

A Work Session of the Town Board of the Town of Clarence was held on Wednesday, December 19, 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 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, Sr. Building Inspector David Metzger, Confidential Secretary to the Supervisor Karen Jurek and Director of Administration and Finance Pam Smith.

**Director of Community Development – James Callahan**

***Public Hearing:***

Kittinger Furniture 4675 Transit Road

Applicant is proposing to renovate the property and relocate a light manufacturing furniture company. The proposal will include a new structure in addition to the renovation of the existing structure and surrounding parking area. The proposed site is located on the east side of Transit Road, south of Sheridan Drive on a 2.8+/- acre existing out parcel behind Eastern Hills Mall currently occupied by a roller rink in the Commercial Zone. The proposed use will require a Special Exception Use Permit for cumulative building size and for the light manufacturing operation. Per the Zoning Law, the Town Board will have final approval authority to approve a Special Exception Use Permit after a required public hearing. The Planning Board has forwarded a formal recommendation to approve the Special Exception Use Permit. A Negative Declaration under SEQRA has been issued by the Town Board.

***Formal Agenda items:***

Jehovah's Witnesses – northeast corner of Roll and Shimerville Road

Applicant is proposing to construct and develop a new worship hall (Kingdom Hall) with associated utility extensions, drainage facilities, parking and landscaping. The propose site is situated on 4.5+/- acres of vacant land on the northeast corner of Roll and Shimerville Road in the residential single-family zone. Per the Zoning Law, the Town Board has the opportunity to review the project before a formal review occurs. A church under 10,000 square feet is allowed in the Residential Single Family Zone. Referral to the Planning Board would initiate a formal review of the proposal.

***Work Session items for consideration January 16, 2013:***

David Christopher 7615 Goodrich Road

Applicant is proposing to develop a residential home and to house an expanded home occupation consisting of a landscaping business in a detached accessory structure. The proposed site is located on the east side of Goodrich Road, south of Delaware Road on existing vacant land consisting of 35.85+/- acres of land located in the Agriculture Flood Zone. Per the Zoning Law, an expanded home occupation will require approval via a Temporary Conditional Permit. A Public Hearing will be required to consider the use.

Spaulding Greens Phase V

Applicant is seeking Final Plat approval for Phase V to include 21+/- sub-lots and road dedication for approximately 930+/- linear feet of Meadowglen Drive; 325+/- linear feet of Willow Leaf Court; and 253+/- linear feet of Glenview Drive. The proposed site is located on the east side of Goodrich Road, north of Greiner Road as an extension of Meadowglen Drive in the Spaulding Greens Open Space Design Subdivision. The Town Board has final authority to approve Final Plats and to accept newly constructed roads for public dedication. Final review and approval from the Town Engineer and Highway Superintendent on the newly constructed roads will be required prior to formal dedication.

Spaulding Lakes Homeowners Association – trunk sewer line

The Homeowners Association has a consent order from the DEC to update their current treatment plant. They are looking to run a trunk sewer line to tie into the Heise Brookhaven trunk sewer line. Town Engineer Lavocat stated that there is some preliminary internal work that needs to be done to see how financially feasible a district would be. In the next couple of months, he would like to sit down with the

town accountant to go over the numbers to see if it is feasible, affordable and find out what the cap is before we can move forward.

Councilman Kolber arrived at 6:10 PM.

#### **Town Engineer Timothy Lavocat**

The Keller Road pump station is being decommissioned. They are currently working on getting the utilities disconnected (electrical and water) and getting the project completed. The project should be complete in the next couple of weeks; final restoration will take place in the spring.

Erie County Water Authority is doing some improvements around the town, one of which is to replace the waterline at the Ledgeview School entrance off of Thompson Road. Over the years, several residential homes have been built along the entrance way and there is no fire hydrant. ECWA will install the hydrant if the Town agrees to pay the annual maintenance fee. The Harris Hill fire chief is in agreement with the installation of a fire hydrant because of the distance to the other hydrants in the area. A resolution will be prepared for the January 16, 2013 Town Board meeting.

