

Town of Clarence
Planning Board Minutes
Wednesday June 2, 2010

Work Session 6:30 pm

Roll Call
Update on Pending Items
Zoning Reports
Committee Reports
Miscellaneous

Agenda Items 7:30 pm

Approval of Minutes

Item 1

Clarence Sewer District #2/Shadow Woods
Subdivision

Requests approval for the construction of a new gravity sewer line on the west side of Goodrich Road north of Via Cimato Drive and Pinyon Court in the Pine Breeze Subdivision.

Item 2

John Collana
Residential Single-Family

Requests subdivision approval for property located at Shimerville Road and Roll Road.

Item 3

Christopher Smith
Commercial

Requests approval for a Temporary Conditional Permit for auto sales/display at 8137 Sheridan Drive.

Chairman Al Schultz called the meeting to order at 7:30 p.m.

Planner Brad Packard led the pledge to the flag.

Chairman Al Schultz called for a moment of silence in reverence to those who have given their lives for our country.

Planning Board Members present:

Chairman Al Schultz
George Van Nest
Gregory Todaro

Timothy Pazda
Richard Bigler

Planning Board Members absent:

Vice-Chairperson Wendy Salvati

Town Officials Present:

Planner Brad Packard
 Councilman Peter DiCostanzo (arrived at approximately 8:15 pm)
 Deputy Town Attorney David Donohue
 Town Engineer Joseph Latona
 Assistant Town Engineer Timothy Lavocat

Other Interested Parties Present:

Joanne Wagner	Paul Wagner
Cathy Farha Recktenwald	Roger Little
Grace Little	David Miller
Jodi Miller	G. Goodwin
M. Bracci	Robert Sackett
Francis Scott Massey	Tom Hanifin
Randy Schreiber	Joe Meyers

Chairman Schultz explained that the Planning Board is a seven (7) member board; five (5) members are currently appointed. Alternate member Gregory Todaro will be participating in all discussions and voting on all agenda items this evening.

Motion by Timothy Pazda, seconded by George Van Nest, to **approve** the minutes of the meeting held on May 19, 2010, as written with the following corrections:

-The second last paragraph on page 30 delete the last sentence and replace with, "The letter is part of the record."

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Al Schultz	Aye		

MOTION CARRIED.

Chairman Schultz explained that the Planning Board is a recommending body that may vote to refer agenda items to other committees such as the TEQR Committee, Fire Advisory and Traffic Safety for their study and comment. The Planning Board may vote to recommend an action to the Town Board with or without conditions. They may also vote to table an agenda item for further information. The Town Board is the governing body and as such will have the final vote on all items. The Planning Board's charter tends to be restricted by the kind of question they are asked by the Town Board. The Planning Board meeting is conducted using the basic parliamentary procedure. For each agenda item Brad Packard will introduce the project. The applicant will then have the opportunity to speak on the project. The Planning Board members will then have an opportunity to ask questions. The public will be offered the opportunity to speak on the subject; all commentary will be addressed to the Planning Board and will be limited to three (3) minutes. The applicant will then have the opportunity to respond to the public comment. A motion will be called for with a roll call vote.

Item 1

Clarence Sewer District #2/Shadow Woods Subdivision

Requests approval for the construction of a new gravity sewer line on the west side of Goodrich Road north of Via Cimato Drive and Pinyon Court in the Pine Breeze Subdivision.

DISCUSSION:

Brad Packard provided the history on the project. It is located on the west side of Goodrich Road, opposite Keller Road and parallel to Pinyon Court and Via Cimato Drive in the Pine Breeze and Beech Meadow Subdivision. The proposed project involves the installation of a gravity sewer line to service the proposed Shadow Woods Subdivision and to ultimately eliminate an existing pump station in the Clarence Sewer District #2 (CSD#2).

Assistant Town Engineer Timothy Lavocat is the representative.

Chairman Schultz clarified that in the May 19, 2010 Planning Board meeting minutes there are several references made to correspondence from the DEC. This correspondence is in the form of an e-mail and is not an official letter nor is it an approval from the DEC. It is an e-mail from Charles Rosenburg of the DEC addressed to David Chiarolanza, Sean Hopkins, Don Wilson, William Schutt and Steven Doleski. The e-mail documents the discussion among the recipients and tries to address questions that were raised at the meeting. The e-mail also suggests there should be another meeting at which Steve Doleski would be present. No representative of the Town of Clarence was at the referenced meeting nor was a Town representative copied on the e-mail.

