

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday November 27, 2013

**Work Session 6:30 pm**

Status of TEQR Coordinated Reviews  
Review of Agenda Items  
Miscellaneous

**Agenda Items 7:30 pm**

Approval of Minutes

**Item 1**

Rock Garden Properties/Stephen Development  
Commercial

Requests Development Plan Approval for a  
previously approved Mixed-Use project at 9470  
Main Street.

**Item 2**

Regent Contracting/Brothers of Mercy  
Restricted Business

Requests Concept Plan Approval and  
Recommendation for a Special Exception Use  
Permit for a proposed Multiple Family Housing  
project at 4520 Ransom Road.

Chairman Robert Sackett called the meeting to order at 7:30 p.m.

Jonathan Bleuer led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett  
2<sup>nd</sup> Vice-Chairman Paul Shear  
Richard Bigler  
Steven Dale

Vice-Chairperson Wendy Salvati  
George Van Nest  
Gregory Todaro

Planning Board Members absent: Timothy Pazda

Town Officials Present:

Junior Planner Jonathan Bleuer  
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

John Conlin                      Justin Bleuer

In the absence of Planning Board Timothy Pazda, alternate Planning Board member Steve Dale will participate in all discussions and vote on all agenda items this evening.

Motion by Paul Shear, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on November 13, 2013, as written.

Steve Dale	Abstain	Gregory Todaro	Aye
Richard Bigler	Abstain	George Van Nest	Aye
Paul Shear	Aye	Wendy Salvati	Abstain
Robert Sackett	Aye		

**MOTION CARRIED.**

Chairman Sackett explained the procedure for each agenda item noting that Jonathan Bleuer will introduce each item. The applicant will have the opportunity to add any comments or information to the project description. The Board will have a dialogue with the petitioner relative to the project. The public will have the opportunity to comment on the project. The applicant will have the chance to answer any questions from public comment. The Board will then take appropriate action.

**Item 1**

Rock Garden Properties/Stephen Development Commercial	Requests Development Plan Approval for a previously approved Mixed-Use project at 9470 Main Street.
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**DISCUSSION:**

Jonathan Bleuer provided the background on the project noting that it is located on the northeast corner of Main Street and Goodrich Road. It is an existing motel and vacant property located in the Commercial Zone, approximately 3.2 acres. The applicant proposes to demolish the existing hotel, construct a new Mixed-Use Development including 25 residential units and 12,000+/- square feet of commercial space. A Negative Declaration was issued by the Lead Agency in 2011; Concept Plan was approved by the Planning Board in 2011 as well. A Special Exception Use Permit (SEUP) was issued by the Town Board, after a Public Hearing, on December 7, 2011.

Michael Metzger, with Metzger Civil Engineering, is present along with Noel Dill. Mr. Metzger explained that the Concept Approval and the SEUP were both granted by a unanimous vote of the Board. He said there was some discussion of the possibility of trying to provide public sewers to this site rather than using on-site systems. Due to situations beyond the applicants control this did not happen. The Erie County Health Department has been perfecting their requirements of the zoning for the open bottom sand filter, which is what is employed on this project, there is a designed system and the applicant has approval from the Health Department on that system. The project also has concurrence from the Department of Transportation, and Erie County Department of Public Works on the entrances. The Town Engineer has also given his approval on the plans. The applicant has met with the Landscape Committee and has agreed to take care of the few things they discussed. They will show more of the stonewall treatment that runs along Main Street; they will make sure it wraps around the edges at the entrance on Main Street and extends further into the site. The applicant clarified the land banking of parking spaces noting that the spaces along Main Street will all be banked, the spaces in the back that were originally going to be banked will now become part of the project.

Chairman Sackett asked about moving the dumpster. Mr. Metzger said it will be pushed back into the paved area. Chairman Sackett asked what the demolition plans are. Mr. Dill said an asbestos survey needs to be completed yet but he expects that sometime between the end of the year and January the motel will be down.

Mr. Todaro asked what the final total elevation is with the septic system being located at the front of the property. Mr. Metzger said it will extend approximately 18" to 2' above the existing surface then will taper down towards the sidewalk in the front and towards the parking on the interior. Mr. Todaro asked what the proposed buffering will be for the neighbors to the north; there is 45' of buffer area. Mr. Metzger said to the maximum extent possible they will leave existing vegetation, however there is a plan for extensive in-fill. They will have to disturb some existing vegetation because of grading and drainage. They will install some trees and some smaller bush-type fill to block views at the request of the Landscape Committee. The areas that will be disturbed are going to be planted with a seed mix to allow it to grow wild and the areas adjacent to the patios will be manicured and mowed. They will restore any disturbance to the area.

