

A Work Session of the Clarence Town Board was held on November 19, 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 Planner Brad Packard, Town Attorney Steven Bengart, Assistant Town Engineer Tim Lavocat and Planning Board Chairman Gerald Drinkard

Supervisor Bylewski requested \$30 from each Department Head and Town Board member for the Christmas luncheon on December 18th. The luncheon is provided by department heads and the town board for all town employees wishing to attend.

Director of Community Development – James Callahan

Public Hearings:

Henderson/S & S Construction 9065 Wolcott Road

A public hearing is scheduled for 7:45 PM to consider a Special Exception Use Permit for a secondary living unit at 9065 Wolcott Road. The proposed site is located on the south side of Wolcott Road, west of Goodrich Road in an existing single-family residence located in the Agriculture Flood Zone. Applicant is proposing to add a second story to create an in-law apartment on existing ranch home. All conditions as required by the Secondary Living Unit section of the Special Exception Use Permit section of the Zoning Law must be met.

Towne BMW/Mini 8215 Main Street

A public hearing is scheduled for 7:50 PM to consider a Temporary Conditional Permit at 8215 Main Street to allow for display of a Mini-Cooper replica on the roof. The proposed site is located on the south side of Main Street, east of Transit Road at the existing automotive sales facility located in the Commercial Zone. A previously issued building permit conditioned construction on removal of a roof display. Previous conditions as established by the Town Board would need to be amended.

Aegis Development/Dan Furmanek 8230 County Road

A public hearing is scheduled for 7:55 PM to consider an Open Space Design Subdivision at 8230 County Road. Applicant is seeking concept approval on a 35-lot Open Space Design Subdivision located on the north side of County Road, east of Stahley Road on existing vacant land consisting of 19+ acres in the Swormville TND. The proposed Open Space Design Subdivision was originally introduced to the Town Board on 12-20-06. A density yield of 35 units was established on 2-17-07. A Negative Declaration under SEQRA was issued on 5-28-08. Per the Subdivision Law, the Town Board has final authority to approve concept plans after a required public hearing. The Planning Board has forwarded a recommendation on the concept plan with conditions.

Formal Agenda items:

Rubino Brother's Shimerville & Clarence Center Road

Applicant is seeking a detailed determination under SEQRA as ordered by the courts to proceed with an Open Space Design Subdivision. The proposed site is located on the west side of Shimerville Road, south side of Clarence Center Road on existing vacant land consisting of 28+/- acres in the Residential Zone in Clarence Sewer District #6. Per TEQR and SEQRA, the Town Board is Lead Agency on the project. The matter has been referred back for further proceedings and the creation of a record which documents or at best, comments on the significant verbal and documentary evidence offered by the Petitioners.

Elliot Lasky/Roxberry Subdivision – Gentwood Drive extension

Applicant is seeking Final Development Plan approval on the previously reviewed design for a 19-lot extension to Gentwood Drive. The proposed site is located on the west side of Gentwood Drive, north of Main Street, east of Eastern Hills Mall on existing vacant land for which Development Plan approval was recommended by the Planning Board in 2000. Per the Subdivision Law, the Town Board has final authority to approve Development Plans. Per mutual agreement, the applicant delayed in pursuing Development Plan approval for this subdivision to allow the Town to pursue development of a commercial corridor to allow

commercial uses along the east side of the Eastern Hills Mall. This would provide a better transitional use to the long existing residential homes to the east. Assistant Engineer Tim Lavocat stated that on May 7, 2004 his office did a detailed technical review of the plans for Phase II and Phase III of Roxberry which was the Gentwood Drive extension and Stable Court. The Engineering Department has never received a response or revised plans addressing any of their comments so they have not issued a technical recommendation on the plans. **(For the record, Councilman Casilio left the meeting during discussion of this project and will recuse himself from voting on this agenda item. His private residence backs up to this proposed development).**

Margaret Kiesel 5145 & 5175 Harris Hill Road

Applicant is proposing to develop an additional residential structure. The proposed site is located on the east side of Harris Hill Road, south of Greiner Road. Existing day care facility located on 6.5+/- acres. Two previous splits of the parent parcel created 1-acre lots for duplexes. As the property has no additional frontage lots available, the only option available to the owner is for an approval for an Open Development Area. There exists adequate lot size to create an open development lot however the existing duplex lots would not be in conformance with new regulations. The existing road specifications are not to current specifications.

