

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, April 2, 2014 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, Junior Planner Jonathan Bleuer, Town Attorney Lawrence Meckler, Town Engineer Timothy Lavocat, Senior Building Inspector David Metzger, Planning Board Chairman Robert Sackett, and Confidential Secretary to the Supervisor Karen Jurek.

Director of Community Development – James Callahan

Review Formal Agenda items:

Seal & Design 4015 Casilio Parkway

Applicant is proposing to construct an addition to allow for expansion of the operation. The proposed site is located on the east side of Gunnville Road, south of Wehrle Drive within the Casilio Industrial Business Park. Per the Zoning Law, the Town Board has authority to approve uses in the Industrial Zone. An action under SEQRA will be required. Conditions of approval should identify required review and approval by Town Engineer and the Building Department. ***(Councilman Casilio will recuse himself from discussion/voting on this project. While he has nothing to do with the project or the applicant, his name is on the street sign).***

Regent Development 8230 Wehrle Drive

Applicant is proposing to develop a multiple family housing project on the driving range portion at existing golf dome and driving range consisting of 15.5+/- acres in the Commercial Zone. The proposed site is located on the north side of Wehrle Drive between Stonegate Apartments and Coventry Green Apartments. Per the Zoning Law, the Town Board has authority to approve multiple family housing projects with a Special Exception Use Permit. The Town Board will act as Lead Agency under SEQRA as the body with final approval authority. Referral to the Planning Board would initiate formal review of the project.

Review Work Session items for consideration April 16, 2014:

Domenic Piestrak – Spaulding Greens Open Space Design Subdivision

The applicant is proposing to amend the previously approved concept plan while maintaining the overall green space to meet Town Code. The newly submitted proposed amendment is to the previously approved Phases 4A and 4B. The proposed site is located on the east side off Goodrich Road, north of Greiner Road at existing open space design development identifying 380+/- lots with a previously approved concept plan on the overall project. The applicant is proposing to table any action associated with Phase 10 and abide by previous approval to make Phase 10 the last phase for development. Per the Zoning Law, the Town Board has final approval authority to approve/amend Open Space Design Developments. An action under SEQRA will be required to amend the concept, identifying sewer taps, green space and lot configuration. Referral to the Planning Board would initiate formal review of the proposal.

Northwood's Open Space Design Subdivision

Applicant is proposing to develop a 150+/- lot Open Space Design Subdivision. The proposed site is located on the north side of Greiner Road, south side of Roll Road between Shimerville and Thompson Roads on existing vacant land consisting of 118+/- acres located in the Residential Single Family Zone. Per the Zoning Law, the Town Board has final approval authority to create an Open Space Design overlay. The applicant has submitted documentation to identify that sufficient capacity exists within the Heise-

Brookhaven Trunk Sewer Line to accommodate the project. The Planning Board has forwarded a recommendation on the Final Concept Plan with conditions. A public hearing will be required to create the Overlay Zone. The Planning Board is meeting next week to decide on a final design for this project. Councilman Casilio commented that he would rather see no sidewalks for this project than see them on just one side of the street. Planning Board Chairman Sackett stated that the sidewalk issue has not been resolved with the developer. Director of Community Development James Callahan stated that if sidewalks are to be a part of this project, he is recommending that the Homeowners Association maintain them. The plan also shows where the developer will install the bike path. Councilman Kolber stated that he would like to see the bike path put in right away.

Town Engineer Lavocat asked the Town Board what the financial plans were to extend the bike path in Waterford. The town's responsibility is to build the path and the developer is going to provide the asphalt. The Town applied for a grant last year but was denied. The Town is applying again this year but Mr. Lavocat would like a backup plan if the grant is denied again. Mr. Callahan suggested talking to the developer. Town Attorney Meckler stated that because this is town property, this project would have to go out to public bid. Councilman Kolber suggested having the Highway Department construct the path.

