

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday November 9, 2016

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

Benderson Development/Eastgate Plaza
Major Arterial

Requests a Site Plan Amendment/Environmental Review to add a Traffic Light on Transit Road at the southerly access to the plaza.

Item 2

Aleksander Matzkevich
Agricultural Floodzone

Requests a Subdivision to create an additional Residential Building Lot on the east side of Salt Road, south of Rapids Road.

Item 3

Brothers of Mercy
Restricted Business

Requests a Building Permit and Architectural approval for an addition to the Rehabilitation Center at 10570 Bergtold Road.

Item 4

Solar Code Review

Discussion.

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:

1st Vice-Chairman Richard Bigler
Gregory Todaro
Jeffrey Buckley

Timothy Pazda
Steven Dale
Jason Geasling

Planning Board Members absent: Chairman Robert Sackett, 2nd Vice-Chairwoman Wendy Salvati

Town Officials Present:

Director of Community Development James Callahan
Assistant Director of Community Development Jonathan Bleuer

Councilman Paul Shear
Town Attorney Lawrence Meckler

Other Interested Parties Present:

Sandy Carroll	Dennis Carroll	Scott Malchow	Deborah Malchow
Nathaniel Brenton	Nicole Horst	Jeremy Horst	Dick Wisler
Judy Wisler	Greg Sheehan		

In the absence of Chairman Robert Sackett, Vice-Chairman Richard Bigler will preside over the meeting this evening. Also, in the absence of second Vice-Chairperson Wendy Salvati, alternate Planning Board member Jason Geasling will participate in all discussions and vote on all agenda items this evening.

Motion by Gregory Todaro, seconded by Timothy Pazda, to **approve** the minutes of the meeting held on October 5, 2016, as written.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Richard Bigler	Aye

MOTION CARRIED.

Vice-Chairman Richard Bigler explained the meeting protocol noting that Mr. Callahan will introduce each project. Each applicant will be provided the opportunity to add comments regarding the project. The Board will then ask questions of the applicant with regards to the project. The audience will then be invited to add comments or ask questions about the project. The applicant will answer any questions from the audience that he is able to. The Board will then take an action on the project.

Item 1

Benderson Development/Eastgate Plaza
Major Arterial

Requests a Site Plan Amendment/Environmental Review to add a Traffic Light on Transit Road at the southerly access to the plaza.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the east side of Transit Road, south of Greiner Road. The applicant owns the existing plaza and is proposing to add a traffic light at the southern access to the plaza. The action is before the Planning Board to commence a coordinated review under the State Environmental Quality Review Act.

James Boglioli, attorney for Benderson Development is present and explained that he is proposing a traffic signal at the southern driveway of the Eastgate shopping Plaza. Currently it is a full access driveway, it is across from Third Street on Transit Road. It is full access but does not have any traffic control. The property is a large shopping center with some outparcels, they have connected all that they own and that they can to the shopping center to comply with the Transit Road access management plan. The property currently has a signalized entrance across from the Premiere Center and another full access driveway over by BJ's. The applicant has discussed the driveways with DOT and has provided traffic studies and a warrant analysis which indicates there should be a signal at that driveway as proposed. Mr. Boglioli noted that they are not proposing any expansion to the plaza, the proposal is only to continue to

improve access to the site. There is a rather large neighborhood across Transit Road that has access to Third Avenue, this signal will make it safer for those travelling to and from that neighborhood. Mr. Boglioli noted that they met with the owner of the Auto Zone property the first week of September to discuss cross access. In that meeting Benderson agreed to allow them to cut across the front of the site to make a curb cut between the two properties. Benderson also advised the owner that the rate of compensation is usually paid. They memorialized the discussion in writing on September 9, 2016. On October 21, 2016 the adjacent property owner asked if they could have access in the back. Mr. Boglioli said Benderson will not consent to access in the back, they will agree to access on either side so the driveway can be used, Benderson advised the adjacent property owner of this on October 26, 2016 and have not heard back from them yet. Mr. Pazda asked why the applicant didn't consider cross access going towards Spot Coffee, there is space there. Mr. Boglioli said most people don't travel behind buildings, their proposal for cross access lines up with the driveways on either side.

