

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, July 11, 2012, at Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell called the meeting to order at 6:00 P.M. Members of the Town Board present were Councilmember's Bernard Kolber, Patrick Casilio, Peter DiCostanzo and Robert Geiger. Other Town officials present were Director of Community Development James Callahan, Assistant Planner Brad Packard, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Confidential Secretary to the Supervisor Karen Jurek, Senior Building Inspector David Metzger, Director of Administration and Finance Pam Smith, and Planning Board Chairman Al Schultz.

Director of Community Development – James Callahan

Public Hearings:

Kelly Marquart 6105 Salt Road

Applicant is proposing to develop a single-family home and is requesting a secondary living unit be developed as part of the permit. The proposed site is located on the east side of Salt Road, north of Clarence Center Road on existing vacant parcel located in the Agriculture Rural Residential Zone. Per the Zoning Law, the Town Board may consider a secondary living unit with a Special Exception Use Permit. Applicant is aware of all the conditions associated with a Special Exception Use Permit including deed restrictions.

Towne Mini 8230-8240 Main Street

Applicant is seeking approval to develop an automotive sales/service operation which will require a Special Exception Use Permit from the Town Board. The proposed site is located on the northwest corner of Main Street and Westwood Drive on existing vacant property located in the Traditional Neighborhood District and Commercial Zones. Per the Zoning Law, the Town Board has authority to issue Special Exception Use Permits for automotive uses. The Planning Board has approved the Concept Plan and forwarded a recommendation on the Special Exception Use Permit. A Negative Declaration under SEQRA was issued by the Town Board on the project on 5/23/12. Conditions of approval include only one access drive to Westwood Drive; delivery trucks must utilize Bryant and Stratton Way and the Main-Transit Plaza for deliveries. No use of Westwood Drive for delivery vehicles will be allowed as a condition of approval. The northern buffer is to be a combination of landscaping, fencing and berms to protect the adjoining residential neighbors. Final landscape design to be reviewed and approved by the Landscape Committee. Lighting to be dark sky fixtures to ensure zero spill to adjoining residential properties. Subject to Planning Board approval on the Development Plans requiring that all regulatory agency and departmental approvals are in order. Subject to Open Space and Recreation Fees. Rear access to rear of Main-Transit Plaza to be 24' minimum to accommodate fire safety equipment and snow plowing.

Niagara County Produce 8555-8615 Transit Road

Applicant is proposing to construct a new facility. The proposed site is located on the east side of Transit Road, south of Tonawanda Creek Road at existing retail produce market located within the Major Arterial Zone. As the full build out will exceed 50,000 square feet, a Special Exception Use Permit as issued by the Town Board will be required. The Planning Board has approved the concept and forwarded a recommendation on the Special Exception Use Permit. A Negative Declaration under SEQRA has been issued on the project. Conditions of approval include the following: based upon the approved concept plans as submitted by Metzger Civil Engineering dated March 22, 2012 and including all conditions as identified by the Planning Board under the concept approval, Development Plans subject to Planning Board review and approval after required departmental and regulatory agency approvals are in order, final landscape plans subject to review and approval by the Landscape Committee. Easement access to the adjoining residential property to be reviewed and accepted by the Town Attorney's Office. Subject to Open Space and Recreation Fees.

Formal Agenda items:*Harris Hill Commons*

Applicant is proposing to develop an Open Space Design Subdivision consisting of 70+/- sub lots on 62.73+/- acres. The proposed site is located on the west side of Harris Hill Road between Sheridan Drive and Greiner Road on an existing vacant parcel located in the Residential Single-Family Zone. The area is identified in a residential classification adjoining Sheridan Drive frontage located in a commercial classification. Per the Zoning Law, the Town Board has final authority to approve Open Space Design Developments. Formation of a sewer district to service the project is the principal issue. Isolation of the adjoining frontage on Sheridan Drive and Greiner Road is another factor in framing a comprehensive review of the proposed project. Referral to the Planning Board would initiate a formal review of the proposal.

Ashley and Associates/Metzger Civil Engineering 8080 Wehrle Drive

Applicant is proposing to develop a market rate multi-family housing project to be located on existing vacant land located in the Commercial Zone containing 15+/- acres on the north side of Wehrle Drive, east of Transit Road. A Concept Plan for an office park was previously approved by the Planning Board in 2001. Per the Zoning Law, the Town Board has authority to approve Multi-Family Residential projects with a Special Exception Use Permit. Unit density and sewer capacity are issues that will require study. Referral to the Planning Board would initiate a formal review of the proposal.

