

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday February 1, 2023

**Work Session 6:00 pm**

Status of SEQR Coordinated Reviews  
Review of Agenda Items  
Miscellaneous

**Agenda Items 7:00 pm**

Approval of Minutes

**Item 1**

PB Investors, LLC.  
Major Arterial, Commercial,  
Restricted Business

Requests an action under the State Environmental Quality Review Act, and Conceptual consideration, of a proposed mixed-use project, containing commercial space and multiple-family housing at 5695 & 5731 Transit Road.

**Item 2**

Tarpon Towers II, LLC.  
Agricultural-Rural Residential

Requests initiation of a coordinated review under the State Environmental Quality Review Act for an amended proposal of a 149' tall telecommunication tower at 6879 Salt Road.

**Item 3**

David Glian & Connie Fleisher-Weil  
Residential Single-Family

Requests Minor Subdivision of land Approval to create one (1) new lot located at 5535 Old Goodrich Road.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Chairman Robert Sackett  
2<sup>nd</sup> Vice-Chair Wendy Salvati  
Jason Geasling

Vice-Chair Richard Bigler  
Gregory Todaro  
Jason Lahti

Planning Board Members absent: Patrick Johnson

## Town Officials Present:

Director of Community Development Jonathan Bleuer  
 Junior Planner Andrew Schaefer  
 Councilman Paul Shear  
 Deputy Town Attorney Steven Bengart

## Other Interested Parties Present:

Paul Wheeler	Doug McCallum	Lori White	Lindsey Boller
Trina Boller	Roland Boller	Dan Classer	Carrie Classer
Patricia King	Karen VanHoute	David VanHoutte	John Clancey
Dan Michnik	Ronald Snider		

**Item 1**

PB Investors, LLC.  
 Major Arterial, Commercial,  
 Restricted Business

Requests an action under the State Environmental Quality Review Act, and Conceptual consideration, of a proposed mixed-use project, containing commercial space and multiple-family housing at 5695 & 5731 Transit Road.

**DISCUSSION:**

Mr. Bleuer introduced this project, located at 5695 & 5731 Transit Road. East side of Transit Road, north of Roll Road.

They are existing vacant parcels containing approximately 10-acres in the Major Arterial, Commercial and Restricted Business zones.

The applicant is requesting an action under the State Environmental Quality Review Act (SEQRA), and Conceptual consideration of a proposed mixed-use project containing commercial space and multiple-family housing. The layout of the proposal consists of the following:

- One 3-story mixed use building containing 22,810 sq. ft. of commercial space on the 1st floor, and 60 total apartments on the 1st through 3rd floors.
- Six 4-unit multi-family buildings containing a total of 24 apartments.
- Several detached garage structures, each containing numerous garage bays.
- Associated facility parking, pool area, pool house, dog park, etc.

This proposal was referred from the Town Board in August of 2021. The Planning Board initiated a coordinated review under SEQRA in October of 2021. Since that time, the applicant has made modifications to the proposal in an effort to address comments received.

The proposal will require a variance from the Zoning Board of Appeals for the 3rd floor of the mixed-use multiple-family housing building, and a variance to allow an additional 9 residential units over the

allowable density per Town Code. Finally, the proposal will require rezoning of the front part of the parcels from Major Arterial to Commercial.

Sean Hopkins from the law firm Hopkins Sorgi McCarthy on behalf of PB Investors, project engineer Pat Sheedy from Carmina Wood Design, and Paul Bliss were all present to represent the request.

Mr. Hopkins further explained the project, noting that the intersections of Transit Road and Highland Farms and Transit Road and Roll Road are signalized intersections.

Mr. Hopkins reviewed the project to date, reiterating Mr. Bleuer's points and referring to the slides provided.

Mr. Hopkins noted that the detached garage structures will be accessible for the residential tenants of the mixed-use building and will not be utilized for commercial purposes, strictly residential.

Mr. Hopkins noted that there are 5.43 acres of greenspace which equates to 54.7% of the site. This includes 2 acres of mature vegetation on site which will remain as is and undisturbed.

Mr. Hopkins explained that the proposed dog park can be relocated to a different area on the property. This will be looked at closer as the projects moves along.

Mr. Hopkins explained that they are proposing a driveway on to Highland Farms which will provide access to the signal at Transit Road and Highland Farms. To the south they will use the access easement that cuts through the senior housing project which also provides access to the signalized intersection at Transit Road and Roll Road.

Mr. Hopkins stated that the greenspace has been an important issue for this project.

Mr. Hopkins noted that there have been substantial changes to the plans since the last meeting with the Planning Board in October of 2021, noting that the required buffer separating a commercial property from residential is 45 ft. Mr. Hopkins stated that they have gone far behind that, as explained using the slides on the screen to indicate buffered areas.

