

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, July 28, 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, Deputy Town Attorney David Donohue, Assistant Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith and Planning Board Chairman Al Schultz.

**Director of Community Development – James Callahan**

**Public Hearing:**

A Public Hearing is scheduled for 7:45PM to consider Local Historic Preservation Status for the Hoffman residence at 9455 Clarence Center Road. The proposed location is situated on the south side of Clarence Center Road, west of Goodrich Road in the Clarence Center TND. Per the Historic Preservation Local Law, the Town Board has final authority to make local designations. The Historic Preservation Commission has forwarded a recommendation to establish the home as a local historic landmark.

**Formal Agenda items:**

Kavcon Development Inc. 5375 Transit Road

Applicant is proposing to rehab the building to accommodate a new retail use. The existing, currently vacant commercial building is located on the east side of Transit Road, north of Greiner Road in the Major Arterial Zone. Per the Zoning Law, the Town Board has authority to approve new uses and to approve the architectural style of renovations. As the structure has been vacant for over 2 years, the Town Board must authorize the change in use. Existing parking meets code requirements.

John Collana – 5615 Shimerville Road

Applicant is proposing to amend the current conditions and formally create some additional frontage lots and combine other portions to clean up the existing conditions. The existing residential property both vacant and occupied is located on the east side of Shimerville Road, north of Roll Road in a residential classification. Per the Subdivision Law, the Town Board has final authority to approve subdivisions. The Planning Board has forwarded a recommendation on the final design as presented.

Dynabrade – 5630 Shimerville Road

Applicant is proposing open development areas with 6+/- frontage lots. The proposed site is located in the northwest corner of Shimerville and Roll Roads on existing vacant land consisting of 31+/- acres in the Residential Single Family Zone. Referral to the Planning Board would initiate the formal review process. The frontage lots as proposed will not meet the intent of the Subdivision Law. Article IV of the Subdivision Law identifies that access to three or more frontage lots shall be on internal streets. Article V identifies that frontage lots must meet the character of the open development lots and must be accessed via the common driveway approved for the open development area. Project is subject to NYS Realty Subdivision Law limiting splits to 4 in a 3 year period. Supervisor Bylewski stated that the Planning Board Executive Committee met with the applicant regarding this proposed open development and there are some concerns regarding the frontage lots.

Seal and Design – 4105 Casilio Parkway

Applicant is proposing an expansion of existing facilities in conformance with Industrial Business Park Zoning. The proposed site is located on the southeast corner of Wehrle Drive and Gunville Road in Casilio Industrial Park. Per the Zoning Law, the Town Board has authority to approve building permits in the Industrial Business Park Zone as to architectural style and functional plan. Approvals should be conditioned upon Engineering and Building Department review and approval and Landscape Committee review and approval. **(Councilman Casilio stated that he has nothing to do with this project but will recuse himself from voting on it.)**

Larry Sinear/Marino Ianucci – 8815 Stahley Road

Applicant is proposing to subdivide the combined property to create 4 new residential building lots – two fronting on Stahley Road and two on Willow Run Court. Additional backlands (non-lot parcels) will be split and sold to neighbors on Willow Run Court to extend the depth of these existing lots – approved via a parcel line adjustment. The proposed site is located on the west side of Stahley (Shimerville) Road, west side of Willow Run Court. The property consists of 3.73+/- acres in the Residential Single-Family Zone. Mr. Ianucci has operated a concrete business on the property for years and

there exists unkempt accessory structures on the parcel. Frontage on Willow Run Court is owned by adjoining neighbors and will be combined with the Ianucci property. Per the Subdivision Law, the Town Board has authority to approve subdivisions. All proposed and amended lots will meet the minimum size and frontage requirements in the Residential Single Family Zone. Utility connections must be addressed through approving authority. ***(Applicant asked to be removed from the agenda).***

Clarence Center VFC - Fireworks Display Permit

All application materials, insurance, fees and fire chief approvals are in order for the September 5, 2010 fireworks display at Clarence Center VFC.

