

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday November 8, 2017

Work Session 6:00 pm
Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm
Approval of Minutes

Item 1

Natale Builders/Creekwood Meadows
Residential Single Family

Requests Development Plan Approval for a 30-lot
Open Space Design Subdivision located on the
north side of Roll Road, west of Newhouse Road.

Item 2

Stephen Development/Fountain Court
Commercial and Residential Single Family

Requests Development Plan Approval for the
commercial/multi-family housing portion of
Fountain Court consisting of 18,000+ square feet
of commercial space and 24 residential rental
units at 9560 Main Street.

Item 3

Charles Kelkenberg/Kelkenberg Homes
Agricultural Rural Residential

Requests a Subdivision to create three (3) new
residential building lots at 7025 Goodrich Road.

Item 4

Denise Siracuse
Restricted Business and Agricultural Flood Zone

Requests a Subdivision to create two (2)
additional lots located at the northeast corner of
Transit Road and Wolcott Road.

Item 5

John Krantz Sr.
Agricultural Rural Residential

Requests a Subdivision to create one (1) new
additional building lot at 9155 Martin Road.

Item 6

Albert and Emily Nemmer
Agricultural Rural Residential

Requests an Action under the State
Environmental Quality Review Act (SEQRA) for
a proposed Demolition Permit at 9895 Clarence
Center Road.

Item 7

Kreher Poultry Farms
Agricultural Rural Residential

Requests an Action under the State
Environmental Quality Review Act (SEQRA) for
a proposed Demolition Permit at 5400 Davison
Road.

First Vice-Chairman Richard Bigler called the meeting to order at 7:00 p.m.

Councilman Paul Shear led the pledge to the flag.

Planning Board Members present:

First Vice-Chairperson Richard Bigler
Timothy Pazda
Steven Dale

Second Vice-Chairperson Wendy Salvati
Gregory Todaro

Planning Board Members absent:

Chairman Robert Sackett, Jeffrey Buckley, Jason Geasling

Town Officials Present:

Director of Community Development James Callahan
Assistant Director of Community Development Jonathan Bleuer
Councilman Paul Shear
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Ken Zollitsch
Jim Murphy

Paul Winzenried
John and Jan Brylinski

Lori Winzenried

Nighat Jaffri
Mike Kuper

In the absence of Chairman Robert Sackett, Vice Chairperson Richard Bigler presides over the meeting.

Motion by Gregory Todaro, seconded by Timothy Pazda, to **approve** the minutes of the meeting held on October 4, 2017, as written, with the correction dated November 2, 2017.

Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Vice Chairperson Richard Bigler explained the protocol for the meeting noting that it will start with Jim Callahan introducing the project. The Board members will ask questions on the project. The audience will be invited to ask questions. The applicant will be asked to answer any questions the audience members had. The Board will then decide what action to take on the project.

Item 1

Natale Builders/Creekwood Meadows
Residential Single Family

Requests Development Plan Approval for a 30-lot Open Space Design Subdivision located on the north side of Roll Road, west of Newhouse Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that the Town Board approved the Open Space Design Subdivision on May 11, 2016, after a Negative Declaration and Concept Approval by the Planning Board on April 4, 2016. The applicant is seeking final Development Plan Approval. The Planning Board tabled the request at their October 4, 2017 meeting awaiting final details related to sewer access and landscaping buffer. Details have been finalized and the applicant is seeking final approval as the submitted Development Plans are consistent with the approved Concept Plans.

