

Clarence Town Environmental Quality Review  
(TEQR)  
Meeting Minutes  
Monday July 19, 2010

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

TEQR Members Present:

Robert Sackett	John Moulin
Paul Shear	Richard McNamara
Lisa Bertino-Beaser	Jonathan Hickey

Other Town Officials Present:

Director of Community Development James Callahan  
Town Attorney Steven Bengart  
Planning Board Liaison Gregory Todaro

Other Interested Parties Present:

Chris Cardillo	Mike Metzger
Chris Siniscalchi	Jim Mahony
Bob Reggentine	Dick Marquart
Dennis Mayer	Leonard Sliwinski
Bill Conwall	Sue Emborsky
Pat McDonell	Matt Aldert
Lori Nielsen	John Mast
Jean Mast	Jackie Konitzer
J. Eldon Owens	David Kruse

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

Motion by Paul Shear, seconded by Jonathan Hickey, to **approve** the minutes for the meeting held on May 17, 2010.

Jonathan Hickey	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

**Item 2-**Communications.

Communications will be discussed under Unfinished Business.

**Item 3a-Woodmeadows Estates, Tonawanda Creek Road west of Northfield Road (coordinated review commenced on 6/25/08).**

**DISCUSSION:**

Jim Callahan provided the background on the project. It is proposed Open Development Area located on the south side of Tonawanda Creek Road, west of Northfield Road. The project was tabled July 21, 2008 pending receipt of wetland and archeological analysis.

Robert Reggentine is present and explained the archeological study is pending final review from the State Historic Preservation Office (SHPO). Mr. Reggentine has been in contact with the University of Buffalo, the consultant, and they do not see any problems where any extensive work is going to be required beyond a Phase I study. There were some floodplain issues but that is in the back of the site and out of the area of the proposed development.

Paul Shear said the map that was provided by Wilson Environmental is not current. There has been some division of property to the east of 8625 Tonawanda Creek Road, there have also been some houses built. There appears to be a driveway or some type of construction going on at 8645 Tonawanda Creek Road. Mr. Shear would like to have the paperwork updated so when the TEQR Committee reviews the project, the map is current. He assumes that the driveway is to connect to the piece of landlocked property in the back, where the barn is. Mr. Reggentine said the property is not landlocked. There is 80 foot frontage on Tonawanda Creek Road that goes to the back where the proposed road is. The building that is back there is excepted out of the parcel. There will be an easement from the roadway to the building.

Mr. Shear said the Wilson study indicated there are drainage ditches both east and west, and north and south. The north and south ditch is located at the hedgerow near the center of the property. He believes the hedgerow is consistent with whatever is being done at 8645 Tonawanda Creek Road. If what is being done at 8645 Tonawanda Creek Road is closing off the north/south drainage ditch there will be problems with drainage on the property to the back where the plan is to build homes. The documentation that the Committee has does not represent what currently exists on the property. Mr. Shear is hesitant to move forward.

Mr. Reggentine said he cannot make any assumptions on the ditches and the drainage until a topographical survey is completed. The next phase of this proposal would be to develop the drainage structure.

Jim Mahony is the owner of the property and explained the ditch is maintained by the Town and they are going to set culvert pipe in there. Two links were installed last year, as any homeowner pays for the pipe the Town will install it; the flow will remain. What the Town is doing is unrelated to this project.

Mr. Shear voices his concern about moving the project forward when the information provided is not current.

Mr. Reggentine said this is basically a conceptual look at what he is trying to achieve. The next phase, which is the Development Plan, is when drainage issues and other issues will be addressed. At that point the project can be stopped if it looks like there are going to be drainage issues, but in order to get to that point he has to get through the concept and make sure he has a workable plan.

Chairman Sackett explained that it is the TEQR Committee's job to make sure the water can be managed at the project site. He agreed with Mr. Shear's concerns.

Mr. Shear said the Wilson study indicated that they believe all the drainage moves north towards Tonawanda Creek. So anything that happens along the frontage of the applicant's property or adjoining property will affect the entire neighborhood area. The TEQR Committee's concern is not only for the applicant's property but the surrounding area as well.

Mr. Mahony said the topo map shows the flow going to the ditch and the ditch goes to the road across the street. There is a Town maintained ditch and a culvert pipe about every six (6) lots, it goes under the street and drains into the creek; this is where the pipes are currently being installed. He does not see how this project will impact the drainage either way.

Mr. Shear said without the proper information from Highway or Engineering he is not prepared to move forward on the proposal.

Dennis Snyder, of 8500 Northfield Road, is concerned that he does not have the plans showing the location of the homes. The plans from two (2) years ago showed one home behind his property. That area can be wet, especially in the spring time. The home that was showed on the old plan was very close to the back of his property and seemed to be raised up. It was not that far away from his property and could cause a problem. His concern is the drainage and how the location of the proposed homes would impact the neighborhood.