Mr. Dale asked if the applicant is changing the geometry of the property where the proposed traffic light is to be installed. Mr. Boglioli said no, it is full access and will be one lane in and one lane out.

Mr. Pazda asked if the applicant is anticipating any negative reaction from the DOT because there is a light at the Sheridan Drive overpass. When the applicant met with DOT on this proposal, the DOT said the signal would benefit the businesses in the plaza because currently there is no gap time between the two existing signals, the proposed traffic signal will stop traffic to allow vehicles to exit the plaza safely. All the signals will be timed to work together. In response to Mr. Pazda's question, Mr. Boglioli explained that Delta Sonic cannot have access to the plaza because they are 15 feet higher.

ACTION:

Motion by Gregory Todaro, seconded by Steven Dale, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency status and commence a coordinated review among involved agencies on the proposed new traffic signal at the south end of the Eastgate Plaza. This Unlisted Action involves the installation of a new traffic signal on Transit Road and the southernmost access to the Eastgate Plaza.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Richard Bigler	Aye

MOTION CARRIED.

Item 2

Aleksander Matzkevich
Agricultural Floodzone

Requests a Subdivision to create an additional Residential Building Lot on the east side of Salt Road, south of Rapids Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is existing vacant property. The applicant is seeking approval to split off one additional residential building lot from the parent parcel. Per the Subdivision Law the Planning Board has approval authority for such actions.

Aleksander Matzkevich is present and explained he purchased the lot to build a single family home on. Mr. Todaro asked how much of the property will be cleared. Mr. Matzkevich said he will only clear as many trees as he needs to build the house, he does not want to clear cut the whole lot, and he will leave trees on the property. Mr. Todaro asked what the plan is for the trees on the south property line. Mr. Matzkevich said there are trees there but he is not planning on clearing those, he will leave them as a buffer between him and his neighbor.

Deborah Malchow, of 10305 Rapids Road, asked how big the property is, does the applicant plan on building within the next five (5) years, and will it be a single family residence.

Mr. Matzkevich said it is approximately 2.3 acres, he would build as soon as possible and it would be a single family home. There will be no guest house, but there will be a 30' x 40' steel pole barn near the house.

Mr. Dale asked where the applicant will get water for his house, will it be a water system or a well? Mr. Matzkevich said it will be a water system, County water.

Sandy Carroll, of 10295 Rapids Road, asked what the pole barn will be used for, construction equipment or storage?

Mr. Matzkevich said he is a contractor so the pole barn will be used for storage of materials such as tiling or flooring. All the materials will be stored inside the barn, there will be no storage outside the barn.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed minor subdivision on the east side of Salt Road south of Rapids Road. This Unlisted Action involves a minor subdivision to create one additional residential building lot in the Agriculture Flood Zone. After thorough review of the submitted site plan and Short Environmental Assessment Form, it is determined that the proposed action will not have a significant negative impact upon the environment.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Richard Bigler	Aye

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Steven Dale, to **approve** the Minor Subdivision on the east side of Salt Road south of Rapids Road as per the submitted survey from Otney & Miller, LSPC dated 7/26/16 with the following conditions:

1. Subject to review and approval by the Erie County Department of Public Works (DPW) on future access to Salt Road.
2. Subject to review and approval by the Erie County Health Department (DOH) on future on-site sanitary facilities.

- 3. Subject to review and approval by the Town of Clarence Building and Engineering Department on future permits.
- 4. Subject to open space and recreation fees on future building permits.
- 5. Any further splits will be considered as a major subdivision on the parent parcel.

ON THE QUESTION:

The applicant agrees with and understands the conditions of the motion.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Richard Bigler	Aye

MOTION CARRIED.

Item 3

Brothers of Mercy
Restricted Business

Requests a Building Permit and Architectural approval for an addition to the Rehabilitation Center at 10570 Bergtold Road.

DISCUSSION:

Mr. Callahan provides the background on the project noting that it is located on the northeast corner of Ransom Road and Bergtold Road. This is an existing nursing home and rehabilitation center. The applicant is proposing to construct a stand-alone out-patient physical therapy/occupational therapy center. Per the Zoning Law the Planning Board has the opportunity to address the architectural style and site plan of this permitted use.

