

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, May 26, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Joseph Weiss. Other Town officials present were Director of Community Development James Callahan, Planner Brad Packard, Town Attorney Steven Bengart, Senior Building Inspector David Metzger, Director of Administration Finance Pam Smith, Planning Board Chairman Al Schultz and Confidential Secretary to the Supervisor Karen Jurek.

Director of Community Development - James Callahan

Public Hearings:

Martin Pecoraro 5701 Transit Road – Public Hearing 7:45 PM

Applicant is proposing to relocate an automotive sales operation to existing vacant commercial building (former convenience store and former salon) located on the east side of Transit Road, north of Roll Road in the Major Arterial Zone. Per the Zoning Law, the Town Board may consider automotive sales via a Temporary Conditional Permit. Issues to be discussed include the number of vehicles on display, hours of operation and landscaping along the front of the building. (Applicant has informed Mr. Callahan that he has not finalized his lease so he will not be present. The Public Hearing will go on as scheduled but no action will be taken).

Cody Covey 6585 Transit Road – Public Hearing 7:50 PM

Applicant is seeking an amendment to his current Temporary Conditional Permit to allow for vehicles to be displayed in the front of the building (currently only allowed on the side). The proposed site is located in an existing commercial building currently operating under a Temporary Conditional Permit for automotive sales on the east side of Transit Road, north of Miles Road in a commercial classification. Per the Zoning Law, the Town Board has authority to approve and amend Temporary Conditional Permits. The paving and striping of any additional parking spaces should be addressed.

Christine Lucci 10810 Boyd Drive – Public Hearing 7:55 PM

Applicant is proposing an addition to add a secondary living unit for an in-law apartment. The existing single-family residential property is located on the north side of Boyd Road between Bickert Drive and Margaret Drive in the Residential Single-Family Zone. Per the Zoning Law, the Town Board has authority to approve secondary living units via a Special Exception Use Permit. All conditions as identified in the Zoning Law must be met.

West Herr Automotive Group 5505 Transit Road – Public Hearing 8:00 PM

Applicant is requesting a Master Plan 2015 amendment and to extend the Commercial Zoning on the Future Land Use Map approximately 238' to the east on this particular property. The proposed site is located at the existing automotive sales and service operation located on the east side of Transit Road, south of Roll Road in the Major Arterial Zone. The Town Board has authority to amend the Master Plan. A Negative Declaration under SEQRA has been issued on the proposed amendment and the Planning Board has forwarded a recommendation on the amendment as presented.

West Herr Automotive Group 5505 Transit Road – Public Hearing 8:05 PM

Applicant is requesting a rezoning to extend the Major Arterial Zoning on the Town of Clarence Zoning Map approximately 238' to the east. The proposed site is located at the existing automotive sales and service operation located on the east side of Transit Road, south of Roll Road. The property is located in the Major Arterial Zone along the Transit Road frontage with Residential Single-Family Zoning to the east. The Town Board has authority to amend the Zoning Law. The Planning Board has forwarded a recommendation on the amendment as presented.

Formal Agenda:

St. Mary's Church 6925 Transit Road

Applicant is proposing to clear and grade lands to accommodate new athletic fields. The proposed site is located at existing church campus located in the Swormville Traditional Neighborhood District on the southeast corner of Transit and Stahley Roads. Per the Clearing, Filling and Grading Law, the Town Board has authority to approve such operations. There are several issues to be discussed relative to wetland and floodplain impacts. Engineering approval required.

Noel Dill/Intertech Cable Holdings LLC 9015 Main Street

Applicant is requesting a Special Event Permit for their annual Rock the Barn fundraiser to be held on July 16, 2010.

Work Session items for consideration June 9, 2010:

Rocco Delgrosso-Kryslin Development 8353 Main Street

Applicant is proposing to construct a professional office building on the site with the potential to add apartments above. The existing vacant land is located on the southeast corner of Main Street and Susan Drive in the Residential Single-Family Zone. A Use Variance was granted by the ZBA on September 11, 2007 to allow for a restricted business use of the property with conditions. Per the ZBA action, the Town Board must approve any change from previously approved land use on the property. The current applicant has recently completed a similar project at the corner of Main Street and Ferndale Drive in the Town of Amherst and would like to complete a similar project at this location. Parking and access as well as on-site sanitary facilities are areas to be addressed.

