

PLANNING BOARD MINUTES

September 18, 2002

**Roll call
Minutes
Sign review
Update on pending items
1. Open development areas law.
2. Traditional Neighborhood
Zoning Districts.**

**Miscellaneous
Agenda items
Communications**

AGENDA 8:00 P.M.

ITEM I

**Towne BMW
Commercial**

**REQUESTS DEVELOPMENT PLAN APPROVAL
FOR A 6020 SQUARE FOOT BUILDING LOCATED
AT 8215 MAIN STREET.**

ITEM II

**Calamar Builders
Commercial**

**REQUESTS CONCEPT PLAN APPROVAL FOR
A 37,081 SQUARE FOOT MEDICAL OFFICE
BUILDING LOCATED AT 4725 TRANSIT ROAD.**

ITEM III

**Dr. Michael Bloom
Commercial & Agricultural**

**REQUESTS CONCEPT PLAN APPROVAL AND
RE-ZONING OF REAR PROPERTY FOR A 1200
SQUARE FOOT ADDITION TO THE BUILDING
UNDER CONSTRUCTION AT 9095 MAIN STREET.**

ITEM IV

**Cimato Enterprises
Agricultural**

**REQUESTS CONCEPT PLAN APPROVAL FOR
A SIXTEEN LOT RESIDENTIAL A SUBDIVISION,
AS AN EXTENSION OF FIELD BROOK DRIVE.**

ATTENDING: Joseph Floss
Michael Metzger
Reas Graber
Roy McCready
Patricia Powers
Frank Raquet

INTERESTED
PERSONS: Kenneth Franaziak
Debra Popp
Cesare Banach
Bill Schutt
Bill Wincott

MINUTES: Motion by Patricia Powers seconded by Mike Metzger to
approve the minutes of the meeting held on August 21,
2002 as written.

Mike Metzger Abstained he was not at the meeting

Reas Graber	AYE
Roy McCready	AYE
Joseph Floss	AYE
Patricia Powers	AYE
Frank Raquet	AYE

MOTION CARRIED.

ITEM I
Towne BMW
Commercial

REQUESTS DEVELOPMENT PLAN APPROVAL
FOR A 6020 SQUARE FOOT BUILDING LOCATED
AT 8215 MAIN STREET.

DISCUSSION:

Bill Wincott of D.R.Chamberlain was the spokesman for the project. They would like to construct a 6020 square foot detail shop at the rear of the existing parking lot. It will move car detailing and some storage to this building. There will be no mechanical work done in this building. They will remove the trailers once the building is up. They have extended the existing landscaped berm to the rear of the building. The area in the rear of the new building will be left in a natural state. The building is 16 feet high. The entrance door to the building is facing north to cut down on the noise. This building operates from 8 a.m. until 5 p.m. Monday through Friday. Pat Powers suggested a Knox box for the fire department in the event of a fire. The access can handle semi trucks, so he is sure it could handle fire trucks. There will be an open space fee of 15 cents per square foot. They will have security lighting, and it will be downcast lighting. They will adjust the present lighting and add shields on the existing lighting.

ACTION:

Motion by Patricia Powers, seconded by Roy McCready. The Planning Board recommends development plan approval to the Town Board for a new detail building for Towne BMW at 8215 Main Street with the following conditions:

1. A Knox box is installed on the building
2. Conditions of the Town Engineers approval.
3. A 15 cent per square foot open space fee.

ALL VOTING AYE. MOTION CARRIED.

ITEM II
Calamar Builders
Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR A
37,081 SQUARE FOOT MEDICAL OFFICE BUILDING
LOCATED AT 4725 TRANSIT ROAD.

DISCUSSION:

Ken Franaziak represented the project for Calamar Builders. Joe Floss said the Executive Committee of the Planning Board looked at this Tuesday morning. This is an excellent project, it complies with the zoning, and the master plan. One concern is the parking, the code calls for one parking space for every 75 square feet for this type of use. You have one space for every 176 gross square feet. Mr. Franaziak said they have 249 parking spaces shown on the drawing. This will be a two story building medical facility with ingress and egress on all four corners of the building. The site consists of slightly more than four acres of property. Joe said they were concerned because the impervious surface comprises so much of the parcel. That is way they are looking for a Awin-win@ situation where the size of the project can be reduced, and yet not discouraging the risk takers that are proposing the project. Roy said AYou will be destroying all those trees.@ Joe explained to the applicant that this would not receive concept plan approval tonight, but if it is the pleasure of the board they can send it to the MRC, Traffic Safety, and Fire Advisory for their comments and review. Mr. Franaziak said they are trying to create a concept of an entry way into Eastern Hills Mall. It will have many positives for the Town of Clarence, it will be a multi-million dollar project, create and retain medical jobs and services in the area. They are pretty much married to the design, they would be happy to try to accommodate more green space, but obviously more parking requires more paving. We have other medical facilities in the area that do not have near as much parking as you require. There is a medical building in Wheatfield almost 90,000 square feet with 200 and some parking spaces. It is 100% occupied. There is another medical building in North Tonawanda called Riverfront Medical where the parking is very limited. Pat Powers asked Mr Franaziak if he would consider moving the building to the south of the property. Mr. Franaziak said moving it this way actually unbalances the parking. Unfortunately in the winter people would have to walk farther. The distance

from the building to Sheridan Drive would be about 700 feet. Frank Raquet asked if they had any prospective tenants. Mr. Franaziak said they are negotiating with a couple of large medical groups right now. Roy said the trees are going to be destroyed by the big blacktopped parking lot. The whole area is going to be stripped of what is existing. We are under the gun all the time for not preserving trees and green space in this Town. We get criticized every time we let somebody take a tree down in a subdivision. Mr. Franaziak said they are trying to create a buffer zone between here and the property line. However, it is difficult to get around when there are parking requirements. Reas Graber said he agrees with Roy McCready, but at the same time he would like to see something like this move in there, we need this in Clarence. Mike Metzger said "Without any frontage, what do you have that insures access to your property?" Mr. Franaziak said "When we purchased the property, we have ingress and egress deed restrictions with the mall parking lot. We are not line locked." Mike said the major concentrations of hardwood trees is in the center of the site where the building is situated. Roy McCready said even if the building is shifted on the site - when you start regrading the whole thing will be wiped out. If you leave the trees in a group they have a better chance of survival. Joe listed the options for the applicant. Number one sending the project on to MRC. Fire Advisory, and Traffic Safety. Option two is to table this item and come to the Planning Board Executive meeting on a Tuesday morning to address the issues of parking, tree preservation and the Eastern Hills Corridor. Third is to recommend to deny the concept, and let you take issue with the Town Board if you want to.

ACTION:

Motion by Mike Metzger, seconded by Patricia Powers to table the item and refer the applicant to a Tuesday morning meeting to work out some of the issues before it comes back to the full Planning Board.

ALL VOTING AYE. MOTION CARRIED.

ITEM III
Dr. Michael Bloom
Commercial & Agricultural

REQUESTS CONCEPT PLAN APPROVAL AND RE-ZONING OF REAR PROPERTY FOR A 1200 SQUARE FOOT ADDITION TO THE BUILDING UNDER CONSTRUCTION AT 9095 MAIN STREET.

DISCUSSION:

Joe Floss read the minutes of the meeting held on August 21, 2002 to refresh everyone's memory, seeing as the board has not met for a month. Joseph Floss said the project has gone back to the Municipal Review Committee and the addition to the building has received a negative declaration. The new plan widens the buffered area in the rear. Cesare Banach said the parking will remain the same, There will be a berm in the front 3 to 4 feet high, and in the back it will widen out to 5 to 6 foot high. The berm will have shrubs and decorative landscaping on it from front to back. Fencing is difficult because of the rock. They did a test and the rock is 18 inches down. Joe Floss said that with the additional land, they will actually exceed the parking requirements. Joe Floss said the Planning Board would like to talk to you about taking 5 to 7 of the parking spaces out and leaving that as green space. Mr. Banach said they don't want to lose any parking, they need the parking close to the building. Mike Metzger said he wanted to make sure that with the addition there would be enough space for the septic system in the back. Mr. Bnach said yes they have. Mike wanted to remind the board that typically the board does not approve parking in front along the campus area. He would like to see the parking in front of the building totally eliminated. We should stay consistent. When Van City came in we wouldn't even allow them to have one space in front of his building - not one. I would like to suggest that they could be drawn in on the plan as dashed - where they don't get built. If in the future that space is needed, the applicant could always come back to the Planning Board. It could be built if it is on the plan. I am talking about the 4 or 5 or 7 to 8 spaces in front of the building. Cesare said they would like to keep those for accessibility to the building. Joe said he would like to address the concerns of the Popp family on Barton Road. They would like to see an eight foot high stockade fence installed on the property line. They have had their privacy taken away, and they want their life back. It will block out the lights, the cars, the noise etc. Joe asked Mrs