Work Session items for consideration December 3, 2008:

Brookfield Flying Club 8600 Roll Road

Applicant would like to continue the private club to allow for radio controlled airplanes to fly in this area. The proposed site is located on the north side of Roll Road, east of Harris Hill Road on former Gypsum landfill. The property is located within the Industrial Business Park Zone. Per the Zoning Law, the Town Board has the authority to approve uses in the Industrial Business Park Zone. Complaints from adjoining land owner have necessitated the notice of violation for continuing a use without appropriate use permits.

Master Plan 2015 amendments – Transit Road Corridor Segment B

Proposed amendments to Transit Road Corridor were developed by the Planning Board after comments received at the annual public hearing on Master Plan 2015. The Town Board adopted recommendations as forwarded by the Planning Board for which a Negative Declaration under SEQRA was issued except for Segment B which was referred back to the Planning Board for review and comment due to the introduction of new information received at time of adoption of recommended changes. Currently the frontage along Transit Road is zoned Major Arterial to a depth of 500+/- feet and the rear portion is zoned Residential Single-Family. Proposed amendments as forwarded by the Planning Board would maintain the same depth of commercial zoning and downzone from Major Arterial to Commercial and maintain the rear as Residential Single Family. Per Master Plan 2015, the Town Board has authority to adopt amendments to the plan per Chapter 11 as adopted.

The Planning Board has forwarded a recommendation that consideration of new information, not received at the annual public hearing on Master Plan 2015 would violate adopted process. The Planning Board has forwarded a recommendation to downzone Segment B from Major Arterial to Commercial and maintain the same depth of commercial zoning as currently exists and as previously recommended.

Dan Gearsig 8075 Salt Road

Applicant requests minor subdivision approval for the creation of an additional residential building lot at 8075 Salt Road.

Supervisor Scott Bylewski

Supervisor Bylewski request each Town Board member speak with their various liaison assignments and request letters of intent from anyone seeking reappointment to the various boards and committees.

Information regarding the Association of Towns was circulated. Anyone wishing to attend should contact the Supervisor's office.

The public input meeting regarding the Parks and Recreation Mini-Master Plan is scheduled for December 9th at 6:45 PM in the Clubhouse.

The December 3rd Work Session will begin at 5:30 PM. There is a request to go into Executive Session to discuss a corporation.

The December 17th Work Session will begin at 5:30 to discuss LOSAP.

Supervisor Bylewski will appoint Sue Powers to the Ethics Board to fill Steve Murtaugh vacancy.

Supervisor Bylewski has one item to discuss in Executive Session regarding the employment history of a particular person as well as one Attorney-Client item to discuss.

Councilman Joseph Weiss

Councilman Weiss will appoint several individuals to the Winter Recreation program.

Town Engineer Joseph Latona is requesting a transfer of funds.

Councilman Weiss will make a motion authorizing the Supervisor to sign the Letter of Commitment accepting the proposal entitled Lean Six Sigma Training and Implementation with the UB Center for Industrial Effectiveness subject to Town Attorney review and approval.

Councilman Bernard Kolber

Councilman Kolber will make a motion to adopt a resolution requesting that County Executive Chris Collins and the Erie County Legislature restore funding to the Cooperative Extension and Erie County Soil & Water Conservation District to their 2008 funding level.

Councilman Kolber will attend the Clergy Association meeting scheduled for December 10th at 12 noon at St. Mary's.

Councilman Kolber has one item to discuss in Executive Session regarding the employment history of a corporation.

Councilman Patrick Casilio

Senior Building Inspector David Metzger has been in contact with Councilman Casilio regarding avoidable alarms. He is trying to get someone appointed to the Avoidable Alarm Committee before the end of the year.

Councilman Casilio announced that all the local fire departments are doing a "walk through" at the Staybridge Motel on Sheridan Drive. Last week they did a "walk through" at the Wilson Greatbatch facility as well.

Councilman Casilio and a representative from Cedar Path did a video camera test. The Highway Department and Parks Department also helped. Councilman Casilio is waiting for the results of the test shots.

Councilman Casilio has contacted the Traffic Safety Board and asked them to review and comment on the request by several residents regarding a crossing guard on Transit Road at Transit Middle School. Councilman Casilio will contact the Williamsville School Superintendent as well.

Councilman Casilio thanked the Parks Department for installing the Christmas decorations in Clarence Hollow.

Councilman Casilio talked to a representative from Grand Island regarding their Noise Ordinance. They do not have a 24-hour stationary machine to monitor noise as was previously reported to the Town Board. They do however have a very expensive hand-held monitor they seldom if ever use it.

Councilman Casilio has one item to discuss in Executive Session regarding the employment history of a particular person.

Councilman Peter DiCostanzo

Town Assessor Christine Fusco is requesting a one year extension to comply with the provisions of the Clarence Town Code residency requirements.

