

**PLANNING BOARD MINUTES**

**Roll call  
Minutes  
Sign review  
Update on pending items**

**Miscellaneous  
Agenda items  
Communications**

**May 15, 2002**

**AGENDA 8:00 p.m.**

**ITEM I**

**Dominic Piestrak  
PURD**

**REQUESTS DEVELOPMENT PLAN APPROVAL  
FOR SPAULDING LAKE PHASE IV, PART III.  
( 4 LOTS)**

**ITEM II**

**Dominic Piestrak  
PURD**

**REQUESTS DEVELOPMENT PLAN APPROVAL  
FOR SPAULDING LAKE PHASE IV, PART IV.  
( 17 LOTS)**

**ITEM III**

**Dominic Piestrak  
Residential A & B**

**REQUESTS DEVELOPMENT PLAN APPROVAL  
FOR HIDDEN POND SUBDIVISION PHASE II,  
PART I. ( 44 LOTS)**

**ITEM IV**

**Frank Raquet  
Agricultural**

**REQUESTS CHANGE IN USE FROM VACANT BUILDING  
( FORMER VFW POST) TO GROVE / RESTAURANT  
LOCATED AT 9415 TONAWANDA CREEK ROAD.**

**ITEM V**

**Thomas Charnock  
Agricultural**

**REQUESTS CHANGE IN ZONE FROM  
AGRICULTURAL TO COMMERCIAL & CHANGE  
IN USE FROM RESIDENTIAL TO LANDSCAPING  
BUSINESS AT 8910 SHERIDAN DRIVE.**

**ITEM VI**

**Frank Rivett / Hank Stockwell  
Agricultural**

**REQUESTS AMENDED CONCEPT PLAN  
FOR STRICKLER ROAD ESTATES LOCATED AT  
5700 STRICKLER ROAD. (20 LOTS)**

ATTENDING: Harold Frey  
Joseph Floss  
Patricia Powers  
Frank Raquet  
Reas Graber  
Roy McCready

INTERESTED  
PERSONS: Dominic Pistrak  
Charles Fischer  
D.J. Mc Carriagher  
S.L. McCarragher  
Bob Dohring  
Anne Case  
Councilman Bylewski  
John Vikora  
Clayt Ertel  
Frank Raquet  
Marsha Pfentner  
Bill Pfentner  
Elizabeth Van Bourgondien  
Helen Budnick  
Rob Sciolino  
Paula Sciolino  
Henry Van Bourgondien  
Eugene Fink  
Norm Bitterman  
Dennis Raquet  
Vicki Raquet  
Ralph Graf  
Ed Badhorn  
Faith Badhorn  
Colleen Badhorn  
Paul Kwaniszewski  
Michael Fiegl  
Thomas Charnock  
Karen Kassab  
Evelyn Misner  
Linda Charnock  
Frank Rivett  
Henry Williams  
Councilwoman Guida  
Henry Williams  
Ruth Williams  
James Callahan  
Kathryn Tiffany

MINUTES:

Motion by Patricia Powers, seconded by Frank Raquet to approve the minutes of the meeting held on May 1, 2002 as written with the correction on page 2002-55. Instead of Acting Chairman Joe Frey, it should read Acting Chairman Joe Floss.

ALL VOTING AYE. MOTION CARRIED.

Chairman Frey informed the Planning Board that Mc Donalds Restaurant and Bendersons's have come to an agreement to put an entry way out from McDonalds into the Eastgate Plaza. That is something we have always wanted to see right from the start - ingress and egress back in to the plaza, rather than dumping everything out into the road.

We feel it would be a great advantage. Councilman Bylewski asked if Delta Sonic has been approached to do the same thing. Jim Callahan said the grade change is too great, it drops right off

Dominic Piestrak  
PURD

Phase IV, Part III. (4 lots)

DISCUSSION:

Chairman Frey read a list of the approvals from various department and agencies. The Town Engineer has given his approval with the conditions listed in the file. Everything is in order. Chairman Frey asked for a motion.

ACTION:

Motion by Patricia Powers, seconded by Reas Graber. The Planning Board recommends development plan approval to the Town Board for Spaulding Lake, Phase IV, Part III for four lots with a \$450.00 recreation fee per lot.

On the Question?

Joe Floss said that the money (\$50,000) will go to the Town. It is a non refundable cash payment for road improvement before the time of final plat approval.

ALL VOTING AYE. MOTION CARRIED.