***Work Session items for consideration August 11, 2010:***

John Krantz – Martin Road east of Heise Road

Applicant is proposing to subdivide the parent parcel to create two new residential building lots. The proposed site is located on the south side of Martin Road east of Heise Road on existing vacant land consisting of 20.8+/- acres in the Agriculture Rural Residential Zone. Per the Subdivision Law, the Town Board has final authority to approve lot splits. The proposed lots meet the minimum requirements in the Agriculture Rural Residential Zone.

GUI's Lumber 4695 Shisler Road

Applicant is proposing to develop a new accessory building on the property. The proposed site is located on the east side of Shisler Road, north of the West Shore Line entrance to Clarence Main Park at existing lumber company located on 9+/- acres in the Commercial Zone. Per the Zoning Law, the Town Board has final authority to recommend building permits in the Commercial Zone as to architectural style and functional plan. The applicant was stopped during a clearing operation and has submitted the building plans. To mitigate the clearing of trees a Landscape Plan approval to re-vegetate the area adjoining the residential property to the north should be required.

Waterford Village LLC, Renaldo Circle

Applicant is requesting that the Town Board consider amending the previously approved plan to locate a community center within the circle. Previously a gazebo and open space was proposed within the area. The proposed site is located in the central part of the Waterford PURD, north of Roll Road. Per the PURD Zoning requirements, the Town Board has the authority to amend the Development Plans. The proposal should be thoroughly reviewed for traffic flow and safety, parking requirements and locations as well as snow storage concerns. Referral to the Planning Board to address these issues may be in order.

Ronald Alberico 4775 Goodrich Road

Applicant is proposing to construct a large accessory structure to service the existing home. The proposed site is located on the east side of Goodrich Road, north of Main Street at existing residential single family home located within the Spaulding Lake Estates Subdivision and within the PURD Zone. Per the Zoning Law, the Town Board must approve any amendments to the PURD. As the PURD Zone is approved via a site plan approval, any amendment to the site plan must be authorized by the Town Board. A large accessory structure would constitute an amendment to the previously approved site plan. All setbacks within the Residential Single-Family Zone are met, by means of comparison to surrounding zones. The proposed accessory structure to include a garage area, a kitchen and a bath as well as a covered patio is adjacent to the existing pool.

Donald Metz – 5745 Kraus Road

Applicant is requesting a minor split to create one additional building lot.

**Joseph Floss – Workmen's Compensation**

Director of Administration and Finance Pam Smith distributed information regarding renewal of Workers Compensation. She is looking into going forward with a large deductible plan. The options cost and savings were presented to the Town Board in the handout.

Joe Floss stated that they have been working on several variations since April and looked at five distinctively different markets, PERMA being the current carrier. Joe Floss and Pam Smith both recommend staying with PERMA however the Board may want to look at reducing expenses by accepting a large deductible. The Town Board has been satisfied with PERMA service and cost. The annual contribution will be \$151,033 with \$50,000 deductible per occurrence.

**Supervisor Scott Bylewski**

The August 4<sup>th</sup> morning Work Session has been cancelled.

There was a comment with respect to our borrowing that was announced at the July 14, 2010 Town Board meeting. The person asked what the borrowing was for. Supervisor Bylewski stated that we have been talking about it throughout the course of the year but he noted that the new borrowing had to do with land acquisition for both preservation and general town purposes, improvements to town hall restrooms and town hall auditorium and various highway equipment. The remaining \$5,312,000. was outstanding BAN's less \$79,000 which was refinanced as part of the overall borrowing.

Assistant Engineer Tim Lavocat gave an update on the solar panels. Tim submitted five grants for solar panels for the Library, Highway Department, Senior Center, Engineering Building and Parks Building. Mr. Lavocat was notified last week that we were not selected for the Parks or Engineering building. We were awarded the Library, Highway Department and the Senior Center which is a total of approximately \$685,000. in grant funds. Tim is in the process of reviewing the purchase order agreements for the Library and Highway Department.