Ken Zollitsch with the engineering firm GPI is present and explained they spoke with Erie County regarding the sanitary sewer. Erie County provided correspondence to the Town and to the adjoining neighbors. The applicant is providing sanitary sewer to all the adjoining properties, some of which are over 300' away. Those that are over 300' away are not going to be required to connect to the public sewer. Those that are under 300', which would be the two (2) easterly properties, are going to be required to tie in. They revised the service connection points so that it is closer to the house. It has been agreed with ECDSM and ECSD#5 that during the preconstruction meeting with them before the project starts they will discuss and agree on a new location for the sanitary sewer service connection which will be moved further south and closer to their home. With regards to the landscaping, Angelo Natale meet with the neighbors and there is a revised landscape plan. The applicant met with the Landscape Committee last week and presented the plan, which was met with approval. The neighbors were at the Landscape Committee meeting and the plan met their request in terms of having a four foot (4') berm located along the Creekwood Lane Drive up towards the entrance as well as a good number of plantings between Colorado Spruce, deciduous trees and fountain grass placed along there. They will add pick up points located on the west side of the berm that will connect to their roadside system so as to prevent any ponding or drainage problems on that side of the berm since the ground slopes towards the applicant's property. The PIP plans will show two (2) locations where they will be picking up the drainage and will have to be approved by the Town before any construction starts. They have also added two (2) plantings by the gate located at the emergency access drive to the north to help soften the look of the posts. They will also be providing screening located adjacent to the pump station at Roll Road for the resident located to the east of that, this screening will be on the neighbor's property and that neighbor understands that once the plantings are installed they (the neighbors) will take over the maintenance of the screening/plantings. The plantings will not be on the pump station property because the property will ultimately be owned by Erie County Department of Sewerage Management and they have their own specific requirements. The applicant has agreed to plant 5 Wichita Blue Junipers on the neighbor's property.

Mr. Todaro asked about the gate design. Mr. Zollitsch said there have been no further discussions on the gate design. The gate will be galvanized steel with a swing gate and a lock in between. There will be an opening for pedestrian access but closed to vehicular traffic. The fire department will have the keys for the gate in case they need to enter for an emergency, otherwise it will always be locked. There is signage that will be placed on either side of the drive restricting parking. The maintenance of the drive and the gate will be with the Homeowners Association. There are four (4) "no parking" signs indicated on the design plan. Mr. Todaro asked about snow pile-up in that area. Mr. Zollitsch said the snow will be plowed as part of the Homeowners Association and will not be piled up in the emergency access area. Mr. Dale asked if that includes plowing both sides from the cul-de-sac. Mr. Zollitsch said yes the entire drive will be maintained by the HOA.

ACTION:

Motion by Timothy Pazda, seconded by Steven Dale, to **approve** the Development Plans for the proposed Creekwood Meadows Open Space Design Subdivision as per the submitted drawings from GPI dated February 2017, with the following conditions:

1. Subject to PIP Permits as issued by the Town Engineer.
2. Subject to open space and recreation fees on building permit applications.
3. The entire Gott Creek Corridor, including trees and existing vegetation is to be preserved and left in its natural state.
4. A Homeowners Association Agreement shall be established, with review and approval by the Town Attorney’s Office, to properly maintain the private infrastructure and all open space within the project limits.
5. A recreational trail shall be extended around the retention pond accessible to the public and maintained by the Homeowners Association (HOA).
6. The full extent of the 50% Open Space must be preserved as a part of the overall project in perpetuity.
7. Setbacks shall be 25’ minimum front yard, 20’ minimum rear yard and 6’ minimum side yard setbacks.
8. The gate/barrier system as approved by the Fire Chief and Highway Superintendent shall be maintained by the HOA and shall remain unobstructed for emergency access.
9. Public sewer access shall be provided to adjoining properties as per approval from Erie County Sewer District #5 and subject to NYS Public Health Law.
10. Landscape Committee approval is required for any landscape amendments.
11. Street lighting, acceptable to the Town Engineer and Highway Superintendent at the access road intersection with Roll Road.
12. Applicant agrees to provide best efforts to a field adjustment to finalize the location of the sewer connection for 8340 Roll Road.

ON THE QUESTION:

The applicant understands and agrees with the conditions.

Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Item 2

Stephen Development/Fountain Court
Commercial and Residential Single Family

Requests Development Plan Approval for the commercial/multi-family housing portion of Fountain Court consisting of 18,000+ square feet of commercial space and 24 residential rental units at 9560 Main Street.

DISCUSSION:

Jim Callahan provided the history on the project noting that it is located on the north side of Main Street across from the intersection with Gunnville Road. A Special Exception Use Permit was issued by the Town Board on November 16, 2016 to approve the multiple family housing portion with detailed architectural components. This was after a Negative Declaration was issued by the Planning Board on August 3, 2016 and a variance from the Zoning Board of Appeals on September 13, 2016 to allow for the proposed density. All regulatory agency and departmental reviews are complete. The Development Plans are consistent with the approved Concept Plan.