ITEM II  
Dominic Piestrak  
PURD

Requests Development plan approval for Spaulding Lake  
Phase IV, Part IV. (17 lots )

DISCUSSION:

Chairman Frey read a list of approvals from various departments and agencies. Everything is in order. Chairman Frey read the conditions of the Town Engineers approval. Chairman Frey asked for a motion.

ACTION:

Motion by Roy McCready, seconded by Joseph Floss. The Planning Board recommends development plan approval to the Town Board for Spaulding Lake Phase IV, Part IV for 17 lots with a \$450.00 recreation fee per lot.

ALL VOTING AYE. MOTION CARRIED.

ITEM III  
Dominic Piestrak

Requests Development plan approval for Hidden Pond  
Subdivision Phase II, Part I. (44 lots)

## Residential A & B

**DISCUSSION:** Chairman Frey read the conditions of the Town Engineers approval. All the approvals from the various departments and agencies have been received.

**ACTION:** Motion by Reas Graber, seconded by Patricia Powers. The Planning Board recommends development plan approval to the Town Board for Phase II, Part I of Hidden Pond Subdivision for 44 lots with a \$450.00 per lot recreation fee as well as an open space fee. Dominic Piestrak agreed to take measures to satisfy Mr. Charles Fischer of 5705 Goodrich Road with regard to the haul road that will be next to his residence, as well as any drainage problems that result from the construction of the road. He will provide a milled road for the first length of Mr. Fischers property, and some landscape screening for privacy.

**On the Question?** Neighbors were concerned about trucks going through the subdivision and relieved that there will be a haul road for the construction vehicles to use. Mr. Charles Fischer said he is right next to the proposed haul road. He is very concerned about taking on water. Dominic Piestrak said he would pave the first 150 feet of the haul road to keep the dust and dirt down. At the present time he does not have a water problem, and he doesn't want any. Dominic said he will take steps to resolve any water problems. Mr. Fischer would like to see the haul road relocated to the property on the north side. Dominic said the road would have to curve too quickly to get lots in off that location. It would have to curve right behind that house. If the road is placed next to Mr. Fischer's home it will be straight. Dominic said he would landscape the entrance to buffer his home, and protect his privacy. He will work with Mr. Piestrak regarding these issues. Another resident asked about additional drainage from the street going into their existing pond. Will they still be able to use the pond for their boats and swimming? Dominic Piestrak said they were not meant for swimming, and he does not recommend swimming in the pond. The pond has been sized to handle the drainage. There will be other ponds to handle drainage in other parts of the development. There are several ponds

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in Meadowlakes Subdivision, and they all look great. But they were not meant for swimming. Don't swim in it. Councilman Bylewski asked if the applicant was aware that the Town Board might ask for a possible extension of the bike path, and the County decision on Roll Road. Chairman Frey said they have already talked to Mr.

Piestrak about that.

ALL VOTING AYE. MOTION CARRIED.

ITEM IV  
Frank Raquet  
Agricultural

Requests Change in Use from vacant building (the former VFW Post) to a grove / restaurant located at 9415 Tonawanda Creek Road.

DISCUSSION:

Chairman Frey asked everyone to be orderly as well as courteous. Frank Raquet is a member of the Planning Board, which does not give him anymore rights than anyone else. Frank Raquet said he has a purchase agreement on the property, but has not closed on it yet. Frank gave the history of the uses of the existing building and grounds. It has had a commercial use for at least forty years. It has been vacant and deteriorating for the past three years. Frank proposes to renovate the building, and operate it as a restaurant/grille type of use, similar to what the VFW ran, but on a more regular basis. He is also planning to use the grove in the back to cater parties such as graduations, birthday parties and other get togethers. It will be seasonal roughly from Memorial Day until mid October. At this time Frank does not plan to do any major additions or renovations to the building, just the necessary repairs and updates to get it back into an operating state. Frank said there are at least four other commercial ventures in close proximity, so I don't think asking for a commercial zoning is out of place. There is a very similar use just down Goodrich Road, that has none of the problems that are being speculated about. There is a petition that is going around, and I understand that a lot of the people that have been signing these letters, and sending have been given false and misleading information that the former owners Owl Bar in Niagara County will be operating this, and that is false and untrue. Frank said he has been a resident of Clarence for 45 years, will increase the tax base, fix up the