Tim has also looked into the Town Hall solar project and as of July 22, 2010, we are generating about 10% more electricity than was projected. We have saved approximately \$1,700 - \$1,800. this year already so annually we will save approximately \$3,600. The solar panels on the Town Hall were operational as of December 31, 2009. The town's share of the system was \$42,000. Supervisor Bylewski stated that the towns share should be paid off over the life expectancy of the panels.

The Recreation Advisory Committee has been working on an insert for the green print brochure.

Supervisor Bylewski received a letter from Sandy Thomas relative to the extension of the sidewalk on Goodrich Road. Councilman Casilio stated that this is a reasonable request. Supervisor Bylewski suggested Councilman Casilio see what kind of cooperation we can expect from the property owners just like we did from the property owners leading from the bike path to where it terminates.

From time to time there has been some brush issues. There is one issue in particular going on in the Harris Hill Gardens area. If anyone calls regarding brush in the street, they should call law enforcement because it is a violation of the Vehicle and Traffic Law.

Supervisor Bylewski will make a motion approving the request by Karen Jurek to attend the 2010 KVS Western NY User Conference in Orchard Park.

Supervisor Bylewski will make a motion approving the request for CCVFC annual Labor Day Parade.

Supervisor Bylewski has several Executive Session items as well as an Attorney-Client item to discuss. Town Attorney Steven Bengart, Deputy Town Attorney David Donohue, Director of Community Development James Callahan and Senior Building Inspector David Metzger will be asked to sit in on an Attorney-Client item.

**Councilman Joseph Weiss**

Highway Superintendent Ted Donner is requesting a bid date of Tuesday, August 10, 2010 for removal of leaf compost from our recycling area on Sheridan Drive.

Councilman Weiss made comment on the article in the Clarence Bee relative to the Taste of Clarence. It was noted that restaurants participating are charged a flat fee by the Chamber of Commerce and can keep their profits. Town Code stipulates that "Town property shall not be used for commercial enterprises." Town Attorney Bengart will look into this.

Councilman Weiss commented on a letter received by the resident living in the house at Beaman Creek Park.

While the town is not currently in possession of Beaman Creek Park, Councilman Weiss suggested that when we do obtain ownership, the town mow the area before the weeds go to seed along the right-of-ways.

Allied Waste had a problem with their billing system and has over-billed their customers by \$25.

Councilman Weiss has one Attorney – Client item to discuss.

**Councilman Bernard Kolber**

Councilman Kolber will make a motion to apply for a grant for the expansion of the Clarence Library parking area. The town will provide 50% of the project cost (amount not to exceed \$9,000).

Friends of the Library will be doing repairs on the walkway in front of the library.

The Clarence Senior Center Community Day and Open House is scheduled for August 27, 2010 from 4:00PM – 8:00PM.

Councilman Kolber received a call from a resident regarding the Town's Open Burning Policy. Senior Building Inspector David Metzger will look into the situation. Recreational fires are allowed which is what this was.

Councilman Kolber has one Attorney-Client item to discuss.

**Councilman Patrick Casilio**

Councilman Casilio will announce an opening for a Part-time Town Security guard.

**Councilman Peter DiCostanzo**

Councilman DiCostanzo received a letter of resignation from Joanna Pickering from the Historic Preservation Commission, this leaves an opening for anyone interested.

Councilman DiCostanzo received the Day in the Park figures from Flora Leamer. Thirteen not-for-profit groups, who were able to keep their profits, collectively made over \$15,000. One group made over \$2,000 for the day; this is great money for some organizations.

The Taste of Clarence is August 2, 2010 from 4PM – 9PM.

The Youth Bureau is hosting "Outdoor Movies in the Park" on Sunday, August 15<sup>th</sup> and Sunday, August 22<sup>nd</sup> at Meadowlakes Park.

Councilman DiCostanzo complimented Chris Durr and Cliff Trapper on the swimming program at the town pool.

Councilman DiCostanzo asked about the status of the Greiner Road/Shimerville Road intersection. Supervisor Bylewski stated the last public information he received was that Erie County would pursue an improvement of stop signs. They were abandoning the round-about improvement. There are some allegations regarding right-of-way and acquisition. Supervisor Bylewski has communicated with the County that it is being investigated. The County has been talking about a stop signal as opposed to the round-about.