Chairman Schultz said the number one concern from the neighbors regarding this proposal is flooding. Mr. Lavocat said he does not anticipate any flooding as a result of this project because of the soil types at the location. Everything will be restored to the existing grade as you see it today. There is a rear yard drainage system along the rear yard lot lines of the properties on Pinyon Court and Via Cimato Drive. The ground cover will not be changed in any way.

Chairman Schultz asked if road beds would need be installed to allow the heavy construction vehicles to navigate to the site; road beds disrupt water flow. Mr. Lavocat does not anticipate a road bed going in. There are different methods that can be used; materials could be stored out of the area and hauled back with the various pieces of equipment that have tires and tracks that can handle the soil type.

Mr. Pazda asked what alternative options were looked at. Mr. Lavocat explained there is no other alternative that does not involve pumping. The proposal is the only alternative that eliminates two (2) pump stations by gravity. Goodrich Road goes uphill, Goodrich Road and Keller Road flow to the Keller Road intersection; this is all uphill to the four (4) corners and is pumped. Another option the Engineer's office looked at was trying to connect closer to Keller Road, but the sewer is too high. The sewer from Heise Road to Goodrich Road continues to go up. A "do nothing" analysis was also done, the Keller Road pump station would have to be replaced if this analysis was executed. The cost of the pump would be approximately \$400,000 and with Operation and Maintenance costs every year the impact to CSD#2 over a 20 year service life of the pump would be about 1.1 million. The proposal is for a gravity line that would be 3100', the two (2) pump stations would be eliminated at no cost to CSD#2. The total cost savings to CSD#2 over a 20 year period is approximately \$2.1 million.

Chairman Schultz referred to a letter dated May 25, 2010 from Town Engineer Joseph Latona to Richard Rink of the DEC. The letter is on file and part of the record. The letter talks about how the gravity line meets the standards but it is on the edge, so that if it is moved it in either direction or changed at all it wouldn't meet the technical standards.

Town Engineer Joseph Latona recently had multiple discussions with the DEC. The reasons the letter from the DEC did not come through are because of vacations at the Dec and the DEC has orders from Albany to limit their phone calls and save toner.

Chairman Schultz noted there are three (3) recently received letters on file from various residents. One letter is from John Thur written to Supervisor Bylewski and the Town Board. There is one from William and Katherine Recktenwald to Councilman DiCostanzo and others and one from George and Kim Hermance to the Planning Board and the Town Board. The letters are a permanent part of the record and will be reviewed by the Town Board as they make their decision.

Scott Massey, of 9220 Via Cimato, asked who the applicant is for this proposal. He understands that the Shadow Woods Subdivision has been approved with a sewer plan, which is not this plan. If the developer is the applicant, Mr. Massey does not see him at the meeting. He also asked why is the lower southern part of the development not going directly to the sewer. He thinks it would be a lot cheaper to go from this lowest point and wondered if this option was considered. Mr. Massey asked what the cost of retiring the Keller Road pump station is.

Chairman Schultz said the applicant is CSD#2. The builder is present and would like to go ahead with the proposal.

Dave Miller, of 9374 Pinyon Court, said the magnitude of this project is really unknown. Disrupting 3100' of land, taking out trees and going through wetlands will create issues. He would like to see what the cost analysis is for the proposal. He asked what happens if there are issues, who the homeowners might talk to in order to resolve these issues.

Kathy Recktenwald, of 9314 Pinyon Court, purchased her house 11 years ago, it backs up to protected wetlands and that is one of the reasons they bought the property because they knew nothing would ever go back there. There are several mature trees in that area. Her and her neighbors paid a premium for those lots because they are wooded, if the trees are taken down their property value decreases. Aesthetics are a concern as well. She understands the need for cost savings but she doesn't think that saving money is always the best way to go. The project would have an extreme impact on all the residents in the area as well as wildlife.

Marcia Pacciotti, of 9165 Beech Meadow Court, gave the Town of Clarence permission to go through her backyard to install the proposed sewer. She is in favor of the proposed sewer; she is willing to lose a few trees. In the long run it seems the proposal is in the best interest to the taxpayers. The gravity sewer line will not have the large yearly maintenance fee attached to it that the pump station does. She believes the sewer to be an improvement to the Town and a benefit to the taxpayer.

Town Engineer Joe Latona said it is his job as the sewer administrator to present economical, financially sound and technically sound options for a sewer district. The discovery of the plan for this sewer proposal came after the Concept Plan for the Shadow Woods Subdivision. Once the engineers were into designing infrastructure for the subdivision they discovered that by gravity they could service the entire area. They looked at Pinyon Court but the sewers there are too high to get into by

gravity. The gravity flow is very precarious, they are at minimum grade. Mr. Latona spoke with the DEC yesterday; they are for the project and are working on producing a letter to that effect and will include conditions such as vegetation. The sewers that service Pinyon Court are in the front yards and are closer to the houses than the proposed gravity line will be. The Town Engineer's office has submitted a memo to the Planning office answering questions relative to cost analysis, hours of operation, location of the sewer and other items. The memo is part of the permanent record.