Rubino Brothers-Amber Meadows Shimerville and Clarence Center Road

Applicant would like to amend previously approved Development Plans to allow a payment in lieu of installation of a bike path. The existing open space design subdivision currently under construction is located on the southwest corner of Shimerville and Clarence Center Roads in a residential classification. Per the Subdivision Law, the Town Board has final authority to approve all conditions of Development Plans on a subdivision. Current conditions make it difficult to extend the bike path to the Peanut Line, planning to extend the bike path to the Peanut Line should continue. The applicant will leave easements along the Shimerville and Clarence Center frontages to allow for future installation. The Planning Board has forwarded a recommendation to accept the payment in lieu of recreation amenities per the amount identified in the Subdivision Law (\$695 per lot).

Michelle Beiter 5960 Goodrich Road

Applicant is proposing to convert the home to a craft store. The existing residential home is located on the west side of Goodrich Road, south of Clarence Center Road in the Traditional Neighborhood District. Per the Zoning Law, the Town Board has final authority to approve occupancy and use changes in the TND. Areas to be addressed include Building Department review and approval of change in occupancy and parking.

Annual renewal of Excavation Permits:

- Buffalo Crushed Stone
- Emeritus Holdings
- 10001 Grand Corporation
- Lakeside Sod

Paul Bonito – F and B Construction 9650 County Road

Applicant is requesting a Clearing, Filling and Grading Permit at 9650 County Road on existing vacant lot with 170' of frontage, consisting of 2.73 acres. He currently owns and operates the site directly to the west of this vacant lot and is requesting a fill permit to prepare the adjacent property for development and expansion of their current operation. The request has been referred to Engineering Department.

Supervisor Scott Bylewski

There has been some discussion regarding Park Pavilions and Park Special Event Requests. As part of the June 2nd morning Work Session, the Board will meet with the Clarence Soccer Center to discuss procedures as it relates to special requests for the Soccer Center area.

There are several Park Pavilion Special Requests on the agenda tonight – Flight 3407 Memorial 5K Walk and Walk-a-Thon for Huntington’s Disease. Based on potential liabilities, Town Attorney Bengart stated that the Town is going to require insurance certificates for some of these events. These events should be approved subject to any additional requirements requested by the Town Attorney. The Town of Clarence should be listed as “Additional Insured” on the insurance certificate.

Supervisor Bylewski and his staff have instituted a hiring process. This will stream-line the Civil Service requirements to make sure everything is in order before appointments are made.

Supervisor Bylewski received an anonymous letter with respect to street lights on Glenbrook Court. Town Engineer Latona will contact Dominic Piestrak to find out when the lights will be installed for that development.

The joint Town Board/Planning Board meeting is scheduled for June 30th. If anyone has any agenda items, submit them to Supervisor Bylewski or Planning Board Chairman Al Schultz within the next couple of weeks.

Supervisor Bylewski received a fax from Kay Adamczyk regarding the intersection of Greiner and Shimerville Roads. The information was forwarded to Jerry Sentz at Erie County Highway Department.

Town Engineer Latona stated that the Town has been notified that we were awarded the grants for the solar panels but everything is being held up in Albany.

Supervisor Bylewski has several items to discuss in Executive Session regarding the employment history of an individual/corporation as well as several Attorney-Client items to discuss.

Supervisor Bylewski will make a motion to create the position of Engineering Aide PT Seasonal.

Councilman Joseph Weiss

Highway Superintendent Ted Donner is recommending the Town Board accept the lowest bid of \$18,521.55 each from Towne Ford for (3) 2011 Ford Escapes.

Highway Superintendent Ted Donner is requesting the appointment of Christopher Cournan for summer employment in the Highway Department effective May 27, 2010.

Councilman Weiss will make a motion that the Town of Clarence adopt a policy designating town sports fields be voluntarily smoke free.

Councilman Weiss met with Parks Crew Chief James Burkard regarding the installation of a fence on the escarpment; there were some issues with rock however, the fence will be installed this week.

Councilman Weiss has one Attorney-Client item to discuss.

Councilman Weiss talked with Paul Stephen regarding the house on Main Street. Mr. Stephen has indicated he will paint the house as soon as he takes possession.