Councilman DiCostanzo has one Attorney-Client item to discuss.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to enter into Executive Session pursuant to § 105(1) C of the Open Meetings Law to discuss information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed and § 105 (1) F the employment history of a particular person(s) and the employment history of a corporation(s). On the question, Town Attorney Bengart asked that his intern remain in Executive Session. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 6:40 PM.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Bylewski, seconded by Councilman Kolber to adjourn the Executive Session at 7:36 PM. Upon roll call – Ayes: All, Recuse: Councilman Casilio, Noes: None. Motion carried. No action taken.



Regular meeting of the Town Board of the Town of Clarence was held Wednesday, July 28, 2010 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Scott Bylewski called the meeting to order at 7:40 P.M. Pledge to the flag was led by Councilman Bernard Kolber, followed by a prayer given by Deacon Gary Hoover of St. Mary's Church.

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, Asst. Town Engineer Tim Lavocat, Sr. Building Inspector David Metzger, Planner Brad Packard and Planning Board Chairman Al Schultz.

Motion by Councilman Casilio, seconded by Councilman DiCostanzo to accept the minutes of the previous meeting held July 14, 2010. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Bylewski announced that item 16, a request by Larry Senear/Ianucci for Subdivision Approval to create four new residential building lots in the Residential Single-Family Zone at 8815 Stahley Road is removed from the agenda at the applicant's request.

Supervisor Bylewski said it was mentioned at the last meeting about the borrowing we went out for. A question was put to him about what it was for. We borrowed for land acquisition for preservation, various highway equipment, land acquisition for general Town purposes and improvements to town hall restrooms and auditorium. The amount of that portion was \$2.252 million of new money; and then \$5,312,000 was re-borrowed for sewers, land acquisition in 2008, excavator for compost site, etc. All the information is contained in the statement and we will be closing on it tomorrow.

Supervisor Bylewski said Hans Mobius asked him to tell everyone that there will be a horse show at his farm this weekend, with a lot of activity starting at 11:00 a.m. on Sunday. Anyone interested should stop out.

Motion by Supervisor Bylewski, seconded by Councilman Weiss to grant permission for Karen Jurek to attend the 2010 KVS User Conference on Thursday, August 19, 2010 from 9:00 a.m. to 4:00 p.m. in Orchard Park with the fee of \$20 and any necessary expenses paid by the Town. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant a Special Event for the Labor Day Parade to be held on Monday, September 6, 2010 to begin at 1:00 p.m. in the Pine Breeze Subdivision going south on Goodrich Road, east on High Street, south on Elm Street and west on Clarence Center Road to the fire hall. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to set a Bid Date of Tuesday, August 10, 2010 at 10:00 A.M. for Removal of Leaf Mulch located at the Town's Sheridan Drive site. All bids must be sealed and accompanied with a 10% bid bond and clearly marked Leaf Mulch Bid.

Leaf Mulch material to be sold by the Town of Clarence to the highest bidder, priced per cubic yard. The volume consists of a pile totaling 750 cubic yards. The material will be loaded and removed from the site by the successful bidder within 90 days from the time of bid. The bidder must supply all necessary insurance certificates and payment must be made in full to the Town of Clarence before any material can be removed from the site.

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

Councilman Weiss said residents should check their garbage bill. He received a \$25 charge that was an error in the billing.

Councilman Weiss said the Taste of Clarence event will be on Monday night from 4:00 to 9:00 p.m. People who plan to bring in their classic or specialty cars should get there around 3:00. It is a great event.