Councilman DiCostanzo has several corrections to the minutes.

At the request of the Town Board, several stop signs have been removed at the Shops at Main-Transit and changed to cross walks. Councilman Casilio commented that he would like to see the snow plow equipment moved to the back of the plaza, he will contact the attorney that represents the developer.

Director of Community Development James Callahan will be the guest speaker at the Clarence Hollow Association meeting on Thursday, November 20th at the Asa Ransom House.

Councilman DiCostanzo has one item to discuss in Executive Session regarding the employment history of a particular person and two Attorney Client items to discuss.

Councilman Weiss asked Town Attorney Bengart to send a follow up letter to the Army Corp of Engineers regarding the installation of drain tile in the wet lands off Kraus Road by Mr. Cimato. Mr. Cimato was instructed to fill in the drainage area he created however Councilman Weiss feels the Army Corp of Engineers should revisit the site to determine that the restoration activities were performed correctly. Assistant Engineer Tim Lavocat stated that his office will visit the site to be sure that the situation has been satisfactorily rectified.

Assistant Town Engineer Tim Lavocat

Assistant Engineer Tim Lavocat has two resolutions for Sewer District #9 for two additional sewer projects on the south side of Main Street for 7000 lineal feet of sewer. Two proposals were received for design and bidding from the consultant we had on the past projects. Those projects were very successful, finished on time, under budget and had no extra costs. The proposal from Don Gallo came in at \$130,000 for design and bidding. Mr. Lavocat stated that this was put out to bid and he received the lowest proposal from Don Gallo.

The Community Center Committee held interviews last week with several architectural firms and has decided to conduct further discussion with the DeWolfe Partnership Group to develop a scope of work and also negotiate a fee schedule for the two phases of planning and schematic design for the community center.

Town Attorney Steven Bengart

Town Attorney Bengart has one item to discuss in Executive Session regarding proposed acquisition of real property.

Motion by Supervisor Scott 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 a particular person(s), the employment history of a particular corporation and §105 (1)H the proposed acquisition of real property when publicity would substantially affect the value thereof. On the question, James Callahan, Brad Packard, Tim Lavocat and Gerald Drinkard were asked to stay for the meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:35 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:29 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, November 19, 2008 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:35 P.M. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by a moment of silence in honor and memory of our fallen service men and women.

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, Asst. Town Engineer Tim Lavocat, Planner Brad Packard, Building Inspector David Metzger and Planning Board Chairman Gerald Drinkard.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous meeting held October 8, 2008 as received. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous budget meetings held October 9, 16 and 23, 2008. On the question, Councilman DiCostanzo said the minutes of October 16, 2008 in the second paragraph from the bottom – should read “our existing Greenprint program” instead of out. The October 23, 2008 minutes, second last paragraph – DiCostanzo is misspelled. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Supervisor Bylewski to accept the minutes of the previous meeting held October 22, 2008. On the question, Councilman DiCostanzo said on page 334, the last paragraph – the single family dwelling statistics were year-to-date figures and not for the month of. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski reminded everyone that anyone up for reappointment to a board or committee, or anyone interested in serving on one next year, should fill out an application. Applications are available on the website or at the Supervisor’s office.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to appoint Susan Powers to fill the vacancy left by Stephen Murtaugh on the Ethics Board with term to expire 12/31/2009. On the question, Supervisor Bylewski said this appointment fills the Ethics Board and we are in compliance with the mix and makeup of the members on this board. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Casilio to authorize Supervisor Scott A. Bylewski to sign the Letter of Commitment accepting the proposal entitled Lean Six Sigma Training and Implementation with the UB Center for Industrial Effectiveness subject to Town Attorney review and approval. On the question, Councilman Weiss said this program is similar to what is being enacted by the County. We feel this will be a good management tool. Supervisor Bylewski added that we looked at providers and UB seemed to be the most appropriate. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Supervisor Bylewski to appoint the following as supervisors for the Winter Recreation Program at the budgeted rate of pay: James Ferguson, Ronald Kiener, David Levan, Michelle Orvis, Paul Zoratti and Jenna Snyder. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to approve the following transfer of funds in the Engineering accounts: \$300 from A3620.407 Safety Equipment with \$100 going to A3620.419 Maintenance Material and \$200 going to A3620.471 Training. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said the County has asked us to get the word out that Santaland is returning to Chestnut Ridge Park. They are looking for volunteers to help out at this event. If anyone is interested they can contact Phil Hahn at 675-3622. The dates of the event are Dec. 6, 7, 13 & 14, 2008 from 10 am to 4 pm.