Regent Companies – north of 8230 Wehrle Drive (behind golf dome)

Applicant is proposing to split the property and utilize the northern portion for a Senior Housing Project. The project will require an action under the Subdivision Law to create an additional lot and will also require a variance for unit density and a Special Exception Use Permit. Per the Zoning Law, the Town Board has ultimate authority to approve Multi-Family Residential with a Special Exception Use Permit. Subdivision of land, unit density and sewer capacity are the main issues. Referral to the Planning Board would initiate a formal review of the project.

Larry Engasser – 8346 County Road

Applicant is seeking an amendment to the previously approved project to reduce the lot size and building size associated with the Open Development Area. The proposed site is located on the north side of County Road, east of Stahley Road on existing previously approved 1-lot Open Development Area located within the Swormville Traditional Neighborhood District. Per the Subdivision Law, the Town Board has the authority to grant variances to the Subdivision Law and specifically the Open Development Area regulations. The Planning Board has forwarded a recommendation on the variances as requested.

Walter Peters – Screens Restaurant and Sports Lounge 5445 Transit Road

Applicant is proposing to develop an outdoor volleyball facility at the existing commercial plaza located on the east side of Transit Road, south of Roll Road in the Major Arterial Zone. As the proposed use is not specifically enumerated as a permitted use, the Town Board may consider the request with a Temporary Conditional Permit. A public hearing will be required to consider a Temporary Conditional Permit.

Ronald Martin – 5115 Old Goodrich Road

Applicant is seeking approval to construct a secondary living unit (in-law apartment) at existing home at 5115 Old Goodrich Road. Per the Zoning Law, the Town Board may consider a secondary living unit with a Special Exception Use Permit. A public hearing is required prior to action on the request. All conditions as established within the Zoning Law must be met. **(Applicant asked to be removed from the agenda).**

Work Session items for consideration July 25, 2012:***6425 Salt Road***

Applicant is seeking approval to construct a secondary living unit (in-law apartment) at existing home at 6425 Salt Road. Per the Zoning Law, the Town Board may consider a secondary living unit with a Special Exception Use Permit. A Public hearing is required prior to action on the request. All conditions as established within the Zoning Law must be met.

Senior Building Inspector – David Metzger

Senior Building Inspector Metzger informed the Town Board that the Clarence Center Post Office was struck by a vehicle on July 3rd 2012. The Post Office is open for business; repairs to the building began today.

Supervisor David Hartzell

Supervisor Hartzell gave an update on Beeman Creek Park. The trails have been finished, the sheds have been demolished, the butterfly garden is being established and the Parks Department will be installing signs. Upon further review, it was resolved that the Town of Clarence does own the lane off of Parker Road. Supervisor Hartzell and Town Attorney Meckler will meet with Mr. Roger Becker to settle this issue.

Supervisor Hartzell has received several requests to update the Town Hall sign. The Town Board was in agreement with this. Supervisor Hartzell will obtain some designs and prices and report back to the Board.

Erie County recently passed a policy prohibiting smoking in County Parks. Supervisor Hartzell would like to implement a “smoke-free policy” in Clarence Town Parks. During Day in the Park festivities, Councilman Casilio and Councilman DiCostanzo received complaints from residents about people smoking in the Park. Supervisor Hartzell stated that it will be difficult to police but it is a step in the right direction. Town Attorney Meckler will find out what it takes to make our parks “smoke-free” and will report back to the Board at the next meeting.

Director of Administration and Finance Pam Smith suggested the Town Board meet with the fire companies to discuss budgets. Councilman Casilio will contact the fire departments to arrange a meeting.

The Supervisor’s office is accepting applications for a Clerk PT. This position is for a sub-list to assist various departments within the Town.

Supervisor Hartzell stated that our Bond Rating was upgraded from Aa1 to Aa2 which allows the Town to borrow money at a lower rate.

Councilman Bernard Kolber

Councilman Kolber spoke with Director of Community Development James Callahan relative to writing a proposed moratorium with the possibility of a six month extension on multi-family residential projects. A public hearing is scheduled for the July 25th Town Board meeting. The Planning Board is working on parameters and guidelines similar to what other towns have in place. Councilman Kolber stated that he wants to be business friendly and encourage business but the town does not have much sewered business industrial commercial property. In his opinion a multi-family project is the worst of all situations because it causes high demand on the resources of the town and does not create any jobs.

Councilman Kolber received an e-mail from Clarence Public Library Director Monica Mooney relative to a Town Board resolution to be submitted with the construction grant for the expansion of the library parking lot. Town Engineer Lavocat stated that the town applied for a grant two years ago but was denied. The library is going to reapplying this year. The library is looking for a resolution from the Town Board indicating that 3 Town Place (the address of the Clarence Public Library) is projected to remain as

a library for at least the next twenty years and the Town will use it in that capacity and not change it into something else. A resolution will be prepared for the July 25th Town Board meeting.