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

WHEREAS, the New York State Department of Education, Division of Library Development, under the Public Library Construction Grant Program (“State Grant”) is offering funds up to 50% of approved costs for renovation or rehabilitation of public libraries in New York State; and

WHEREAS, the Town of Clarence is the owner of the building that houses the Clarence Public Library located at Three Town Place in the Town of Clarence and maintains the building and grounds under an agreement with the Buffalo and Erie County Public Library System; and

WHEREAS, the Clarence Public Library is one of the busiest libraries in Erie County given patron use, hosting of programs, meetings, and events that fill the present parking areas to capacity and is in need of an expansion of these parking areas that is estimated to cost \$18,000; and

WHEREAS, the Clarence Public Library is in charge of its library operations in cooperation with the Buffalo and Erie County Public Library System, and per the guidelines for the New York State Construction Grant, must be the applicant for such grants; and

WHEREAS, the Town of Clarence as owner of the Clarence Public Library building and grounds would benefit from the aforementioned grant since renovation/rehabilitation to the Town owned parking areas on the grounds will be made; and

WHEREAS, the Town of Clarence will be providing matching funds in an amount not to exceed \$9,000 to complete the expansion of the parking area.

Now, Therefore, Be It

RESOLVED, that the Clarence Town Board agrees and covenants that the Library Building at Three Town Place in the Town of Clarence shall be legally available for use as a public library building for at least ten (10) years from the anticipated date of the completion of the aforementioned renovation/rehabilitation project.

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

Councilman Kolber said there has been an issue with the pavers on the Memorial Walkway at the library. The Friends of the Library are paying for a company to come in and reset the pavers that are off and get the walkway back into proper condition.

Councilman Kolber announced that the Clarence Senior Center is hosting an Open House on Friday, August 27<sup>th</sup> from 4 to 8 p.m. All are invited to attend.

Councilman Casilio announced that there is an opening for a Town Security Officer and anyone interested should apply.

Motion by Councilman Casilio, seconded by Councilman Kolber to approve Change Order No. 1 to Milherst Construction, Inc. for the Ransom, Boyd, Sawmill Sanitary Sewer Project in the amount of \$2,036.15. On the question, Councilman Casilio said this is the accumulation of several minor changes. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to retain KD Equipment Corp. for repairs on the Arboretum Pond Weir at a fee of \$4,000 to be paid from Engineering Professional Services account. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Kolber to retain Architecture Unlimited, LLC for professional services for improvements at the Clarence American Legion Hall, 5850 Goodrich Road in accordance with their proposal dated July 7, 2010 for a fee of \$7,700 to be paid from Engineering Professional Services account. On the question, Councilman Casilio said this is to make improvements to the entrance and façade of the building in compliance with ADA requirements. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Weiss to retain K2 Architecture for design and bidding for the replacement of seating and flooring in the Town Hall Auditorium for a fee of \$5,900 to be paid from bond issue. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said Joanna Pickering has officially submitted her resignation from the Historic Preservation Commission.

This leaves an opening for anyone interested.

Councilman DiCostanzo announced that the Youth Bureau is hosting outdoor movies at Meadowlakes Park on August 15<sup>th</sup> and 22<sup>nd</sup> at 7:00 p.m. The movies begin at dusk.

Councilman DiCostanzo said his children are taking swimming lessons at the Town pool and he thinks it is a great program that is offered.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio 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 Fairfield Park Open Development. This Unlisted Action involves the construction of a 4-Lot Open Development Area on 9+/- acres located on the west side of Roxbury Drive and east of Fairfield Road in the Residential Single-Family Zone. After thorough review of the submitted site plan and Environmental Assessment Form (EAF) by the TEQR Committee, Planning Board and Town Board, and including coordinated review with comments from Erie County DEP and NYSDEC, it is determined that the proposed action is consistent with Master Plan 2015 and land use regulations and will not have a significant impact upon the environment. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider Local Historic Preservation Status for the Hoffman residence at 9455 Clarence Center Road. Brad Packard stated that this property is in the Traditional Neighborhood District of Clarence Center, a historically significant hamlet of the Town. At the turn of the century it was a focal point of commercial activity. The “Square Deal Store” across the street was owned and operated by Jacob Eshelman. This home is believed to have been his residence at one time.

The architecture of the home serves as an excellent example of Victorian Folk with Gothic Revival influences. This property has been recommended positively by the Historic Preservation Commission, and also deemed as a significant contributor of historical value by Clinton Brown.