Noel Dill, vice-president of Stephen Development, is present. Michael Metzger, of Metzger Civil Engineers is present as well.

Mr. Todaro asked about potential blasting versus chipping. Mr. Dill said there is an extensive list of requirements that goes along with any blasting permit that they would need to adhere to. There are significant benefits to the neighboring properties with respect to blasting versus hammering rock. Blasting is done quickly and is done and over with as opposed to the chipping sound that would be heard over a long period of time. Mr. Dill said they have not made a decision as of yet but they will do what is most expedient for the project and he thinks quick completion would be a benefit for everybody.

Mrs. Salvati referenced the septic system area for the mixed-use portion of the project and asked if there will be any landscaping or habitat re-established in that area since it appears that most of the existing vegetation will be removed. Mr. Dill said there is a landscape plan, there will be a walking path and they will try not to disturb what they don't need to. They may plant wild flowers and there will probably be a manicured lawn in that area.

Mr. Pazda wants to make sure the faux stone to be used for the project isn't plastic. Mr. Dill said the plans called out the building materials which have been reviewed.

James Murphy lives in Rock Oak and wants to know how many stores are going into the place. Mr. Stephen said four (4) to seven (7).

Mr. Pazda said the Board members are not asking a lot of questions because it is Development Plan approval and all the details have been worked out at Concept Plan.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the Development Plans for the proposed Fountain Court Mixed Use Project as per the submitted drawings from Metzger Civil Engineers dated September 19, 2017, with the following conditions:

1. Subject to all conditions as listed in the Town Engineering Department approval letter dated October 11, 2017.
2. Subject to PIP Permits as issued by the Town Engineer.
3. Architectural details to be as approved by the Town Board and detailed in the Special Exception Use Permit application and drawings as provided by Sutton Architects dated October 5, 2016.
4. Subject to Building Permits on building construction as per the approved architectural style and identified building materials.
5. Final landscape plan to be implemented and all landscaping perpetually maintained by the applicant.
6. Subject to all regulatory agency approvals and oversight, including NYSDOT on the traffic signal upgrades and Erie County Health Department and NYSDEC on the on-site sanitary facilities.
7. In the event blasting is required all regulatory protocols shall be followed.
8. The 2-lot Open Development Area portion of the project is subject to future Development Plan Approval by the Planning Board.

ON THE QUESTION:

The applicant understands and agrees with the conditions.

Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Item 3

Charles Kelkenberg/Kelkenberg Homes
Agricultural Rural Residential

Requests a Subdivision to create three (3) new residential building lots at 7025 Goodrich Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the east side of Goodrich Road south of Lapp Road. It is an existing vacant agricultural land. The Planning Board will have final approval authority on the subdivision.

Charles Kelkenberg is present.

Mrs. Salvati asked what the plan is for the future for the substantial portion of the lot that is still open. Mr. Kelkenberg said they are not sure. Mrs. Salvati said this request creates four (4) lots and if there is another lot created it would constitute a major subdivision and the Town has concerns with respect to

major subdivisions. The Town also has concerns with creating lots of this nature because of creating additional curb cuts and driveways out onto a main County or State roadway. The Subdivision regulations require that a lot less than 300' of frontage fronting on County or State highways shall be designed so as to share a common curb cut with an adjacent lot if either adjacent lot has not been previously granted a curb cut permit. When there are three (3) or more lots proposed to be subdivided from a parcel with frontage on County or State highway access to all such lots shall be on internal streets not on the County or State roadway. Mrs. Salvati said the Town does not want to see curb cut after curb cut after curb cut with cars coming out onto the roadway, they want to see shared driveways or some type of internal access. By doing just three (3) lots it ties the Town's hands to try to achieve what they would like to do through the law. She went on to say that by looking at the current layout it appears that the applicant could come back sometime in the future with a request for 4 more lots. Mr. Kelkenberg said the future of that property is undetermined but he understands the difficulty he may experience if and when he does come back to request more lots.

