the residential neighborhood and does not want to be next to a commercial property.

Marty Powers said he has lived in this neighborhood for 40 years. He believes that they have shown that this project is not just undesirable for their neighborhood; it is in violation of the very intent of the Town when the TND concept was introduced. It is excessive in size as defined by Master Plan 2015. It is totally out of scale for the private homes around it as specified in the Zoning Law for a TND. The entire project violates the provisions of the TND sections of the Master Plan. Increases in traffic in the neighborhood and adjoining school would be intolerable. Stormwater detention requirements may well exceed the size of the property. Harris Hill is one of the most polluted areas of the region. A responsible Board should not permit additional septic tank construction. The Morlando entrance envisioned would be destroyed by this project.

Mr. Powers asked the Town Board to reject the project out of hand. The developer has no respect for our community. Each member of the Town Board has spoken at one time to preserving the character of the Town.

His suggestion is to not set the precedent of allowing developers to submit non-conforming projects and then negotiating to get most of what they want. It wastes the time of the Planning Board, TEQR Committee and other committees who would have to spend time in the review process. The project should be rejected here tonight.

Barbara McCullough said her family has lived on Circle Court since 1954 and she resides there again. She asked the Town Board to review this project with a critical eye, maintain compliance with the zoning and to act with integrity and deny the request.

Jim Tuohy said this is clear strong evidence of the objection to this project. All of those who spoke against this project are Clarence residents. Those who spoke in favor are not Town residents and their concerns are business related. There are numerous reasons to reject this project here and now.

Tom Zeis said he had to get up and say something for the area. They are talking about 40 new jobs in this area, which is unheard of. The job he has at this company allows him to support his family. People are leaving the area because they cannot find work. It offers jobs and gives families a place to live. It seems like we are going in the wrong direction to throw these people out. They are trying to do everything to accommodate the Town and the neighbors. He wants to be the person in the Town to support it.

Chuck Eckert said he wants to support Hardee Brothers dry cleaning business that has been in Town for 16 years and would like to relocate their business. They have a good business with 10 employees and he asked that the Town Board take that into consideration.

Carolyn Dorigo said she is against the proposed office building in Harris Hill. There are plenty of empty buildings around that they could use and stay out of the neighborhoods.

Rebecca Cordaro said she wanted to address the Master Plan, but her concerns are all connected. She went to high school here and has left and came back. Every time she returns home, there is another ugly building in some awful place. She did not realize that we had a Planning Board because she cannot believe someone would plan some of these things, like Spaulding Lake hanging over the escarpment, Transit Road and Spaulding Greens. No one follows the Master Plan or none of this could be done. Why was the effort put into it if no one is going to follow it? If it is not enforced, it serves no purpose. You are supposed to be preserving open space and the character of the Town. It is illogical to approve these projects.

Ms. Cordaro said she attended a TEQR meeting and an attorney for Rubinos said he thought someone made a moral objection to something in his proposal. She believes everything everyone does is based on morals and ethics which impact everyone else. It is not just rules and plans. The Town Board was elected because people believed they had good morals and a good heart and she hopes that they follow that. Developers make thousands of dollars to make accurate presentations and she does not understand that they cannot even make a map right. She does not see how they could get anything else right or be trusted.

Monica Moshenko said she is a new resident and does not know all of the rules. She likes her residential neighborhood and asks that we do not let happen what has happened in Amherst.

A Public Hearing was held for the Annual Review of Master Plan 2015. James Callahan said any comprehensive community master plan requires regular review and revision to remain an effective guide for future land use decisions. The Town of Clarence established a policy to hold an annual public hearing to hear any comments on Master Plan 2015. This Plan identifies the community goals, objectives, the policies and includes comments to help guide future land development decisions. Any contemplated changes to the Plan should be well thought out and take into account all possible impacts on the community and the Plan.

James Callahan said that according to New York State Town Law, the Town's comprehensive master plan must be formally amended prior to implementing any change that is inconsistent therewith. The Town Board is ultimately responsible for any amendments to Master Plan 2015 through the process identified in Chapter 11 of the Master Plan.

The purpose of this public hearing is to identify the public's thoughts and concerns with the associated with the adopted Master Plan 2015.

