

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

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
Richard McNamara

Patrick Miner
Paul Shear

TEQR Members Absent:

Lisa Bertino-Beaser

John Moulin

Other Town Officials Present:

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

Other Interested Parties Present:

Bill Pfennig
Jerry Young
William Tuyn
Nick Piestrak

Laura Pfennig
Al Hopkins
Dominic Piestrak
Mark Tufillaro

Item 1-Approval of minutes from the previous meeting.

Motion by Paul Shear to **approve** the minutes for the meeting held on May 21, 2007, as written.

Paul Shear **withdraws** his motion to approve the minutes of the meeting held on May 21, 2007 as all members of the TEQR Committee that were present at that meeting are not present this evening.

Motion by Paul Shear, seconded by Richard McNamara to **approve** the minutes for the meeting held on June 18, 2007, with the following changes:

- Town Attorney Steve Bengart was not present at the meeting.
- Councilman Scott Bylewski was not present at the meeting.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

Item 2-Communications.

Communications will be discussed under Unfinished Business.

Item 3a-Stage and Schurr Subdivision.

DISCUSSION:

Jim Hartz explains that this item has been tabled pending receipt of wetland information from the Army Corp. An amended design is requested due to a worksession discussion. The applicant is not present. Matthew Balling explains that a question was raised with regard to the legality of one of the roads being proposed on the subdivision plan; the TEQR Committee needs more information from the applicant about what their proposal entails.

ACTION:

Motion by Matthew Balling, seconded by Patrick Miner, to **table** the Stage and Schurr Subdivision until the applicant can be present to answer questions regarding the proposed road/lot configuration.

ON THE QUESTION:

Paul Shear explains that a cul-de-sac is shown on the northern portion of the plan, the plan indicates that the cul-de-sac be a public road; it includes 7 lots. Mr. Shear said it is the TEQR Committee's understanding that the majority of the Town Board does not look favorably on cul-de-sacs that go nowhere becoming a public road. They further understand that if it is a private road a 4-lot Open Development should be considered as opposed to 7. Councilman Bylewski said the Subdivision Law allows cul-de-sacs if they go up against a particular geological feature such as wetlands, however there is still the issue that it is an unsewered subdivision. He suggests 2 Open Development Areas each being four lots; this would address the sewer and road issue. He also said if the applicant is not willing to take a step back perhaps a Positive Declaration can be issued. Mr. Shear points out there are 2 separate cul-de-sacs proposed; one with three lots and one with seven lots, this is outside the four and four and therein lies the problem. Matthew Balling said the plan could not legally pass as being an open development area; it could not be a subdivision because the Town would want the road to connect to other roads in the area.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

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

DISCUSSION:

Jim Hartz explains that the TEQR Committee has been awaiting information as to whether there were any buried tanks on the property; the applicant has submitted the information. Al Hopkins of Metzger Civil Engineering is present and representing the applicant.

Mr. Balling asked Mr. Hopkins how the applicant went about hiring the firm that conducted the underground storage tank study. Mr. Hopkins said it was suggested by the Town that they use Leader Environmental. Town Attorney Bengart said it was suggested through his office. Mr. Balling asked how the applicant decided where he was going to excavate. Mr. Hopkins said a neighbor new exactly where the tank was. The report shows there is no tank.

Mr. Balling asked who performs the construction inspections during construction. This will be done by the builders and the Town. Jim Hartz said there is no Certificate of Occupancy on the utility road construction for the Open Development; an inspection is done through a private improvement permit through the Town's Engineering Department.

Mr. Balling asked that the information regarding the possible presence of the tank be forwarded to the Engineering Department so they are aware of it when inspecting the site. If the builder is digging and hits a tank he has an immediate obligation to contact the DEC.

Mr. Shear said that the actual height on some areas to the south is indicated in a report, one such area is 789', while the adjoining property is 790'. He thinks there will be some water retention on the property because it is lower. He assumes the driveway will be built up and his concern is drainage across or below the driveway to accommodate the movement of water from the south to the north. Will this be addressed in the positioning and construction of the driveways to the back properties? Mr. Hopkins said the natural slope of the site flows in the northwest direction. He thinks a swale might have to be put in to keep the water on site and away from neighboring property. There are plenty of places to channel the water.

Mr. Balling said the plan is an unorthodox way to construct building lots. He does not think the Town wants to get into the habit of building lots behind lots. Mr. Balling also points out the heavily wooded areas on site and said he will ask that the applicant maintain much of these areas.

Laura Pfennig, property owner to the south, told the applicant where the tank was, she said the applicant dug near where the tank was. She saw John Kausner dig a hole, look in the hole and then Chris Kausner filled the hole in. She does not know if the tank was removed, it was between two trees and Mr. Kausner dug between two rows of trees. She said Mr. McHugh, property owner to the west, has voiced his concerns to the Planning Board regarding the water issue. Ms. Pfennig said when the snow is plowed it will end up on her property, Mr. Kausner can't keep it on his property. There are four large trees between her house and the proposed road, two trees will be taken down to put the road in, the two that remain on her property might survive. All the other trees along her property line are dead due to the October 2006 storm and storms before that. She voices her concern with looking out her back window and seeing another house, she will not see trees.

