

Clarence Town Environmental Quality Review  
(TEQR)  
Meeting Minutes  
Monday January 28, 2008

Chairman Matthew Balling called the meeting to order at 7:00 p.m. and led the pledge to the flag.

TEQR Members Present:

Chairman Matthew Balling	John Moulin
Paul Shear	Richard McNamara
Lisa Bertino-Beaser	Jonathan Hickey

Other Town Officials Present:

Director of Community Development James Callahan  
Supervisor Scott Bylewski  
Councilman Peter DiCostanzo  
Town Attorney Steven Bengart  
Planning Board Liaison Jeffrey Grenzebach

Other Interested Parties Present:

Jeff Palumbo	Wes Stone
Mark Woodward	David Sommer
Chris Laczi	Rebecca Cordaro
David Wisnoski	George Hauer

**Item 1-**Approval of minutes from the previous meeting.

Motion by John Moulin, seconded by Jonathan Hickey, to **approve** the minutes for the meeting held on December 17, 2007.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Richard McNamara	Aye
Lisa Bertino-Beaser	Aye	Jonathan Hickey	Aye

MOTION CARRIED.

**Item 2-**Communications.

Chairman Balling said the TEQR Committee received a written comment for the Spaulding Greens Residential Subdivision. A copy of the comment has been placed in the file and distributed to the TEQR Committee members.

**Item 3a-Spaulling Greens, Supplemental Draft Environmental Impact Statement. Public Hearing held on 12/17/07 and written comment period is not concluded. No additional comments have been received.**

Lisa Bertino-Beaser recuses herself from the discussion and vote on agenda Item 3a and leaves the meeting.

**DISCUSSION:**

Jim Callahan explains that the property is located east of Goodrich Road and north of Greiner Road. It is a proposed 380 unit Open Space Design Subdivision. The Draft Supplemental Environmental Impact Statement was reviewed and accepted as complete on September 12, 2007. A Public Hearing on the Draft was held on December 17, 2007, additional written comments have been received. The Town must now prepare a final Supplemental Environmental Impact Statement and, ultimately, findings to address the environmental impacts associated with the project.

Chairman Balling explains that the Town has taken on the preparation of the Final Draft Environmental Impact Statement (DEIS), following the completion of this statement there will be a determination made by the Town. Any and all measures to mitigate the final impact will be documented. The TEQR Committee has reviewed all the public comments and has chosen to recommend that the Town Board hire a consultant on behalf of the Town to address the comments and prepare the final Environmental Impact Statement (EIS).

The DEIS identified deficiencies in four (4) intersections in the Town. The consultant will review these intersections. The final EIS will also review the proposed road upgrade. It is identified that Goodrich Road and Greiner Road should not be the only collective roads serving the entire development. The consultant has been asked to study whether an extension of Roll Road to Greiner Road would provide a positive benefit to the traffic. The collector road should not provide a connection to Kraus Road. The consultant has also been asked to consider what impacts and improvement for high visibility cross walks on Goodrich Road would provide the community. The TEQR Committee also asked the consultant to look at the generation of the high school age children and if that would impact the high school and comply with Adequacy of the Educational Facilities Ordinance. The consultants were asked to include the need for wetland mitigation measures; the DEC has requested these mitigation measures be included within the final EIS. This information should be forwarded to the Town. The TEQR Committee also suggests that the possible legal restriction on use of the Peanut Line interceptor sewer be addressed. There were approximately six (6) comments received at the Public Hearing, the final EIS should address these comments as well.

Town Attorney Steve Bengart explains this is the appropriate time to formally close the Public Hearing.

**ACTION:**

Motion by Paul Shear, seconded by John Moulin, to **close** the Public Hearing on agenda item 3a-Spaulling Greens.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Richard McNamara	Aye
Lisa Bertino-Beaser	Recuse	Jonathan Hickey	Aye

MOTION CARRIED.

#### **ACTION:**

Motion by Paul Shear, seconded by Richard McNamara, to **recommend** the Town execute contract with the firm of Nussbaumer and Clarke, Inc. to prepare the Final Environmental Impact Statement on the TEQR Committee and the Town Board's behalf for the Spaulding Greens project.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Richard McNamara	Aye
Lisa Bertino-Beaser	Recuse	Jonathan Hickey	Aye

MOTION CARRIED.