Joanna Pickering was present along with Mr. and Mrs. Hoffman who own the home.

Supervisor Bylewski said it was built around 1850. This will be the 13<sup>th</sup> property designated and all have been voluntary.

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.

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

WHEREAS, the property located at 9455 Clarence Center Road and locally known as “The Hoffman House” has been the subject of an Intensive Level Survey as prepared by Clinton Brown Company Architecture, PC; and

WHEREAS, the property at 9455 Clarence Center Road has been identified to have Historic Value, Association With Historic Personages, and Contains Significant Historic Value Through its Architectural Style and Method of Construction; and

WHEREAS, The Town of Clarence Historic Preservation Commission has unanimously forwarded a recommendation to officially designate the home located at 9455 Clarence Center Road as an Historic Landmark within the Town of Clarence; and

WHEREAS, The Clarence Town Board has held a duly advertised public hearing on the proposed designation per the Town of Clarence Town Board Notification Policy.

NOW THEREFORE BE IT

RESOLVED, that the Clarence Town Board, approves the designation of 9455 Clarence Center Road, known as “The Hoffman House” as a Local Historic Landmark per the Town of Clarence Historic Preservation Local Law; and be it further

RESOLVED that the affected Site be designated on the Official Zoning Map of the Town of Clarence filed for recording in the Office of the Erie County Clerk.

On the question, Supervisor Bylewski said there are tax relief provisions with historically designated properties. It is a rebate program.

Councilman Weiss thanked them for coming forward for designation.

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

Councilman Kolber thanked Joanna Pickering, as this is her last project on the commission, for all she has done for the community. She will be missed.

KAVCON Development Inc. requests a Building Permit and Architectural Approval for a façade renovation to existing commercial building at 5375 Transit Road. James Callahan said the location is the east side of Transit Road, north of Greiner Road consisting of a vacant commercial building in the Major Arterial Zone. The applicant would like to renovate and reopen the building for medical retail use.

Sean Hopkins, attorney and Neal Cavanaugh, owner were present. Mr. Hopkins said he would like to enhance the front of the building to make it more visible.

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

RESOLVED, that the Clarence Town Board grants Architectural Approval for renovations to the existing structure at 5375 Transit Road subject to the following conditions: 1. Appropriate Fees. 2. Landscape Committee review and approval.

On the question, Councilman Kolber said it would be great if they could do something to enhance the landscape.

Sean Hopkins said they are limited by the number of parking spaces that are required to add any permanent landscaping. They could add planters of some kind. There is also an access easement to the buildings behind them.

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

John Collana requests Subdivision Approval to create four lots in the Residential Single-Family Zone at 5615 Shimerville Road. James Callahan said the location is the east side of Shimerville Road, north of Roll Road consisting of property that is vacant and property that is occupied within the Residential Single-Family Zone. The applicant is proposing a subdivision to create two additional lots and lot combinations to increase the lot size of other lots. The Planning Board has forwarded a recommendation.

Doug Cipollone, representative said they are happy with what is proposed.

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

RESOLVED, that the Clarence Town Board grants the request of the applicant, John Collana for Subdivision approval to create four (4) additional residential building lots located on the east side of Shimerville Road, north of Roll Road, at 5615 Shimerville Road in the Residential Single-Family Zone, subject to the following conditions:

1. Open Space and Recreation Fees.
2. Pre-existing lot #1 as labeled on the site plan would not be developed or sold off as an individual building lot, but adjoined with one of the existing lots.

On the question, Town Attorney Steven Bengart noted for the record the applicant's representative is willing to agree with the stipulation of pre-existing lot #1.

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

Dynabrade requests Preliminary Concept Review of a proposed Open Development Area at 5630 Shimerville Road. James Callahan said the location is the northwest corner of Shimerville and Roll Roads consisting of approximately 31 +/- acres of vacant land in the Residential Single-Family Zone.

