

Clarence Town Environmental Quality Review
(TEQR)
Meeting Minutes
Monday, April 16, 2007

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

TEQR Members Present:

Matthew Balling	Patrick Miner
Richard McNamara	John Moulin
Paul Shear	Lisa Bertino-Beaser

Other Town Officials Present:

James Callahan, Director of Community Development
James Hartz, Assistant Director of Community Development
Councilman Scott Bylewski
Jeffrey Grenzebach, Planning Board Liaison
Town Attorney Steve Bengart

Other Interested Parties Present:

Bill Pfennig	Laura Pfennig
David J. Altman	Mary Powell
Gary Jason	

Item 1-Approval of minutes from the previous meeting(s).

Motion by Paul Shear, seconded by John Moulin, to **approve** the minutes for the meeting held on January 22, 2007, as written.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Motion by Lisa Bertino-Beaser, seconded by Paul Shear, to **approve** the minutes for the meeting held on March 19, 2007, as written.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 2-Communications.

Communications will be discussed under Unfinished Business.

Item 3a-Stage and Schurr Subdivision.**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the north east corner of Stage Road and Schurr Road. It consists of approximately 39 acres and is zoned Residential Single-Family. The proposed 12-lot single family development was originally referred for coordinated review in December 2004. The project had been tabled pending receipt of archeological reports on the land to be disturbed. A Phase II Archeological Report was received on March 20, 2007. The applicant is present.

Gary Jason is representing the applicant, Properties Unlimited.

Mr. Balling refers to the Archeological report which indicates the project site contains several sensitive environmental features, mainly the wetlands. The TEQR Committee concluded that they are satisfied with the effort that has been made by the applicant. The impact of the archaeological issue can be addressed as suggested in the recommendations of the Phase II report. One such recommendation is: at the Schurr Road site, a program of stripping to look for features is recommended for the areas shown in Figure 11 of the report. The TEQR Committee can address this as a mitigating action when they make their recommendation to the Town Board.

Mr. Balling said there is a concern that the NYSDEC and the Erie County Health Department have not seen this project in two years. The policies or guidelines for these agencies may have changed during this time. The TEQR Committee plans to obtain re-concurrence from these agencies, specifically with regards to the issue of the proposed mitigating action for the wetlands being encroached upon and the proposed septic systems.

Councilman Bylewski points out another issue as being sewer versus septic. The Master Plan indicates a preference that development be steered towards sewers. He suggests a mitigating factor could be changing the proposal to two (2) Open Development Areas for a total of nine (9) lots; this may also take care of some buffering and septic lay-out concerns.

Mr. Jason explains that the original proposal was for 21 lots, they were approved to go forward but decided to change the proposal to 12 lots. There is a land bank on the property and Mr. Jason does not know if he can mitigate that.

Motion by Matthew Balling, seconded by Paul Shear, to **request** the Planning Board re-solicit comments from NYSDEC and the Erie County Health Department with regards to the issues that were raised.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

The project remains **tabled**.

Item 3b-Utilization of Sewer Capacity outside of Erie County Sewer District #5 for areas not included in a sewer district and proposed Harris Hill Commons Open Space Design Subdivision.

DISCUSSION:

Jim Callahan explains the NYSDEC has not allowed the Town to move forward with Lead Agency, as they have a number of issues related to the expansion of sewers.

The item remains **tabled**.

Item 3c-Kausner Open Development Area, 4180 Ransom Road.

DISCUSSION:

Jim Callahan provides an update on the project. It is located on the west side of Ransom Road, south of Tillman Road and consists of approximately 8 acres in an Agricultural Rural Residential Zone. The project has remained tabled pending receipt of information related to archaeological impacts and a proposed buried gasoline tank. An archaeological report has been received. The applicant has worked with the Town Attorney regarding the buried tank issue. The applicant advised Mr. Callahan that they have hired a consultant, at this point there is no further information thus, the item can remain tabled.

Town Attorney Bengart said he had one telephone conversation with the applicant in which he advised he would like to see them use Leader Environmental Services. He did not hear back from the applicant. He also indicated to the applicant that the Town may want to hire the Town's own consultant and this would be an expense to be incurred by the applicant.

A full Stage I A/B Cultural Resource Investigation was received on April 16, 2007 and is in the file. The TEQR Committee members received the summary but have not yet reviewed the report.

The item will remain **tabled** pending the information requested by the TEQR Committee regarding the underground storage tank.

Item 3d-Donald Steinwachs, County/Heise, 4 Lot Open Development Area.