Councilman Weiss said he just returned from a trip to China. He saw many interesting things about the country. He did not see one chief's truck in all of China and the teacher to student ratio was one teacher to 45 – 65 students with no discipline problems. It is a fascinating place and he was amazed at the infrastructure and the building going on.

Supervisor Bylewski said we are looking at revamping the chairs in the auditorium that have been here since the early 70's. There are a few samples along the side and he welcomes thoughts and comments from the public.

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

WHEREAS, the Town of Clarence supports the agricultural industry, the protection of farmland and efforts to prevent erosion and other problems in rural parts of Erie County; and

WHEREAS, the Cooperative Extension and the Erie County Soil & Water Conservation District provide important services to the communities in Erie County which services are key to maintaining the economic and environmental health of the communities, and

WHEREAS, the Clarence Town Board has been advised that the proposed budget submitted by the Erie County Executive Chris Collins provides no funding for these organizations for 2009; and

WHEREAS, the loss to the Towns as a result of not funding the Erie County Soil & Water Conservation District would be devastating to their mitigation efforts and other portions of rural Erie County would also be severely impacted as a result in the loss of funding of both the Cooperative Extension and the Erie County Soil and Water Conservation District; and

WHEREAS, the loss of Erie County funding to these organizations would result in the loss of other funding to these same organizations from both the State of New York and the Federal Government greatly magnifying the loss.

NOW, THEREFORE, BE IT

RESOLVED, that for the reasons outlined above, the Clarence Town Board requests that County Executive Chris Collins and the Erie County Legislature restore funding to the Cooperative Extension and Erie County Soil & Water Conservation District to their 2008 funding level; and be it further

RESOLVED, that the Clarence Town Board directs the Clarence Town Clerk to forward a certified copy of this resolution to County Executive Chris Collins, the Erie County Legislature, the Erie County Commissioner of Environment and Planning, the New York State Department of Environmental Conservation, the President of the Erie County Farm Bureau, and the Town Clerks of the Towns of Alden, Amherst, Aurora, Boston, Brant, Cheektowaga, Colden, Collins, Concord, Eden, Elma, Evans, Grand Island, Hamburg, Holland, Lancaster, Marilla, Newstead, North Collins, Orchard Park, Sardinia, Tonawanda, Wales and West Seneca.

On the question, Councilman Kolber said the proposed budget cuts out about \$300,000 from the Erie County Soil and Water Conservation and the Cooperative Extension budget which funds many organizations including 4H. We still have active agricultural efforts going on in the Town. This is a great loss of money that is well spent.

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

Councilman Kolber reminded everyone of the Clarence Chamber of Commerce Annual Awards Dinner coming up on January 22, 2009 at Samuel's Grand Manor to honor the 2009 recipients.

Councilman Casilio announced that the meeting with the LOSAP representative for the fire companies will be held on December 17, 2008 at 5:30 p.m.

Councilman Casilio said they tested the radio and camera system for the bike paths yesterday from various locations. We hope to move on the installation before the end of the year.

Councilman Casilio said the WNY Event Center and the Erie County Sheriff's Association are sponsoring a memorial walk in his father's name on November 28th. Money raised will go to the Erie County Foundation and in turn help fund additional cameras for our bike trails.

Councilman Casilio said due to increasing fuel costs, propane has almost doubled. As a result we have had several requests for natural gas services in the outlying areas. In addition to

the Salt Road area, we have received a request from the Tonawanda Creek Road and Heroy Road area. The cost of installing the lines is on the residents in the area and not by the Town. We are not in the utility business.

Motion by Councilman Casilio, seconded by Councilman Kolber that the Clarence Town Board supports the homeowners' request of National Fuel to extend natural gas service from the existing location on Tonawanda Creek Road that would include Heroy Road. On the question, Supervisor Bylewski said we passed a similar resolution for the Salt Road residents. Councilman Casilio said residents usually pay for the extension on a 10-year plan. This would end up being cheaper for the customers. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said the Public Safety Committee has been asked to contact the DOT for an opinion about the possible addition of crossing guards for the Transit Road Middle School. We have received a request from residents on Kippen Drive. They will also look at the possibility of a bridge over Transit. He will contact the superintendent of the Williamsville School District to get his opinion.

Councilman Casilio thanked the Clarence Hollow Association and the Parks Department for installing the Christmas decorations in the Hollow.

Councilman Casilio said he will recuse himself from discussion and decision regarding item 15. This project is literally in his backyard and according to our Ethics Code, he must recuse.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss to grant Christine Fusco, assessor, a one year extension to comply with the provisions of the Clarence Town Code – Residency Requirements, from December 1, 2008 to expire on November 30, 2009, provided that Ms. Fusco report quarterly to the Town Board on the progress for completion of the home she is building in the Town of Clarence. This extension may be withdrawn by the Clarence Town Board at anytime during the one year extension at the discretion of the Board. There will be no further extensions granted.