Councilman Bernard Kolber

Councilman Kolber attended the Library Board meeting on Monday night; several items were discussed including an expansion to the parking lot and needed repairs to the pavers. Councilman Kolber will contact the Parks Department regarding the repairs.

At the April 14, 2010 Town Board meeting Councilman Kolber made a motion that the Town of Clarence remove the one-way signs on the Memorial Park north/south road to allow two-way traffic. Councilman Kolber has sent several e-mails to both the Highway Department and the Parks Department and to date; the signs have not been removed.

Councilman Kolber was notified that when the new back-stop was installed at Town Place Park, the George Honsberger sign was taken down and never put back up. Councilman Kolber will contact Parks Crew Chief to request the sign be placed on the new backstop.

Councilman Kolber attended the Fire Chiefs meeting. There has been a recall on hundreds of re-chargers, they are overheating and causing fires.

The NY State Labor Department has passed new regulation requiring all interior firefighters be equipped with a "bail out system." This will enable a firefighter to escape from an upper floor building if they had to bail out of a window (2 or more stories). The fire chiefs had not planned for this in their budgeting process and are looking for help from the Town in obtaining grants to purchase the apparatus, each one costs approximately \$1,000 per pack. The fire companies only have a few months to put a plan in place and get the equipment ordered to be in compliance. Some fire companies have already purchased the equipment.

Councilman Kolber will contact the Clarence School Board to set up a joint meeting for the end of August.

Councilman Patrick Casilio

Councilman Casilio will make a motion to appoint Patrick J. Sheedy Jr. to the position of Engineering Aide PT Seasonal effective June 1, 2010 at the rate of \$10.50 per hour subject to the completion of all pre-employment requirements being met.

Councilman Casilio will announce the results of the annual Storm Water Report.

Councilman Casilio will make a motion adopting an \$85,000 Serial Bond Resolution for Town Hall Improvements.

Councilman Casilio talked to the Erie County Sheriff's Department regarding the formation of a Neighborhood Watch in the Boncrest area. There is a lengthy manual that the neighborhood has to follow along with operating instructions on how to organize a Neighborhood Watch. Councilman Casilio forwarded the information to the Boncrest spokes-person and asked that she contact Councilman Casilio to set up a meeting. The Sheriff's office has the ability to provide the signs and the Highway Department will install them.

The Avoidable Alarm Committee met at the request of the Clarence School District regarding their avoidable alarm. They requested the Town waive their \$70 fee because of all the services the school district provides to the town. (To avoid getting an avoidable alarm charge, all you have to do is answer the telephone and request that the police do not respond to the alarm.) The Committee elected not to waive the fee. Senior Building Inspector David Metzger stated that they held the fee in advance temporarily pending procedural changes on the schools part to reduce the number of alarms.

Councilman Peter DiCostanzo

The Youth Bureau Volunteer Recognition Ceremony will be held on May 27th at the Youth Bureau on Main Street.

On Saturday, June 19, 2010 the Clarence School District is sponsoring a Prescription Medication Drop-Off at Eastern Hills Mall from 9AM – 1PM. *Drive-up, Drop-off, no questions asked.*

Town Assessor Christine Fusco has reported that the number of Board of Assessment Reviews is way down this year. There were over 100 disputes last year and this year she will have between 30 – 40. People are getting educated about the entire assessment process.

The topic at the joint Town Board/Planning Board meeting scheduled for June 30th will mainly cover the planning approval process.

Councilman DiCostanzo has one Attorney-Client item to discuss in Executive Session.

There was a discussion regarding an illegal BMX track on Stoneway. A letter was sent to the homeowner requesting action by May 22nd. Town Attorney Bengart stated that the town staked out the right of way. The owner contacted Town Attorney Bengart and informed him that dismantling the track is not a simple process, it is more involved. They are working on taking it down and setting up the new course, they will have a plan in place within the next couple of days and will be out of the Town's right-of-way.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1) F of the Open Meetings law to discuss the employment history of a particular person/corporation. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:51 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Weiss to adjourn the Executive Session at 7:28 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, May 26, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:30 P.M. Pledge to the flag was led by Councilman Bernard Kolber, followed by a moment of silence in memory of our fallen service members who served so valiantly for our country.