In reviewing the bills, NYSEG charged the Town for the signal installation at Shimerville and Greiner Road. Councilman Kolber stated that the town maintains the signal but questioned why the town is being billed for the installation. Director of Administration and Finance Pam Smith contacted NYSEG and was informed that the town should have been billed all along. When a signal is installed, NYSEG is charging the state and the county. Any time a signal is installed, they are charging the municipality and the bill has to be paid up-front. Councilman Kolber felt the County should be paying the installation fee as part of their improvement project. Town Engineer Lavocat stated that it depends on how the contract was written; the town is responsible for operation and maintenance.

There have been complaints about the grass along the bike path not being cut. Supervisor Hartzell will speak with the Highway Department about cutting a three foot strip on either side of the bike path. Councilman Kolber stated that one employee could start at one end of the town in the morning and come back on the other side by the end of the day.

Councilman Patrick Casilio

The gazebo at Memorial Park was burned by vandals. Several photos were circulated to the Board. Law enforcement is investigating.

Councilman Casilio is working with several individuals regarding illegal signs in the right of ways.

Councilman Casilio has one item to discuss in Executive Session regarding personnel.

Councilman Peter DiCostanzo

Councilman DiCostanzo will make several appointments to the Clarence Youth Board.

There was a complaint on the Whistle Blower Hot Line about someone living in a garage on Strickler Road. Code Enforcement checked the residence and did not find any living quarters in the garage.

Councilman DiCostanzo thanked the Parks Department for watering down the ball diamonds to keep the dirt from blowing around during ball games.

Councilman Robert Geiger

There are approximately twenty dead trees in Clarence Hollow. Upon further review, Councilman Geiger found that the town is responsible for the trees. The NYS DOT responsibility is from curb to curb. The Hollow Association is looking into the spraying of the pavers between the curb and the sidewalk.

Councilman Casilio suggested going out to bid to get a cost estimate for the replacement trees. Supervisor Hartzell suggested getting the estimate so that the information is readily available when applying for a grant next year.

The Senior Center issued 105 discount cards to Veterans.

Councilman Geiger will set a bid date for the purchase of a 2012 14-seat passenger van for the Senior Center.

The Clarence Senior Center Board of Directors is recommending that the Clarence Town Board increase their Board of Director's from 11 to 15 members.

There has been on-going discussions' regarding the doors at the Senior Center and several Capital items.

Councilman Geiger would like to recommend the Town Hall be a free Wi-Fi building especially for people waiting for court or Zoning Board/Planning Board meetings. Karen Jurek said she will look into this.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to enter into Executive Session pursuant to § 105(1)A matters which will imperil the public safety if disclosed, § 105(1)B any matters which may disclose the identity of a law enforcement agency or informer; § 105(1)C information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed; § 105(1)H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. Pam Smith and Karen Jurek were asked to remain in the meeting. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, the Work Session adjourned at 7:47 PM.

Darcy A. Snyder
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Casilio to adjourn the Executive Session at 7:25 PM. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, July 11, 2012 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor David Hartzell, Jr. called the meeting to order at 7:30 p.m. Pledge to the flag was led by Councilman Peter DiCostanzo, followed by a prayer given by Supervisor Hartzell.

Members of the Town Board present were Councilmembers Bernard Kolber, Patrick Casilio, Peter DiCostanzo, Robert Geiger and Supervisor Hartzell. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, Town Engineer Tim Lavocat, Asst. Planner Brad Packard, Sr. Building Inspector David Metzger and Planning Board Chairman Al Schultz.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the previous meeting held June 27, 2012. Upon roll call – Ayes: All; Noes: None. Motion carried.

Supervisor Hartzell said he and Pam Smith went to New York City a few weeks ago to meet with Moody's, along with Mike Neumeister our investment manager. The idea was to have our bond rating raised from Aa1 to Aa2, which is usually for larger cities with more assets. We were successful and our bond rating was raised to one of the highest in Erie County. He thanked the Town Board and Pam Smith for their efforts over the years. This means that the Town can borrow money at a much more favorable rate which saves money in the long run.

Councilman Kolber said the Library Board is working on a grant for funding to enlarge their parking lot.

Councilman Kolber said we have had issues for a number of years with grass cutting along the bike paths. The Town has a plan to cut it at least twice a year, but it gets pretty long in the meantime. He is working on a different approach where twice a year they cut the whole width of it and then either Parks or Highway take a mower and just cut along the sides of the paths.

Motion by Councilman Casilio, seconded by Councilman Kolber to authorize the Supervisor to sign a request for military aerial support for a fly over from the Niagara Falls Air Force Base on September 3, 2012 at approximately 1:00 p.m. on Clarence Center Road in conjunction with the Labor Day Parade. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Casilio said he attended the 40-year anniversary of the Clarence Softball League. They thanked the Town of Clarence for all of the improvements to facilities over the years, which they feel has made a difference in improving the skills of the players.