Popp if the rest of the neighbors wanted a fence. She said they already have fences. Mike Metzger said a berm with shrubs would actually be higher than a six foot fence. Mrs Popp said she wants a fence. They could have put one up a month ago. Joe Floss said the applicant has proposed putting up a temporary fence while we get things worked out, and I think it would be great if he could do that immediately. So let's start there. Mr. Banach said it is not going to be permanent, it is going to be temporary. Mrs. Popp said AIt is a beautiful building but we just want our life back.@ Joe Floss said AAt this time I will ask for a motion. In my opinion we can pass this on to the Town Board, and also recommend that the Town Board proceed with development plan approval. If in their view, if they are ready to go ahead, because we view it as a simple addition. The motion would include the re-zoning from Agricultural to Restricted Business. It would include the request for Development plan approval subject to Engineering and Landscape plan approval. It would also include the temporary fence being put up while we resolve the landscaping issue. There would be a 15 cent per square foot open space fee for the addition. Cesare asked if they could have Mrs. Popp's permission to put the fence on the Popp's property, they still have to be able to work. Mr. Popp said no they could not. Joe said it could go to the property line. Mr. Banach said they will need a survey of Mrs. Popp's property to establish the line. Does anyone care to make that motion.

ACTION:

Motion by Mike Metzger, seconded by Reas Graber. The Planning Board recommends the following to the Town Board:

1. Consider Development plan approval subject to approval from the Town Engineer and the Landscaping Committee.
2. Re-zoning from Agricultural to Restricted Business.
3. A temporary fence must be installed for the Popp family on Barton Road while the landscaping issue is resolved.
4. There will be a 15 cent per square foot open space fee.
5. The first four parking spaces on the east side will be eliminated but drawn on the plan in the event there ever is a sincere need for them. This will be determined by the Planning Board and then sent to the Town Board for approval.

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ALL VOTING AYE. MOTION CARRIED.

ITEM IV
Cimato Enterprises
Agricultural

REQUESTS CONCEPT PLAN APPROVAL FOR A
SIXTEEN LOT RESIDENTIAL A SUBDIVISION AS AN
EXTENSION OF FIELD BROOK DRIVE.

DISCUSSION:

Mr. Schutt said that this is a 16 lot subdivision on a little less than 12 acres. It is located directly adjacent to the Highland Farms subdivision. Field Brook Drive was constructed as part of the Highland Farms Subdivision and does include all the utilities that we need - water and sanitary - to support this development. It is a single cul-de-sac low density development with all Residential A lots. The average density is one unit per three quarters of an acre. The property itself is included in Erie County Sewer District #5 so it has been proposed for development for some time. Joe Floss said one of the major concerns we had when you were here on March 6, 2002 and it still exists, is the proposal to dedicate the land along the Gott Creek to the Town of Clarence. We don't think the Town would be receptive to that donation of land. Mr. Schutt said Well the DEC is very interested in it. It goes under public control more or less. They are looking at it for a couple of reasons. Number one - preserving the integrity of the Gott Creek channel itself structurally. We are also preserving the integrity of the Gott Creek eco-system of the Creek area so to speak. We will provide access to the highway department and other Town Departments to get in there and get along the creek in the event that something should happen in there like a fallen tree. They would need access to get in there, and would not have to pass through any private lands. It is a private land, and of course, we would lose the opportunity to access that property and we would lose the opportunity to preserve the creek bank. Joe Floss said Have you addressed this with the Town Board ? Mr. Schutt said No, we haven't. It was discussed at the MRC, we have correspondence from the DEC, and we have had conversations with the Highway Superintendent and he said he thought it was a good idea. I guess if we have to, we can leave it up to the Town Board to make that kind of decision. Mike Metzger said If the DEC is interested in it, would they be interested in taking control of the property? Mr. Schutt said I haven't discussed that at all. I think the