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

Motion by Councilman Weiss, seconded by Councilman Casilio to accept the minutes of the previous meeting held May 12, 2010. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that the annual joint meeting of the Town Board and the Planning Board will be held Wednesday, June 30, 2010 at 7:00 p.m.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to create the position of Engineering Aide PT Seasonal, non-competitive. On the question, Supervisor Bylewski said this is being done for Civil Service purposes. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that in regard to item 11 to consider a Temporary Conditional Permit for Automotive Sales at 5701 Transit Road, the scheduled hearing will be held. However, the applicant is not present to move forward at this time.

Motion by Supervisor Bylewski, seconded by Councilman DiCostanzo to set a Public Hearing for July 14, 2010 at 7:45 p.m. to consider the recommendation from the Planning Board for an amendment to Master Plan 2015 related to the Transit Road Corridor north of Roll Road, identified as Segment B. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

WHEREAS, smoking is responsible for the premature deaths of over 430,000 Americans each year from lung cancer, heart disease, respiratory illness and other diseases; and

WHEREAS, secondhand smoke is responsible for over 50,000 deaths among nonsmokers each year; and

WHEREAS, tobacco kills more Americans each year than alcohol, cocaine, crack, heroin homicide, suicide, accidents, fires and aids combined; and

WHEREAS, 80% of smokers started smoking before the age of 18, and the average initiation age is 12 years old; and

WHEREAS, everyday an estimated 3,900 young people under the age of 18 try their first cigarette and one-third of these children will die prematurely from tobacco-related illnesses; and
NOW, THEREFORE, BE IT

RESOLVED, that to help role model non-smoking behavior to children and youth and to provide children, youth and their families with a safe, smoke-free environment, the Clarence Town Board is committed to providing a high quality of living to all residents and citizens; and be it further

RESOLVED, that the Town of Clarence believes:

1. There is no safe level of exposure to secondhand smoke. It can cause asthma, respiratory infections, cancer and cardiovascular disease. Children should be able to play and exercise in the Town of Clarence Parks without being exposed to harmful effects of secondhand smoke.

2. Tobacco product use in the proximity of children, youth and adults engaging in or watching recreational activities is unhealthy and detriment to the health of both the participants and observers.

3. Tobacco products, once consumed in public spaces are often discarded on the ground thus posing risk of ingestion to children and causing a litter problem; and be it further

RESOLVED, that all of the Town of Clarence sports fields will adopt a voluntary 100% smoke free policy.

On the question, Supervisor Bylewski said a number of people have been reviewing the policy. It is voluntary, but peer pressure should help curtail the problem on the sports fields. We will put up appropriate signage on the sports fields. Councilman DiCostanzo added that the signage will be more encouraging than anything.

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

Motion by Councilman Weiss, seconded by Councilman Kolber that upon recommendation by Highway Supt. Ted Donner, Christopher Cournan, 4241 Harris Hill Road be appointed as Summer Help in the Highway Department effective May 27, 2010 at the budgeted rate of pay. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber that upon recommendation by Highway Supt. Ted Donner, the bid for the purchase of three 2011 Ford Escapes be awarded to Towne Ford, they being the lowest responsible bid of \$18,521.55 per vehicle. On the question, Councilman Weiss said this is part of the vehicle replacement program. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Weiss said the split rail fence will be completed along the escarpment trail by the end of the week. This should provide the separation of the trail and the private properties.

Councilman Weiss complimented Mr. Londos and Mr. Wolfe on the reduction of geese in the parks. They are also part of the deer abatement program and doing a great job.

Councilman Kolber attended the Clarence/Newstead Chief's Association Meeting as liaison. They discussed the recall of Targus Universal Wall Power Adapters for laptops due to faulty wiring. It can cause the connector tips to heat and melt the plastic encasing. Another item is Rechargeable Batteries sold with portable DVD, CD and MP3 players which also can overheat posing a fire hazard. He will leave the information with the Town Clerk.

Councilman Kolber said they are working on getting the "George Honsberger Field" sign back up at Town Place Park. It was taken down last year when they installed the new backstop.

Councilman Casilio announced that the Town of Clarence Stormwater Management Program Year End Report for 2009 will be available in the Town Clerk's office on June 1, 2010 for public review. The report is part of the EPA Stormwater Phase II Regulations.