Councilman Casilio said Day in the Park was held last weekend and turned out to be a very successful event. There were approximately 4,000 people who watched the fireworks. The organizations that participated did a great job and it was a fun day for everyone.

Councilman Kolber said he thought the fireworks were the best ever.

Councilman DiCostanzo said he wanted to thank Jim Burkard and his crew who take care of the baseball fields. They did a great job for the tournaments relining the fields and spraying them down in between games.

Councilman DiCostanzo said we had a complaint on the hotline about someone living in a garage on Strickler Road. It was checked out and does not appear to be true. If people are looking for an answer to their complaints, they can leave their name and number.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that upon the recommendation of the Clarence Youth Board, the following students are appointed to the Clarence Youth Board for a period of one year, said term effective as of July 1, 2012 and ending on June 30, 2013: Brandon Johnson and Grace Ponterio. On the question, Councilman DiCostanzo said these appointments are being made to replace Kailey Akin and William Harrington. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber that upon the recommendation of the Clarence Youth Board, the following are appointed to the Clarence Youth Board to fill two openings and said appointments are effective as of July 12, 2012 with a term to expire December 31, 2014: Amy Leach and Brendan Biddlecom. On the question, Councilman DiCostanzo said these appointments are being made to fill two openings replacing Anthony Persico and Stephen Sharkey. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Geiger said he has been meeting with Clarence Hollow residents regarding the dead trees along Main Street. The Town Engineer looked into who was responsible and New York State DOT is responsible from curb to curb and beyond that including the sidewalks is ours. We are taking steps to replacing the trees.

Councilman Geiger said issuance of the veterans discount cards was held yesterday at the senior center. They issued 105 cards. He thanked Karla and her staff for doing a fine job.

Motion by Councilman Geiger, seconded by Supervisor Hartzell to set a bid date for Tuesday, July 31, 2012 at 10:00 a.m. for the purchase of a 2012 – 14 seat passenger van for the Senior Center. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber to adopt the following resolution:

WHEREAS, the By-Laws of the Clarence Senior Citizens, Inc. provides that the number of the Board of Directors of the Corporation may be increased or decreased by votes of a majority of the Clarence Town Board: and

WHEREAS, there has been a request by the Board of Directors of the Corporation that the Clarence Senior Citizens, Inc. Board be increased from 11 to 15 members; and

WHEREAS, the Board of Directors has also recommended that the Clarence Town Board appoint Aimee Bender and Holly Zuffranieri to fill two of the newly created openings; and
NOW, THEREFORE, BE IT

RESOLVED, that the Clarence Town Board hereby approves increasing the number of the Board of Directors of Clarence Senior Citizens, Inc. from 11 to 15 members; and be it further

RESOLVED, that upon the recommendation of Clarence Senior Citizens, Inc. the Clarence Town Board hereby appoints Aimee Bender and Holly Zuffranieri to the Board of Directors effective July 12, 2012 and ending on December 31, 2012.

On the question, Councilman DiCostanzo said he thinks that the Town Board worked very hard to decrease the size of this board over the last year or so. He is wondering why we are increasing it now.

Councilman Geiger said there has been considerable discussion on that and it is their feeling that they need to get the expertise and professionalism involved to fill these positions. We want to give the best of everything for our seniors. These two appointments will bring the total to 13, but they can go up to 15 members.

Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider a Special Exception Use Permit for a secondary living unit at 6105 Salt Road. James Callahan said the location is the east side of Salt Road north of the Peanut Line consisting of vacant land in the Agricultural Rural Residential Zone. The applicant is seeking approval for an in-law apartment. The applicant is out of Town and unable to be here tonight.

Councilman Kolber said this is for a new build with the secondary living unit.

James Callahan said she would have to comply with the requirements including a deed restriction to ensure that there is no advertisement as an apartment. It is limited to a family member, employee or temporary guest.

Speaking to the subject:

Elizabeth Iannopollo said this lot is next to her home and she is a little concerned. She asked if there are two driveways.

Councilman Kolber said there is only one driveway. It is an in-law apartment included in the home. It is restricted and cannot be advertised as a double unit.

Alex Kraatz asked what the laws are for a secondary living unit.

James Callahan said it is not a two-family house; it is an allowance for a family member to live on the site of single-family housing. It is restricted through a deed restriction filed with the County Clerk to ensure that the deed reflects that it is not a two-family house.

