

Clarence Town Environmental Quality Review
(TEQR)
Meeting Minutes
Monday December 20, 2010

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

John Moulin led the pledge to the flag.

TEQR Members Present:

Robert Sackett
Paul Shear

John Moulin
Jonathan Hickey

TEQR Members Absent:

Richard McNamara

Lisa Bertino-Beaser

Other Town Officials Present:

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

Other Interested Parties Present:

Noel Dill
Michael Metzger
Richard Ehlers

Paul Stephen
Jim Murphy

Chairman Sackett explained that the TEQR committee is an advisory committee that has no authority other than to advise the Town Board as to the actions the TEQR Committee would like them to take. The procedure used this evening will begin with Jim Callahan introducing the projects on our agenda. The petitioner will then address the issues and the committee will have the opportunity to ask questions. Then the public will be invited to speak and the developer will address any issues brought up by the public. The committee will then deliberate and take a vote as to how to advise either the Town Board or the Planning Board.

Item 2- Communications.

Supervisor Bylewski thanked the members of the TEQR Committee for their service to the Town of Clarence and extended his well wishes and personal thanks. He stated that their comments and opinions are valued and valuable and extended an invitation to the members to continue their service in other capacities in helping out the Town.

Item 1- Approval of minutes from the previous meeting.

ACTION:

Motion by John Moulin, seconded by Paul Shear, to **approve** the minutes for the meeting held on October 18th, 2010.

John Moulin	Aye	Paul Shear	Aye
Jonathan Hickey	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 3a- 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 this project site is an existing closed landfill at the National Gypsum Mine or the Gold Bond facility. It is located on the north side of Roll Road, east of Harris Hill and is being utilized by the flying club for model airplanes. Action was tabled at a previous TEQR Committee meeting awaiting final formal determination by the NYS DEC related to the impact(s) to the existing landfill cap.

The applicant is not present.

Town Attorney Steven Bengart stated he has no new information to add. He has had no reply from the DEC.

ACTION:

Motion by Robert Sackett, seconded by John Moulin, to have the TEQR Committee **request** that the Town Attorney send a letter to DEC asking for an update to the July 27, 2010 letter previously sent and for the DEC to assign dates to any required mitigations in the update.

ON THE QUESTION:

Mr. Shear stated that there is correspondence from the DEC. One letter is dated November 2, 2009 and indicates that there is seepage passing through the landfill and milky white discharges along the toe of the southeastern slope of the landfill, having a sulfurous odor, which can be observed flowing into the wetland area around Gott Creek. This is a concern and this issue will be raised in future proceedings when the Dynabrade project is discussed, which is located to the east of this leaking landfill.

Chairman Sackett is concerned about the groundwater runoff and the impact to the Town, as it could go beyond the land being discussed. It is the duty of the committee to advise the Town, the Town Board and the Planning Board to remain diligent on this topic. Mr. Shear agreed. Should this become an issue in the future to any adjoining properties, it is appropriate that the Town Board and Planning Board understand the position and the concerns of the TEQR committee in regards to the project.

Jonathan Hickey	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 2- Rock Oak Manufactured Housing Park and Additional Residential and Commercial Development.

DISCUSSION:

Jim Callahan provided the history on the project. It is the proposed expansion to the existing Rock Oak Manufactured Housing Park as well as additional high density residential and commercial development located on the south side of Main Street, between Gunnville Road and Shisler Road. Coordinated review commenced on October 18, 2010. Correspondence has been received from a number of entities. The applicant is present seeking a final recommendation on SEQRA. There was a completed archeological study and a response to that has been received from the DEC and the NYS DOT.

Noel Dill and Paul Stephen, of Stephen Development, are present along with Michael Metzger from Metzger Civil Engineers. Mr. Dill noted that the final archeological survey has been provided. The NYS DOT analysis of the traffic impact has also been provided. Mr. Dill is seeking determination by TEQR Committee in hopes to move the project forward to the Town Board.

Chairman Sackett referred to correspondence from Richard Rink of the DEC. The correspondence indicates the treatment system must be limited to 10,000 gallons. A copy of the correspondence is on file and one was provided to the applicant. Mr. Callahan explained the correspondence is in reply to the question posed to the DEC related to the manufactured housing park as well as the additional high-density and commercial units. Mr. Dill said he had a specific discussion with Mr. Rink on the Rock Oak project; there is a strip along Main Street that includes the proposed mixed-use development. There are two (2) buildings that would have first floor commercial and second floor residential. That facility would be serviced by a facility with 10,000 gallons or less. The Rock Oak Park itself would be serviced by a modified sand filter system. Jim Callahan stated that Mr. Rink said the residential and commercial portions, separating out the manufactured housing park, would be included in those 10,000 gallons. Mr. Metzger said that is a different project. It was discussed with Mr. Rink where the sewage treatment system would be located to serve the forty (40) townhomes; this system would be 12,000 gallons and would fall under State jurisdiction of 300 gallons per unit. The location of the sewage treatment system has been relocated per Mr. Rink's request. The revised plan showing the relocations is dated October 1, 2010 and shows the change in egress on Main Street as well. Mr. Shear pointed out that the plans show two (2) septic systems on the property and a pond in the center. Mr. Dill said there are three (3) separate systems for three (3) separate portions. On the frontage along Main Street will be the mixed-use portion; the system to serve this portion will be located in the frontage setback area. Behind this portion are the townhomes; Mr. Rink has specifically asked the applicant to locate that system towards the rear behind the townhomes. The third system is the Rock Oak system. The drawing sets aside sufficient area to build a completely separate system if the State concludes it would prefer to do so.