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corner, and be a good neighbor. Clayt Ertel said it has had a commercial use since the 1940's, so it really isn't a change in use from what it has been. The difference, and the advantage to the residents is that it never really was controlled in the agricultural zone. If Frank is granted the permission to re-zone and to create the restaurant he will be under the control of the Town Board and the Planning Board and will have to conform to regulations. Patricia Powers asked Frank Raquet what he would do first, if the project moves forward. He would enlarge the parking lot, eliminate the 200 foot curb cut that exists on Goodrich Road. He would like to get the

grove ready to use this season. It would hold 75 to 100 people. Pat asked if the gas tanks were still in the ground. Clayt Ertel said they are looking into that now. It is the sellers responsibility , and would be taken care of before transfer of title. Pat asked Frank what the hours of operation would be for the grove. Frank said no later than 11 or 12o'clock at night. Pat asked if the restaurant would have a bar, and would he be seeking a liquor license. Frank said yes he would. The restaurant would accommodate 60 people at most. Frank said he has not determined the restaurant hours, they would probably be normal restaurant hours. It would be a seven day operation. Roy McCready asked if the food for the grove will be prepared on site or catered. Frank said it would be catered. The property itself is 442 feet on Goodrich Road and 380 feet on Tonawanda Creek Road approximately 2 acres. Reas Graber asked about the grove. There is a picnic shelter about 40 x 15 in the front of the barn. Also inside the barn there is a serving area. Chairman Frey asked Frank if he would be willing to screen the church with a berm. He said he would be willing to do that. At this point the Chairman asked people in the audience to comment. Mr. Van Bourgondien said he has lived in the area for 53 years. It has not been a VFW post for 35 years, that is way off base. It started off as a cigar store, then it was a grocery store and then they added gas and kerosene pumps. The tanks have never been removed. When the two gin mills across the bridge were in operation, he would have at least four vehicles a year come on to his property. Since they were closed down, he has not had any incidents. This will devalue his property. There is no way to control people who have been drinking. The VFW post was always a good neighbor, and the latest they operated was 10 0'clock

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at night. Other neighbors were concerned about speeding, the increased traffic, noise, and loitering. People in the neighborhood

will have to listen to the noise and the music, and their children will not be able to go to sleep. They do not want this type of business there, they don't want liquor in a residential area. They won't feel safe leaving their children at home, there are several young children in the neighborhood. One resident raised the question of law enforcement. It is on the edge of two different counties. Patrons will be coming in from two different counties and it will be a law enforcement issue. The roads are narrow, they are not in good shape, and the ditches are deep. Mr. Raquet can't control the clientele that will come to his establishment, and what they do when they leave. Another gentlemen said that they have waited up to 45 minutes for the police to come, when they have had a problem with cars on the lawn etc. Chairman Frey asked Frank Raquet what his thoughts were with this much opposition from the neighbors. Would you like to withdraw the request or table it? Frank said he would like to know what the neighbors would like to see there. Most people don't want to see anything on that corner. They like it as a home. Frank said he would like to table it, and have a chance to think about it.

**ACTION:**

Motion by Patricia Powers, seconded by Reas Graber to table this item.

ALL VOTING AYE. MOTION CARRIED.

ITEM V  
Thomas Charnock  
Agricultural

Requests Change in Zone from Agricultural to Commercial and Change in Use from Residential to Landscaping Business at 8910 Sheridan Drive.

**DISCUSSION:**

Chairman Frey asked Mr. Charnock to explain to the Board what kind of chemicals you keep, what kind of restrictions you are under, what permits you have, and how much of your business is commercial, how much is residential, who you have to answer to as far as having any chemicals, how long you keep them, how much, what you store over the winter, and what you intend to do right now to store them, and what provisions you will make to make them secure. Mr. Charnock said he and his son are a

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landscaping, lawn care company. It is a seasonal business and they work on lawns. Their main business is fertilizing, seeding, aerating, weed control, sodding repairs, plow damage. They don't do any plowing, they don't do any tree work, and they don't cut lawns. Ninety five percent of their clients are residential, five percent are

