

Clarence Town Environmental Quality Review
(TEQR)

Meeting Minutes

Monday, May 21, 2007

(revised 6-19-07)

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

TEQR Members Present:

Matthew Balling
Paul Shear

John Moulin
Lisa Bertino-Beaser

Other Town Officials Present:

James Callahan, Director of Community Development
Jeffrey Grenzebach
Steve Bengart, Town Attorney

Other Interested Parties Present:

Paul Case
Michael Thore
Sean Hopkins
William Tuyn
Nick Piestrak

Melissa Thore
William Schutt
William Pfennig
Dominic Piestrak

Item 1-Approval of minutes from the previous meeting.

ACTION:

Motion by Paul Shear, seconded by John Moulin, to **approve** the minutes for the meeting held on April 16, 2007, as written.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 2-Communications.

Communications will be discussed under the appropriate project.

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

Jim Callahan describes the property as being located on the north east corner of Stage and Schurr Roads, consists of approximately 39 acres and is zoned Residential Single-Family. It was originally sent for coordinated review in December of 2004, the project has been tabled pending receipt of the archeological report, which was received on March 20, 2007.

Sean Hopkins, of Hopkins, Garas and Sorgi, is representing the applicant and indicates he has an updated plan to be distributed to the Committee. The layout presented this evening shows a further reduction in the density of the project from 10 lots to 8 lots on 45 acres. The connection roadway between the two portions of the project site has been eliminated; this has been done to minimize wetland impacts. The wetland impact is approximately 1.12 acres. Indicated on the updated site plan there is a proposed wetland mitigation area of approximately 1.7 acres, this will be subject to the approval of the DEC and the Army Corp of Engineers; the applicant will provide the Town with copies of the permits as they are obtained.

Paul Shear points out that the wetlands extend into the Town of Newstead and asks if this will cause a problem. Matthew Balling does not see it as a problem.

Mr. Balling said that a transportation impact was an issue and having a through road was considered important, the applicant has now changed this. Mr. Hopkins is sure that, with the connection roadway, the agencies would direct the applicant in this direction. He said there is not much benefit in connecting the two roadways.

Mr. Balling suggests tabling the project to allow time for the involved agencies to review the updated site plan. Mr. Hopkins does not agree, the environmental impacts have been reduced. He understands if the Committee tables the project to review the updated design but does not agree with starting the coordinated review all over again. Mr. Balling thinks it is important for the DEC to review the updated plan.

Paul Shear said the primary concerns of the TEQR Committee were that things changed on the plan from when it was originally presented, there was a concern with the possibility of building in the buffer zone, there was also a concern with the ingress/egress on Schurr Road being through the wetland.

ACTION:

Motion by Matthew Balling, seconded by Paul Shear, to **table** agenda item 3a to provide the TEQR Committee time to review the new plan and solicit comments from the New York State DEC in regards to freshwater impacts.

ON THE QUESTION:

Councilman Bylewski asks what the count is in the cul-de-sacs; Mr. Hopkins said the plan shows one of three and one of seven. Councilman Bylewski asks that the Planning & Zoning Department look at the project to make sure it complies. Mr. Hopkins said he can meet with Mr. Callahan prior to next month's meeting.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

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 that this item was tabled pending clearance from the NYS DEC on the Lead Agency Status. To date, no clearance has been received.

Sean Hopkins, of Hopkins, Garas & Sorgi is representing the applicant. He explains that it does not look like the DEC will be issuing lead agency concurrence letter anytime in the near immediate future. The major issue with this site is that it is not located in a sewer district and it does not look like the Town Board is inclined to include it a consolidated district that will be created. Mr. Hopkins spoke with Mr. Doleski 10 days ago and asked if he would consider allowing the TEQR Committee to move forward with it's analysis of other environmental impacts, Mr. Doleski indicated he had no problem with this. Mr. Hopkins is asking the TEQR Committee to do this and he will report back to Mr. Doleski. Mr. Balling disagrees with reviewing environmental impacts as "piece meal".

Mr. Balling said there are two options for the applicant. The first is to withdraw the project. Mr. Hopkins said this will not happen. The second is for the applicant to keep working on a solution to the sewer project; a scoping session would need to take place.