#### **Karen Jurek – Confidential Secretary to the Supervisor**

Karen Jurek announced that our “guest” wireless is up and running. You don’t need a password, just type CTH\_guest to connect.

#### **Planning Board Chairman Al Schultz**

Mr. Schultz thanked Supervisor Hartzell, Councilman Casilio, Councilman DiCostanzo and Councilman Geiger for taking the time to attend the Planning Board Christmas party and for their comments of appreciation in the card that was presented to Mr. Schultz.

#### **Supervisor David Hartzell**

Upon recommendation of Highway Superintendent Theodore Donner, Supervisor Hartzell will award the bid for a 2013 – one ton Ford E-350 cube van to Basil Ford for an amount not to exceed \$27,699.

Andrew Kirisits of Tonawanda Creek Road attended the December 5<sup>th</sup> Town Board and addressed the Board about his concerns over cars driving on his front lawn. In the last nine months his house has been hit twice. He is worried about the safety of his children and his property. Supervisor Hartzell contacted Erie County Director of Engineering Charles Sickler who will look at the situation and try to come up with a solution.

DEC Officer Michael Phelps attended the December 5<sup>th</sup> morning Work Session and offered suggestions relative to posting town owned property. Assistant Planner Brad Packard designed a sign to post. Councilman Kolber suggested the work “trespass” be removed from the sign. Councilman DiCostanzo will present it to the Recreation Advisory Committee for their input and comment.

#### **Councilman Bernard Kolber**

Councilman Kolber commented on the Town of Amherst indoor recreation/soccer facility and feels that Clarence is in need of an indoor soccer facility as well.

#### **Councilman Patrick Casilio**

Councilman Casilio will make a motion to approve the transfer of funds from the Engineering Department 2012 budget.

Councilman Casilio received a request from a fire company asking if they could join the SMEC program (School and Municipal Energy Cooperative). However, because they are a fire company and not a fire district, they are not eligible.

Day in the Park is moving forward, the committee has held several meetings to date. They will be requesting Town Board approval to have Bark in the Park.

Councilman Casilio is working with the Department of Transportation regarding the placement of permanent poles to be installed on Main Street in Harris Hill that will allow banners to be hung across Main Street for town wide events. Councilman Geiger stated that the Hollow Association would like four poles (2 on the east hill and 2 on the west hill) to put up holiday lights and banners.

Councilman Kolber stated that two years ago he requested that the NYS DOT place a cross-walk in front of Clarence Fire Company at the blinking light to help the residents at The Clardon cross Main Street. Councilman Kolber will follow-up with the DOT regarding his request.

**Councilman Peter DiCostanzo**

Councilman DiCostanzo will make a motion authorizing the Supervisor to sign a three-year software license and services agreement with Pro-Serve Solutions LLC for the Assessor's website information.

Upon recommendation of Working Crew Chief James Burkard, Councilman DiCostanzo will make a motion to appoint Anthony Haas and Michael Pfentner as Laborer RPT in the Parks Department after January 1<sup>st</sup>.

Councilman DiCostanzo complimented the Youth Bureau; they put on a very nice Christmas party for area youths.

**Councilman Robert Geiger**

The snowflakes have been hung in the hollow.

The Hollow Association held their annual meeting, new officers were appointed. Jean O'Connell will be the president again next year.

Councilman Geiger will make a motion to accept the quote from Niagara Construction Company, Inc. for the installation of a new window for the Justice Court office.

The senior van was presented to the Senior Center. A decision will be made at the Rotary meeting tonight regarding sponsorship.

Councilman Geiger commented on the program that Supervisor Hartzell sponsored at Clarence High School regarding Municipal Policy.

Motion by Supervisor Hartzell, seconded by Councilman Casilio to enter into Executive Session pursuant to § 105(1) H the proposed acquisition of real property but only when publicity would substantially affect the value thereof. Upon roll call – Ayes: All; Noes: None. Motion carried.