Motion by Councilman Casilio, seconded by Councilman Kolber to appoint Patrick J. Sheedy, Jr. to the position of Engineering Aide PT Seasonal effective June 1, 2010 at the rate of \$10.50 per hour subject to the completion of all pre-employment requirements being met. Upon roll call – Ayes: All; Noes: None. Motion carried.

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

Bond resolution of the Town of Clarence, New York, adopted May 26, 2010, authorizing the construction of improvements to Town Hall, consisting of the replacement of Auditorium seating, flooring and carpeting and related work, stating the estimated maximum cost thereof is \$85,000, appropriating said amount for such purpose, and authorizing the issuance of \$85,000 bonds of said town to finance said appropriation.

A complete copy of the bond Resolution shall be available for public inspection during normal business hours at the office of the Town, Clerk, Town Hall, One Town Place, Clarence, New York.

On the question, Councilman DiCostanzo said he will be voting no.

Councilman Weiss said upon further review and based on his experience in the furniture business, he will vote in favor of this expenditure. It will only be a continuum of wear.

Supervisor Bylewski said his previous comments stand with respect to the condition and deferred maintenance.

Councilman Casilio said you can see the wear on the backs of the chairs. This building is 34 years old and this room is also used as our court house, for Planning Board meetings and other events. It is time to replace them.

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

Motion by Councilman DiCostanzo, seconded by Councilman Casilio that pursuant to Article 8 of the Environmental Conservation Law and the recommendation of the TEQR Committee, the Clarence Town Board seeks Lead Agency Status and commences a coordinated review among involved agencies on the proposed Fairfield Park Open Development Area. This Unlisted Action involves the development of a four (4) lot Open Development Area in the Residential Single-Family Zone on property located to the west of Roxbury Drive at the extension of East Howard Drive. 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 the recommendation of the TEQR Committee, the Clarence Town Board seeks Lead Agency Status and commences a coordinated review of involved agencies on the proposed Woodland Hills Sewer District formation. This Unlisted Action involves the creation of a sewer district to service the previously approved subdivision known as Woodland Hills located on the south side of Greiner Road and east of Harris Hill Road. 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 recommendation of the TEQR Committee, the Clarence Town Board issues a Negative Declaration on the proposed Master Plan 2015 amendment related to the Transit Road Corridor south of Roll Road. This Unlisted Action involves the extension of the commercial zoning classification to the east at 5535 and 5555 Transit Road to match the zoning line on the adjoining property to the south. After thorough review by the TEQR Committee, Planning Board and the Town Board of the submitted proposal and Environmental Assessment Form (EAF), 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.

Councilman DiCostanzo announced that the Youth Bureau will hold their volunteer recognition ceremony tomorrow night at the Youth Bureau. He congratulates all of the kids who participated.

There will also be a prescription drug drop off at Eastern Hills Mall on June 19th from 9:00 a.m. to 1:00 p.m. People can drop off prescriptions they may have in their homes that are no longer needed or wanted.

Councilman DiCostanzo said the Board of Assessment Review met with property owners challenging their assessments. There was a huge decrease in the number of challenges. He credits the Assessor and her staff.

Councilman DiCostanzo announced that Matt Balling, Chairman of the TEQR Committee is resigning from his position effective May 18, 2010 due to moving out of the Town.

There will be the opening on the committee for anyone interested; and for one of the members to apply for the position of Chairperson.

Supervisor Bylewski thanked all department heads present for attending.

A Public Hearing was held to consider a Temporary Conditional Permit for Automotive Sales at 5701 Transit Road. Supervisor Bylewski said the applicant will not be here tonight and no action will occur. However, the public hearing was set and will be held.

James Callahan said the location is the east side of Transit Road, north of Roll Road consisting of an existing commercial structure in the Major Arterial Zone. The applicant is proposing to relocate his automotive sales operation to this location.

Councilman DiCostanzo said if this does go forward, it would go to the Planning Board and the applicant would be asked to improve the property.

Motion by Councilman Casilio, seconded by Councilman Weiss to leave the Public Hearing open for one more regular meeting of the Town Board to consider a Temporary Conditional Permit for Automotive Sales at 5701 Transit Road. On the question, Councilman Kolber said he is concerned about used car lots because when you let one go in, it is difficult to tell the next person no. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider an Amendment to an existing Temporary Conditional Permit for Automotive Sales at 6585 Transit Road. James Callahan said the location is the east side of Transit Road north of Miles Road consisting of an existing commercial building operating under a Temporary Conditional Permit for auto sales. The applicant is seeking an amendment to the conditions that were set.