With no one else speaking to the subject, motion was made by Councilman Kolber, seconded by Councilman DiCostanzo to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider the request from Towne Mini for a Special Exception Use Permit for an automotive sales/service operation at 8240 Main Street. James Callahan said the location is the northwest corner of Main Street and Westwood Road consisting of vacant commercial land in the Commercial and Traditional Neighborhood Zoning Districts. The concept plan has been amended to limit access to Westwood. The Planning Board has forwarded a recommendation on the amended design. A Negative Declaration has been issued by the Town Board.

Speaking to the subject:

Robert Kahabka asked what access to Westwood they decided on.

James Callahan said the plan shows one way in and one way out, right only, onto Westwood. There is only one curb cut on Westwood.

Mr. Kahabka asked if there would be signage and how does the Town plan on enforcing it.

James Callahan said it is vehicle and traffic law and law enforcement would take care of enforcing it.

Mr. Kahabka said he lives on Ericson and people speed and run stop signs through that neighborhood. All kinds of cars are being tested from the other auto dealers in the area. He does not believe people will obey the signs. They should enter and exit onto Main Street. If the curb cut remains on Westwood, they should also only allow right turns onto Main Street or a traffic signal.

Councilman Kolber said that is a State road and that would have to be determined by them. His concern is to protect the neighborhood and is hesitant on the driveway on Westwood. If there is a problem, he wonders if there is a way to rescind that curb cut on Westwood in the future.

Bill Wincott, DR Chamberlin Corporation representing the Towne Auto Group said they worked very diligently on this with the Town. It is very doubtful that the NYS DOT would allow the entrance on Main Street. It would be a public safety nightmare to have another lane of traffic coming out in that area. They have reached an agreement with the plaza to use their entrance off Main Street. The way the exit onto Westwood is designed, they can only turn right from the site. Towne Mini is not a high volume dealership like some of the others. The previous tenant had a 100 ft. curb cut on Westwood. As far as Towne Auto Group, their technicians are not allowed to test drive on side streets. If they are caught, they are clocked out for the day. They try to be good neighbors.

Councilman Geiger said he is happy to see the truck traffic entering from the back.

Councilman Casilio thanked the dealership for changing the entrance. He would rather there were none on Westwood, but he appreciates the compromise.

With no one else speaking to the subject, motion was made by Supervisor Hartzell, seconded by Councilman Kolber to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Casilio, seconded by Councilman Geiger to adopt the following resolution:

Resolved, that the Clarence Town Board, after a public hearing duly held on July 11, 2012 and after all interested parties being heard, grants a Special Exception Use Permit to the applicant, Towne Mini, for an automotive sales/service operation at located at 8230-8240 Main Street, subject to the following conditions:

1. Final site plan as submitted by William Schutt and Associates dated June 12, 2012 identifying only one access drive to Westwood Road.
2. Delivery trucks must utilize Bryant and Stratton Way and the Main-Transit Plaza for deliveries.

3. No use of Westwood Road for delivery vehicles will be allowed as a condition of approval.
4. The northern buffer is to be a combination of landscaping, fencing, and berms to protect the adjoining residential neighbors.
5. Final landscape design to be reviewed and approved by the Landscape Committee.
6. Lighting to be dark sky fixtures to ensure zero spills to adjoining residential properties.
7. Subject to Planning Board approval on Development Plans requiring that all regulatory agency and departmental approvals are in order.
8. Rear access to rear of Main-Transit Plaza to be 24' minimum to accommodate fire safety equipment and snow plowing.
9. Open Space and Recreation Fees.
10. No display of vehicles on the roof of the building.

Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider the request by Niagara County Produce for a Special Exception Use Permit for a structure in excess of 50,000 sq. ft. at 8555-8595 Transit Road. James Callahan said the location is the east side of Transit Road, south of Tonawanda Creek Road consisting of an existing produce market in the Major Arterial Zone. The applicant is proposing to reconstruct the facility. The Planning Board has approved the redesigned concept plan. A Negative Declaration was issued.

Michael Metzger, engineer; Richard Dorr, owner; Brandon Houck and David Sutton, architect were all present. Mr. Metzger said the current structure is actually larger than 50,000 sq. ft., but was built prior to this law. They are working on securing the wetland permits and confident they will have them shortly. The traffic situation was a major reason this project got started. There will be one entry/exit driveway off Transit by eliminating the whole front being open and an entrance/exit on Tonawanda Creek Road. The structure will contain the retail, greenhouse and warehouse in one congruent building.

The building will be set back with parking and a detention pond in the front. Deliveries will occur at the back. A significant buffer will surround the residential properties on Tonawanda Creek Road. The project meets and exceeds all zoning requirements and provides 50% greenspace on the site. They also propose a brand new septic system that is larger than what is there now.

Councilman Kolber said he thinks this is a great project for this successful thriving business. It enhances the entryway to our town.