Darcy A. Snyder  
Deputy Town Clerk

Motion by Supervisor Hartzell, seconded by Councilman Kolber to adjourn the Executive Session at 7:20PM. 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, December 19, 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 Councilman Geiger.

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 Timothy Lavocat, Asst. Planner Brad Packard and Sr. Building Inspector David Metzger.

Motion by Councilman Kolber, seconded by Councilman Casilio to accept the minutes of the morning work session, the evening work session and the regular meeting held December 5, 2012. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Supervisor Hartzell, seconded by Councilman Casilio that, upon the recommendation of Highway Superintendent, Theodore Donner, to award the bid for a 2013 – One Ton Ford E-350 Cube Van to Basil Ford, 1540 Walden Avenue, Cheektowaga, NY for an amount not to exceed \$27,699.00. On the question, Supervisor Hartzell said Basil Ford was the low bidder. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman Kolber said at the meeting of December 5<sup>th</sup>, they were discussing the Planning Board's recommendation regarding multiple family housing. He wanted to thank them for all the work they put into it.

Councilman Kolber said he went to a soccer function at the North Amherst Recreation Center last week. It is similar to the building being proposed by the Clarence Soccer Club. It is a fantastic building and he hopes we can get the same thing here in Clarence.

Motion by Councilman Casilio, seconded by Councilman Kolber to approve the transfer of funds from the Engineering Department 2012 Budget as follows: \$411 from A1440.470 Expense and Travel to A1440.475 Building Maintenance. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Geiger to authorize the Supervisor to sign a three-year software license and services agreement with Pro-Serve Solutions LLC for the Assessor's website information for an amount to exceed \$3,790.20 per year for the three year term, subject to review and approval by the Town Attorney. The term of the agreement is from January 1, 2013 to December 31, 2015. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Kolber to appoint the following to fill two open positions as Laborer RPT in the Parks Department at the rate of \$12.18 per hour: Anthony Haas effective January 2, 2013 and Michael Pfentner effective January 7, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Councilman DiCostanzo said he wanted to extend kudos to the Youth Department for the Christmas Party they put on for a group who may not have the opportunity to have a nice Christmas.

Motion by Councilman Geiger, seconded by Councilman Casilio to accept the quote from Niagara Construction Company, Inc. for the installation of the new window for the Clarence Justice Court for an amount not to exceed \$9,459.00. On the question, Councilman Geiger said the project is to be funded from budget line 001.1620.438 - Light, Heat and Power account. Upon roll call – All; Noes: None. Motion carried.

Councilman Geiger said the new Senior Center van was dedicated to the center. He thanked the people who were involved in getting this much needed new van.

Councilman Geiger announced that the Clarence Hollow Association appointed their officers for 2013 with Jean O'Connell serving as president for another term.

Clarence Holiday in the Hollow was a great event last Saturday.

Councilman Geiger said the WiFi is now hooked up in the building.

Motion by Councilman Kolber, seconded by Councilman Casilio that after proper audit and review by the Town Board, the following bills of December 20, 2012 are approved for payment: General Fund - \$150,777.96; Highway Fund - \$24,278.72; Fire Protection Districts - \$141.25; Lighting Districts - \$796.96; Sewer Districts - \$64,583.27; Capital Fund - \$880.00; and Trust and Agency 203 - \$71,598.80 for a total amount of \$313,056.96. Upon roll call – Ayes: All; Noes: None. Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Casilio to approve the following: Clubhouse Applications - A. Clarence Soccer Club – Jan. 13, 2013; Legion Hall Applications – A. Brian Decker – March 16, 2013; B. Barbara Frey – April 6, 2013. Upon roll call – Ayes: All; Noes: None. Motion carried.

Jehovah's Witnesses Kingdom Hall requests Preliminary Concept Review of a proposed worship hall at the northeast corner of Roll Road and Shimerville Road. James Callahan said the property consists of vacant land in the Residential Single Family Zone. The applicant is proposing a 4,000 +/- square foot worship hall.

Charles Baron said he is here along with the architect, site designer and representatives of the property ownership.