Mr. Metzger noted that the front building flows would be between 3,000 to 3,500 (under 4,000) gallons per day total. The buildings in the back would have approximately 12,000 gallons per day total.

Chairman Sackett said capacity is an issue. The documentation does not comport with the current conversations.

Mr. Metzger stated that the proposal has a flow that is much greater than what Mr. Callahan and Mr. Rink talked about. The applicant will work with the DEC to resolve that number. If the 10,000 number prevails, the project will be scaled back. Mr. Metzger asked if the environmental review could be done based on the larger version of the project so that if the larger version holds true the environmental review will be consistent with the project. If the project must be scaled back, then the environmental review will have gone above and beyond. Mr. Callahan referred to the draft Part III of the EAF and said the DEC would have to issue SPDES permits.

Mr. Shear said the plan shows a 50 foot landscaped greenbelt. Mr. Callahan said an easement is located there. Mr. Metzger said there is plenty of room for the pond and the septic system in the area behind the garages. Mr. Shear reminded the committee that the developer has changed his position and now states that blasting will be required. There were potentially two (2) septic systems in the front section and one (1) in the back, and now there are five (5). Mr. Metzger stated there is no change in septic systems. Mr. Shear is referring to the septic system that is being added in the 45' greenbelt, which was not in existence in the original concept plan; neither was the pond and now there is a discussion about moving the septic system from the 45 foot greenbelt to the area where the pond is and the pond is going to be smaller and have a septic system next to it. Mr. Shear voiced concerns with this. Mr. Dill said the August 9, 2010 drawing originally provided to the Town did not incorporate the changes first requested by the Planning Board. It included two (2) separate septic locations, plus two (2) on the road and one (1) in the back. Prior to the November meeting with the Town, the applicant met with Mr. Rink and discussed the possibility of tying into the existing park. At that time, Mr. Rink had access to the full drawing. It was his preference to combine both of these fields into one larger field and relocate it towards the rear of that development. Therefore, when the changes that the Planning Board requested were incorporated, they also incorporated the changes Mr. Rink requested. Mr. Metzger said it should be understood that this is just a concept drawing at this point. The pond is a dry retention pond, not a wet pond.

Chairman Sackett asked the developer if he could address the egress and ingress concerns during construction and elaborate on easing the impact on the existing residents during construction. Mr. Dill said they want to build this project from the back forward, so they can utilize what will be the permanent entrance along Main Street as a temporary construction entrance to limit the number of construction vehicles making trips through the existing park. He further stated that the goal is to build out the entire parcel as quickly as practicable. Chairman Sackett said there was discussion about using a road on the western boundary of the property as an access for construction in order to keep construction vehicles as far away from the existing park as possible. The applicant is looking into this along with other possibilities. A concern with having the construction road to the west is that there is an existing apartment use with residential traffic in that area and there is a limited width to that roadway. They would like to locate the construction road north running through the Attea property. Mr. Metzger said they would like to work out a construction entrance and road system that does not incorporate the existing road system within Rock Oak Development.

On the issue of green space, Chairman Sackett stated the requirement in the Town Code is 30% green space.

Jim Murphy, president of the Rock Oak Homeowners Association, has concerns over the size of the septic system. He asked if the system would be big enough to handle the new development and the

existing buildings. He feels the best place for the construction road would be by the Attea property. He would like the developer to acquire a sweeper that effectively cleans the construction dirt. The residents have dealt with noise and dirt for seven (7) years. The Project Engineers Office should be on the site. It is currently in the resident center and there is a lot of mud in that area because of it. Chairman Sackett will advise the Planning Board of the residents' concerns.

Richard Ehlers, resident of Rock Oak West, said the ingress and egress is a concern. Unless the road that is proposed through the high density section is put in as a useable form from the get go, all the people who will live in the expanded section will have two (2) very narrow means of access and egress, making it necessary to blend their way through a long way and come out on Rock Oak Parkway which comes out on Main Street opposite Kraus Road. Mr. Ehlers proposed a stipulation that if the project goes forward, the access/egress through the 9745 Main Street property be a requirement right up front. Chairman Sackett said when this project transitions to the Planning Board, they will be made aware of these development issues and the TEQR Committee considers these issues to be in the development stage so they are not considered resolved and need to be addressed in the future.