Rebecca Cordaro said she feels the Supplemental EIS should be tabled until accurate designs can be submitted; there is deliberate deception going on. Chairman Balling explains that it is inappropriate to discuss her comments at this time as the Public Hearing has been closed. Ms. Cordaro said her comments have not been addressed. Town Attorney Steve Bengart explains that Ms. Cordaro's comments are part of the public record. Paul Shear adds that the comments have not only been made part of the record but have been received and reviewed by all TEQR Committee members; they understand her concerns. Ms. Cordaro asked if her comments will be directly addressed by the EIS. She said the deceptions are deliberate and it seems foolish that the TEQR Committee would push a process forward if it is not being done in good faith.

The project remains tabled with no further action.

Lisa Bertino-Beaser rejoins the meeting.

#### **Item 3b-Rubino Subdivision, Southwest corner of Clarence Center and Shimerville Roads. Coordinated Review initiated by the Town Board on November 28, 2007.**

#### **DISCUSSION:**

Jim Callahan explains that the property is located at the south west corner of Shimerville and Clarence Center Roads; it is a proposed Open Space Design Subdivision. The Town Board initiated coordinated review on November 28, 2007. No new date has been submitted. Information on potential impacts was collected in previous reviews of the project. A determination under SEQRA must be recommended or additional information sought to address any environmental concerns associated with this project.

A copy of the Environmental Assessment Form (EAF) Part 2 and 3 is made available to the applicant. Chairman Balling explains that the most critical issue in the Part 2 and 3 is the sewer capacity and the appropriateness of access to Erie County Sewer District #5.

**ACTION:**

Motion by Chairman Balling, seconded by John Moulin, to **forward** the EAF Draft Part 2 and 3 to the Town Board for consideration.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Richard McNamara	Aye
Lisa Bertino-Beaser	Aye	Jonathan Hickey	Aye

MOTION CARRIED.

Jeffrey Palumbo, of Damon and Morey, is representing the applicant and requests a copy of the EAF Draft Part 2, he has Part 3. He asked for clarification on the motion. Chairman Balling explains that the TEQR Committee has moved the EAF Draft Part 2 and 3 to the Town Board for consideration. Mr. Palumbo asked if it is possible for the Board to summarize the TEQR Committee's position with respect to the sewer. Chairman Balling said the Committee's position is documented in the Part 3. Mr. Palumbo reads Part 3. He explains that in April of 1995 the Town established Sewer District #6. June of 1997 Erie County Legislator adopted a resolution which confirmed the Town of Clarence "desires service to their Town District #6". April 22, 1998 an agreement was signed between Erie County and the Town of Clarence on behalf of Clarence Sewer District #6. Mr. Palumbo said the question is what the purpose of that agreement from 1998 is. He quotes "to provide for sewage treatment services to the Town District #6, for the operation, maintenance and treatment of sanitary sewage of the Town District #6" He said the question then becomes where is the sewer for this 44-lot single family development. The project is on Clarence Center Road, this is the sewer that the applicant is using. The agreement from April 1998 allows the applicant to access that sewer. The limitations that the County imposed in the agreement are as follows: 1.) The use of the subject and review of approval of the County District of plans and specifications. 2.) The County's determination that capacity is available for the proposed use of the Clarence Center Road sewer. Per a letter from the County dated January 28, 2008 capacity exists, the letter is on file. The applicant has been asked to provide proof that there is capacity, this letter is proof. Mr. Palumbo does not understand why the sewer capacity is an issue.

**Item 3c-North Forest Office Providers, 6051 Transit Road. Referred from Planning Board at the November 14, 2007 meeting. Coordinated Review commenced on 12/19/07.**

**DISCUSSION:**

Jim Callahan explains the property is located on the east side of Transit Road, north of Clarence Center Road. Coordinated review on the project was commenced on December 19, 2007 with reference to the lands on the portion of the project that fall within the Major Arterial Zone. Concern over segmentation will require that full build-out alternatives be analyzed and fully address all environmental concerns. The TEQR Committee will require full build-out of alternatives to make any further determinations on the project impacts.

There is no representative for the project present.