On the question, Councilman DiCostanzo said Ms. Fusco has purchased a lot in the Town of Clarence and is in the process of building a home. A tentative date for completion is February 2009.

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

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that pursuant to Article 8 of the Environmental Conservation Law, and upon the recommendations of the TEQR Committee, the Clarence Town Board issues a Negative Declaration on the proposed home demolition located at 8196 County Road. This local Type I Action involves the demolition of a single-family residence more than 50 years old. After thorough review of the submitted proposal and Environmental Assessment Form (EAF), including coordinated review with the Clarence Historic Preservation Commission, it is determined that the proposed action 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 Casilio to set a public hearing for December 17, 2008 at 7:45 p.m. to consider the nomination of the Schmidt Residence located at 10847 Main Street as a Local Historic Landmark as forwarded by the Historic Preservation Commission. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to set a public hearing for December 17, 2008 at 7:50 p.m. to consider the nomination of the Light Residence located at 10525 Clarence Center Road as a Local Historic Landmark as forwarded by the Historic Preservation Commission. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to set a public hearing for December 17, 2008 at 7:55 p.m. to consider the nomination of the Orchid Ledge Estate located at 4830 Thompson Road as a Local Historic Landmark as forwarded by the Historic Preservation Commission. On the question, Councilman Weiss said all of these people came forward and wanted to have their homes designated and we thank them. Supervisor

Bylewski added that all of the designations have been requested by the owners. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo thanked the owners of the Shops at Main and Transit for removing three stop signs in their parking lot. It is a little easier driving through their, but people still must be aware of the crosswalks.

Councilman DiCostanzo thanked Councilman Casilio for looking into the crossing guards on Transit Road because he has been contacted by several people who have kids crossing there.

Councilman Casilio said he has heard that the Town of Amherst may be in favor of funding one and Clarence another. He has also heard that the Williamsville School District is not in favor of kids crossing Transit Road.

Councilman DiCostanzo said Jim Callahan will be speaking at the Asa Ransom House tomorrow morning at 8 a.m. to talk about signs.

Councilman DiCostanzo said he has run into several people in Town who are interested in basketball. It seems to be a growing sport and not enough facilities to accommodate everyone who wants to play. All of the church and school facilities are booked. It seems to him that a community center may be a great asset to the Town if it is possible.

Supervisor Bylewski thanked all of department heads in attendance for coming tonight.

Public Participation

Supervisor Bylewski said he received a communication regarding item 15 from Bernice Hoerner, Bob Roach, Peter Gorton and Kristina Young as well as phone calls from other residents.

Councilman Weiss said a number of vehicles in the Town have been struck by deer. People should be careful driving especially over the next couple weeks.

Pete Gorton said in regard to item 15, in his opinion the last Town Board let this guy come in and devastate his neighborhood. He could spend a lot of time going over what they dealt with before, during and after construction behind his home. He brought up the same issues in the past. The area was a wetland area. When you allow development in a wetland, you create potential problems. The bedrock was fractured when they dug down and put in drains at the corner of every lot. All of the runoff gets directed to the drains. It has created a high water table on the bedrock and he has water running in his basement constantly. He believes there is a potential health issue with the septic system.

Frank Kennedy said he lives at the end of Gentwood. This proposed project was once scrapped by the Town. Mr. Lasky said he would not pursue this development and would consider the commercial aspect. According to the supervisor at the time it was agreed to. The road is very narrow with a difficult corner to maneuver. There are no sidewalks or street lights in this area. This will create a very dangerous situation. He asked that the Town Board consider what they have lived with over the years.

Marilyn Rizzuto is concerned about blasting and what it will do to their basements in the Gentwood area. Who will pay for repairs if there is damage? The road is very narrow.

Supervisor Bylewski said this is a question that will be posed to the applicant.

Kathy Martin said she is fairly new to the Gentwood neighborhood and liked the area mainly because of the dead end with the woods behind it. She also feels that it will be a dangerous situation for her three children. She is concerned about drainage issues because she is already experiencing very wet conditions in the spring and fall. She would like to go on record as being opposed to this development.

Tom Bardo said he has a communication from the Town regarding lots 24 – 31 for a 5 ft. increase in elevation and an 8% pitch against the homes on Gentwood. The existing homes on Gentwood already have flooding issues. He believes this development will severely impact their neighborhood in a negative way.