Supervisor Hartzell said it is an excellent project.

With no one else speaking to the subject, motion was made by Councilman Kolber, seconded by Supervisor Hartzell to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Supervisor Hartzell to adopt the following resolution:

Resolved, that the Clarence Town Board, after a public hearing duly held on July 11, 2012 and after all interested parties being heard, grants a Special Exception Use Permit to the applicant, Niagara County Produce, for a structure in excess of 50,000 feet located at 8555-8595 Transit Road subject to the following conditions:

1. Based upon the approved concept plans as submitted by Metzger Civil Engineering dated March 22, 2012 including all conditions as identified by the Planning Board under the concept approval.
2. Development Plans subject to Planning Board review and approval after required departmental and regulatory agency approvals are in order.
3. Final landscape plans subject to review and approval by the Landscape Committee.

4. Easement access to the adjoining residential property to be reviewed and accepted by the Town Attorney's Office.
5. Subject to Open Space and Recreation fees.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Harris Hill Commons requests Preliminary Concept review of a proposed Open Space Design Subdivision including extension/creation of a sewer district to service the proposed subdivision on the west side of Harris Hill Road between Sheridan Drive and Greiner Road. James Callahan said this is an existing vacant parcel located in the Residential Single Family Zone. The Town Board has final approval for open space design subdivisions. Referral to the Planning Board would initiate the formal review process.

Sean Hopkins, attorney representing Windsor Ridge Partners was present with Alan Randaccio and Elliot Lasky. A presentation was given a few weeks ago and the Town Board indicated they needed some more time to review the proposal. The project consists of 70 lots on 62 acres with more than 50% remaining as open space. They are simply requesting a referral to the Planning Board for a detailed review of the layout and continue with the environmental review. The concept was presented in 2005. They feel they are now in a position to move forward with the review process.

Councilman Kolber said he likes the project; he just wanted to make sure we were ready to move it forward.

Councilman Casilio asked why they waited so long.

Mr. Hopkins said it was never adopted. After the new codes were adopted after the moratorium, they were encouraged by the Town to make this an open space design rather than an incentive lot subdivision. During the environmental review, the DEC was not willing to consent to the Town Board acting as lead agency because of the sewer issue. They only received confirmation on sewer capacity a few months ago, which is why they were on hold.

Motion by Councilman Kolber, seconded by Supervisor Hartzell to refer the proposed Harris Hill Commons Open Space Design Subdivision to the Planning Board to commence a formal and coordinated review of the project. Upon roll call – Ayes: All; Noes: None. Motion carried.

Ashley and Associates requests Preliminary Concept Review of a Special Exception Use Permit for a multi-family residential project at 8080 Wehrle Drive. James Callahan said the location is the north side of Wehrle Drive, east of Transit Road consisting of vacant residential property in the Commercial Zone. Per the Zoning Law, the Town Board has authority to approve this type of project with a Special Exception Use Permit. Referral to the Planning Board would initiate the review process.

Michael Metzger, engineer was present with his client Mark Stevens. Mr. Metzger said they are asking for referral to the Planning Board to begin the review process. Since they met with the Town Board on June 9th, they have purchased two additional properties that added to the quality of the project. They are committed to saving as many quality trees on the site as possible. The purchase of these properties helps to provide a nice buffer and entrance from Wehrle Drive. They were also asked to provide access to the commercial properties adjacent to the site, which they have incorporated.

Mr. Metzger described the plan showing a grand entrance, pool, clubhouse, pet park and garden. They have created pods of apartments throughout the site. They are happy with how it has evolved. The units are two-story, including a garage and driveway. The setbacks are consistent with adjacent properties. They meet or exceed the Zoning Law requirements and almost double the greenspace. The location is close to Transit Road and all the services provided along that corridor.

Mr. Metzger said a portion of this property is within Erie County Sewer District No. 5, it does not flow in a northerly direction to problematic points. It actually heads west and goes through Amherst bypassing the problem areas.

They have addressed comments received to date and are now ready for the formal review with the Planning Board.

Councilman Kolber said the difference he sees in this proposal from what they do in Rochester is that you cannot see the development from the main roadways. He would like to see a larger buffer area from Wehrle Drive and around the site.

His other issue is that the Town has received more requests in the last six months for apartment complexes than ever. He has asked that our Planning Department develop a multi-family housing code. He also made a motion to hold a public hearing to consider a six-month moratorium on multi-family housing units, with the potential option for an additional six months until we bring this into place. These types of projects eat up the commercial and business land that we have.

Councilman DiCostanzo said his suggestion for access to the commercial businesses and on up to Main Street was meant to include cars, not just a sidewalk.

Michael Metzger said Mr. Stevens does own other developments in this area, not just Rochester.