Vice Chairperson Bigler asked why the lots don't go to the end of the property, why do they stop part way back. Mr. Kelkenberg said they are fairly deep lots as it is and some people just don't want all that land. Mrs. Salvati said if the applicant came back and got three (3) more lots what happens to that back parcel, the Town does not want the creation of a land locked property. Mr. Kelkenberg said at this point they have not put thought into that, they will cross that bridge when they get to it. It is clarified that the applicant just wants to split the lot as presented.

Mr. Pazda asked if there are floodplain issues in this area. Mr. Kelkenberg said no, he has documentation showing the wetlands and they are quite a distance away from what they are proposing on the bordering edge of the property.

Karen Washbon, of 9626 Martin Road, said her biggest concern is drainage. Despite the culverts and the ditches, that whole area is bad so she is wondering what the impact of putting homes on that lot will have on the existing drainage issues. Vice Chairperson Bigler said the Town Engineer will review the plan and make sure drainage is the way it should be as far as the project goes. Ms. Washbon asked what will happen with the property behind these lots. She went on to ask if it is possible for houses to be built behind these lots, will there be an access road? Vice Chairperson Bigler said the applicant does not know what will happen there, so they can't tell us.

Mr. Kelkenberg addressed the drainage concern stating that the Town Engineer has to approve anything they submit.

Mrs. Salvati voiced her concern about the lot lay-out and said if the applicant comes back in the future he cannot expect the Board to be looking for him to do something in accordance with the law for access because she does not think they want to see another three (3) lots with three (3) more driveways that go out to Goodrich Road, which is not in accordance with what the Board is trying to achieve through the law. She suggested the Board undertake a State Environmental Quality Review Act coordinated review to try and determine the extent of wetlands or resources and to obtain input from State Historic Preservation Office to find out if they are concerned with archeology on the site among other issues.

ACTION:

Motion by Gregory Todaro, seconded by Steven Dale, pursuant to Article 8 of the Environmental Conservation Law, **accept** the Part 1 Short Environmental Assessment Form and to seek Lead Agency status and **commence** a coordinated review among involved agencies on the proposed Kelkenberg

Subdivision located at 7025 Goodrich Road. This Unlisted Action involves a subdivision to create three (3) new residential building lots in the Agriculture Rural Residential Zone and leave a majority of the property unplanned.

ON THE QUESTION:

The applicant understands the action and understands what the Board members told him (the applicant) regarding future use of the land.

Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Item 4

Denise Siracuse	Requests a Subdivision to create two (2)
Restricted Business and Agricultural Flood Zone	additional lots located at the northeast corner of Transit Road and Wolcott Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is an existing vacant parcel consisting of 21.5+/- acres in the Restricted Business Zone. The Planning Board will have final approval authority on the subdivision.

Denise Siracuse is present.

Mrs. Salvati said the Black Creek Corridor runs through the property. The Engineering Department will have to review the plan as it is in the density floodplain area. The area is also a conveyance channel, which means the Highway Superintendent needs to make sure they keep both sides of the creek clear for access. She suggested the project go through a State Environmental Quality Review Act coordinated review to determine the extent of the natural resources on site.

Mr. Siracuse is aware that a future split may run into some issues.

Greg Holler, of 8060 Wolcott Road, asked for clarification on how many lots are being requested. It is clarified that the proposal is to create two (2) new lots, for a total of three (3). It is further clarified that the Black Creek maintenance is done by the Town. Mr. Holler asked what the requirements are for the town to access the area for maintenance, Vice Chairperson Bigler said that will be established as the project proceeds.

ACTION:

Motion by Steven Dale, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form and to seek Lead Agency status and **commence** a coordinated review among involved agencies on the proposed Siracuse Subdivision located at the northeast corner of Transit Road and Wolcott Road. This Unlisted Action

involves a subdivision to create two (2) new building lots in the Restricted Business Zone and Agriculture Flood Zone.

ON THE QUESTION:

The applicant understands and agrees with the motion.

Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Item 5

John Krantz Sr.
Agricultural Rural Residential

Requests a Subdivision to create one (1)
additional building lot at 9155 Martin Road.

DISCUSSION:

Mr. Krantz called the Planning office this afternoon to advise that he is ill and will not be in attendance at this meeting.