Mike Metzger, Metzger Civil Engineering, Walter Welsch, owner and Bill Slomba, associate were present. This property has been owned by Dynabrade for many years and they have looked at many options to developing the property. They chose to go with a plan that is consistent with the way the area is being developed now with lower density residential parcels. The plan was presented with six large lots off of a single driveway and a handful of frontage lots along Shimerville Road.

Supervisor Bylewski said the exception lots would not comply with our open development area regulations because they are not accessed by a common driveway.

Mike Metzger said they would not be a part of the open development. His client would like to be up front with the project from the start and let the Board know what they are thinking about for the entire parcel. Most of the site is low vegetation with tree lines. They are trying to work within the tree lines. A full-blown subdivision would require sewers. They are proposing a much lower density project.

Supervisor Bylewski said the Town has an issue with sewers. They would have to provide information of whether it would be an extension of a sewer district or an out-of-district sewer customer. Then you have to look at the sewer priorities as part of our Master Plan.

Mike Metzger said they would be looking at the maximum for an open development with frontage lots. If there was a waiver for sewers, it could be 31 lots on 31 acres.

Supervisor Bylewski said he does not think that would happen when we need to have sewers in Harris Hill.

Mike Metzger said they have met with the executive committee of the Planning Board and look forward to working with them addressing the various comments.

Motion by Councilman Weiss, seconded by Councilman Casilio to refer the request made by Dynabrade for Preliminary Concept Review of a proposed Open Development Area at 5630 Shimerville Road to the Planning Board for review.

On the question, Councilman DiCostanzo said his issue is that we have been trying to work through a triage system in the Planning Department and this bypasses that.

Supervisor Bylewski said his issue is the exception lots. Part of the intent of the open development area is to protect the view shed and this proposal chops up the frontage into separate lots.

Mike Metzger said they did meet with the executive committee, but they are a fraction of the entire board. They would like to get the process started and meet with all of those people.

Councilman DiCostanzo said his take on it was that it was not going well.

Mike said they did not want to present this in pieces. They are willing to work with all the boards to work this out.

Councilman Kolber asked if there is a segmentation issue. Mr. Callahan said that from a SEQR standpoint, you have to look at the whole thing.

Supervisor Bylewski said his concern is the exception lots and we have, in other cases, not let projects through the door that have that many exceptions.

Councilman Weiss said if he knew what happened with the Planning Board, he would not have made the motion.

Mike Metzger said they asked to meet with the executive committee to get initial input. He said it almost seems that they are hurting themselves.

Councilman Kolber said he is not in favor of the frontage lots but does like the two cul-de-sacs. He thinks we should let them move forward with the Planning Board to see what they can do with it. It is no promise that it would be approved.

Mike Metzger said Mr. Welsch is willing to work with the respective boards on plan that works for everyone.

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

Supervisor Bylewski said there could be an alternative to refer it on to Planning, but not to be placed on their agenda until there is a redesign with respect to the frontage lots that meet the intent and spirit of the open development law.

Councilman Kolber said that is tying the hands of the Planning Board.

Town Attorney Steven Bengart reminded the Town Board that they are the gate keepers and as such decide what goes forward and what does not.

Motion by Supervisor Bylewski, seconded by Councilman Casilio to refer the request made by Dynabrade for Preliminary Concept Review of a proposed Open Development Area at 5630 Shimerville Road to the Planning Board subject to the condition that the proposed exception lots are brought into conformance with the open development area law. The request should not be placed on the Planning Board agenda until that happens. On the question, Councilman Casilio said he agrees, but does not want them to have to bring it back here again. Supervisor Bylewski said that is the purpose of the condition. Councilman Weiss said he would like them to also take into consideration George Grasser's view on cul-de-sacs as they go through the review. Mike Metzger asked if the direction is to have all driveways into a common driveway as an option or a mandate. Supervisor Bylewski said the proposal will not be placed on the agenda until that plan comes forward. We are saying come up with a project that complies with the law and if there is a true issue, let the Planning Board make a recommendation.

Motion was made by Councilman Kolber to table this until we look at other options. There being no second, it goes back to the motion that was made.