Mr. Balling refers to the EAF Part II question number 1 and indicates the proposed action will result in a physical change to the project site, this is a small to moderate impact, the project site was

formerly open space. Questions 2, 3, and 4 are answered, “No.” Question 5 indicates that the proposed action will affect surface or groundwater quality or quantity; this is a small to moderate impact. The proposed action will allow residential uses in areas without water and/or sewer services. Other impacts should identify storm water and melt/thaw from proposed driveway in the vicinity of neighboring properties; this is a potentially large impact that can be mitigated by a project change. The mitigation would be the relocation of the driveway or a shifting of the driveway to provide a buffer. Question number 6 is answered, “Yes” and indicates the proposed action will alter drainage flow or patterns, or surface water runoff. The proposed action is incompatible with existing drainage patterns, and can be mitigated by a project change. Questions 7, 8, 9 and 10 are answered, “No.” Question 11 is answered “Yes” and indicates that the proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource; this is a small to moderate impact. Under other impacts it is indicated that the lot configuration as a potentially large impact. Question number 12 is marked, “No.” Question number 13 is answered “Yes” under other impacts the project takes over space; this is a small to moderate impact that can be mitigated by a project change. Questions 14, 15, 16, 17 and 18 are answered, “No.” The proposed action will affect the character of the existing community, the proposed action will set important precedent for future projects; this is a small to moderate impact. It is likely there will be public controversy related to potential adverse environment impacts.

ACTION:

Motion by Paul Shear, seconded by Richard McNamara, to **accept** the EAF Part II and for the Kausner Open Development Area at 4180 Ransom Road and forward it to the Town Board.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

Motion by Matthew Balling, seconded by Paul Shear, to **recommend** the Town Board issue a Negative Declaration on the proposed project.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

Motion by Matthew Balling, seconded by Paul Shear, to **request** the staff of the Planning and Zoning Department prepare the EAF Part III, paying special attention to those potentially large impacts discussed.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

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

Mr. Balling explains there were two areas discussed by the Committee; one was the commercial area on Transit Road and a second commercial area on Sheridan Drive. Since the discussion the Planning and Zoning staff has amended the proposal for Transit Road. Mr. Balling believes it is now consistent with Master Plan 2015.

ACTION:

Motion by Matthew Balling, seconded by Richard McNamara, to **recommend** the Town Board issue a Negative Declaration.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

DISCUSSION:

Mr. Balling does not agree with the rezoning of Sheridan Drive. There are a number of existing homeowners that would be adverse to having the commercial zoning district deepen. He is aware of the economics of the situation but in the interest of protecting property values and rights of the existing property owners he makes the following motion:

ACTION:

Motion by Matthew Balling, seconded by Patrick Miner, to **recommend** the Town Board **not** consider the rezoning of Sheridan Drive at this time.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Nay	Paul Shear	Nay

MOTION FAILED.

Item 3d-Spaulding Greens, Supplemental Draft Environmental Impact Statement Acceptance.**DISCUSSION:**

Jim Hartz explains that a Supplemental Draft Environmental Impact Statement was received in the Planning and Zoning Office on May 10, 2007. The TEQR Committee members have reviewed the document. Mr. Balling said that the DEIS does not provide any of the traffic projections that were used in the traffic study, it only provides tables with the Level of Service (LOS) on them. If the TEQR Committee is to recommend that the Town Board consider the document complete, Mr. Balling thinks it is appropriate for the traffic engineer that worked on the project to meet with him and other Town representatives including the Town Engineer and Highway Superintendent as soon as possible. Mr. Tuyn said there is a traffic study which is an appendix to the DEIS, it was completed December 21, 2006; the study itself was issued February 2007. Mr. Balling refers to page 84 of the Supplemental,

table 5.9 and said the figures do not compare to what the TEQR Committee has seen in the past at these intersections.

Mr. Balling suggests the applicant incorporate the “bare bones” traffic projection for the project. He then refers to the site plan and calls attention to lots 217-248 and 182-201; he does not think these lots are permitted by the Town’s current subdivision. He wonders if the Planning Board is aware of this. Councilman Bylewski said it was a specific request of the Planning Board, as well as in discussions with the Town Board, that further opportunities look for creating the grid pattern to create interconnectivity. Land locking a piece of property is another thing the Town does not want to do. Mr. Balling refers to the Town Code in which it says no more than twelve lots on a cul-de-sac. Jim Hartz said a connection is needed to solve that problem.

Mr. Balling refers to the EIS and said community services need to be addressed which includes school capacity, updated enrollment statistics need to be included in the report.

Jim Hartz will send an updated school study to Mr. Tuyn.

With regards to building permits, page 13 needs to be updated to show 240 residential lots.

Mr. Shear asked what an LOS of “g” or “h” means. Mr. Tuyn said it means there is an excessive delay, well beyond what is acceptable.