Mr. Hopkins compared the differences between this current proposed plan to the previous plans in terms of permanent open space buffers, that will be beneficial to the property owners directly to the east.

Mr. Hopkins noted that the parking spaces in the gravel area located on the southern portion of 5695 Transit Road will be removed. It is important to note that the gravel parking area was never recognized by the Town of Clarence as actual parking spaces. The applicant will replace what is there now with approximately 8-11 parking spaces on the back of the parcel located at 5731 Transit Road.

Mr. Hopkins added that the owner of Zoe's Restaurant asked the applicant to donate a small sliver of property located on the southern boundary of 5731 Transit Road, currently a drainage swale.

Mr. Hopkins added that while it is not noted on the plan, the owner of Zoe's would like a pedestrian connection provided also.

As part of the DOT's review of the Traffic Impact Study, the proximity of the northern driveway and the southern driveway, they wanted assurance that the driveway will be as far away as possible from the intersection of Highland Farms and Transit Road. The DOT did acknowledge that if an agreement could not be made with Zoe's, that they could provide their own driveway.

Mr. Hopkins reviewed the State Environmental Quality Review Act (SEQRA) process.

Mr. Hopkins reviewed the categories of impacts, starting with the land, noting that the water table is no more than 3 ft. in depth, and there are no steep slopes with grades more than 15% on the site.

Mr. Hopkins noted that all construction activities will need to comply with the yet to be approved erosion control measures. Currently it is a 2-phase project based entirely on the downstream sanitary sewer capacity letter issued by the Town of Amherst Engineering Department. They would prefer to do it all in 1 phase, and if sewer approval for the entire project is granted, that will still be the goal.

Mr. Hopkins touched on building lot coverage, zoning code allows up to 60-70% and they are only at 15.4% building lot coverage, reflecting efforts made as part of the planning process.

Referring to the stormwater drainage plan that was prepared by Pat Sheedy at Carmina Wood Design, Mr. Hopkins noted that in regards to the involvement with this site, it disturbs more than 1 acre therefore a stormwater management system will need to be installed. This system will need to be compliant with not only the Town of Clarence, but also the more stringent standards of the Department of Environmental Conservation (DEC). This includes the need for this system to handle a 100-year storm event.

Mr. Hopkins also noted that when designing the system, Mr. Sheedy will also need to take in to account the water that is currently on the site.

Mr. Hopkins added that a Storm Water Pollution Prevention Plan (SWPPP) will need to be developed and submitted as part of the engineering process approval in preparation of a future Development Plan submission.

Mr. Hopkins reviewed a memo from May 18, 2022 the Town of Clarence Engineering Department issued to confirm that in conceptual plan review, the grading and drainage plans prepared by Carmina Wood Design are acceptable.

Mr. Hopkins discussed sanitary sewer impacts, noting that this is one of the reasons that the project has been delayed. A letter from the Town of Amherst Engineering Department stated that there are approximately 74,000 gallons of sanitary sewer capacity available for this site, that lines up with Phase 1 of the project.

Mr. Hopkins noted that there are no wetlands subject to the jurisdiction of either the DEC or the United States Army Corp of Engineers on this site.

Mr. Hopkins reviewed a letter from the New York State Office of Parks and Recreation Historic Preservation stating there are no concerns that this project will have any impacts on protected archaeological, cultural, or historical resources.

Regarding impacts on recreation open space, Mr. Hopkins noted that they have discussed the enhanced buffers, and they will also need to develop a landscape plan that will need to be reviewed and approved by the Landscape Review Committee. They will be preserving 2 acres of vegetation located on the northeastern portion of the site, 5.38 acres in total.

Circling back around to the recreational component, Mr. Hopkins noted that there will be a pool, clubhouse and playground areas, a dog park and possibly a Pickleball court with limited hours.

Mr. Hopkins noted that when they return to the Board to request concept approval, they will attempt to integrate enhanced pedestrian access within the proposed development.

Mr. Hopkins added that based on original input received from this Board, Mr. Bliss has agreed to install a new sidewalk along the relevant segment of Highland Farms Drive for the benefit of the school children that cross the intersection of Transit Road and Highland Farms Drive.

Next, Mr. Hopkins touched on the very comprehensive Traffic Impact Study that includes the four intersections identified by the Planning Department, the New York State Department of Transportation (NYS DOT) including Transit Road and Highland Farms Drive, Transit Road and the Transit Middle School driveway, Transit Road and Roll Road and Roll Road and the Senior apartment complex. All of these driveways have been reviewed, factoring a growth rate of 1% was built in to the detailed analysis. The Traffic Impact Study clearly demonstrates that while there will obviously be impacts on traffic, none of the impacts at the various access points represents a potentially significant adverse environmental impact.