Mr. Balling explains that the Town is not in a position to begin this investigation because it is not currently lead agency. The Town has the right to petition all the lead agencies that have been identified.

Mr. Hopkins is not asking the TEQR Committee to endorse any reports, he is asking for the Committee to allow the applicant to proceed in the analysis of other environmental impacts.

Town Attorney Steve Bengart said the applicant can proceed with obtaining reports but the Town will not endorse them. Mr. Hopkins said he just wants input from the TEQR Committee and other involved agencies on other environmental impacts.

Councilman Bylewski explains that there is a provision under SEQRA that allows for the project sponsor to request the designation of lead agency. Mr. Hopkins said they have not done this so as not to insult any of the involved agencies.

ACTION:

Motion by Matthew Balling, seconded by John Moulin, to **withdraw** Harris Hill Commons and the utilization of sewer capacity outside of Erie County Sewer District #5 from the TEQR agenda and **recommend** the Town Board consider petitioning for Lead Agency Status with all the involved agencies.

ON THE QUESTION:

Lisa Bertino-Beaser suggests tabling the project instead of withdrawing it, Paul Shear agrees. Matthew Balling rescinds his motion.

ACTION:

Motion by Matthew Balling, seconded by John Moulin, to **table** Harris Hill Commons and the utilization of sewer capacity outside of Erie County Sewer District #5 from the TEQR agenda and **recommend** the Town Board consider petitioning for Lead Agency Status with all the involved agencies.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

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

DISCUSSION:

Jim Callahan describes the property as being located on the west side of Ransom Road, south of Tillman Road and consists of approximately 8 acres in the Agricultural Rural Residential Zone. The item has remained tabled pending receipt of information related to a buried fuel oil tank. An archeological report has been received as of April 6, 2007.

Paul Case, of Metzger Civil Engineering, advises the Committee that the applicant is working towards addressing the proposed underground tank issue prior to next months meeting and has requested the item be tabled.

ACTION:

Motion by John Moulin, seconded by Lisa Bertino-Beaser, to **table** agenda item #3c at the applicant's request.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 3d-Donald Steinwach, County/Heise.

DISCUSSION:

Jim Callahan describes the project as being located at the northwest corner of County Road and Heise Road, consisting of approximately 28 acres zoned Agricultural Rural Residential. The coordinated review commenced on April 11, 2007, the Town is awaiting comments on the proposed Open Development.

Paul Case, of Metzger Civil Engineering, is representing the applicant and recalls that an issue was raised regarding the National Fuel Easement located at the site with regards to construction or any crossings being allowed. The applicant has a letter from National Fuel indicating that a preliminary review suggests they will grant the request based on the following conditions: 1.) Provide National Fuel with a detailed grading plan for the project showing pertinent elevations of typical crossings. 2.) Execute an encroachment agreement whereby mandated insurance requirements are met and National Fuel is held harmless for any damages during routine maintenance and/or emergency situations. A copy of the letter is in the file. Town Attorney Steve Bengart said two issues still remain. One, after it is reviewed will it be granted. Second, if it is granted will there be some kind of deed restriction that puts the various homeowners on notice that they are building their driveways on an easement. A deed restriction will be the Town Attorney's recommendation at a later date.

Mr. Case explains the proposed drives will be private.

Mr. Shear clarifies that although the TEQR Committee is looking at the full 10-lot build-out, they are only considering the 4-Lot Open Development Area and any decision on the four lots will have no impact on further discussion with regards to the additional six lots and the easement across the pipeline.

Mr. Case believes the applicant is willing to take care of the easement issues now. Town Attorney Steve Bengart said the TEQR Committee could condition the approval on those items.

Mr. Ballings concern is if the TEQR Committee does not look at the SEQRA review on the entire parcel now, there won't be a review as the remainder of the land is developed. He would like to review a Phase I Archeological Study for the entire site. Mr. Case said the applicant contacted the DEC and requested initial feedback on archeological sensitive areas at the site, there were no sensitive areas identified for the entire site.