This was a dedicated wetland and he wonders if the developer got the appropriate approvals to change it. He wonders if Public Safety has reviewed the project and the very tight turn that exists. Mr. Bardo is a professional and volunteer fireman and this would be a disaster in an emergency with only one way in and one way out.

Robert Fawls said this is ridiculous. The previous Board voted this project down several years ago and now it is resurrected. There will be more traffic on Westwood and Ericson which have increased already due to the traffic backups on Harris Hill Road. Motorcycles have been speeding through there at 50+ mph.

He suggested that they use Bryant & Stratton Way to access the proposed neighborhood. There was a proposal to extend Bryant & Stratton Way all the way to Sheridan Drive.

Peter Gorton said he had issues with the SEQR process in the initial project about it being divided. He prefers that the residents are able to be involved early in the process at the TEQR review.

Jim Morabito said they gave Mr. Lasky a right-of-way for the sewer line before the first project was ever presented. If he had to do it again, knowing what he knows now, he would have never agreed to it. An easement was given to access the right-of-way and he was assured that his property would be returned to its original condition. It was not returned to the original condition. He asked if this project were approved would that line have to be expanded. Ever since they put it in they have odor problems from time to time. The Sewer District is out there sometimes twice a week. The sewer line is full of garbage left from the construction and all of the cleanouts are full of garbage and need cleaning out.

A public hearing was held to consider a Special Exception Use Permit for a secondary living unit at 9065 Wolcott Road. James Callahan said the location is the south side of Wolcott, west of Goodrich Road in the Agricultural Flood Zone.

Sandy Henderson, owner and her mother Carol LaJoy were present. Ms. Henderson said she is aware of and in agreement with the conditions.

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

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

Resolved, that the Clarence Town Board after a public hearing duly held on November 19, 2008 and after all interested parties being heard, grants a Special Exception Use Permit to the applicant, Sandra Henderson, for a secondary living unit as part the existing structure on the residential property located at 9065 Wolcott Road subject to the following conditions:

1. Unit must be secondary to the principal dwelling and not converted to a rental unit.
2. Occupancy shall be limited to family members, paid employees or temporary guest.
3. Occupancy shall be restricted to 2 persons to occupy the unit.
4. Deed restriction to be placed into the deed for the property restricting its use so as not to allow for the two-family dwelling to be utilized or converted into a rental unit and such deed restriction language is to be submitted and approved by the Town Attorney prior to the filing the deed.
5. Proof of filing of the approved deed required and must be submitted to the Town Attorney's office before a Certificate of Occupancy can be issued to the applicant.

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

A public hearing was held to consider a Temporary Conditional Permit at 8215 Main Street to allow for display of a replica of a vehicle on the roof. James Callahan said this is an existing auto sales operation located in a Commercial Zone.

Tim Connelly, manager was present to represent the owner. Mr. Connelly said it is a fiberglass replica of a Mini that weighs less than 400 lbs. and it was put up there at the request of the factory as part of their marketing campaign. It is a conversation piece with the customers, many of whom did not notice it until they pointed it out. The cost of the unit was almost \$12,000. It came with lights that they have not hooked up. He has not had any negative comments made about it. They purchased property across the street and are in the process of building a new Mini dealership in the future.

Councilman Casilio asked if they were going to ask to put the replica on top of the new building. Mr. Connelly said they may make it part of the building in a less obvious place. Councilman Casilio said he does not want to see every dealer asking to put vehicles on the top of the roof. He thinks it should go to the ZBA because it is more of a sign. Mr. Connelly said he does not know what it would be considered either.

Councilman Casilio said we have also had conversations about test driving on the local streets and the excessive speed that sometimes happens. Mr. Connelly said they have monthly meetings and do talk to their technicians about staying on the main roads. They try to be a good neighbor by putting up berms, shielding on their lights and taking down loudspeakers. They also have planted trees.

Councilman DiCostanzo said he also lives close to the dealership and he has never heard anyone say anything negative about the Mini on the roof. Someone did complain about car alarms going off. He is not concerned about setting precedence. He would apply common sense to each request as it came in.

Steven Bengart, Town Attorney said there is always that argument that people will make but he thinks they can distinguish this and make a decision on a case by case basis. He does not have a clear answer.

Councilman Kolber said he does not see this as a sign. Mr. Bengart said he and Mr. Callahan agree, they do not consider it a sign either.

Councilman Weiss said he thinks it is a gimmicky car and does not see other types of vehicles up on a roof. It is a Mini that is so small you can put it on top of a building and he does not have a problem with it.

Mr. Connelly said it is secured and has withstood strong winds. The engineer said he did make provisions for them to put the car up there.