Mr. Hopkins continued to review the Traffic Impact Study, noting that the trip projection projects that 10% of the traffic leaving the proposed site would utilize the driveway leading to the intersection of Transit Road and Highland Farms Drive. Additionally, approximately 15-20% of the traffic entering the proposed site would utilize that driveway.

Mr. Hopkins noted that Transit Road has an assortment and mixture of land uses on both sides of Clarence, with this proposed project fitting in nicely with the existing properties.

Explaining that a photometric plan has not yet been submitted, Mr. Hopkins did note that all lighting on site will be dark-sky compliant, and there will be zero spillover on to adjacent residential properties. In connection to the townhomes portion of the property, there may not be any light standards at all, and they may rely solely on building lighting.

Mr. Hopkins identified that the buffer and greenspace has been dramatically increased since the conception of this proposed project.

Mr. Hopkins explained that two area variances are needed by the Zoning Board of Appeals. One for the third floor of the mixed-use building and the other for allowable density per the Town of Clarence multi-family code, they are over by 9 units. Mr. Hopkins noted that they would have the same mixed-use building, but rather than the 9 extra units, they would instead have bigger units.

The need for the two variances will prevent this Board from issuing Concept Plan approval at tonight's meeting, however they are requesting the issuance of a Negative Declaration.

Mr. Geasling touched on the Environmental Assessment Form, starting with Part One D 1F. It states there are 61 residential units in Phase One, yet Mr. Hopkins and the plans as presented tonight show that there are 60 residential units.

Furthermore, Mr. Geasling identified in Part Two question 1E regarding construction that will continue for more than one year or in multiple phases, the response was no.

Mr. Bleuer noted that Part Three identifies that the project may potentially be phased.

Mr. Hopkins responded that there are 60 residential units, a reduction of one unit and there is also a possibility that the proposed project may not be phased. The phasing is based on the sanitary sewer capacity determination.

Mr. Geasling asked if the project is phased, what would be used as a construction entrance for Phase 2.

After conferring with Paul Bliss, Mr. Hopkins responded that Transit Road will be the construction access point for Phase 2.

Mr. Geasling asked for clarification on question 3 in Part Two, the response conflicts with question 3b in the same section regarding wetlands on the site.

Mr. Hopkins explained that the questions are often auto-generated. There are no wetlands on the site, as stated in the letter issued by Earth Dimensions.

Referring to the driveway access to Highland Farms Drive, Mr. Geasling asked if the proposed driveway will necessitate widening.

Mr. Hopkins responded yes.

Mr. Geasling asked if there is any intention to provide sidewalk access to the property line near the senior housing.

Mr. Hopkins responded that it is something they can review and consider, but he is unsure as to the status of sidewalks on the site itself.

Mr. Geasling asked about the location of dumpsters.

Mr. Hopkins reviewed the location of dumpsters as shown on the plans, adding that they will be completely enclosed and screened, consolidated in one location on the proposed site.

In Regards to Public Participation, the following residents spoke.

1. Lori White of 4480 Patricia Drive

- referring to the statement that most of the tenants will leave via Transit Road, the tenants with garage parking located closer to the driveway off of Highland Farms Drive, she is unsure why they would exit all the way around to the front rather than right at the closest driveway at Highland Farms Drive

- great that there is so much greenspace, but the residents on Highland Farms Drive will have the garages with vehicles right on the other side
  - will there be elevators in the three-story building
  - if phased how long will the construction cycles last
  - great project for the area, adding a lot of vitality to the area
2. Carrie Classer of 5728 Field Brook Drive
- very against the driveway going directly on to Highland Farms Drive
  - the number of vehicles exiting on to Transit Road via Highland Farms Drive will more than double with the new proposed project
  - agrees that people will not travel around the commercial building to exit the site rather than exiting at the access driveway on to Highland Farms Drive
  - while appreciative of offer to put in a sidewalk she feels it is unreasonable especially considering the number of kids that walk along Highland Farms Drive
  - too many issues could result from the access driveway on to Highland Farms Drive
  - the neighborhood is very quiet, adding so much more traffic is not what the existing residents will want
  - if only a 10% estimated increase on to Highland Farms Drive why bother taking the risk
3. Gail Dworzanski of 8063 Highland Farms Drive
- reviewed traffic concerns and use of potential access road to the signal
  - restaurants connected to the commercial project could cause additional issues
4. Doug McCallum of 8087 Highland Farms Drive
- picks up and drops off his children at Transit Middle School and a 10% increase will cause issues
  - appreciates the effort of the addition of a sidewalk but adding access from Zoe's will cause additional problems
5. Paul Wheeler Jr of 5647 Kippen Drive
- previously walked the property with Paul Bliss, and appreciates additional foliage and buffer on the portion of the property that has sparse tree and bush coverage
  - has issue with the dog park location and would appreciate it being relocated
  - Pickle ball courts distribute a lot of noise, so relocating them away from residential areas would be appreciated

Public Participation was closed for this portion of the meeting.