Speaking to the subject:

Michele Panzer said she is a member of the Harris Hill Association and the Harris Hill Mother's Club. Through recent discussions, they feel that an error has crept into Master Plan 2015. The parcel of land at 4295 Harris Hill Road was included in the TND designation without regard that the rear portion fronting Oakwood Drive had been zoned Residential A. It was zoned Residential A at the time of the last sale in April 2004. The designation was changed in 2005 to TND and they believe it was an oversight. This would be a good time to change this oversight.

Roy Jordan said he is proposing an amendment to an 8-acre parcel at 6031-6051 Transit Road. Presently, 4 acres are zoned Major Arterial and the other 4 acres are Residential Single Family. They are proposing to rezone all 8 acres to Commercial to allow for an office park. They believe it would enhance the area by not allowing a big box type development. They have a positive response from most of the stakeholders in the area.

Dan Cariglia said the homeowners from Woodbridge Village, which is directly behind Mr. Jordan are in favor of his proposal for rezoning.

Councilman Casilio asked that he submit a letter from the homeowners association with signatures.

Mike Metzger, Metzger Civil Engineering was present with members of the Deni family. The Deni family owns approximately 200 acres within the quadrant bounded by Shimerville, Greiner, Harris Hill and Roll Roads. They have been discussing what they might do with this property and looking at their future interests.

They are requesting that the northwest portion of the quadrant, which is zoned business park, an additional 16 acres be added for a future business park opportunity.

The second area is currently shown for residential use and bounded on the north by business park land. To the south of this area across Greiner Road is shown as commercial use. This would open up potential future business opportunities for the property.

Mr. Metzger said he would like to talk about the clear and valid reasoning for these considerations. In regard to expanding the commercial area, it would provide a natural transition. There are areas where the Master Plan would support this decision. The reference encourages businesses and business parks in the area of Harris Hill and Roll.

A sanitary sewer extension to that area is also encouraged. There is the long term goal for the Heise-Brookhaven extension from the Peanut Line along Harris Hill Road to Main Street to serve the Harris Hill area. Another goal is to encourage sustainable business tax base, which this would do.

Mr. Metzger said other reasons for such a change in this area is that by infilling between the business and commercial areas takes some of the pressures of added residential development away and turns it toward commercial. It would also provide protection for the existing residential uses in the area. They feel it is a logical extension and ask for the Town's serious consideration.

Councilman Weiss said he would just like to make sure that it is congruent with the discussions they have had regarding the sewers. It seems to fit into the plan to get sewers to where they are needed.

Councilman Casilio asked if the Deni family owned the houses along Harris Hill and they do not.

Peter Sorgi said he is present for the Extra Mile Transportation item, but someone spoke about down-zoning the subject property. The record does not show that there was an error or oversight made. The Master Plan was enacted and reviewed on an annual basis. The easiest thing to do tonight is what everyone is screaming at you to do. It is consistent with the comprehensive plan.

Sean Hopkins was present with Andy Hunt to represent Berkshire Development off Transit Road near Miles Road. They are asking that the Major Arterial zoning line be moved 383 ft. east. The front portion is Major Arterial and the remaining 24 acres is Residential Single Family. In exchange for that, they would be willing to deed restrict the remaining 16 acres as permanent open space. As it stands, it could be residentially developed. This project is conceptual and is being mentioned because it is the only opportunity to ask for consideration of a zoning change during the Master Plan review.

Andy Hunt said he would be a local partner to Berkshire Development who has done this successfully in other areas. It is specialty high-end retailers only suited for this area because of the income demographics and traffic to support it.

Sean Hopkins said he went through the Master Plan and feels that this project would meet the goals set forth. At least 50% of the site would be permanent open space including along the frontage on Transit Road. There would be no access to Miles Road. It would add to the commercial growth and the tax base.

Mr. Hopkins said the Master Plan is not just the document itself. It includes history of the land use decisions that have been made. There is case law that states changed circumstances warrant an amendment to the comprehensive plan. They are asking that this be referred to the Planning Board for consideration. They understand that this project would have to go through the entire review, but this is the first step to consider. Mr. Hopkins submitted a letter to the Town Board.

Supervisor Bylewski acknowledged receipt of the letter and map from Mr. Hopkins dated February 27, 2008. They also received a letter from North Forest Office Providers dated January 31, 2008 from Roy Jordan; and a letter from Metzger Engineering dated February 27, 2008.