Mr. Pazda asked if one pump station could be kept and the other eliminated. Mr. Latona said pump stations are very expensive to operate, \$25,000 to \$30,000 a year, over a 20 year life of a project it gets expensive quickly.

Mr. Latona said it would cost approximately \$100,000-\$150,000 to remove a pump station.

Chairman Schultz said the number one issue that was raised by the neighbors several times at the last meeting is concern about changing the water flow and potential flooding of the neighbor's yards. Chairman Schultz asked what kind of assurance the residents have that this will not be an issue. Mr. Latona said nature cannot be predicted but the lots graded on Pinyon Court flow from the street to the back yard where it was a wetland previously. There are rear yard drains in the backyards; Mr. Latona anticipates no flooding whatsoever from this project.

Chairman Schultz said standard hours of operation in the Town Code are 6am-6pm, no Sundays, he asked if Mr. Latona is willing to change those hours. Mr. Latona agreed to address this issue. Chairman Schultz suggested 7am-5pm hours of operation. Mr. Latona said this will only be a short term disruption; in two years no one will know anything ever happened at the site. The wetlands will remain wetlands forever.

Chairman Schultz asked if putting the sewer line in opens up that area for future development. Mr. Latona said the same approvals that apply to the Shadow Woods Subdivision will remain in effect.

Mr. Packard said Concept Plan approval for the Shadow Woods project, as per the Town Board, would represent a full build-out scenario of this piece of property. The Subdivision Law would stipulate that there are conditions very strict to that effect. Deputy Town Attorney David Donohue added that the Homeowners Association will be owner of the wetlands, in the agreement no one is allowed to build on the wetlands. Not only are the wetlands a DEC issue but their protection is in the Homeowners Association agreement as well. The Homeowners Association agreement will be approved by the Town Attorney's office before it is put in place. Chairman Schultz said when the subdivision Concept Plan was approved it stated the maximum amount of lots that could be built on the entire lot. The property will be subject to a conservation easement approved by the Town Attorney's office.

Chairman Schultz would like to see the formal DEC conditions as they will be part of any recommendation to the Town Board.

Mr. Pazda asked who monitors the work and what recourse surrounding homeowners have if there are issues. Mr. Latona said there will be an inspector on site, the DEC and ECSD#5 will monitor the project. The installer will put in check dams; there have been no issues with sewers that include check dams in the area. If neighbors encounter problems they can go to CSD#2, ECSD#5 and/or the DEC. Chairman Schultz suggested doing a line of site form an established manhole, and then decide where the next manhole will be placed. Move the next manhole a few feet one way or the other if doing so

will protect trees. Mr. Latona said this suggestion is possible but when the manhole is moved in this way it adds footage. The letter from the DEC will provide proper conditions.

Mr. Van Nest said legal input is also required relative to whether or not this project is a substantial change from the original SEQRA review that was conducted for the adjoining subdivision or whether or not this is a Type II Action under SEQRA, therefore, exempt from SEQRA review. Once this information is received, along with the DEC letter, the Planning Board can make an informed decision on what type of recommendation can be made.

ACTION:

Motion by George Van Nest, seconded by Richard Bigler, to **table** the project to allow time for the requested information to be obtained.

ON THE QUESTION:

Chairman Schultz explained the proposal is tabled because the Planning Board is looking for information from the DEC on conditions and the Town Attorney on SEQRA status.

Mr. Van Nest said it needs to be clarified if this project is considered a substantial change to the SEQRA review that was conducted on the Shadow Woods Subdivision or it is considered a Type II Action in the event that it is an extension of a sewer utility line to serve an adjoining subdivision. Mr. Van Nest referred to § 6-17.5(C)(11) of the SEQRA Statute.

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 2

John Collana Residential Single-Family	Requests subdivision approval for property located at Shimerville Road and Roll Road.
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DISCUSSION:

Brad Packard provided the history on the project. It was referred to the Planning Board on June 10, 2009. The proposed action involves a minor subdivision on existing vacant property on the east side of Shimerville Road north of Roll Road. The applicant is proposing two (2) additional building lots along the Shimerville Road frontage.

Doug Cipillone is representing John Collana. Mr. Cipillone explained the applicant wants to combine the two (2) lots off Roll Road to form one (1) 8-acre lot. There would be three (3) lots on Shimerville Road, each over 2-acres each. Another option is to sell the back lot to a neighbor. Mr. Collana owns all the property in question. They are proposing a total of four (4) lots.