DISCUSSION:

Jim Callahan provides the history on the project. Coordinated review commenced on April 11, 2007 by the Town Board. The Town is awaiting comments from the involved agencies; the time period for comments is still open.

Town Attorney Bengart reviewed the easement. The applicant provided a full build-out. The easement had some requirements that concerned Town Attorney Bengart, but if the easement satisfies Mr. Callahan's requirements it will suffice, from the legal point of view, with regard to the easement being effected.

Mr. Balling asks if the easement had any wording that would prevent the Town from requiring any modifications they see fit to request. Town Attorney Bengart said not as long as you stay out of the easement area. Nothing is permitted to be built across the easement. The plan shows a crossing over the easement, the applicant will be made aware of this issue at the next meeting.

ACTION:

Motion by John Moulin, seconded by Richard McNamara, to **table** agenda item #3d pending the completion of the 30 day comment period that is required by SEQRA.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 3e-Proposed Sign Law.

DISCUSSION:

Jim Callahan explains that the proposed updates to the Sign Law have been forwarded and commenced coordinated review on February 28, 2007. No comments have been received from involved agencies. The timing for coordinated review is complete; the Town may take action under SEQRA. A public hearing is required.

ACTION:

Motion by Matthew Balling, seconded by Lisa Bertino-Beaser, to direct the Planning and Zoning Department complete a Part II indicating no small to moderate impacts on the community with regards to the proposed updated Sign Law.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

ACTION:

Motion by Matthew Balling, seconded by Richard McNamara, to **recommend** the Town Board issue a Negative Declaration under SEQRA for the proposed Sign Law.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 3f-Proposed APFO Law.**DISCUSSION:**

Jim Callahan explains that this legislation was forwarded for coordinated review on February 28, 2007. Comments from NYSDEC identified that they will remain an involved agency on all project reviews, however, they have no specific comments on the proposed Sign Law. The timing for coordinated review has been completed and the Town may take action under SEQRA.

In Mr. Balling's opinion this is an appropriate growth management tool and he does not see any large impacts that the ordinance would present to the Town.

ACTION:

Motion by Matthew Balling, seconded by John Moulin, to direct the Planning and Zoning Department complete a Part II identifying no small to moderate or potentially large impacts with regards to the proposed APFO Law.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

ACTION:

Motion by Matthew Balling, seconded by Lisa Bertino-Beaser, to **recommend** the Town Board issue a Negative Declaration under SEQRA for the proposed APFO Law.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 3g-Proposed Zoning Map Amendments.**DISCUSSION:**

Jim Callahan explains that the coordinated review commenced on February 28, 2007. A letter from the DEC has been received, just today (April 16, 2007), with the following comments:

-The Sheridan Drive proposed extension in the restricted Business zone has been identified as 40% of the site contains hydric soil inclusions, the DEC advises the Town to contact the Army Corp of Engineers concerning the regulatory jurisdiction on any project.

-The total site appears to be located within an archaeologically sensitive area; the Town should consider this for any project.

-For the Transit Road Major Arterial Zoning classification, the location is adjacent to State wetland CC-41 and 100 foot wide adjacent area, any proposal should consider this.

-Any future developments planned to take place within 50 feet of Tonawanda Creek may require an Article 15 Protection of Water Permit.

-The whole location contains hydric soil and soil with hydric inclusions, the Town is advised to contact the Army Corp of Engineers on any projects.

-The section proposed for change to a major arterial zone is located within an archaeologically sensitive area. Government approvals will be required for any future proposals, and then an appropriate archaeological investigation will need to be conducted.

ACTION:

Motion by Matthew Balling, seconded by Richard McNamara, to **table** the proposed Zoning Map Amendments pending the review of the comments received on the coordinated review.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 3h-St. Mary's Church, 6925 Transit Road

DISCUSSION:

Mr. Balling explains that the coordinated review commenced on March 28, 2007, thus it would expire on April 28, 2007. The TEQR Committee would not begin considering the potential impacts until the 30 day comment period has expired.

ACTION:

Motion by Matthew Balling, seconded by Paul Shear, to **table** St. Mary's Church, 6925 Transit Road to allow the 30 day comment period to expire.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 3i-Benderson Development, 5965 Transit Road.**DISCUSSION:**

Mr. Balling explains that the 30 day comment period is still open on this project; the TEQR Committee needs to wait and see if there are any comments from the involved agencies before rendering any decisions on the project.