Speaking to the subject:

Rene Desai says she has no objection to seeing one car on top of a building, but thinks it is setting precedence.

Jim Morabito said they addressed the concerns of the neighbors when asked and have always been supportive of community organizations. They are going to hopefully put up a new building in our town and he does not feel it is necessary to ask them to take it down.

Supervisor Bylewski said although it was part of their initial approval that there be no display on top of the building.

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

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

Be It Resolved that the Clarence Town Board, after a public hearing duly held on November 19, 2008 and after all interested parties being heard, grants a Temporary Conditional Permit to the applicant, Towne BMW/MINI, for the display of a faux vehicle on the roof of the existing showroom located at 8215 Main Street subject to the following conditions: 1. Temporary Conditional Permit will be for a period of one year.

On the question, Councilman Kolber said he was concerned about setting precedence, but the replica is the actual size of the vehicle. It is in fitting with the nature of the dealership.

Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: Councilman Casilio. Motion carried.

A public hearing was held to consider an Open Space Design Subdivision at 8230 County Road. James Callahan said the location is the north side of County Road, east of Stahley Road in the Swormville Traditional Neighborhood District. The proposed project was introduced December of 2006, a density determination of 35 lots was established in February 2007 and a

Negative Declaration was issued May 2008. The applicant is seeking final Concept Plan Approval.

Chris Cardillo, attorney for the applicant, AEGIS Development was present.

Supervisor Bylewski said the Planning Board forwarded a recommendation with conditions.

Speaking to the subject:

Terry Finn said his property runs alongside this development. There is a spring fed pond on the property that has a pipe in the ground to drain his property. The pipe is still there from the old potato farm. He is also concerned about the maintenance of the greenspace area that is proposed between the development and his property. He hopes that they are going to be good neighbors to his property.

Mr. Finn said they were doing soil samples and ended up on his property where they dug a hole next to a 100 year old tree damaging the root system. They should have taken that into consideration and worries what will happen as they proceed. Now there is a proposal for development on the other side of him and he will be getting it from both sides next spring.

James Callahan said details of the pond are on the record. The Planning Board made the recommendation with conditions. As the project moves forward into Development Plan Approval engineering approval is required.

Chris Cardillo said they are aware of the concerns and have addressed them. The expectation is that it is a patio home community for empty nesters. The things that concern him are drainage and the collapsed pipe that runs through the property. As they go through engineering they are considering drainage going to the back of the property to the retaining pond in the back.

Another consideration fully discussed was where to position the subdivision on the site to allow for greenspace. TEQR and the Planning Board were very firm about shifting it to the west to provide a walkable corridor on the easterly portion. They did not want it too close to people's back yards.

Supervisor Bylewski said another issue that was discussed and addressed was segmentation/land use access.

Councilman Casilio suggested a split rail fence on the west property line. Chris said he does not think the fence would serve the purpose of the neighbors concerns. He will talk to the owner about it. Councilman DiCostanzo said a fence was discussed and they felt people would tend to dump things over a fence because then they would not have to look at it.

James Callahan said this was clearly discussed at the Planning Board level and they went through several scenarios. These details can be worked out at development. It has to come back here two more times.

Councilman Weiss said he believes that the neighbor should discuss this with the Landscape Committee. Sometimes a fence is not the answer and it becomes a greater eyesore if not maintained properly.

Councilman Kolber said he thinks we are better dealing with what the buffer would be now for project engineering purposes.

Supervisor Bylewski said he does not want to determine a buffer at this early stage when the neighbor has not indicated what he would like to see.

Chris Cardillo said a corridor was discussed, not a buffer in the framework of the open space.

Darlene Feinen said speaking as a resident, she likes to see a walkable community with sidewalks, but wonders who will maintain them.

Supervisor Bylewski said there would be a homeowner's agreement and it may be considered as part of their common area. The homeowners would be responsible in some way through the association.

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

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

RESOLVED, that the Clarence Town Board, after a public hearing duly held on November 17, 2008 and after all interested parties being heard, grants Concept Plan Approval to the applicant, Dan Furmanek of AEGIS Development, for a 35 lot Open Space Design subdivision on a parcel of vacant land consisting of approximately 19+/- acres located at 8230 County Road (north side of County Road, east of Stahley Road, subject to the following conditions:

1. Open space and recreation fees.
2. Landscape Committee approval.
3. Installation of sidewalks on one side of the street going north and south around the entire perimeter.
4. Final Homeowners agreement to specify and define locations and maintenance of common areas.
5. Final Homeowners agreement to be submitted, reviewed and approved by the Town Attorney.
6. One tree per lot to be planted.
7. A list of redesign considerations are to be considered by the applicant.