Leonard Sliwinski, of 8450 Northfield Road, is also concerned with water from Transit coming towards his property. He is concerned the area is a wetland. Mr. Sliwinski heard a pond was going to be put at the project site; he wondered what will be done about mosquitoes then. If the project site drains towards Tonawanda Creek there may be roads that get washed out. It took four (4) years to put a road in that was previously washed out.

Chris Siniscalchi, of 8695 Tonawanda Creek Road, is concerned with the Town doing maintenance on the drainage ditches. He has a drainage ditch on the south side of his property which has not been maintained for 15-20 years.

Susan Emborsky, of 8220 Northfield Road, is concerned with the pond as the water will become stagnant. There is no spring or well coming into the pond that will move the water around. This will create a mosquito problem. What is the plan for mosquito control?

Mr. Reggentine said the pond can be aerated or can have chemicals added to take the stagnation out. He noted that this issue is part of the second phase of the project. He explained that there cannot be any more water added to the site than what already exists. Any drainage problems will need to be resolved or Engineering will not approve the plan.

The project remains tabled until the following information is obtained:

- An updated map with regards to the layout of the surrounding property, and current division of that property.
- Clarification on how the barn and the landlocked piece of property to the rear are going to have a right-of-way to the 80' piece of property.

-Verify the ditch at 8645 Tonawanda Creek Road is a Town owned ditch or has an easement or right-of-way and is being worked on by the Town.

Chairman Sackett agreed with the requested information. Mr. Reggentine understands the request but does not understand why it is part of the conceptual approval. Town Attorney Steven Bengart said this is still the SEQRA portion of the approval process, it is appropriate to request information to determine whether there are any environmental impacts beyond the four properties. He asked Mr. Reggentine if the requested information is something the applicant can obtain for the TEQR Committee. Mr. Reggentine said yes, the applicant can provide the information.

**Item 3b-Fairfield Park Open Development Area, west side of Roxbury Drive, east of Fairfield Road and Old Hickory Lane (coordinated review commenced on 5/20/10).**

**DISCUSSION:**

Jim Callahan provided the history on the project. It is a proposed 4-lot Open Development Area located on the west side of Roxbury Drive, east of Fairfield Road and Old Hickory Lane. Coordinated review commenced on May 20, 2010. The applicant is present seeking a recommendation from the TEQR Committee.

Michael Metzger, of Metzger Civil Engineering, is representing the applicant. The property is zoned Residential Single-Family and is approximately 8.3 acres in size. Each proposed lot is in excess of 2 acres in size. The Residential Single-Family zoning calls for lots that are 125' wide and 1 acre in size, the proposed lots will be more than double the requirement. The proposed lots will be larger than the existing lots in the immediate area; the homes will be similar in character and magnitude to the recently built homes. There are no State or Federal Wetlands at the project site. There is no agricultural district or a floodplain in the area. This project is a re-work of a plan that was previously approved in 1994. At that time there was a different emphasis on height of project; an Open Development Area was not encouraged although the applicant wanted to propose an Open Development; so the applicant went in a different direction with the project. Some lots have been sold, but the remaining portion was not working. Open Developments are more accepted at this present time, therefore this plan was submitted. This property has been previously reviewed and a Negative Declaration was issued.

Mr. Shear said the Part I indicates there will be no blasting. Mr. Metzger said there may be some hammering but no blasting.

**ACTION:**

Motion by Robert Sackett, seconded by Jonathan Hickey, to **accept** EAF Part II and III as prepared by the Planning Office.

Jonathan Hickey	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

**ACTION:**

Motion by Robert Sackett, seconded by John Moulin, to **recommend** the Town Board issue a Negative declaration on this project.

**ON THE QUESTION:**

All minutes from prior meetings of all Boards and Committees involved are included in this determination.

Jonathan Hickey	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

**Item 3c-Woodland Hills Sewer District, Creation of a sewer district to service a previously approved subdivision (coordinated review commenced on 5/20/10).**

**DISCUSSION:**

Jim Callahan provided the background on the project. This item is a previously conceptually approved subdivision seeking the creation or extension of a sewer district to service that development. Coordinated review was commenced on May 20, 2010. The applicant is present seeking a determination.