ACTION:

Motion by Matthew Balling, seconded by Paul Shear, to **table** Benderson Development, 5965 Transit Road to allow the 30 day comment period to expire.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 4a-Dr. Altman, 8421 Sheridan Drive**DISCUSSION:**

Jim Callahan provides the history of the project. It is located on the south side of Sheridan Drive, west of Harris Hill Road and consists of approximately 1.3 acres. It is zoned Restricted Business. A side yard setback variance was granted for the parking area in the rear on March 13, 2007. The proposed medical office building was referred to the Planning Board on April 4, 2007 meeting for review under SEQRA.

Phil Silvestri, of Silvestri Architects is representing the applicant. Dr. Altman is present along with Mary Powell of PAT Construction. Mr. Silvestri distributes the latest site plan and some photographs showing the views from the exits of the site in the east and west direction. There was a question with regards to the Spruce trees along the east property line causing a visual barrier. Mr. Silvestri visited the site himself and said there is no problem with the trees; the line of site is clear in both directions.

Mr. Silvestri explains that the proposal is for a 4900 square foot rectangular building. The garage on the original plan has been deleted.

Mr. Callahan explains the variance for the parking area is mitigated with indentations and green area to limit the amount of encroachment, so it is not totally five feet to the property line.

Mr. Silvestri goes on to explain the septic system and the detention pond are proposed in the front of the building, no parking in the front. All the parking will be in the back. The asphalt has been kept at a minimum by asking the Planning Board to require the number of parking spaces to what is really needed at the site, which amounts to 35 parking spaces, this has been approved.

Mr. Silvestri has also included elevations in his latest proposal and he points out that the site is very residential looking. The proposed building is totally brick on all four sides, an architectural asphalt shingle roof and interesting window configurations.

Mr. Shear points out that the EAF Part I lists the square footage of the building at 4,000. Mr. Silvestri explains that the EAF was completed prior to the increase in square footage to 4,900 and the omission of the garage. The building is strictly a medical office.

There are no doors on the front of the proposed building. Mr. Moulin asks if this project has been reviewed by the Fire Safety Advisory Board. Mr. Silvestri explains there are three (3) exits out of the building. Mr. Hartz said this proposal will go through the Fire Advisory review.

Mr. Grenzebach said another issue that was addressed at the Planning Board was a fence or a barrier that was requested by an adjacent neighbor. There is a line of spruce trees that runs along the eastern property line, along this line there is a portion to the rear of the property that remains unshielded, the applicant has agreed with the neighbor to provide either a fence or a strip of green along that area.

Mr. Callahan said this would be an unlisted action.

Mr. Shear asks for clarification regarding the zoning of the property. Mr. Callahan explains that the building is in the Restricted Business Zone, the back portion is Residential Single-Family. The Proposed Zoning Amendments would eliminate the need for any additional re-zoning for the back portion of the site.

ACTION:

Motion by Matthew Balling, seconded by John Moulin, to **recommend** the Town Board consider this an unlisted action under SEQRA and they forego a coordinated review

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Mr. Balling refers to the EAF Part 2 and indicates the following:

- The proposed action will result in a physical change to the project site.
- The proposed action will not affect any water body designated as protected.
- The proposed action will not affect any non-protected existing or new body of water.
- The proposed action will affect surface or groundwater quality or quantity; this is a small to moderate impact which is a commercial use utilizing septic disposal system.
- The proposed action will alter drainage flow or patterns or surface water runoff; this is a small to moderate impact that can be mitigated by a project change. The project will require the applicant to prepare a storm water pollution prevention plan.
- Questions 7 through 14 are answered "no".

-The proposed action will affect existing transportation systems; it is a small to moderate impact under alteration of present patterns of movement of people and/or goods.

-Questions 16 through 18.

-The proposed action will affect the character of the existing community; it is a small to moderate impact because the proposed action will cause headlight glare onto neighboring property. It can be mitigated with a project change.

-Question 20 is answered, "no".

ACTION:

Motion by Matthew Balling, seconded by Richard McNamara, to **forward** the Part II of the EAF as prepared at this meeting to the Town Board for their consideration.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

ACTION:

Motion by Matthew Balling, seconded by John Moulin, to **recommend** the Town Board issue a Negative Declaration under SEQRA.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

The next meeting date is May 21, 2007. Mr. Callahan will attempt to reschedule Mr. Perelli's presentation for the May 21, 2007 meeting at 6:00 p.m.

Meeting adjourned at 7:49 p.m.

Carolyn Delgato
Senior Clerk Typist