Mr. Shear said he understands that this property was previously farmland, so the land has been disturbed. If the applicant has been in touch with the DEC and they indicate there is no significance, and this can be substantiated, Mr. Shear sees no reason to cause the applicant to spend the money to provide a Phase I if no one thinks it is required.

ACTION:

Motion by Matthew Balling, seconded by Paul Shear, to **table** agenda item #3d pending receipt of confirmation of no archeological impact on the entire site.

ON THE QUESTION:

Town Attorney Steve Bengart asks if the Committee is comfortable with the easement issue. Mr. Balling does not see a major problem as long as there is a disclosure.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

It is clarified that the TEQR Committee has not received any comments from involved agencies.

Item 3e-Proposed Zoning Map Amendments.

DISCUSSION:

Jim Callahan explains there are two areas in the Town that the Planning Board has recommended site amendments to the Zoning Map. One is along the Sheridan Drive corridor on the south side to extend the Restricted Business Zone deeper. The other is along Transit Road corridor outside the flood zone to amend from Restricted Business to Major Arterial. A coordinated review commenced in April 2007. Comments have been received from the NYS DEC related to potential impacts or issues with those areas to be rezoned.

Mr. Balling is not in favor of either proposed Zoning changes; both encroach on areas of the Town that the proposed Land Use Map in the Comprehensive Plan has designated as residential use.

Jim Callahan explains that the rationale for the change on Transit Road is it is the area outside the floodplain.

Mr. Balling's real concern is consistency with the Master Plan; it does not set a good precedent when you migrate away from what the Master Plan says.

Jim Callahan said the Future Land Use Map has identified the Transit Road area as Commercial and has been.

ACTION:

Motion by Matthew Balling, seconded by Lisa Bertino-Beaser, to **table** agenda item #3e to allow the TEQR Committee the opportunity to review the maps.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Nay	Lisa Bertino-Beaser	Aye

MOTION FAILED.

The matter remains tabled per the previous agenda.

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

DISCUSSION:

Jim Callahan describes the property as being located at the south east corner of Transit Road and Stahley Road. It consists of 10 acres in the Traditional Neighborhood District. A coordinated review commenced on March 28, 2007. Comments have been received from the NYS DEC, NYS DOT and Erie County DEW as well as wetlands information from a wetland consultant.

Jeffrey Palumbo, of Damon & Morey, is representing the applicant. Engineer Bill Schutt is present as well. Mr. Palumbo refers to the comments received from the involved agencies and explains

that all agencies report that it is not anticipated that any significant impacts will result from the proposed expansion. One issue raised by the DEC was with regards to the Federal Wetlands on the property. Mr. Owens, of Earth Dimensions, responded to that by indicating to the TEQR Committee that the project area, itself, has no Federal Wetlands. The wetlands that the State was referring to are outside the scope of the project area. There are no State Wetlands.

Mr. Schutt explains the location of the storm water management pond as being adjacent to the existing shed on the site; it is within the area that was delineated by Mr. Owens. There is no site plan that actually shows the detention pond.

Mr. Balling has drafted a Part II & III for this project. Under Part II the proposed action will result in a physical change to the project site; this is a small to moderate impact and can not be mitigated by a project change. The action will result in an increase of impervious surface which will result in stormwater discharge that will produce non-point source pollution; this is a potentially large impact and can be mitigated by a project change. The project will result in non-agricultural development adjacent to working farmland within an existing NYS Agricultural District to the immediate north. Right to Farm Laws will apply; this is a small to moderate impact and can not be mitigated by a project change. There will be a small to moderate impact with regards to the alteration of present patterns of movement of people and/or goods which can not be mitigated by a project change. The project would result in additional development in the vicinity of a future, proposed local road identified within the Town's Transit Road Corridor Management Study; this is a small to moderate impact that can not be mitigated by a project change. The proposed action will cause a change in the density of land use; this is a small to moderate impact and can not be mitigated by a project change. Part III indicates that the project will result in increased impervious surface which under rainy conditions will create non-point source pollution. This potentially large impact can be mitigated by controlling and treating the runoff. The applicant should be required to prepare a storm water pollution prevention plan for review by the Town to address this impact. With this mitigating action the proposed project should not pose any significant, adverse impacts upon the environment. The magnitude of the impact of this additional development on the future, proposed local road cannot be determined at this time. The applicant should be aware of this proposal.