Chairman Balling explains that the TEQR Committee has requested the applicant submit alternate plans for the full build-out of the property to the Town Board. The TEQR Committee is

aware that the property requires rezoning and that the Comprehensive Plan does not necessarily support the rezoning boundaries. The TEQR Committee is awaiting a proposal from the applicant that includes a residential component.

**ACTION:**

Motion by Chairman Balling, seconded by Lisa Bertino-Beaser, to **table** agenda item #3c-North Forest Office Providers until the TEQR Committee has a chance to review the information that was requested of the applicant.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Richard McNamara	Aye
Lisa Bertino-Beaser	Aye	Jonathan Hickey	Aye

MOTION CARRIED.

**Item 4a-Dan Fumanek, 8230 County Road, Open Space Design Subdivision. Referred from Planning Board at the December 12, 2007 meeting.**

**DISCUSSION:**

Jim Callahan provides the background on the project. It is located on the north side of County Road, east of Stahley Road. It is a proposed Open Space Design Subdivision. The project was referred from the Planning Board at their December 12, 2007 meeting. This represents the introduction of the proposal to the TEQR Committee members.

Brad Davidzik, of Damon and Morey, is representing the applicant. Mr. Davidzik said they are looking for initiation of coordinated review.

Paul Shear refers to page 5 of the EAF Part 1 which indicates that the total contiguous acreage owned or controlled by project sponsor is zero. Mr. Davidzik said they own the property but they took the question as meaning the property that was in addition to the proposed subdivision. Town Attorney Steven Bengart clarifies that the answer to this question is correct on the form; no changes are necessary.

Chairman Balling explains that the project has a first water table; this makes it difficult to site stormwater ponds. There may be more extensive drainage at this site than usual.

Mr. Shear asked if there are indeed springs on this property were the water table is six inches (6") below the surface. Is the applicant looking at an artesian type of well? Chairman Balling said it is possible. Wes Stone, of Bissell-Stone Associates, said that three-quarters of Clarence is a first water table. Mr. Stone has never heard of a spring associated with a first water table. A diagram of a first water table is provided to Mr. Stone. Mr. Stone explains that this type of first water table has clay soils in it so that when it rains hard in the Spring the water will only soak down 6" to 18" until it slowly meanders it's way farther down into the ground.

Town Attorney Steve Bengart suggests the TEQR Committee inquire as to what sewer district this project falls within. Mr. Davidzik said the project is in Erie County Sewer District #5. Town

Attorney Steve Bengart suggests the following question be addressed: will this impact any other projects that may be looking to utilize the same capacity. Mr. Stone is not aware of this issue impacting any other projects.

Mr. Shear asked if there is a letter indicating there is sufficient capacity in Sewer District #5. Mr. Stone said he has had a verbal conversation but there is no letter at this time. The letter will come; however, the County is looking for a sketch plan approval which shows the number of lots, but this plan will not be available until after the TEQR process. Chairman Balling explains that the Town is undertaking an environmental review process based on 36 lots, so the County should be studying whether this proposal, in their system, can support the equivalent dwelling units.

Mr. Shear knows that there is a plan in the file but, as the plan was just received by the TEQR Committee, they have not had a chance to review it, he asked if it is appropriate to go to coordinated review without having looked at the plan in detail. Town Attorney Steve Bengart said that decision is at the pleasure of the Board. Chairman Balling said the plan was reviewed at the work session and he is satisfied with it.

Jim Callahan said according to neighbors a significant amount of wood material; stumps and similar type things have been buried on the site. There is a concern that this may cause an issue when developing the site. Mr. Stone said he is aware of some of the stumps and have worked around them; there is 50 feet along the west side of the site were the stumps are buried; it is an eight to ten foot hole. Chairman Balling asked if the building footprint encroaches up this dumping area. Mr. Stone said, "No." Mr. Stone also said he was told the hole was dug; it was not a drainage ditch.

#### **ACTION:**

Motion by Chairman Balling, seconded by John Moulin, to forward the Part I as drafted and **recommend** the Town Board initiate the 30 day comment period for all interested and involved agencies.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Richard McNamara	Aye
Lisa Bertino-Beaser	Aye	Jonathan Hickey	Aye

MOTION CARRIED.

The next meeting date is February 25, 2008.

Meeting adjourned at 7:44 p.m.

Carolyn Delgato  
Senior Clerk Typist