Mr. Bigler thinks a segmentation issue is being avoided due to the way the applicant is proposing to split the lots.

Mr. Cipillone said the first lot off Roll Road would just be an access because of the close proximity to the creek.

In response to Mr. Pazda's question for clarification, Mr. Packard explained the applicant originally requested two (2) new buildable lots of the Town Board via Minor Subdivision. The Planning Board would be recommending back to the Town Board, if they so choose to, two (2) new buildable lots. The other two (2) lots already exist, the applicant, in an effort to meet the Zoning Law, is combining them with additional property. Sublots 1 and 2 on the plan are what the applicant is proposing. The lot on Roll Road already exists. The applicant is also eliminates a non-conforming lot which is proposed to become part of Sublot 3.

Joe Meyers, of 8920 Roll Road, said everything east of his property is either Federal or State Wetlands, he built there with the presumption that it would remain that way. He does not want to see anyone cut off access to their property but it is only 300' to the creek, the water comes up to the edge of his property. The dynamics of this area have already been changed when Waterford was built. Waterford is going to be building 600' to the east of him and that will add to the water coming down from the creek. Mr. Meyers said the applicant would disturb a Gott Creek tributary if the plan is approved. He suggests a road off Shimerville Road not Roll Road through wetlands. This would bring more water to his property and he has two (2) sump pumps running now. This plan makes no logical sense to him. What will happen when Waterford is built out?

There have been no other proposals for this property before the Planning Board in the past; this is the first time the Board has seen it.

Mr. Van Nest asked if there have been any discussions with the DEC or the Army Corp of Engineers to see if either would be amenable to issue a permit. Mr. Cipillone said he will pursue this issue if it is the wish of the Planning Board.

Mr. Van Nest said the complexity of this proposal requires more analysis as to whether or not the wetland permits would be necessary, perhaps an inclination from involved agencies should be obtained prior to the Planning Board making a recommendation. Chairman Schultz said if the applicant cannot cross the wetland it will leave a landlocked lot. A full-out SEQRA review is probably not needed but a non-coordinated review with the DEC and the Army Corp of Engineers is.

Mr. Packard clarified that the two (2) lots as they exist can be combined via a lot-line adjustment in the Planning and Zoning office immediately, it requires no review. If the applicant desires to build a home it requires review and approval of the Building Department and therefore the involved regulatory agencies. The applicant is not asking for a subdivision approval with this action, he is asking to combine two (2) lots which is the opposite of a subdivision approval. Mr. Van Nest said what the Planning Board does affects the overall parcels; the Planning Board should not act on something without all the information. Mr. Packard said the applicant is actually coming into conformance with the current Zoning Law with this proposal.

ACTION:

Motion by Timothy Pazda, seconded by George Van Nest, to **table** the project until the Planning Boards questions, as discussed, can be answered.

ON THE QUESTION:

Chairman Schultz said the question that needs to be answered is regarding access through the lot on Roll Road; he does not have a problem with the lot split along Shimerville Road providing one is not needed for access to the back.

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 3

Christopher Smith
Commercial

Requests approval for a Temporary Conditional Permit for auto sales/display at 8137 Sheridan Drive.

DISCUSSION:

Brad Packard provided the history on the project. It was originally referred to the Planning Board on March 10, 2010 for the review of the land use, specifics to location, appropriateness for the area and all things pertinent to the display area. The applicant is present this evening and is seeking the recommendation of the Planning Board regarding the requested Temporary Conditional Permit for used auto sales.

Christopher Smith explained he wants to use the back portion of 8137 Sheridan Drive as a car lot. He would start with seven (7) cars, if things go well, he would ask for additional vehicles. He is willing to pave and stripe and whatever else the Town asks him to do. Regarding advertising, he is not looking for drive-by traffic as he wants to keep his overhead as low as possible. He would advertise using flyers, the newspaper and word of mouth. Business would be conducted by appointment only. Mr. Smith confirmed the cost for paving is substantial. He is hopeful the business will grow and he will have 15-20 cars on the lot. He knows the Town Board does not want the Town of Clarence to turn into a car lot so his will be hidden. Mr. Smith confirms there will be no repairs done at this location. Every car he buys he takes to 5767 Genesee Street and his mechanic works on the vehicles there.