Supervisor Bylewski said we have also received, as part of the annual Master Plan review, the fiscal impact analysis of the 2007 land use permits. There were 76 commercial and industrial permits issued with a total added land value of \$19,281,275 or \$49 per square foot. The net revenue from the new development would be approximately \$520,594. It is a significant increase in value from last year by roughly 30%.

We issued 103 new single family building permits in 2007 with 37 outside approved subdivisions. The overall net impact was \$1,836 per average unit. The overall development that has occurred in the Town, according to the fiscal impact models has been positive as we have been adhering to the Master Plan.

Michele Panzer said the reason they believe there was an error at 4295 Harris Hill Road is that there are two other properties within two blocks that are both on Main Street, they were changed to TND along Main Street and the rear was changed to Residential facing Oakwood Drive. This would be inconsistent and they feel the other two properties set the precedence.

Renee Desai said she has attended these meetings for more than a decade. She has seen all kinds of builders come before the Board wanting this and that. She is very grateful that we have the Master Plan that has served the interest of the Town and the residents. Many times developers come and ask for exceptions, some granted and some not. Now they are asking to change the Master Plan and she does not feel that is right and she objects to it.

With no one else speaking to the subject, motion was made by Supervisor Bylewski, seconded by Councilman Casilio to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to refer all of the comments made at the Public Hearing, including written comments submitted, regarding the Annual Master Plan Review to the Planning Board for further study and review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Hardee Brothers Dry Cleaners requests a Change-In-Use and a Building Permit to relocate the existing dry cleaning operation to a new location at 8584 Main Street. James Callahan said the location is the north side of Main Street, east of Harris Hill Road consisting of approximately one acre in the Traditional Neighborhood District. The applicant is seeking approval to move to this location and to build an addition on the existing building.

Harry Feldmeyer said he is one of the owners and they have been at the current location for 16 years. They have 10 employees and would like to stay in Clarence. They lost the lease at the current location.

James Callahan said the front portion is brick and the addition would have vinyl siding. These are acceptable materials. It should also go to the Landscape Committee for review.

Councilman Weiss said he would like to see a little more brick on the side of the addition. He does not want to see a major expense, just to make it look a little bit nicer. Councilman Kolber suggested brick up to the windows on the east and west sides of the building. Mr. Feldmeyer said that would be fine.

Motion by Councilman Casilio, seconded by Councilman Kolber to grant a Change-In-Use and a Building Permit to relocate the existing dry cleaning operation to a new location at 8584 Main Street with additional brick up to the window sills on the east and west sides of the addition, and subject to Landscape Plan approval. On the question, Councilman Kolber said he feels it will enhance the addition and improve that area. Upon roll call – Ayes: All; Noes: None. Motion carried.

First Presbyterian Church requests Development Plan and Architectural Approval for construction of an addition to the existing church at 9675 Main Street. James Callahan said the location is the south side of Main Street, east of Gunnville Road consisting of approximately 5.5 acres in the Community Facilities Zone. The applicant is proposing expansion per the submitted plan and design. A Negative Declaration was issued. Concept and Development plans have been recommended for approval by the Planning Board with conditions for landscape approval and engineering approval.

Don Albrecht, architect and members of the building committee were present. They have been working on this for over a year to provide the needed additional space for the church.

Motion by Councilman Kolber, seconded by Councilman Weiss to grant Development Plan and Architectural Approval for construction of an addition to the existing church at 9675 Main Street, subject to Landscape Plan approval and any conditions set by the Town Engineer. Upon roll call – Ayes: All; Noes: None. Motion carried.

Steve Carmina for Extra Mile Transportation requests Preliminary Concept Review of a proposed new office building at 4295 Harris Hill Road. James Callahan said the location is the east side of Harris Hill Road to the west side of Oakwood Drive consisting of approximately 2.2 acres in the Harris Hill Traditional Neighborhood District. The property was rezoned to TND on March 9, 2005.

Peter Sorgi said the building is 9,500 sq. ft. on a footprint of 7,500 sq. ft. There is a second floor loft space in the center of the building. He presented a letter to the Town Board

Steve Carmina, architect was also present.

Supervisor Bylewski said a letter was received from James Ieda of Howard Drive in favor of the project.

Peter Sorgi said they are asking that this proposed project be referred to the Planning Board so that they could go through the process. The project has changed dramatically since it was first proposed in response to the concerns. This is infill development as described in the Master Plan. It is smart growth development because it does not require added infrastructure. It is consistent with the Master Plan.