Mr. Shear asked for confirmation that there will be no blasting as indicated in the EAF. Mr. Dill said he thought the EAF was changed to reflect that the amount of blasting will be very limited. Mr. Metzger said there was a misunderstanding when the original EAF was issued and that document indicated there would be no blasting. Since then it has been clarified that there may be limited blasting and the EAF was changed to reflect that prior to the Negative Declaration being issued. The applicant will secure all the necessary permits and follow all proper procedures for blasting. Mr. Metzger said their intention is for minimal blasting, there may be some for utility work and detention basins. Mr. Shear asked the applicant if he understands that there are specific requirements that must be followed for blasting which include procedures for notification to neighbor and if it will be one blast or the whole thing will be blasted. Mr. Metzger understands and agrees to abide by those requirements.

Mrs. Salvati asked if there is any vegetative buffer planned for the parking spaces that will face Goodrich Road. Chairman Sackett explained that the Town Engineer did not want to see any vegetation along the sand filter. There is a sand filter that runs along Goodrich Road. Mr. Metzger said he believes there is some low-level, shallow root plants proposed in that area. Mrs. Salvati is asking for some shrubbery that provides a screen for the vehicles.

Mr. Dale asked the depth of the retention basins. Mr. Metzger said they are approximately 7' deep and they will be dry ponds. They will be top-soiled and seeded. Mr. Dale asked if there is any protection proposed around the retention basins. There is no protection proposed.

Deputy Town Attorney Steve Bengart said he checked the EAF and it does reference small to moderate impact and the possibility of blasting within 1500'.

#### **ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler, to **approve** the Development Plans as submitted by Metzger Civil Engineering and received on 11/7/13 in the Planning and Zoning Office, subject to the following conditions:

1. PIP permits as issued by the Town Engineer.
2. Final Landscape Committee approval prior to the issuance of a Certificate of Occupancy.
3. Building Permits as issued by the Town Building Department.

4. Open Space and Recreation Fees.

**ON THE QUESTION:**

The applicant acknowledged that there may be minor blasting and will fulfill all requirements. The applicant agreed to install some type of shrubbery to buffer the parking along Goodrich Road.

Mr. Shear asked if the demolition permit is part of this motion. It was confirmed by Chairman Sackett that the demolition permit is not part of this motion. Deputy Town Attorney Steve Bengart explained that the applicant will go to the Building Department where it will be determined if it falls in the law without any other requirements.

Steve Dale	Aye	Gregory Todaro	Aye
Richard Bigler	Aye	George Van Nest	Aye
Paul Shear	Aye	Wendy Salvati	Aye
Robert Sackett	Aye		

MOTION CARRIED.

**Item 2**

Regent Contracting/Brothers of Mercy Restricted Business	Requests Concept Plan Approval and Recommendation for a Special Exception Use Permit for a proposed Multiple Family Housing project at 4520 Ransom Road.
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**DISCUSSION:**

Jonathan Bleuer provided the background on the project noting that it is located at the northwest corner of Ransom Road and Bergtold Road on the existing Brothers of Mercy campus containing a nursing home, senior apartments and a rehab center. The project will be within a 25 acre parcel which is surrounded by the Brothers of Mercy campus. The applicant is proposing construction of a 111 unit independent senior apartment building with potential for 36 additional senior apartments as well as potential for 60-80 assisted living units. The applicant is seeking a Negative Declaration as approved by the Town Board pursuant to Article 8 of the Environmental Conservation Law. The applicant is also seeking recommendation on a Special Exception Use Permit (SEUP) and Concept Plan approval.

George Van Nest recused himself and left the dais.