Councilman Kolber said it is much more aesthetically pleasing. An example is the project to the east of this. All you see is the driveway. He believes that it is foolish to advance this when they are working on new guidelines.

Councilman DiCostanzo said he has no problem tabling this until after the public hearing and we hear what more people have to say about it.

Mr. Metzger said his client fully understands that depending on the outcome of the public hearing, there is the possibility of a moratorium being applied. He could get started and it may come to a halt. He is willing to take that chance. The Town Code addresses multi-family housing under the special exception use permit in the commercial zone. It is in there.

Councilman Kolber said we never had to address this many in the past. We have been overwhelmed with them without specific multi-family codes in place. All other towns in Western New York have multi-family development codes.

Mr. Metzger said it is addressed in the Town Code.

Motion by Councilman Kolber, seconded by Councilman Casilio to table the request for Preliminary Concept Review of a Special Exception Use Permit for a multi-family residential project at 8080 Wehrle Drive. Upon roll call – Ayes: Councilmembers DiCostanzo, Casilio, Kolber and Geiger; Noes: Supervisor Hartzell. Motion carried.

Bruce Wisbaum representing Stonegate Apartments said he is concerned about the density with the two multi-family projects near his existing complex. There are a lot of things going on in that area. There are traffic issues. If there was only one, it might not be so bad. He is not supporting a moratorium by any stretch of the imagination; he just thinks the Town needs to take a good look at both of these projects for the reasons stated.

Councilman Casilio said he does not think anyone wants to talk about a moratorium, but we are being bombarded almost on a weekly basis with this. It might come to a point where we can't control it.

Regent Companies requests Preliminary Concept Review of a Special Exception Use Permit for a senior multi-family residential project at 8230 Wehrle Drive. James Callahan said the location is the north side of Wehrle Drive, north of the Golf Dome consisting of a golf driving range in the Commercial Zone. Per the Zoning Law, multi-family housing requires a special exception use permit issued by the Town Board. Referral to the Planning Board would initiate the review process.

Sean Hopkins, attorney for the applicant said they are seeking referral to the Planning Board. The project site is approximately 10.85 acres zoned commercial. This project is set back about 500 ft. from Wehrle Drive. They propose 65 – 75% greenspace on this site. Coventry Green apartments are to the west and single-family residential homes are to the east. If this was a commercial type use, they might be considerable opposition. It provides a perfect transitional use from market-rate apartments to the single family subdivision. Not all projects are the same and each should be looked at on its own merit. It is consistent with some of the design ideas mentioned by Councilman Kolber.

Mr. Hopkins said the Town has a shortage of senior housing. We hear this often that seniors want to downsize, but they do not want to leave Clarence. Master Plan 2015 refers to this several times. In terms of a moratorium, he believes the Town has to look at the different types of multi-family housing projects. This project does not create significant traffic impacts. It is consistent with the community character and Master Plan 2015. There is a tremendous demand for it in the Town. The Zoning Law encourages a mixture of uses.

Mr. Hopkins believes that it is a big step backward to come up with a separate zoning classification. Mr. Callahan, the Planning Department and Planning Board who worked on Master Plan 2015 and the zoning code were being innovative at the time by getting away from Euclidian zoning. It separates every type of use to a separate area. He does not believe that is what the Town wants to do. From a planning perspective, you want to mix design uses.

Supervisor Hartzell said with senior housing there is no load onto the school system.

Councilman Casilio said are only Clarence residents going to move into these apartments.

Sean Hopkins said he is not implying that there is nowhere for seniors to go. There is a shortage of senior housing opportunities in Western New York. The trend is more and more seniors.

David Huck, president said the pricing will be \$900 to \$1,000. He was part of Coventry Green when it was built. About 25% of the people living there are seniors. In dealing with the management over there, they have heard what seniors would like and how they want to live. This is designed for seniors. They will be able to share maintenance crews. Services are close by. They are set back far enough from Wehrle Drive that you will not see it. It would consist of six 2-story buildings with a total of 96 units. The first floor would be handicap assessable.

Motion by Supervisor Hartzell to refer the request for Preliminary Concept Review of a Special Exception Use Permit for a senior multi-family residential project at 8230 Wehrle Drive to the Planning Board to commence a formal review.

Bruce Wisbaum from Stonegate said the concern is the density in this area and traffic. There have been numerous accidents because of the proximity of their driveway and the Golf Dome driveway. The greenspace will be reduced with all of the density. There are sewer capacity questions and drainage issues. He just believes the Town should address this whole area.

Sean Hopkins said they are here asking for referral to the Planning Board to discuss all of these issues. There is obviously a competitive aspect here.

Motion lost due to lack of a second.