Chris Cardillo, form the law firm of Damon Morey, is representing the applicant. Fred Cimato is also present. Mr. Cardillo referred to an e-mail dated July 13, 2010 from Richard Rink of the NYSDEC. A copy of the e-mail is on file. He points out that there is consensus with regard to this project between the NYSDEC and Erie County. The consensus is that there is sufficient capacity for this 77 lot project based upon the weir that was instructed and installed by his client. The only concern is whether there is enough capacity for 600+ potential build-outs in the future. The NYSDEC and Erie County both believe there is sufficient capacity above and beyond the proposed subdivision. Mr. Cardillo is asking the TEQR Committee to recommend a Negative Declaration. He reads from the NYSDEC e-mail: "Klein Road Diversion is constructed properly and a year's worth of flow monitored by Amherst shows that it is functioning as designed." Another concern has been the "first in, first out" issue. As the first in, Mr. Cardillo's client is providing sufficient and more capacity for the next development. He does not believe any conditions are appropriate if a Negative Declaration is recommended by the Committee.

Chairman Sackett referred to a letter dated July 9, 2010 from Mr. Doleski of the NYSDEC; Mr. Cardillo is familiar with this correspondence. The letter is on file. The NYSDEC's position is pointed out by Mr. Doleski as the letter reads in part: "This factor is probably the most important issue, since the Klein Road diversion weir improvement, by itself, will not be enough to cover an additional 600 residential units." Mr. Cardillo does not dispute this statement but referred to the 2<sup>nd</sup> paragraph of the same letter in which it states: "...will provide more than the capacity needed..."

Chairman Sackett referred to a letter dated July 2, 2010 from Michael Quinn of Erie County. The letter is on file. Mr. Cardillo is aware of this letter. Chairman Sackett asked Mr. Cardillo to address

the flow; it appears that the problem with the set-up is peak flow not average daily flow. Mr. Cardillo said he believes that Mr. Rink's concern with peak flow has been satisfied as there was a grease blockage that affected that line and those issues are no longer a concern. This is up for future debate; Mr. Cardillo said his client can accept a recommendation to the Town Board to consider it.

Chairman Sackett said there is enough correspondence from NYSDEC and ECSD#5 to hold the Town accountable for the big picture.

**ACTION:**

Motion by Robert Sackett, seconded by John Hickey, to **accept** the EAF Part II and III as prepared by the Planning Office.

**ON THE QUESTION:**

Mr. Shear referred to the Part III as prepared by the Planning Office and noted this action conflicts with the officially adopted plans and codes of Master Plan 2015 as it reflects the priorities for providing sewers for various parts of the Town. The Town is concerned with such areas as Harris Hill where there are no sewers as opposed to creating a new sewer district for a development. He also has a problem with inconsistencies in the various correspondences from ECSD#5 and the NYSDEC. There are still occasions when the sewer backs up. He is concerned that there are 600+ pieces of property in ECSD#5 that have a right-of-use to build a house and connect to the sewer system, but no one has shown him the sewer is capable of accommodating a full build-out motion. Proper documentation from both the NYSDEC and ECSD#5 that sufficient capacity exists to service all of ECSD#5 plus any expansions will be necessary to support this action.

John Moulin agreed with Mr. Shear's comments and concerns.

All prior information from all prior meetings has been incorporated into the action being taken.

Jonathan Hickey	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

**ACTION:**

Motion by Paul Shear, seconded by Robert Sackett, to **recommend** the Town Board issue a Negative declaration on this project with the following contingencies:

- Woodland Hills be absorbed into ECSD#5 as opposed to developing a new sewer district in the Town of Clarence.
- Prior to this project going forward, the Town Board receive correspondence from Erie County Sewer District #5 and the Department of Environmental Conservation that will specify that ECSD#5 is capable in its current state to accommodate the balance of the properties with ECSD#5 to be able to hook up, which is approximately 600. Additionally, that capacity exists for the 77 units proposed.
- The capacity in County Agency #5 is determined by peak flow.

**ON THE QUESTION:**

All prior information from all prior meetings has been incorporated into the action being taken.

Jonathan Hickey	Aye	Lisa Bertino-Beaser	Aye
Richard McNamara	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

**Item 3d-Brookfield Flying Club, 8600 Roll Road, Requests Approval to Operate a Model Plane Flying Club (coordinated review commenced on 3/25/09).**

**DISCUSSION:**

Jim Callahan explained that this project has been tabled at the TEQR Committee level for several months. There is no new information to report at this time. The applicant is not present.

The TEQR Committee has asked the Town Attorney to correspond with the NYSDEC regarding this project and ask if there is any additional information they could provide. Town Attorney Steven Bengart acknowledged the request.

**Item 3e-Newhouse Acres, west side of Newhouse Road between Roll Road and Clarence Center Road, proposed incentive lot design subdivision (coordinated review commenced on 10/22/08).**

**DISCUSSION:**

Jim Callahan explained this item was tabled at the TEQR Committee level pending the release by the NYSDEC and any new information. At this time nothing new has been submitted, the project remains tabled.

**Item 4a-New Business.**

There is no new business to report.

The next meeting date is August 16, 2010.

Meeting adjourned at 8:00 p.m.

Carolyn Delgado  
Senior Clerk Typist