Albert Reid, of 8131 Sheridan Drive, said his main concern is the increase in traffic from the car lot that already exists. He believes most of Mr. Smith's cars are being displayed out of 8145 Sheridan Drive which already has a vacant condemned burnt-out building on it. Mr. Reid asked what the minimum frontage for auto sales is; there is only about 60' at the proposed location. He advised that the Buck and Doe Shop on Sheridan Drive is where the cars are being detailed and repaired. At 8155 Sheridan Drive there is an office trailer. The sign is posted at 8137 Sheridan Drive, but the work, the cleaning and repairing is being done out of 8145 Sheridan Drive. Mr. Reid believes 8137 Sheridan Drive to be zoned Agricultural. Mr. Packard clarified the zoning: the entire block is zoned Commercial to the rear and Restricted Business to the front. He also explained that the parcel in question is a pre-existing non-conforming lot. As it is a Commercially zoned property, the right exists to make application for a Temporary Conditional Permit which is ultimately at the discretion of the Town Board.

Mr. Reid voices his concern that a car lot is open 24/7. This location is not the place for a car lot.

Duane Barwell, of 8155 Sheridan Drive, is concerned with the frontage at the project location because there are currently two (2) businesses at this same location, The Buck and Doe Shop and a trucking business. There is too much traffic now. It has been the history of The Buck and Doe Shop to be a poor neighbor, Mr. Barwell is concerned. In response to Mr. Bigler's question about auto repair work being done at 8145 Sheridan, Mr. Barwell said he has not seen any repair work done at the location but the site is an eye-sore. If the project is approved he suggests fencing or a berm be installed for the neighbors.

Mr. Smith said the driveway will be paved from the street to the back part of The Buck and Doe Shop. There is a stone area at that point and he will pave 45' x 40' back to the lot area. There is substantial traffic for the Buck and Doe Shop, Mr. Smith will only have seven (7) cars on his lot and will not sell them in a week; the traffic from his business will be minimal. There is an individual that lives at The Buck and Doe Shop who stores tires on the property; he is supposed to move July 1, 2010, so the tires will be gone. The only items on the lot will be Mr. Smith's cars.

Chairman Schultz has visited the site and has never seen a vehicle back there nor has he seen any trucking going on. There are a lot of tires back there.

ACTION:

Motion by Chairman Schultz, seconded by Gregory Todaro, to **recommend** approval of a Temporary Conditional Permit to Christopher Smith for a used car sales at 8137 Sheridan Drive under the following conditions:

- 1.) The Temporary Conditional Permit for a period of one (1) year. Permit is for storage and sales only; repairs will not be done on site.
- 2.) Paving and striping of the vehicle storage area is required. Spaces designated by striping must meet Town standards as follows:
 - a. For right angle parking, designated spaces must be a minimum of nine feet wide and a minimum of nineteen feet long.
 - b. Parallel parking spaces must be a minimum of twenty feet long and eight feet wide.
 - c. There must be ten feet minimum between rows.
- 3.) Display area to be separated from adjoining areas by a barrier such as curbing to clearly delineate where vehicles may park or drive; no vehicles will be displayed other than in the display area.
- 4.) Pave driveway will be installed between the existing driveway and the display area, for both sale vehicles and customer access. Driveway will be a minimum of ten feet wide.
- 5.) Paved area will be 45 feet wide by 40 feet deep, which will support a maximum of seven cars; no more than seven vehicles will be displayed at any given time.
- 6.) Operation will be daylight hours only; any outdoor lighting shall be directed so as not to impact adjoining uses.
- 7.) The facility will be open by appointment only, between the hours of 9am and sunset, seven days a week.
- 8.) No streamers/ banners, or open hoods with place-cards.
- 9.) Site landscaping is not required. If, however, landscaping is installed as part of the separation barrier, it must be approved by the Landscape Committee.

ON THE QUESTION:

Mr. Van Nest referred to Special Exception Use Permits for auto sales in which lighting is permitted but does not touch on the adjoining uses. This site falls in the Commercial Zone without adjoining residential uses. Timothy Pazda agreed and said security lighting is something the applicant would want to do.

Deputy Town Attorney David Donohue said the Temporary Conditional Permit will be good for one (1) year at which time the applicant will need to come back before the Town Board to request an extension. If he is not a good neighbor, the neighbors can voice their concerns at that meeting as well.

Timothy Pazda is not in favor of requesting and requiring the applicant to pave back there, however, he understands the code dictates that. He wishes the Code allowed for some flexibility so that in certain cases, this being one of them, where a gravel drive is sufficient for parking. Chairman Schultz said it is hard to stripe gravel.

Gregory Todaro	Aye	Richard Bigler	Aye
George Van Nest	Aye	Timothy Pazda	Aye
Al Schultz	Aye		

MOTION CARRIED.

Meeting adjourned at 9:05 p.m.

Carolyn Delgato
Senior Clerk Typist