Town Law states that zoning must be consistent with a comprehensive plan. This project is also consistent with the TND zoning. Mr. Sorgi referred to page 13 of Master Plan 2015 where it states that new buildings are permitted. They believe that it meets the proper architectural style.

Steve Carmina said the Town knows that they are an ethical firm and they do not make things up. They try to construct a plan that is accurate as possible. When they first met with the client they suggested reducing the size from 10,000 sq. ft. They created great setbacks to allow for greenspace around the building and moved it to the north as much as possible. There are no walkways or access ways from the adjacent residential area. The eave height is similar to those

of the homes in the neighborhood. The sides are lower than the residences. The mechanicals on the building are hidden.

Peter Sorgi said they would like to move forward to the Planning Board. They have followed the requirements to be consistent with the TND in the zoning code and the Master Plan. There is no parking that abuts Oakwood. The building has been designed to be part of the residential district.

Supervisor Bylewski asked what uses are allowed according to the Zoning Law for a TND. James Callahan said personal service shops, small retail shops, banks, mixed use buildings, community facility, second floor multi-family, professional office, diner, small restaurant, churches, single family residences, two family residences and bed and breakfast are allowed uses.

Supervisor Bylewski said a concern he has had from the beginning is the setback line. The building appears to encroach on the setback line.

Peter Sorgi said it is different than what is there, but it does comply with the zoning code. They are here tonight about process to be referred so that these things can be discussed further.

Supervisor Bylewski asked where they propose to have the septic system. Mr. Sorgi said they would replace the existing system along the north side of the existing building on the site. They feel comfortable that they can get Health Department approval.

Supervisor Bylewski said in regard to the neighbor to the south, she would be looking right to the entrance of the building as she entered her home. Mr. Sorgi said they had not heard from her until tonight. They acknowledge her complaint and will address it.

Councilman Kolber asked why the building could not be moved to another area of the site, away from the residential neighborhood. They could keep a park-like buffer toward the residences. Mr. Carmina said it will not fit that way and the parking would have to be along the street. He believes from a planning standpoint that this is the best location.

Councilman Weiss said he believes the residents spoke very clearly tonight and he was impressed by the research that they had done.

Motion by Councilman Weiss, seconded by Councilman Kolber to adopt the following resolution:

WHEREAS, Extra Mile Transportation has submitted an application for Approval of a Proposed New 9,500 square foot Office Building at 4295 Harris Hill Road, and

WHEREAS, per the Town of Clarence Zoning Law, the Town Board has discretionary authority to approve uses in the Traditional Neighborhood District, and

WHEREAS, the proposed office building will be located to front along Oakwood Drive, a long standing residential street within the Harris Hill Gardens Residential Subdivision, and

WHEREAS, a new 9,500 square foot office building is completely out of character with this long established residential neighborhood of 2,000 square foot 1950's vintage homes, and

WHEREAS, the applicant purchased this property on 4/26/2004 and the zoning along the Oakwood Drive frontage was residential single-family, and

WHEREAS, the Town of Clarence amended the Town Zoning Map on 3/9/2005 to make all of this property at 4295 Harris Hill Road Traditional Neighborhood District (TND), and

WHEREAS, at the time of purchase of this property the applicant had no predetermined approval that an office building would ever be allowed, and

WHEREAS, the TND will allow for the development of a single-family home that will better match the character of the long standing residential community and grant the property owner an acceptable return on the land investment that is consistent with the factors that existed at the time of original acquisition of the property, and

WHEREAS, the Harris Hill area is a known pollution area, as identified in numerous studies and documented in the Town of Clarence Master Plan 2015 and associated Master Sewer Plan, and

WHEREAS, additional septic system development without adequate land to support proper leaching in this area is in contravention to Master Plan 2015, and

WHEREAS, the proposed setback for the Proposed new Office Building does not match the existing front setback line as established by the long standing adjacent homes, and

WHEREAS the setbacks as proposed for the new office building will have a significant negative impact upon the adjoining residential property owner by destroying the ability to quietly enjoy their residential yard, and

WHEREAS, one of the primary goals of Master Plan 2015, is to protect the existing residential character of the community as well as individual residential properties from inconsistent development,

NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board determines that the proposed Extra Mile Transportation Office Building located at 4295 Harris Hill Road, is designed and located so as to be in contravention to the adopted Master Plan 2015 and is denied.