Sean Hopkins, of the Law Firm of Hopkins & Sorgi, is present on behalf of the applicant. John Yurchuck and David Huck are also present along with the project engineer, Michael Metzger. Mr. Hopkins said Phase I of the project would consist of 111 senior housing units, the second Phase would consist of an assisted living facility of up to 80 beds as well as 36 additional senior housing units. The project site is a portion of a much larger site owned by the Brothers of Mercy; the plan is showing 25 acres of what is a 92 acre parcel. The overall Brothers of Mercy parcel is 120 acres. After extensive discussions with the Planning Board Executive Committee the project layout now only encompasses one of the four existing parcels. Mr. Hopkins noted that the allowable density is for 8 units per acre, the project is at 7.4 units per acre, this includes Phase I and the anticipated future Phases. The commercial component requirement is 25%; the applicant is showing 32%. That is 71,000 square feet comprised of the proposed assisted living facility and 7,000 square feet of the Phase I senior housing

building. The code requires 30% Open Space, the proposal is showing 78%, for over 19 acres. 15% is required for a recreational component; the proposal is showing walking trails that will comprise 15% of the site. The Multi-Family Law requires buildings to be two-stories or less, the applicant will need to go before the Zoning Board of Appeals to request a variance because the proposal is for three-story buildings. Mr. Hopkins noted that the existing rehabilitation center is four-stories. He noted that the project demonstrates compliance with the minimum square footages for the units. He asked that the Planning Board recommend the Town Board issue a Negative Declaration pursuant to SEQRA and approve the pending request for a Special Exception Use Permit pursuant to the Multi-Family Law and approve the Concept Plan as submitted. The applicant is aware of the fact that they will have to come back for Development Plan Approval.

Chairman Sackett noted that this is the first application under the Multi-Family Law in the Restricted Business Zone.

Richard Fisher said there is a home on the property and asked if it will remain or will it be demolished. He also asked what the distance is between the project and Ransom Road, and will any proposed structure be attached to an existing structure. Chairman Sackett said the proposal does not show any building being attached to an existing structure.

Mr. Hopkins said no houses will come down in connection with the proposed project. The project site is more than 800’ back from Ransom Road and more than 1200’ away from Bergtold Road.

**ACTION:**

Motion by Wendy Salvati, seconded by Steve Dale, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 2 and 3 Environmental Assessment Form as prepared and amended and **recommend** that a Negative Declaration be issued by the Town Board on the proposed Brothers of Mercy Multiple Family Housing Project. This Unlisted Action involves the construction of a new independent senior housing residential project with future assisted living units in the Restricted Business Zone. After thorough review of the submitted site plan and Environmental Assessment Form, including coordinated review among involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment.

Steve Dale	Aye	Gregory Todaro	Aye
Richard Bigler	Aye	George Van Nest	Recuse
Paul Shear	Aye	Wendy Salvati	Aye
Robert Sackett	Aye		

MOTION CARRIED.

**ACTION:**

Motion by Paul Shear, seconded by Gregory Todaro, to **approve** a 1-Lot 25 +/- acre Commercial Open Development Area Lot and to **approve** the Concept Plan for the proposed Senior Housing Project at Brothers of Mercy Campus as identified in the updated drawings submitted by Silvestri Architects and dated 11/22/13 and subject to the following conditions:

1. Subject to the granting of an area variance to allow for the project to be developed as a 3-story structure and issuance of a Negative Declaration by the Town Board.

- 2. Landscape Committee review and approval on project landscaping at Development Plan review.
- 3. Open Space and Recreation Fees.
- 4. Subject to an easement for egress and ingress from the property so as to create a connection to a public roadway.

Steve Dale	Aye	Gregory Todaro	Aye
Richard Bigler	Aye	George Van Nest	Recuse
Paul Shear	Aye	Wendy Salvati	Aye
Robert Sackett	Aye		

MOTION CARRIED.

**ACTION:**

Motion by Gregory Todaro, seconded by Richard Bigler, to **recommend** to the Clarence Town Board to issue a Special Exception Use Permit on the proposed Regent/Matrix/Brothers of Mercy Multiple Family Residential Housing Project located on the Brothers of Mercy Campus as per the approved Concept Plan as submitted by Silvestri Architects and dated 11/22/13. This recommendation is conditioned upon a Variance being issued by the Zoning Board of Appeals to allow for a 3-story structure.

Steve Dale	Aye	Gregory Todaro	Aye
Richard Bigler	Aye	George Van Nest	Recuse
Paul Shear	Aye	Wendy Salvati	Aye
Robert Sackett	Aye		

MOTION CARRIED.

Meeting adjourned at 8:06 p.m.

Carolyn Delgato  
Senior Clerk Typist