Student Transportation of America 8033 Transit Road

Applicant is proposing to utilize the existing facility for a school bus garage for vans and smaller buses. The proposed site is located on the east side of Transit Road north of Wolcott Road at existing heavy equipment/trucking operation located in the Restricted Business Zone. While the proposed use is not specifically allowed in the Restricted Business Zone, the Town Board may consider a Temporary Conditional Permit for the proposed operation. The Planning Board has forwarded a recommendation to issue a Temporary Conditional Permit with numerous conditions. The major concern is the traffic issue on a two lane highway. Theodore Donner Jr. and Kathleen Donner were present to discuss the proposed project. Mr. Donner stated that he and his mother live at 7923 Transit Road just down the street from the proposed operation. You cannot make a left turn out of their driveway now and if this project were to go through, the traffic congestion will be worse. The Master Plan for both Clarence and Amherst is to keep this area more rural (restricted business) and to preserve the character of the area. From what Mr. Donner understands is that no residents on the Amherst side of Transit Road were notified of the proposal by Student Transportation of America. Kathleen Donner challenged anyone to sit in her driveway in the morning and try to pull out making a left hand turn. Not only will the addition of forty buses but the forty employees coming to work at this location as well will make it impossible to pull out on to Transit Road. Currently traffic backs up from North French Road to Lapp Road if you add thirty more buses, it will be backed up to Millersport Highway. Every person on Transit Road on both the Clarence and Amherst side is against this proposal. Director of Community Development James Callahan stated that only the Town Board has the right to approve a Temporary Conditional Permit. The reason for Restrictive Business Zoning is because of the 2-lane road, it is in the flood zone and there are no sewers.

Ron Grimm 8196 County Road

Applicant is proposing to develop a 12-lot Open Space Design Subdivision on the north side of County Road, east of Stahley Road on existing vacant land consisting of 7.2+/- acres in the Traditional Neighborhood District within Erie County Sewer District #5. Per the Subdivision Law, the Town Board has an opportunity to provide preliminary review and comment on the style/design of a proposed subdivision prior to a formal review. Referral to the Planning Board would initiate a formal review of the project.

Town Engineer Timothy Lavocat

Town Engineer Lavocat has obtained the Grant for the Main Street Sidewalk Project. He will be in contact with the NYS DOT next week to go over the initial project proposal. The next step is to meet with the DOT to review and sign the contract. It is a lengthy three year process. Sidewalks along certain areas of Main Street will remain intact and there are some areas where they will be torn out and replaced.

Town Engineer Lavocat will have three resolutions for the April 16th Town Board meeting including awarding the grass cutting services. He is suggesting a three year contract so he does not have to bid this out every year. Bid specifications were sent out to five services and only one responded.

Senior Building Inspector David Metzger

Senior Building Inspector Metzger informed the Town Board that Newstead VFD will be hosting a large fundraiser at Samuels Grand Manor on Sunday. The NYS Police have said there is nothing illegal about parking along Main Street. Fire Police will be directing traffic. Tents will be set up for the food and smoking area. The building capacity is 1,325 however less tickets were sold this year.

Supervisor David Hartzell

Supervisor Hartzell will read a proclamation designating the month of April as "Autism Awareness Month."

Councilman Bernard Kolber

Councilman Kolber will draft a resolution in support of keeping the Social Security Office open in the Northtown Plaza. He will bring it before the Town Board at the April 16th meeting.

Councilman Kolber received his latest garbage disposal bill and it has increased. There was a discussion about researching whether or not the Board wants to go to a town wide garbage district. Supervisor Hartzell said he gets several calls a month from residents asking why we don't have a town wide garbage district. Nathan Neill will be contacted to speak at a morning Work Session however, Councilman Kolber would like to pull the information from the last referendum so he knows what questions to ask Mr. Neill.

Councilman Patrick Casilio

Councilman Casilio had no report.

Councilman Peter DiCostanzo

- Negative Declaration on the proposed Seal & Design 4015 Casilio Parkway
- Accept the 2013 Audited Financial Statements as submitted by Lumsden & McCormick auditors for the Town of Clarence
- Appoint Gerald Drinkard to the Ethics Board
- Appoint Richard McNamara as an alternate member of the ZBA
- Motion to allow the placement of bike signs for "MS Southtowns Shuffle" charity ride

The annual Fishing Derby is scheduled for April 12, 2014 from 9AM – noon at Main Street Town Park.