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

Seal & Design requests a Building Permit and Architectural Approval for an addition to existing industrial facility at 4015 Casilio Parkway. James Callahan said the location is the southeast corner of Wehrle Drive and Gunnville Road in the Casilio Industrial Park. The applicant is proposing an addition and parking lot expansion.

Councilman Casilio said he is recusing himself from this item and has a transactional statement on file.

Lowell Dewey, engineer said he prepared the site plan for this project. They are proposing a 10,800 sq. ft. addition with appropriate setbacks to be placed in the current parking area. They have added parking to the northeast of the site surrounded with landscaping. The stormwater run off will travel from the new detention area to the detention pond to the existing swale.

Supervisor Bylewski said the area to the southeast of the property is lower than the existing parking area.

Mr. Dewey said there are some soil piles on the site that have to be graded. The detention area fits right in. They are developing the site to allow for future expansion. The architectural style will be the same.

Motion by Councilman DiCostanzo, seconded by Councilman Weiss that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendations of the Town of Clarence Planning Department under the State Environmental Quality Review Act (SEQRA), the Clarence Town Board issues a Negative Declaration on the proposed Seal and Design expansion at 4015 Casilio Parkway. This Unlisted Action involves the construction of an addition to the existing warehouse/production facility and a parking lot relocation/expansion. After thorough review of the submitted site plan and Environmental Assessment Form (EAF) by the Town Board, Building Department, Engineering Department and Planning Departments, it is determined that the proposed action is consistent with Master Plan 2015 and will not have a significant impact upon the environment. Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

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

RESOLVED, that the Clarence Town Board approves the request of the applicant, Seal & Design, for a Building Permit and Architectural Approval for the construction of an approximate 11,000 square foot warehouse/production addition to the Applicant's existing manufacturing facility located at 4015 Casilio Parkway in the Industrial Business Park Zone, subject to the following conditions: 1. Appropriate Fees. 2. Landscape Committee approval.

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

Motion by Supervisor Bylewski, seconded by Councilman Kolber to grant a Fireworks Display Permit to Clarence Center Vol. Fire Company for Sept. 5, 2010. Application, insurance, fees and fire chief approval have been submitted. Upon roll call – Ayes: Councilmembers DiCostanzo, Kolber, Weiss and Supervisor Bylewski; Noes: None. Recuse: Councilman Casilio. Motion carried.

Motion by Councilman Weiss, seconded by Councilman Kolber to approve the following: Clubhouse Applications - A. Clarence Soccer Club – Oct. 1, 2010; B. Clarence Youth Bureau/Recreation Dept. – Oct. 23, 2010; C. Rock Oak Homeowners Association – Dec. 3, 2011; D. Clarence Lions Club – 2<sup>nd</sup> & 4<sup>th</sup> Thursdays each month of 2011; E. Clarence Jaycees – March 26 & 27, 2011; F. Clarence Book Review Club – 1<sup>st</sup> Wednesday each month of 2011; G. Clarence Soccer Club – 2<sup>nd</sup> Sunday each month of 2011; Legion Hall Applications – A. Duane Webster – Oct. 16, 2010; B. Mandana Waseh – Oct. 19, 2010; C. Roselle LaBruna – March 19, 2011; D. Clarence Log Cabin Quilters – Weekly meetings 2011; E. Clarence Republican Committee – 4<sup>th</sup> Tuesday each month of 2011; and F. J. Michael Hens VFW Post 7870 – 4<sup>th</sup> Wednesday each month of 2011. 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 July 22, 2010 are approved for payment: General Fund - \$159,056.14; Highway Fund - \$218,921.10; Water District - \$2,519.93; Drainage District - \$68,015.97; Lighting Districts - \$769.69; Sewer Districts - \$165.91; Capital Fund - \$39,549.43; Aquatic Growth District - \$320.00; and Trust and Agency 203 - \$11,315.59 for a total amount of \$500,633.76. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Bylewski adjourned the meeting at 8:50 p.m. in memory of former Deputy Highway Supt. Orin Kelkenberg, a lifelong resident and father of two sons currently working for the Town.

Nancy C. Metzger  
Town Clerk