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idea would be that we preserve 50 feet along the creek bank as well as the ordinance with the 45 foot rear setback, we would be preserving 90 feet of that creek border. If the

property to the north were ever to be developed, the same thing would take place so there would be almost a 200 foot Area to preserve the creek eco system. If it is privately owned you can't guarantee anything. Joe Floss said "No it is typically filled in, trees are cut down, tennis courts - we have seen it all. While we applaud the preservation concept, we were concerned back in March, and continue to be concerned about the idea of having a proposal for the Town to take over that linear land, and the responsibility of maintenance and liability without knowing what the Town Board really wants with it. So if we approve this concept, and find that they aren't going to take it, that may very well change the configuration of your plan. I guess we are playing the suppose game, and we should really know what the Town Board and the Highway Department want with it. Mr. Schutt said it is not enough property to be eligible for a conservation easement. The state does not want to deal with ten different property owners. I think what we will probably do is split it down the middle and have half on one lot, and half on another lot. Each of those lots would wrap around the back of the other lots. Joe said we can go ahead and recommend re-zoning, we can do that independent of concept approval so that public notice can go out. We can also recommend that concept plan approval be granted by the Town Board with them making the decision at that time whether they want that land or not. Or we can table the concept approval, and ascertain what the desire is of the Highway Superintendent and the Town Board. Mike Metzger said he personally would not have a problem with making a recommendation to the board regarding re-zoning. We like the land use itself which is a re-zoning issue, but I feel that this part (creek bank) is too significant to move forward on the concept plan until that is resolved. I think it is to the benefit to the applicant to have the re-zoning process move forward. Reas Graber agreed with Mike Metzger. Roy McCready asked if this had been to the MRC yet. Yes it has, it got a negative declaration. Pat Powers said we have not been recommending re-zoning until we have a project to go with it, and we are here for concept plan approval. I am uncomfortable not knowing about that 2.61 acres along the creek bank. Pat asked Mr.

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Schutt AHow do they deed that when they are able to find someone to take over a piece like that, how do they police that? Most people extend that to be part of their backyard.

Mr. Schutt said AYou are absolutely right it is difficult to police that. Obviously we run into property rights, and if somebody wants to clear all that and seed a creek, you probably can't stop them. Joe said AI think we do have a project that has gone through some process. MRC, Fire Advisory etc. There is no re-configuration of the road, there could be re-configuration of two lots, but it doesn't change the land use which the re-zoning would be addressing. I am asking for a motion to re-zone as an independent motion.

ACTION: Motion by Mike Metzger, seconded by Reas Graber to recommend re-zoning of 11.832 acres of land from Agricultural to Residential A.

Mike Metzger	AYE
Reas Graber	AYE
Roy McCready	AYE
Joseph Floss	AYE
Frank Raquet	AYE
Patricia Powers	NAY

MOTION CARRIED.

Joe Floss said he is looking for a motion to recommend concept plan approval for a 16 lot subdivision as an extension of Field Brook Drive or - table concept plan approval until we can ascertain whether or not the Town Board and the Highway Superintendent desires to take possession of this land.

ACTION: Motion by Michael Metzger, seconded by Pat Powers to table concept plan approval until the creek bank property issue has been resolved.

On the Question? Frank Raquet asked who owns the property to the south of this property? It is a different property owner by the name of Culverwell.

On the Question? Roy McCready asked Bill Schutt AWhat kind of problems might we get into with the people who own the opposite side of the creek say if the Town did take over the bank?

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Bill Schutt said AWe won't have any problems, we are not affecting the creek, we are not crossing the creek, we are just preserving the creek corridor on this side.

On the Question?

Mike Metzger said there should be an easement placed on that property if the Town does take it over - for the same reasons the DEC doesn't want that property to be in multiple ownerships. I feel the Town should not take it because if there ever is a problem on that property, when people start extending their property lot lines, and start doing things that are not allowed by the regulations. What that does is gives the DEC the opportunity to come to the landowner, and give the landowner (being the Town) a hard time. The Town would then have to police it, and I don't think the Town needs to be put in that position. But I do agree I would like to see an easement placed on that for maintenance purposes. I am sure that is something that will come out with discussions with the Highway Department Superintendent.

On the Question?

Joe Floss said to Mr. Schutt "The logic you are presenting only works if there is a mirror image on the other side connected to some public right of way. Right now they can't even access the easement unless you gave an easement off one of those lots."

ALL VOTING AYE. MOTION CARRIED.

Motion by Patricia Powers, seconded by Reas Graber to adjourn the meeting.

Meeting adjourned at 10:00 p.m.
Joe Floss, Acting Chairman