On the question, Councilman Weiss asked if the hole was filled in next to the 100 year old tree. Chris Cardillo said they do not know anything about it. He did try to figure out what was going on. Councilman Weiss asked him to talk to the neighbor about it.

Councilman Kolber suggested adding a condition subject to engineering review and approval of the drainage issues and maintenance of the sidewalks. Town Attorney Steven Bengart said these are in the Subdivision Law.

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

Rubino Brothers request continuation of the review process for a proposed subdivision at Shimerville Road and Clarence Center Road. James Callahan said the location is the southwest corner consisting of 28 +/- acres of vacant land in the Residential Single Family Zone.

Richard Sullivan, attorney representing the applicant was present. It says to request continuation of the process and to some degree that is true. This is a subdivision that has been in the works for over five years. All they are asking for is concept plan approval. The Town Board as lead agency issued a positive declaration before concept approval. The court determined that there was no basis in the facts for a positive declaration to be adopted. There is nothing new that can be placed in the record by TEQR or the Planning Board. They are hoping that based on the court decision the Town Board would adopt a negative declaration and give them concept approval so that they could proceed with the project.

Town Attorney Steven Bengart said it is his position, as well as special counsel, that this has to go back to TEQR for further review and a recommendation.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to refer the proposed subdivision at Shimerville Road and Clarence Center Road back to the TEQR Committee. On the question, Mr. Sullivan said he is not necessarily in disagreement with that and if the Board thinks that is what they should do, then so be it. He just does not think there will be anything new. Supervisor Bylewski said he understands that there is a difference in opinion. Mr. Sullivan said they will be back and ask for a negative declaration. Upon roll call – Ayes: All; Noes: None. Motion carried.

Eliot Lasky requests Development Plan Approval for a 19-Lot Subdivision off Gentwood Drive in Roxberry Subdivision.

Councilman Casilio said he will recuse himself from this discussion as previously disclosed.

James Callahan said the location is west of Gentwood Drive, north of Main Street consisting of vacant land in the Residential Single Family and Restricted Business Zone. The project was conceptually approved in 2002. Per a mutual agreement, Development Plan Approval was delayed June 26, 2002 for the Gentwood extension portion to pursue development of the Eastern Hills corridor plan. For various reasons the corridor plan has not come to fruition.

Outstanding issues include wetland impact update, final engineering approval and the gap in time from concept plan approval.

Supervisor Bylewski said additional issues were brought out earlier including blasting, drainage, fire safety and the type of housing.

Rob Pidanick of Greenman - Pedersen and Richard Sullivan, attorney were present. Mr. Pidanick said they would ask that this be tabled while they address some of the issues that have been brought up and come back at a future date.

Motion by Councilman Weiss, seconded by Councilman Kolber to table the request by Eliot Lasky for Development Plan Approval for a 19-Lot Subdivision off Gentwood Drive in Roxberry Subdivision. On the question, Supervisor Bylewski said when and if this project comes back, that notification is sent out to all of the people who expressed concerns tonight regarding this project, as well as the notification that was sent out for tonight. Upon roll call – Ayes: All; Noes: None. Motion carried.

Margaret Kiesel requests Preliminary Review of a proposed Open Development Area at 5145-5175 Harris Hill Road. James Callahan said the location is the east side of Harris Hill Road, south of Greiner Road consisting of a day care facility and one duplex on one property and two separate duplex lots. The applicant is proposing to develop a single family home on the parent parcel. Circumstances will allow an open development area to create an additional residential building lot.

Norman Castine, representing Mrs. Kiesel was present.

Motion by Councilman Weiss, seconded by Councilman DiCostanzo to refer the request by Margaret Kiesel for Preliminary Review of a proposed Open Development Area at 5145-5175 Harris Hill Road to the Planning Board. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to grant approval of the following: Clubhouse Applications - A. James Callahan/Parks Master Plan Meeting – Dec. 9, 2008; B. Clarence Lions Club – December 11, 2008; Legion Hall Applications - A. Mark Francisco – Dec. 19, 2008; and B. Lynsee Smith – May 3, 2009. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that after proper audit and review by the Town Board, the following bills of November 13, 2008 are approved for payment: General Fund - \$757,072.00; Highway Fund - \$37,428.31; Water District - \$46,948.43; Drainage District - \$11,063.81; Sewer Districts - \$11,123.59; and Trust & Agency 203 - \$25,846.70 for a total amount of \$889,482.84. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 9:15 p.m. in memory of Francis Feinen, mother-in-law of Darlene Feinen; and in memory of Don and Victoria Hess.

Nancy C. Metzger
Town Clerk