On the question, Councilman Kolber said he fully supports business in Clarence. However, the size and location of this building overwhelms the adjacent neighborhood and is not in character with the aspects of the TND.

Peter Sorgi said it was suggested that the building be moved closer to Harris Hill road or in line with the setback of the adjacent home. He would like to go back to the law. Part of the referral process is to refer it on with these suggestions. They believe they could possibly move it back, though they may lose some of the parking. He questions the resolution in that it states that the use is not allowed and the setbacks are illegal.

Town Attorney Steven Bengart said the resolution speaks for itself. He assumes that Councilman Weiss would like to incorporate all of the discussion and comments made during public participation in making this decision. Councilman Weiss said yes.

Peter Sorgi said they would encourage every comment be made part of record because you cannot deny something due to community pressure.

Supervisor Bylewski said the resolution speaks for itself.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Ralph Fink spoke regarding water in his basement on 8947 Candlewood Lane. This is their 31<sup>st</sup> anniversary of a flooded basement. His question is what can be done. When they have a flood it is clear water and he believes it is coming from underneath his house. They broke the clay cap when they moved his foundation further back from the road. There was a flood in the basement the first day they moved in.

Mr. Fink has put in two pumps to get the water out and they cannot keep up. He presented pictures of the water around and inside his home. His concern is the property behind him has been subdivided and where will the water go. About 25 years ago a receiver was put in and it took some of the water out of the back field, but did not relieve the problem from underneath.

One of his neighbors raised their house three feet and another one lives with the problem.

Joseph Latona said there is surface water that runs from the back field. They have tried to re-channel that, but the ground water is very difficult to control.

Councilman Weiss said he has a similar situation and put in two sump pumps and a 200 gallon cistern to pump the water. It is because of the way the water table is and that is what he had to do. It works great.

Mr. Fink said he has been getting promises from the Town for 31 years that they would take care of it. He does not feel that he should have to bring in private consultants when the problem was created by the Town. When the house was built the foundation was at the proper level. The Town Engineer at that time came out and said they had to go back further and deeper and then they broke the clay cap. He knows this because his patio has sunk 12 inches behind his house. Now there are different laws to address this type of problem.

Supervisor Bylewski said he would like the Town Engineer to take a look at this situation to see what the Town's responsibility is regarding it. This is the first time that this Town Board has heard about it.

Motion by Councilman Weiss, seconded by Supervisor Bylewski to approve the following: Clubhouse Applications – A. Girl Scouts – May 1, 2008; B. Clarence Garden Club – May 21 & June 18, 2008; Legion Hall Applications – A. Kristie Lindauer – March 7, 2008; B. American Legion Auxiliary – March 25, 2008; C. Melissa Marino – March 30, 2008; D. CSEA Blue Collar – Apr 16, June 10, Aug. 12, Oct. 21 and Nov. 21, 2008; E. Judy Williams – April 19, 2008; F. Doug Curella – June 7, 2008; Park Pavilion Special Requests – A. Clarence Hollow Association – May 26, 2008. On the question, Supervisor Bylewski said the standard disclosure that they are also members of various organizations that may be listed such as Clarence Hollow Association, however this is ministerial and they will be voting. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo that after proper audit and review by the Town Board, the following bills of February 21, 2008 are approved for

payment: General Fund - \$177,541.89; Highway Fund - \$93,831.55; Water District - \$1,903.71; Fire District - \$1,193,407.85; Lighting Districts - \$1,092.43; Sewer Districts - \$38,093.57; and Trust & Agency 203 - \$69.96 for a total amount of \$1,505,940.96. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Krista Swann said she has been a resident for 13 years and is a vice president with M&T Bank. She previously sat on the Traffic Safety Board and now has submitted an application for the alternate to the Planning Board. She appreciates the traditions and cultural history of Clarence. She is also open to the expansion that will further advance Clarence. She wanted to introduce herself and let the Board know that she is eager to participate.

There being no further business, Supervisor Bylewski adjourned the meeting at 10:03 P.M. in memory of Msg. Raymond Paa, former pastor of Nativity Church and Councilman Weiss’ mother, Gladys Weiss. Councilman Kolber also added Ben Kantorski, a good friend of his as well as a long time resident of the Town of Clarence.

Nancy C. Metzger  
Town Clerk