Mr. Callahan explained that the property is located at the southeast corner of Heise Road and Martin Road. It is vacant agricultural land which has been previously split to allow for a two (2) residential properties in the Agricultural Rural Residential Zone. The applicant is seeking a third split from the parent parcel. The Planning Board will have final approval authority on this subdivision.

Vice Chairperson Bigler noted that although Mr. Krantz is not present the Board will proceed because they have all the information they need.

ACTION:

Motion by Gregory Todaro, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form and to seek Lead Agency status and **commence** a coordinated review among involved agencies on the proposed Krantz Subdivision located at 9155 Martin Road. This Unlisted Action involves a subdivision to create one (1) new residential building lot in the Agriculture Rural Residential Zone and leave a majority of the property unplanned.

Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Item 6

Albert and Emily Nemmer
Agricultural Rural Residential

Requests an Action under the State Environmental Quality Review Act (SEQRA) for a proposed Demolition Permit at 9895 Clarence Center Road.

DISCUSSION:

Jim Callahan noted that the property is located on the south side of Clarence Center Road, west of Kraus Road. It consists of approximately 2.74 acres. The property contains an existing structure built prior to 1950, the applicant is proposing to demolish a portion of the home. Per the local Town Environmental Quality Review (TEQR) Law, any demolition of a structure built prior to 1950 is considered a Type I Action under the State Environmental Quality Review Act (SEQRA). The Planning Department initiated coordinated review on the proposed demolition and received a recommendation from the Town of Clarence Historic Preservation Commission to issue a Negative Declaration under SEQRA. The Planning Board will have final determination responsibility under the SEQRA review process.

Albert Nemmer is present.

Mr. Todaro said this project incorporates the modern style with the old style and he thinks it is a great project.

It is Mr. Nemmer’s intent to save the bricks from the demolition to incorporate with newer brick that is a very close match. He is keeping the barn in the back. His intent is to have the façade of the house all red brick, to try and recreate the historic look.

Mr. Callahan clarified that this will be the final action under SEQRA.

ACTION:

Motion by Steven Dale, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to approve the completed Environmental Assessment Form and to **issue** a Negative Declaration on the proposed Nemmer Demolition located at 9895 Clarence Center Road in the Town of Clarence. This Type I Action involves the demolition of a portion of the farmhouse structure on this property. After thorough review of the submitted project details, including coordinated review and comments from the Town of Clarence Historic Preservation Commission, it is determined that the proposed action will not have a significant negative impact upon the environment.

ON THE QUESTION:

The applicant understands the motion and agrees to maintain the original two story main structure, constructed in 1830 and identified as contributing to the historic character of the Town.

Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Item 7

Kreher Poultry Farms
Agricultural Rural Residential

Requests an Action under the State Environmental Quality Review Act (SEQRA) for a proposed Demolition Permit at 5400 Davison Road.

DISCUSSION:

Jim Callahan noted that the property is located on the east side of Davison Road, north of Main Street and consists of approximately 10 acres. The property contains an existing structure built prior to 1950. The applicant is proposing to demolish that structure. Per the local Town Environmental Quality Review (TEQR) Law, any demolition of a structure built prior to 1950 is considered a Type I Action under the State Environmental Quality Review Act (SEQRA). The Planning Department initiated coordinated review and the proposed demolition was reviewed by the Town Historic Preservation Commission which recommended a Negative Declaration. The Planning Board will have final determination responsibility under the SEQRA review process.

Jeanette Kreher is present and said she is hoping the Fire Company can use the structure as a test house. She has an appointment with them next week. Mr. Pazda asked what they will do after the building is demolished and why are they demolishing it. Ms. Kreher said the structural integrity is bad, it has not been kept up over the years and there was extensive water damage. She went on to say it will probably remain as an empty lot. No farming or re-building is planned at this time.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to approve the completed EAF and to **issue** a Negative Declaration on the proposed Kreher Demolition located at 5400 Davison Road in the Town of Clarence. This Type I Action involves the demolition of the entire structure on this property. After thorough review of the submitted project details, including coordinated review and comments from the Town of Clarence Historic Preservation Commission, it is determined that the proposed action will not have a significant negative impact upon the environment.

Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Richard Bigler	Aye		

MOTION CARRIED.

Meeting adjourned at 7:47 p.m.

Carolyn Delgato
Senior Clerk Typist