Councilman Bylewski refers to the issue of the subdivision and the length of the roadway, one way to address these issues is that the Town Board can issue variances with a super majority vote. As to the specific concerns of the Supplemental Draft Environmental Impact Statement he refers to page 30, the second last paragraph and said it is his understanding that there was **not** a conceptual approval, the wording in the document needs to be adjusted to reflect this. Page 41 needs to have the years adjusted to reflect the correct length of time. Councilman Bylewski refers to page 78 section 5.2.5.5 and said the Town is in the process of reviewing and revising the fiscal impacts but the results are not complete. The study should reflect the estimated results “at that time”.

Jim Hartz clarifies that on the project alternatives; one alternative indicates that to get to the 380 unit count the project is using 419 acres. Another alternative (2) states 367 acres is being used. The acreage needs to be changed to meet the greenspace requirement for an Open Space Development.

ACTION:

Motion by Matthew Balling, seconded by Paul Shear, to **recommend** the Town Board accept the Supplemental Draft Environmental Impact Statement for agenda item #3d contingent upon including the traffic projections in the base document and amending the school enrollment analysis.

ON THE QUESTION:

Councilman Bylewski suggests the motion include the items he mentioned and that those items are to be adjusted in the draft as well, along with the density.

Matthew Balling amends his motion to include Councilman Bylewski’s suggestion. Paul Shear amends his second.

ON THE QUESTION:

Mr. Shear asked if the applicant is required to provide a completely revised EIS or is an amendment page that makes the necessary corrections acceptable. Mr. Balling thinks the format should stay the same; the entire study should be reprinted with the applicable revisions. Mr. Tuyn asked if the appropriate amendments can be submitted to the Town to move the project along, at the end of the process the applicant will need to produce many copies of the complete updated EIS anyway. Councilman Bylewski said the amendments should be made and submitted to the TEQR Committee and the Planning and Zoning staff, once they are reviewed and acceptable, the applicant can print as many completed copies as necessary.

Mr. Miner asked what happens if the analytics are required to change due to the updated information that will be put into the study. Mr. Hartz explains that if there is an impact due to the updated information there will have to be answers to those issues in the final environmental impact statement.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

Item 3e-Staybride Suites Hotel, 8005 Sheridan Drive**DISCUSSION:**

Jerry Young is representing the applicant. Mr. Balling explains the lead agency status commenced on June 25, 2007, the TEQR Committee is awaiting the 30-day comment period to expire. Mr. Young explains that the DEC issued a letter indicating there might be some archeological interest at the site. A proposed site disturbance plan was submitted by the applicant to show that the site was disturbed. Mr. Balling toured the site, it sits on bedrock, anything that may have had archeological significance is long gone.

Mr. Young said a traffic study is being done with the main focus on the ingress and egress of the site. One recommendation from the DOT is to try and lower the grade at southern portion of the site, this would allow the entrance to be lowered as well. The other recommendation by the DOT is to turn the road more perpendicular, rather than going in at an angle. Mr. Balling said the exit from the Sheridan Drive driveway is difficult to maneuver especially if you are looking to go westbound and make a left hand turn out of the site; he notes that there is also a deceleration lane in this area. A driver can not see beyond the Sheridan Drive Bridge and he suggests the applicant find out if the site distance is acceptable.

ACTION:

Motion by Matthew Balling, seconded by Patrick Miner, to **table** agenda item #3e pending the expiration of the 30 day comment period.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

Item 3f- Four M's Development, 10120 County Road.

DISCUSSION:

Jim Hartz explains that the project is still within the 30 day comment period.

Mark Tuffillaro, applicant, said there is a letter from the DEC regarding the short-eared owl, the DEC has since communicated that this issue does not pertain to the applicant's site and they are reissuing a letter to that effect.

ACTION:

Motion by Matthew Balling, seconded by Richard McNamara, to **table** agenda item #3f pending the expiration of the 30 day comment period.

Matthew Balling	Aye	Patrick Miner	Aye
Richard McNamara	Aye	Paul Shear	Aye

MOTION CARRIED.

Item 4a-Master Plan 2015 Amendment (2007 Recommendation from Planning Board)

DISCUSSION:

Jim Hartz said this agenda item could be considered a Type II action. The State Law still requires a public hearing. Councilman Bylewski suggests the amendment be done as an Unlisted Action.

ACTION:

Motion by Matthew Balling, seconded by Patrick Miner, to **recommend** the Town Board consider agenda item #4a an unlisted action but commence a coordinated review for all interested and involved agencies.

ON THE QUESTION:

Councilman Bylewski thinks this is the prudent course of action.

Matthew Balling	Aye	Patrick Miner	Aye
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Richard McNamara

Aye

Paul Shear

Aye

MOTION CARRIED.

Item 5-Miscellaneous

DISCUSSION:

Matthew Balling asked the Planning and Zoning Department to let the TEQR Committee know as soon as a time and a date is set for meeting with the applicant's for Spaulding Greens to discuss their traffic study.

Item 6-The next meeting date is August 20, 2007.

Meeting adjourned at 8:35 p.m.

Carolyn Delgato
Senior Clerk Typist