Cody Covey said he submitted a booklet at the last meeting showing the improvements he has made and the decent looking vehicles he has on display. He is not asking for more vehicles. He would like to make the ones he has more visible.

Supervisor Bylewski said we received a letter from Leslie Boeckel, owner of the property in support of his operation.

Mr. Covey said he also has a letter from his neighbors stating that they have no problem with what he is proposing.

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

Mr. Covey said he has already done the paving and landscaping in front of the building. He would like to move the display from the back to the front.

Councilman Kolber congratulated him on what he has done to improve the property.

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

Resolved, that the Clarence Town Board, after a public hearing duly held on May 26, 2010, and after all interested parties being heard, grants the request of the applicant, Cody Covey, to amend the existing Temporary Conditional Permit to allow for vehicles to be displayed in the front of the building at 6585 Transit Road, subject to the following conditions:

1. Temporary Conditional Permit is for a period of one year.
2. Paving and striping of new spaces of vehicle storage is required.
3. No more than 25 vehicles to be displayed at any given time.
4. The hours of operation are to be:
 - Monday, Tuesday & Thursday from 9:00 a.m. to 8:00 p.m.
 - Wednesday, Friday & Saturday from 9:00 a.m. to 6:00 p.m.
5. Must comply with all conditions of the resolution dated 5-13-2009 which shall remain in full force and effect.
6. Display area as per plan submitted.
7. No streamer/banners, open hoods with placards.
8. Landscape approval by the Landscape Committee.

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

A Public Hearing was held to consider a Special Exception Use Permit for a Secondary Living Unit at 10810 Boyd Drive. James Callahan said the location is on the north side of Boyd Drive between Bickert and Margaret Drives consisting of a single family home in the Residential Single Family Zone. The applicant is proposing an in-law apartment.

Jill Lucci said she understands and is willing to abide by the restrictions set by the Town.

Speaking to the subject:

Gayle J. Davis said she lives across the street and would like to speak in favor of the proposed addition. It would not be a detriment in any way. The yard is large enough to easily accommodate it with no obstruction of any view.

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

Resolved, that the Clarence Town Board, after a public hearing duly held on May 26, 2010, and after all interested parties having being heard, grants a Special Exception Use Permit to the applicant, Christine Lucci, for the construction of a secondary living unit as an addition to the existing structure for an in-law apartment on the residential property located at 10810 Boyd Drive, 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 of the deed.**
5. Proof of filing of the approved deed is 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.

Supervisor Bylewski said he will recuse himself from discussion and voting on the next two items because a partner with West Herr is a client of his. It is unrelated to this matter.

A Public Hearing was held to consider an amendment to Master Plan 2015 relative to the Transit Road Corridor, south of Roll Road. James Callahan said as the annual review of Master Plan 2015, West Herr requested an amendment to the Master Plan to extend the Commercial Zone to the east at 5505 Transit Road. The Town Board referred the request to the Planning Board for review and comment. A Negative Declaration was issued 4/28/10. The Planning Board has forwarded a recommendation to extend the Commercial zoning on the Future Land Use Map.

Sean Hopkins, attorney and John Wabick, VP of West Herr were present. Mr. Hopkins said West Herr owns one of the properties to the north and has no objection to this amendment to rezone property to the east as Major Arterial.

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

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

Be it resolved, that the Clarence Town Board, after a public hearing duly held on May 26, 2010 and after all interested parties having been heard, and upon the recommendations of the Town of Clarence Planning Board, hereby amends the Master Plan 2015 to reflect an extension of 238 feet of commercial zone on the Future Land Use Map along Transit Road south of Roll Road at 5505 Transit Road.

Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Kolber and Weiss; Noes: None. Recuse: Supervisor Bylewski. Motion carried.

A Public Hearing was held to consider the request for rezoning a portion of 5505 Transit Road consisting of approximately 1.805 acres from Residential Single Family to Major Arterial. James Callahan said as a result of the action taken on item 14, the Planning Board has forwarded a recommendation to extend the Major Arterial Zone 238 ft. east at 5505 Transit Road. The formal legal description has been duly prepared and advertised.