commercial. Every business in New York State that applies a pesticide is governed by the NYS DEC. Individually, they also have to be certified pesticide applicators. They maintain their licenses, which requires on going training. Every applicator in NYS reports to Albany showing every application, date, location, quantity, the item, the name of what was applied. They use standard herbicides like Weed Be Gone, and that is not stored in the winter, they buy that on as an need basis. At the peak of the season they may have as much as 40 gallons on hand. They are not left out in the open, and they are not flammable. Most of it is used in May and June, Spring is when you control weeds, not when it is hot. They buy locally, so it is not shipped in. His wife also works in the business doing the books and the phone, and they just hired another person. Mr. Charnock showed his license. He was the golf course Superintendent two golf courses for twenty five years, and he has taken that expertise and has applied it to the lawn care company. He is a Cornell University graduate. He believes in using granular fertilizers. Most of what he does is fertilizing lawns. It is usually shipped in on pallets, because they need a great deal of it. They start with 20 pallets. At this time they are still at 9992 Main Street. They fertilize from April until November. They have ride on power fertilizer spreaders, pick up trucks, a spray tank for mixing liquid from a pick up truck. They have hand tools, shovels, rakes. Their hours of operation would be 7 a.m. until 6 p.m. They will ultimately store their materials in the building that is next to the house, that is serving as the office. The closest resident is Mrs Misner at 1500 feet. There will be some outside storage of trailers. They do not have any fuel tanks. They will not store chemicals in the front building. They went through an unsolicited inspection of their facility which is currently at 9992 Main Street. The DEC didn't find any evidence of wrong doing, any spills, any evidence of clean up. They took an inventory, and what they have is not the cause of any health problems of the neighbors.

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Twenty five to thirty years ago heavy metals were phased out of all agricultural chemicals, because they were bad. They went through the inspection in December and January. Patricia Powers asked if Mr. Charnock would be willing to give the board a list of the chemicals he uses in his business. He said he would be happy to. Mr. Charnock brought the labels from his three main ingredient, which can go in the file. Karen Kassab asked if the chemicals could get into the well water her Mother Mrs Misner drinks. The chemicals are stored on a self containing pallet that retains any spillage. The chances of any contamination are slim because they

have never spilled a drop. Fumes - the only time chemicals are opened is to be measured, they are then closed, and put away. When pesticides are sprayed they are posted for twenty four hours, even though they are dry long before. They will not be applying the product where their business is located. Councilman Bylewski asked about mixing the sprays. There is no water available in the stone building right now. They will get their water from the Tree Doctor or at Park Country Club. They will be the sole occupant of the building. Mrs Misner's well was tested last August of 2001.

**ACTION:**

Motion by Roy McCready, seconded by Joseph Floss to rezone the property from Agricultural to Commercial.

ALL VOTING AYE. MOTION CARRIED.

**ACTION:**

Motion by Roy McCready, seconded by Joseph Floss to recommend a change in use from residential to a landscaping business at 8910 Sheridan Drive with the following conditions:

1. Hours of operation will be 7 a.m. until 6 p.m. Mon-Sat.
2. All of the business complies with DEC requirements.
3. Current copy of licenses on file.
4. Liquid sprays will be on containable pallet.
5. There will be some outside storage of pickups and trailers.

ALL VOTING AYE. MOTION CARRIED.

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**ITEM VI**

Frank Rivett / Hank Stockwell  
Agricultural

Requests amended concept plan approval for Strickler Road Estates located at 5700 Strickler Road. (20 Lots)

**DISCUSSION:**

The amended plan shows a reduction of lots from 23 to 20 lots. The only action tonight will be to review the new plan and send it to the Municipal Review Committee. The developers have incorporated the requests of Mr. Finster from the Health Department. They have requested to store millings on the property, and that will require Town Board approval. The essential change from the last plan that was presented is that they have taken six smaller lots and made them into three large lots. They also increased the distance of the road from the property line. It was ten feet, now it is 30 feet to preserve some large trees. There will be phase development. Phase I will

have 8 large lots and 4 of the smaller lots. Phase II will have 4 lots, and Phase III will have 4 lots. There has been discussion about an undulating berm versus screening with tree plantings. Chairman Frey thought trees a distance away from the road would be more acceptable. Joe Floss likes an undulating berm. Chairman Frey suggested talking to the Highway Superintendent and the Landscape Committee. Pat Powers said she thought the homeowner should have something to say about what is in their rear yard. These lots will have individual septic systems. The minimum house size for the smaller lots will be 2500 square feet, and 3500 square feet for the larger lots.

**ACTION:**

Motion by Reas Graber, seconded by Patricia Powers to send this project to the Municipal Review Committee.

**ALL VOTING AYE. MOTION CARRIED.**

Motion by Reas Graber to adjourn the meeting.

Meeting adjourned at 10:25 p.m.  
Harold K. Frey, Chairman