Councilman Casilio asked what days would they be worshipping there and how many people relative to traffic in that area.

David Singer said they have two congregations that will share the building with each consisting of 60 – 70 people. One group would meet on Sunday at 10 am and the other at 1pm. They also will meet during the week with one group on Tuesday and the other on Thursday. The building will also be used during the week by smaller numbers of people. They may have a few occasions per year when they all attend a function. Mr. Singer said it really is a small amount of traffic to be added to the area.

Motion by Councilman Kolber, seconded by Supervisor Hartzell to refer the request by Jehovah's Witnesses Kingdom Hall for Preliminary Concept Review of a proposed worship hall at the northeast corner of Roll Road and Shimerville Road to the Planning Board. Upon roll call – Ayes: All; Noes: None. Motion carried.

A Public Hearing was held to consider the request from Kittinger Furniture for a Special Exception Use Permit to develop a light manufacturing facility in excess of 30,000 sq. ft. at 4675 Transit Road. James Callahan said the property proposed for reconstruction is behind the Eastern Hills Mall consisting of approximately 2.8 acres in the Commercial Zone. The site has a 22,000 +/- square foot structure that was formerly used as a skating rink. The applicant is proposing to operate a light manufacturing operation including a 9,500+ sq. ft. addition. A Negative Declaration was issued by the Town Board. The Planning Board has forwarded a recommendation on the site plan and the Special Exception Use Permit.

Ray Bialkowski was present.

Councilman Geiger asked if they would be hooked up to sewer or on septic. Mr. Bialkowski said it is septic now and will remain as such. He hopes to be in by May.

Councilman Kolber said he thinks it is a great use for this location. He thinks it will work out well with the neighbors.

With no one else speaking to the subject, motion was made by Councilman Casilio, 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 Kolber to adopt the following resolution:

RESOLVED, that the Clarence Town Board, after a public hearing duly held on December 19, 2012, and after all interested parties being heard, grants a Special Exception Use Permit to Kittinger Furniture, for a light manufacturing operation and cumulative commercial space exceeding 30,000 square feet at 4675 Transit Road, subject to the following conditions:

1. All exterior vents for dust collection, exhaust and air handling shall be designed so as to face west and south away from residential uses.

2. Subject to review and approval by the Town Building and Engineering Department on new construction and renovations to existing structures.
3. Subject to review and approval by local regulatory agency and utility providers related to any required utility extensions/connections.
4. Subject to Landscape Committee review and approval on the final landscape plans for the site.
5. Subject to appropriate fees.

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

“For the Good of the Town”

Joe Meyers said he has a few small concerns regarding the proposed worship hall at Roll and Shimerville. He has no qualms with the proposal. He owns the property to the east and one thing he would like to see maintained is greenspace and buffering as laid out with the Master Plan and carried through the Hallock administration. They propose a 45 ft. buffer zone, but with traffic coming in and out in this residential area, he believes a 75 ft. buffer might work better.

Mr. Meyers said in regard to the drainage, the land naturally slopes from Shimerville to the east. The water flows around his barn in the back of his property. The retaining pond they propose has to have a well thought out drainage plan. He believes a better layout than a rectangular drainage area would be an asset to the site.

Mr. Meyers said the last concern he has is that all the lighting should be directed downward.

Supervisor Hartzell suggested that Mr. Meyers write a letter to the Planning Board or attend the meeting when this is discussed to let them know of his concerns.

Councilman Kolber said pretty much all lighting that is done must be directed down. The Town Engineer will review the drainage plan. You cannot drain onto another property. Municipalities cannot deny churches if they meet all the requirements. He believes they want to be good neighbors.

Mr. Meyers said it does look nice, but we should make our feelings known on these types of things to maintain the character.

Councilman Kolber said he would like to thank everyone. The Town Board tries to do the best that they can for the people of the Town.

He also wanted to recognize and thank Al Schultz who is stepping down from the Planning Board. They did not always see eye-to-eye and maybe that was a good thing.

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

Nancy C. Metzger  
Town Clerk