Motion by Councilman Kolber, seconded by Councilman Casilio to table the request for Preliminary Concept Review of a Special Exception Use Permit for a senior multi-family residential project at 8230 Wehrle Drive. On the question, Councilman Kolber said the reasons to table include that we do not have a comprehensive multi-family zoning ordinance; the Planning Board is working on a multi-family zoning ordinance; it would be foolish of the Town Board to move forward on multi-family projects at this time; a public hearing is scheduled to consider a moratorium on multi-family projects to give time to develop zoning ordinances. Supervisor Hartzell asked if there are no multi-family ordinances on the books for the Town. James Callahan said, as discussed, we include multi-family development with a Special Exception Use Permit in our commercial zoning classification. Upon roll call – Ayes: Councilmembers Geiger, DiCostanzo, Casilio and Kolber; Noes: Supervisor Hartzell. Motion carried.

Larry Engasser requests a variance to the Subdivision Law to allow for reduced lot size and reduced building size for a 1-Lot Open Development Area at 8346 County Road. James Callahan said the location is on the north side of County Road, east of Stahley Road consisting of a previously approved open development area consisting of one lot. Per the Subdivision Law, the Town Board may consider the variance and approve by a supermajority vote.

Larry Engasser said he would like to give the lot to his son and daughter-in-law to build a new house. The buildings on his site are for storage for his paving business.

James Callahan said they are using the existing driveway to access the lot. It was approved by the Planning Board.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to adopt the following resolution:

Per Section 193-9 of the Town of Clarence Subdivision Law, the Town Board hereby grants the following variances from the Subdivision Law related to the previously approved Open Development Area located at 8346 County Road:

1. To allow for a reduced lot size for an Open Development Area Lot from the required 2 acre minimum as identified in Section 193-32 (C) to 1.82 +/- acres.
2. To allow for a reduced building footprint for an Open Development Area minimum building size as identified in Section 193-32 (H) from the required 2,000 square foot minimum for a single-family residential home to a single-family home less than 2,000 square feet but exceeding the 1,000 square foot minimum requirement as identified in the Zoning Law.

On the question, Councilman Casilio said a Negative Declaration under SEQRA was previously issued on the project and the Planning Board has approved the final design.

Councilman Kolber said have they also gone to the Zoning Board of Appeals for this variance.

James Callahan said Subdivision Law requires a supermajority of the Town Board for a variance.

Upon roll call – Ayes: All; Noes: None. Motion carried.

Wally Peters of Screens requests a Public Hearing to consider a Temporary Conditional Permit for an outdoor volleyball facility at 5445 Transit Road. James Callahan said the location is at the Dairy Queen Plaza on the east side of Transit Road consisting of an existing restaurant in the Major Arterial Zone.

Wally Peters said they would like to construct a temporary volleyball area to be open only during daylight hours. There will not be any lighting. They need to level the area.

Councilman Kolber said he thinks this is overkill in procedures. They are losing time now.

James Callahan said whether or not there is a public hearing held is up to the Town Board.

Councilman Casilio said given the fact that there is retail all over the place and he does not see any neighbors complaining about it, could we approve it without a public hearing.

James Callahan said the Town Board could grant a Special Event Permit for 90 days.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to grant a Special Event Permit for the period of 90 days to Wally Peters of Screens to establish an outdoor volleyball facility at 5445 Transit Road. Upon roll call – Ayes: All; Noes: None. Motion carried.

The request by Ron Martin to consider a Special Exception Use Permit for a secondary living unit at 5115 Old Goodrich Road was removed from the agenda at the request of the applicant.

Motion by Councilman DiCostanzo, seconded by Supervisor Hartzell to approve the following: Clubhouse Applications - A. Rock Oak Homeowner's Association – Dec. 7, 2013; B. Youth Bureau – Aug. 1, 2, 3; Nov. 24 & 25; Dec. 15, 2012; C. VFW Memorial Post 1200 – Monthly meetings for 2013; D. Garden Friends of Clarence – Monthly meetings for 2013; E. Clarence Concert Association – Monthly meetings & concert series for 2013; Legion Hall Applications – A. Mandana Waseh – Sept. 15, 2012; B. Clarence Little League Football – Monthly meetings for 2013; and Nature Center Lodge – A. Clarence Senior Center – Sept. 27, 2012. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills for July 5, 2012 are approved for payment: General Fund - \$115,044.28; Highway Fund - \$28,554.24; Water District - \$546.00; Sewer Districts - \$232.64; Aquatic Growth District - \$380.00; and Trust & Agency 202 - \$11,917.46 for a total amount of \$156,674.62. Upon roll call – Ayes: All; Noes: None. Motion carried.

There being no further business, Supervisor Hartzell adjourned the meeting at 9:18 p.m.

Nancy C. Metzger
Town Clerk