Sean Hopkins said West Herr would like to extend their parking area to accommodate redevelopment of the project site. There is a 45 ft. green space buffer area and several more

hundred feet to the east is still zoned Residential Single Family. It is partially encumbered by wetlands. They request that the rezoning be approved subject to the condition that they provide a deed restriction for the 45 ft. buffer area. They will need to cross the buffer area at some point for future access to the east. Otherwise that property would be landlocked.

Mr. Wabick said they will continue to service Saturns at the Saturn building at this time. They are seeking a new franchise for the future.

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

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

Resolved, that after a public hearing duly held on May 26, 2010 and after all interested parties being heard, the Clarence Town Board adopts Local Law No. 1 of the year 2010 amending the Code of the Town of Clarence, Chapter 229, Zoning Law and Town of Clarence Official Zoning Map - Attachment - 3, as follows:

- Rezoning a portion of 5505 Transit Road consisting of approximately 1.805 acres from Residential Single Family to Major Arterial.
- Deed restriction for the 45 ft. permanent open space area, subject to review and approval by the Town Attorney. A copy of the filed deed to be submitted to the Town Attorney.

This local law will become effective upon filing with the Office of the New York State Secretary of State.

On the question, James Callahan said future access to the eastern portion of the property should be included in the deed restriction.

Councilman Kolber said they should wait until they have a project. Councilman Weiss said he does not believe that is necessary. He would like to see them work it into the wording now.

Sean Hopkins said the most that could happen is single family homes per the zoning. It is largely constrained by wetlands.

Mr. Wabick said they will need access to maintain it at the least.

Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Kolber and Weiss; Noes: None. Recuse: Supervisor Bylewski. Motion carried.

St. Mary's Church requests a Clearing, Filling and Grading Permit to clear and grade land for athletic fields at 6925 Transit Road. James Callahan said the location is the southeast corner of Transit and Stahley Roads in the Traditional Neighborhood District.

Frank Whalen said the objective is to construct a slow pitch softball field and a soccer field on the site. They will stay 50 ft. away from Ransom Creek.

James Callahan said the property has Federal Wetlands and it is in the Floodway. The Town Engineer should review the proposal. It also may be encroaching in the no-build area of the original approval.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to refer the request by St. Mary's Church for a Clearing, Filling and Grading Permit to clear and grade land for athletic fields at 6925 Transit Road to the Planning Board for review. Upon roll call – Ayes: All; Noes: None. Motion carried.

Noel Dill requests a Special Event Permit for the Annual Rock the Barn event to be held July 16, 2010 at 9015 Main Street. James Callahan said the location is the south side of Main Street, east of Shimerville Road in the Commercial and Restricted Business Zones.

Noel Dill said he is representing the Clarence/Newstead Meals on Wheels Task Force. This is the 6th year of holding this fundraising event. Five bands play and included this year is 10000 Maniacs. The event is actually held behind the barn. There is plenty of parking on site. Security is hired.

Motion by Councilman Kolber, seconded by Councilman Casilio to grant a Special Event Permit for the Annual Rock the Barn event to be held July 16, 2010 at 9015 Main Street. On the question, Supervisor Bylewski said they should notify all appropriate law enforcement and other agencies. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to grant approval for the following: Clubhouse Applications - A. Clarence Youth Bureau – Aug. 7, 8 & 9, 2010; Legion Hall Applications – A. Susan Butler – June 6, 2010; B. Stephen Saboda – June 18, 2010; C. Diane Moyer – Sept. 11, 2010; D. Hena Hossain – Sept. 18, 2010; Park Pavilion Special Requests – A. Day in the Park Committee – June 30, July 3, 4 & 5, 2010; B. Susan Frey – Sept. 25, 2010 and C. Eastern Hills Sunrise Rotary Foundation – June 5, 2010, with B and C subject to conditions of Town Attorney’s office. 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 May 27, 2010 are approved for payment: General Fund - \$178,655.13; Highway Fund - \$51,615.92; Water District - \$2,151.69; Sewer Districts - \$381.13; Capital Fund - \$21,485.36; and Trust & Agency 203 - \$2,695.00 for a total amount of \$256,984.23. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:37 p.m. in memory of Leon Trum, who was a longtime resident, member of the Lions Club, recipient of the Chamber of Commerce citizen of the year and involved in many organizations.

Nancy C. Metzger
Town Clerk