Mr. Dill said they will work with the Planning Board and the Town Board to come up with the plan that makes sense for everybody.

Chairman Sackett clarified that the NYS DOT said a permit will be required for this project.

Chairman Sackett explained that an EAF Part II and III have been prepared by the Planning Office. There is a revised Part III that goes along with the EAF Part II.

Mr. Shear said it is important that everyone knows that blasting will now occur on the site. He referred to Part II, page 14 of the EAF, item 6 that questions if the proposed action will alter drainage flow or patterns, or surface water runoff. Injection wells are used for drainage in this area. It is agreed that that the response to item 6 should be changed to "yes". Items 5 and 6 are addressed on the revised Part III.

Mr. Shear asked for a review of item 17 on page 18 of Part II of the EAF. This question asked if there will be objectionable odors, noise or vibration as a result of the proposed action, the first bullet point referring to blasting. Mr. Shear indicated that while it is not certain where the blasting will take place, it is certainly within the 1500 feet to existing homes and structures. He also stated that while there are no schools or hospitals within the development, the response to item 17 should be "yes". Mr. Callahan clarified that the blasting issue has a potentially large environmental impact and subsequently is addressed in Part III of the EAF. The EAF form will be amended to reflect these changes.

Mr. Shear indicated that Item 20, Part II of the EAF referring to public controversy, is marked "no". Mr. Callahan explained that this is related to the potential environmental impacts based upon discussions with the regional regulatory agencies. The issues raised by the regional regulatory agencies should be and are addressed in the Part III of the EAF.

Mr. Shear referred to the revised Part III and said there is still the question with regards to the 10,000 gallons. Mr. Callahan explained that in Part III, item 5/6, the numbers are not specific, but as long as they comply with SPDES requirement and the Health Department requirements for design and discharge, the numbers are not as critical; they still have to meet the minimum requirements.

ACTION:

Motion by Paul Shear, seconded by John Moulin, to **accept** the Part II and III of the EAF as prepared by the Planning Office with previously noted revisions.

Jonathan Hickey	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

ACTION:

Motion by Chairman Sackett, seconded by Paul Shear, to **recommend** the Town Board issue a Negative Declaration based on the proceedings of the Town Board and the Planning Board and the testimony given before this Committee and the revised Part II of the EAF.

ON THE QUESTION:

For the record, Chairman Sackett clarified that the proposal is in the pre-concept plan stage. Mr. Shear voiced his concerns, which include the pond and its location, the pond and the high-density area in the front and the potential for locating a septic system adjacent to that pond. There is a concern with the number of septic systems but this can be worked out at a later stage. There is a concern with Rock Oak Estates adding a construction road off Main Street in the area that will ultimately be the commercial and high-density residential sections. There is also a concern, depending on construction methods and locations, about ingress and egress issues relative to the sections of property located in the south section or the back section of the property. Blasting is also a concern. These concerns need to be transmitted to the Planning Board for their consideration.

Jonathan Hickey	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 3a- Dynabrade Open Area Development, 5630 Shimerville Road.

DISCUSSION:

Jim Callahan introduced the project. The applicant is proposing a multiple Open Development; a total of fourteen (14) Open Area Development lots. It is located on the northwest corner of Roll Road and Shimerville Road. It is existing vacant land in the Residential Single Family zone. An EAF was prepared. The action before the Committee is to recommend that the Planning Board act as Lead Agency, and furthermore that the Planning Board commence a coordinated review for this project.

The applicant is present but has nothing to add to the record at this time.

ACTION:

Motion by Paul Shear, seconded by Jonathan Hickey, to **recommend** a coordinated review and identify any concerns the TEQR Committee has. It is **recommended** that the Planning Board be the Lead Agency on this project.

ON THE QUESTION:

Mr. Shear said his concern is that the information the Committee has includes the potential full build-out of the property. It appears there are wetlands associated with the property. The Planning Board should look at wetland consideration. He encouraged the Planning Board to look at the Brookfield Flying Club and the hazardous waste dump that has been disturbed and has material leaching from it into the adjoining wetlands and creek which may impinge on this piece of property. There is a potential of pollutants. Another concern is the Gypsum Mines being a conduit for the discharge, and the stability of any construction.

Jonathan Hickey	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

Motion by Jonathan Hickey, seconded by Paul Shear, that in lieu of the TEQR Committee approving these minutes, Robert Sackett, unilaterally will approve the minutes upon review of his notes and any supplemental information that he might need, on his own.

Jonathan Hickey	Aye	Paul Shear	Aye
John Moulin	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting adjourned at 8:04 p.m.

Carolyn Delgato
Senior Clerk Typist