Paul Moyes is present. Mr. Todaro asked if the addition has a shared wall with the existing building. Mr. Moyes said it is built against the existing building, has a shared wall and is on its own foundation. There will be access into the nursing home through that structure but the Department of Health requires out-patient therapy to have its own separate entrance and parking.

Mr. Todaro asked if the existing sewer treatment has enough capacity for this addition. Mr. Moyes explained it would be a one for one replacement on the toilet fixtures, so there is no increased load on the waste water treatment plant.

Mr. Dale asked if the facility is being moved into a separate building. Mr. Moyes explained that this addition is considered an out-patient facility. Currently, they treat people who are in for things like hips and knees and they are considered in-patient, but in order for the Brothers of Mercy to treat them once they go home, or to treat the community, they have to have a separate building for them to come to. It will not be co-mingled with the current in-patient treatment. There is a toilet room in the proposed addition. The toilet room that is currently in that place will be retro-fitted for the out-patient clinic. Mr. Moyes confirmed that the architectural elevations of the addition match the balance of the building, it will be brick veneer.

Richard Rogantine, of 10585 Bergtold Road, asked for an explanation on the location of the proposed building. Mr. Bleuer pointed it out on the plan that is on display and explained it is on the northeast side of the building; the addition will be approximately 2400 square feet. Mr. Rogantine asked if there will be a separate driveway.

Mr. Moyes said driveway from the road will be shared with nursing home but the actual entrance to the new building would have its own entrance and its own separate parking. There are 21 parking spots and is handicap accessible. Part of the driveway is 1-way and part of it is 2-way, there will be directional signs to indicate proper flow. There will be a grass median in the center, this is shown under the landscape plan. The sidewalks will be flush with the building and flush with the existing parking lot; there will be no ramps.

ACTION:

Motion by Jeffery Buckley, seconded by Timothy Pazda, to **approve** a building permit and the architectural style of a proposed one-story out-patient facility at the existing Nursing Home and Rehabilitation Center as per the submitted site plan from Carmina Wood Morris dated 10/18/16 and the submitted architectural elevations as per the submitted drawings from Daryl Martin Architects dated 9/12/16, subject to the following conditions:

1. Subject to review and approval by the Town of Clarence Building and Engineering Department on required permits.
2. Subject to applicable fees.
3. Subject to Landscape Committee review and approval of a final landscape plan prior to building permit issuance.

ON THE QUESTION:

The applicant agrees with and understands the conditions of the motion.

Jason Geasling	Aye	Jeffery Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Richard Bigler	Aye

MOTION CARRIED.

Item 4

Solar Code Review

Discussion.

DISCUSSION:

Mr. Callahan noted that in June 2016 the Town Board initiated a moratorium on ground mounted solar facilities, since that time the Planning Board Executive Committee and the Planning Department have been working on a draft code for solar installation. The draft law is now ready for public review and comment as well as environmental review under the State Environmental Quality Review Act.

Mr. Bleuer referred to the nine (9) page document that is on display for all to see. Copies of this document are available in the Planning and Zoning Office for anyone who would like to review it in detail. The document has been thoroughly discussed.

Mr. Callahan explained that once the environmental review is complete the Planning Board would have an opportunity to make a final review and recommendation to the Town Board for adoption. The Town Board would have to hold a Public Hearing on the final adoption.

Mr. Pazda explained that this will start the public comment period, the public will have the opportunity to review the code, if desire to do so. They will then have another opportunity to voice questions and concerns at the Public Hearing before the Town Board.

It is clarified that this is for ground mounted solar facilities only.

ACTION:

Motion by Steven Dale, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency Status and commence a coordinated review among involved agencies on the proposed Draft Solar Code of the Town of Clarence. This Unlisted Action involves the adoption of a new solar code for ground mounted facilities in the Town of Clarence.

Jason Geasling	Aye	Jeffery Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Richard Bigler	Aye

MOTION CARRIED.

Meeting adjourned at 7:35 p.m.

Carolyn Delgato
Senior Clerk Typist