Councilman DiCostanzo stated that unless the town can receive grant money, the Town will have to “bite the bullet” and clear the land and purchase some gravel to finish the bike path in Waterford. Town Engineer Lavocat stated that there is some money in the Capital Fund for this project. Councilman Kolber will contact Highway Superintendent Dussing tomorrow to see get his input.

Councilman Robert Geiger

- Appoint Douglas Curella Sr. to the Municipal Agricultural & Farmland Protection Plan Committee
- Award the bid for Brush Grinding and removal of mulch to C.J. Krantz Organics to grind approximately 15,000 cubic yards of brush at \$0.25 per cubic yard. Lardon Construction withdrew their bid. A portion of the mulch will be retained for distribution to Town residents
- As part of the update to the Master Plan, the Town is holding a public planning exercise on April 30th at 7PM to determine the best land uses of particular areas of Clarence

Town Attorney Lawrence Meckler

Town Attorney Meckler had follow-up answers to some of the questions that were brought up in Executive Session.

Town Attorney Meckler distributed a handout in conjunction with what was discussed at the 9:00 AM Work Session.

The Town Board went into Executive Session to discuss and Attorney-Client item.

There being no further business, the Work Session adjourned at 7:25 PM.

Darcy A. Snyder
Deputy Town Clerk

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, April 2, 2014 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 Bernard Kolber, followed by a prayer given by Councilman Robert Geiger.

Members of the Town Board present were Council Members Robert Geiger, Peter DiCostanzo, Patrick Casilio, Bernard Kolber and Supervisor Hartzell. Other Town officials present were Director of Community Development James Callahan, Town Attorney Lawrence Meckler, and Town Engineer Timothy Lavocat.

Motion by Councilman Casilio, seconded by Councilman Kolber to accept the minutes of the previous work session and regular meetings held March 26, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman DiCostanzo to adopt the following Proclamation:

WHEREAS, The Month of April is designated as “National Autism Awareness Month” and April 2, 2014 is designated as “Autism Awareness Day” worldwide; and

WHEREAS, Autism is a pervasive developmental disorder affecting the social, communication and behavioral skills of those affected by it; and

WHEREAS, as more health professionals become proficient in diagnosing Autism, more children are being diagnosed on the Autism spectrum, resulting in rates as high as 1 in 88 children nationally; and

WHEREAS, while there is no cure for Autism, it is well-documented that if individuals with Autism receive treatment early in their lives, it often is possible for those individuals to lead significantly improved lives; and

WHEREAS, individuals with Autism often require a lifetime of specialized and community support services to ensure their health and safety and to support families’ resilience as they manage the psychological and financial burdens Autism presents; and

WHEREAS, it is imperative that there be a greater public awareness of this serious health issue and more must be done to increase activity at the Local, State and National level to educate parents, professionals and the general public about Autism and its effects.

Now therefore be it

RESOLVED, that the Clarence Town Board hereby proclaims April 2, 2014 as “Autism Awareness Day” and the month of April 2014 be known as “AUTISM AWARENESS MONTH” in the Town of Clarence.

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

Councilman Kolber said a letter of response has been drafted regarding the State audit of the Town. It will be submitted by April 9, 2014 and available on our website.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger that pursuant to Article 8 of the Environmental Conservation Law and upon the recommendation of the Planning Department, the Clarence Town Board issues a Negative Declaration on the proposed Seal & Design addition located at 4015 Casilio Parkway. This Unlisted Action involves the construction of a 40,000 +square foot addition to the existing industrial operation. After thorough review of the submitted site plan and Environmental Assessment Form it is determined that the proposed action is consistent with the adopted Zoning Law and Master Plan 2015 and will not have a significant negative impact upon the environment. On the question, Councilman Casilio said he will be recusing himself, although he has nothing to do with this project or the owner, the street bears his name. Upon roll call – Ayes: Councilmen Geiger, DiCostanzo, Kolber and Supervisor Hartzell; Noes: None. Recuse: Councilman Casilio. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to accept the 2013 Audited Financial Statements as submitted by Lumsden & McCormick, Auditor for the Town of Clarence. On the question, Councilman Kolber said they went over the audit this morning with the Town Board and everything is in compliance. It was an unmodified opinion. Supervisor Hartzell thanked the Town Board for doing a good job in keeping the Town in good financial shape. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint Gerald Drinkard to the Ethics Board effective April 3, 2014 through December 31, 2015 to fill the vacancy left by the resignation of Catherine Berchou. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint Richard E. McNamara as an Alternate Member of the Zoning Board of appeals (ZBA) effective April 3, 2014 with a term to expire on December 31, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to allow the placement of a Bike sign at the entrance of the bike path at the Highway Department on Goodrich Road and at the entrance to the Bike Path on Salt Road near Main Street to publicize the MS “Southtowns Shuffle” Charity Ride that will be held on August 10, 2013 subject to the following conditions:

1. The Town will not be responsible for vandalism to said sign or if the sign is stolen.
2. Jim Burkard of the Parks Department must be notified when the sign is to be put up and when removed.

On the question, Councilman DiCostanzo said the display of the signs will be at the end of June and the beginning of July 2014 for about a two week period.

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

Councilman DiCostanzo announced that the Recreation Department will be holding the Fishing Derby on Saturday, April 12th at 9:00 a.m. at the Main Street Town Park for children up to 15 years of age.

Motion by Councilman Geiger, seconded by Councilman Kolber to appoint Douglas Curella, Sr. to the Municipal Agricultural and Farmland Protection Plan Committee effective April 3, 2014 with a term to expire December 31, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman Geiger, seconded by Councilman Kolber that upon the recommendation of James Dussing, Highway Superintendent, the bid for Brush Grinding and the removal of mulch be awarded to C. J. Krantz Organics to grind approximately 15,000 cubic yards of brush at \$0.25 per cubic yard to be paid to the Town of Clarence and to authorize the Supervisor to sign a contract with C. J. Krantz Organics upon review and approval by the Town Attorney.

On the question, Councilman Geiger said the contract is being awarded to C. J. Krantz Organics as Lardon Construction withdrew their bid. The contract is for a period of three years beginning May 1, 2014 and ending April 30, 2016. A portion of the mulch will be retained for distribution to Town residents.

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

Councilman Geiger announced that on April 30th, the Planning Board is hosting a program “Mapping Clarence’s Future” at 7:00 p.m. Residents are invited to come and submit their ideas.

Supervisor Hartzell recognized Robert Sackett and Steve Dale from the Planning Board and Jonathan Bleuer from the Planning Department.

Seal & Design requests a Building Permit and Architectural Approval for proposed addition at 4015 Casilio Parkway. James Callahan said the location is the south side of Wehrle Drive, east of Gunnville Road in the Casilio Industrial Park. The applicant is proposing an addition to the existing building. A Negative Declaration was issued.

Adam Michaels of Seal & Design and Frank Kulbacki of Kulback’s Construction were present.

Councilman Kolber asked about the parking and James Callahan said it meets the requirements of an Industrial Zone. They did purchase more property which would allow them further expansion in the future if they needed it.

Councilman Kolber said projects can take much longer through the process, however this is an addition to an existing building, meets all of the requirements in the Industrial Business Park Zone and does not have a visual affect.

Motion by Supervisor Hartzell, seconded by Councilman Kolber to approve the proposed addition to Seal & Design at 4015 Casilio Parkway as per the submitted site plan from Kulback's Construction dated March 25, 2014 with the following conditions:

1. Engineering and Building Department review and approval on required PIP and Building Permits.
2. County Health Department approval on infrastructure connections/updates.
3. Landscape Committee review and approval of final landscape plans for the project.
4. Open Space and Recreation Fees.

On the question, Supervisor Hartzell said the IDA looked at this and liked the project as well.

Councilman Kolber said it is always nice to see the success of companies in Clarence. Upon roll call – Ayes: All; Noes: None. Motion carried.