ACTION:

Motion by Matthew Balling, seconded by Paul Shear, to **accept** the Part II & III as drafted and **recommend** the Town Board issue a Negative Declaration.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 3g-Benderson Development, 5965 Transit Road.

DISCUSSION:

Jim Callahan describes the property as being located on the east of Transit Road, south of Clarence Center Road. It consists of 3 plus acres in the Major Arterial Zone, it is zoned Residential Single-Family to the rear of the property. A coordinated review for a proposed mixed-use building was commenced on March 23, 2007, comments have been received from NYS DEC and NYS DOT.

Jeffrey Palumbo, of Damon & Morey, is representing the applicant along with Jim Rumsey, from Benderson Development. Mr. Palumbo explains that the NYS DOT has indicated that the project is not likely to have a significant impact on the environment. The NYS DEC is consenting to the Town of Clarence acting as Lead Agency with regards to the SEQRA review. The NYS DEC has raised the issue of archeology, at this point; no Phase I study has been completed. If the TEQR Committee desires this study the applicant will obtain it. He hopes the project can move forward with a Negative Declaration with the proviso that a Phase I Archeological Study be completed.

Mr. Balling asks what was previously built on the site prior to it being vacant. There may have been a family home at the site.

ACTION:

Motion by Paul Shear, seconded by John Moulin, to **table** agenda item #3g pending the receipt of an Archeological Study.

ON THE QUESTION:

Mr. Balling has one issue with the project; this issue can be mitigated. He suggests exploring improved pedestrian connectivity with the dead-end road; this can be discussed at a future date. Mr. Balling is suggesting a walkway in the neighborhood to the back of the site. Mr. Rumsey said there are wetlands in that area; however they will take another look at the area in order to provide what the TEQR Committee is asking for.

Matthew Balling	Aye	John Moulin	Aye
Paul Shear	Aye	Lisa Bertino-Beaser	Aye

MOTION CARRIED.

Item 4a-Spaulling Greens, Supplemental Draft Environmental Impact Statement.

Lisa Bertino-Beaser has recused herself from this matter.

DISCUSSION:

Jim Callahan explains that the scoping on this item was completed in November 2006. A draft supplemental environmental impact statement has been received. The Town's responsibility is to determine whether the submitted document is completed as it relates to the scoping session.

Mr. Balling said the TEQR Committee feels the Town Board should commence the 45 day review period when the Town can consider the content of the document to be complete and in conformance with what was agreed upon in the scoping sessions.

William Tuyn, of Greenman Pedersen Inc., is representing the applicant. Developers Dominic and Nick Piestrak are present. He believes the Town will find the information they are looking for in the scoping document. Mr. Tuyn explains there are two alternative plans for the proposal; both are Open Space Development Plans. Alternative number two is more diverse and has more open space. The greenspace buffer on Goodrich is in place on both plans. The developer prefers plan number two;

however, Mr. Tuyn said he is aware that the final decision on which plan to develop is entirely up to the Town.

Mr. Balling asks what plan the applicant will use when the Town Board sets a Public Hearing, it may be very confusing if there are multiple alternatives still being debated. Technically the TEQR Committee is supposed to be looking at one configuration. Mr. Tuyn clarifies that the applicants preferred plan is alternative number 2. Dominic Piestrak said the Planning Board preferred plan 2, as well.

Mr. Balling suggests adding "Alternative 2" to any agenda that lists this project.

No formal action is taken.

Lisa Bertino-Beaser joins the meeting.

Item 5a-May 30th Town Board/Planning Board Work Session.

DISCUSSION:

Mr. Balling advises all members of the TEQR Committee that there will be a joint meeting of the Town Board and the Planning Board, he encourages all to attend.

The next meeting date is June 18, 2007.

Meeting adjourned at 8:19 p.m.

Carolyn Delgato
Senior Clerk Typist