Regent Development requests Preliminary Concept Review of a proposed Multiple Family Housing Development at 8230 Wehrle Drive. James Callahan said the location is the north side of Wehrle Drive, east of Transit Road consisting of an existing commercial property in the Commercial Zone. The applicant is proposing a mixed use concept that includes multiple family housing. The Town Board will be Lead Agency for a Special Exception Use Permit. Sean Hopkins, attorney and David Huck and Caleb Huck were present. Mr. Hopkins said the applicant has acquired additional property since the new Multiple Family Law was adopted and the layout presented is their new design. The project site consists of 15.5 acres zoned Commercial. They propose a mixed use project consisting of 124 apartments housed in two-story buildings, 69 garages and a commercial component along the frontage using the existing golf dome building and a new 15,000 sq. ft. office building.

Mr. Hopkins said they show approximately 50% greenspace and 25% commercial as required. They are aware of the issue with the driveway along the east side of the property and its proximity to the Stonegate driveway. They believe they can eliminate the curb cut to Wehrle by bending it around to one of their other two driveways. They would like to be referred to the Planning Board to begin the review process.

Councilman Casilio asked for an elevation drawing. Mr. Hopkins said they did not have one at this time, but all of the apartment buildings are two-story, as that is all that is allowed in the Multiple Family Law.

Councilman Kolber said he still disagrees with the way the density calculations are done. He calls it double-dipping. There are alternatives to allow the density being there. The ZBA mechanism can allow variances in density which he would rather see. He also does not like that this project forces all of the roads to the perimeter of the property.

Councilman DiCostanzo said his concern with the driveway was that they were right next to each other.

Mr. Hopkins said he does really see that as being a problem. There is a minimum setback requirement.

Councilman Casilio asked if there is a density problem.

James Callahan said the way they interpret the law is using the parent parcel to determine density and the project complies with that.

Councilman Casilio said he does not disagree. He believes this is a perfect fit for the Multiple Family Law. He does not understand how it would become two pieces of property when the requirement is to have a commercial component.

Councilman Kolber said the way it is written there are two aspects.

Mr. Hopkins read Section 229-126 E. 2., which states that the maximum density of multiple-family residential units within a project shall be limited to eight units per acre.

Councilman Casilio said he thinks Councilman Kolber is double-dipping the other way.

Mr. Hopkins said they still have to meet 25% commercial, eight units per acre density and 30% greenspace.

Councilman Kolber said he would also like to see the greenspace around the perimeter.

Councilman Casilio said he understands the comment, but it is a similar layout to what is all around it.

Motion by Councilman Casilio, seconded by Supervisor Hartzell to refer the request by Regent Development for Preliminary Concept Review of a proposed Multiple Family Housing Development at 8230 Wehrle Drive to the Planning Board. On the question, Councilman Casilio said with the recommended changes in the drawing and the fact that they are two-story apartment buildings. Councilman Kolber said he is going to vote no because he does not agree with the density calculations. Upon roll call – Ayes: Council members Geiger, DiCostanzo, Casilio and Supervisor Hartzell; Noes: Councilman Kolber. Motion carried.

Motion by Councilman DiCostanzo, seconded by Supervisor Hartzell to approve the following: Clubhouse Applications - A. Daniel Gregorio – Sept. 13 & 14, 2014; B. Clarence Contemporary Club – Sept. 26, 2014; C. Clarence Holiday Valley Ski Club – Sept. 28, 2014; D. Clarence Youth Bureau – Oct. 23, 24 & 25; and Nov. 23, 2014; Legion Hall Applications – A. Barbara Gill – Dec. 6, 2014; and Nature Center Lodge - A. Clarence Lions Club – May 8, 2014. Upon roll call – Ayes: All; Noes: None. Motion carried.

“For the Good of the Town”

Councilman DiCostanzo said if Councilman Kolber would like to look at the density calculations again, he would be willing to address it.

Supervisor Hartzell said he agrees that they should take a look at it.

Councilman Kolber said the ZBA can give them relief on that, but this allows you to over pack the density.

Councilman Casilio said it is in our law and he does not believe it is over packing the density.

Town Clerk Nancy Metzger said you should not create laws that force variances.

There being no further business, Supervisor Hartzell adjourned the meeting at 7:58 p.m.

Nancy C. Metzger
Town Clerk