Chairman Sackett noted that this project still needs to have the State Environmental Quality Review Act (SEQRA) completed and also needs to go to the Zoning Board of Appeals before returning to the Planning Board.

Mr. Hopkins returned to address concerns and questions, starting off with the number of traffic concerns. Mr. Hopkins acknowledged that the neighbors living in the vicinity of the proposed project know the traffic well, noting that they are doing the best that they can.

Mr. Hopkins has stated that they are providing multiple access points, and the driveway on to Highland Farms Drive while not essential to the project to move forward, the DOT has reviewed and endorsed it.

In terms of the three-story mixed-use buildings, Mr. Hopkins noted that there could be restaurants as tenants, but at this point no tenants have been selected.

Mr. Hopkins explained that as indicated, the dog park will ultimately be relocated, based on neighbor comments and concerns.

Mr. Hopkins stated that additional trees and vegetation have been added based on neighbor requests.

Mr. Hopkins addressed the concerns of an on-site Pickleball Court, stating that they will look at it but it would not be located at the rear of the site near the existing residential area.

Additionally, Mr. Hopkins noted that there will be elevators in the mixed-use buildings.

Mr. Geasling read the most recent correspondence that has been received which voiced concerns with the connection to Highland Farms Drive, the dog park, and the buffer area.

This correspondence will all be placed in the project file.

**ACTION:**

Motion by Jason Geasling, seconded by Gregory Todaro that Pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Environmental Assessment Forms as prepared and to **issue a Negative Declaration** on the proposed Bliss Mixed Use project at 5695 & 5731 Transit Road. This Type I Action involves the construction of a mixed-use development, containing commercial space and multiple family housing in the Major Arterial, Commercial and Restricted Business zones and Erie County Sewer District # 5. After thorough review of the submitted plans, documents, meeting minutes, reports, letters, and Environmental Assessment Forms, it is determined that the proposed action will not have a significant negative impact on the environment.

Jason Lahti	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

**MOTION CARRIED**

Motion by Jason Geasling, seconded by Gregory Todaro to deny the Bliss Mixed Use Concept Plan per the submitted drawing by Carmina Wood Morris dated January 16<sup>th</sup>, 2023.

**ON THE QUESTION:**

While the proposed mixed-use building does not exceed the maximum height threshold of the Major Arterial and Commercial zones, multiple-family buildings are limited to two-stories and this proposal calls for three-stories.

In addition, the proposed overall multiple family housing density is 9 units over the allowable density.



If the applicant chooses to make an appeal to the Zoning Board and is successful, this proposal must return to the Planning Board for Concept Plan review.

Jason Lahti	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

**Item 2**

Tarpon Towers II, LLC.  
Agricultural-Rural Residential

Requests initiation of a coordinated review under the State Environmental Quality Review Act for an amended proposal of a 149' tall telecommunication tower at 6879 Salt Road.

**DISCUSSION:**

Mr. Bleuer introduced this project, located at 6879 Salt Road on the north side of Hunts Corners Road, east of Salt Road.

The applicant is requesting review of an amended proposal to construct a 149' tall telecommunication tower on the northeast corner of the property, with access to Hunts Corners Road. Initially, the proposed tower was located closer to Hunts Corners Road, but upon direction from the Town, the applicant moved it to the rear northeast corner of the property.

It has since been determined that this area contains a regulated NYS wetland. Therefore, the applicant is not present this evening and has requested this item be adjourned with no action, while they explore the feasibility of acquiring approval from the NYS DEC to place the proposed tower within the wetland buffer area. This would allow the proposed tower to be as far off of Hunts Corners Road as possible, per the direction of the Town Board.

Chairman Sackett explained that the item will remain adjourned with no Action, but they will take public comment to be included as part of Coordinated Review when and if this item returns.

In regards to Public Participation, the following residents spoke:

1. Lori White of 4480 Patricia Drive:
  - asked how much higher this tower will be than the current windmill on the site
  - will the proposed tower have lighting on it
2. Ron Snider of 10807 Hunts Corners Road:
  - will the tower will blend in to the woods line in the back. If it needs to blend in with the wood line, can they make the tower look like a tree
3. Lindsey Boller of 6790 Salt Road:
  - will a balloon test be conducted to identify the regulated height
  - because the proposed tower is within the wetlands, will they expand or will someone monitor the wetlands and the wildlife and vegetation
  - will there be additional noise pollution with the equipment accompanying the proposed tower

- concerned about safety for aviation and if the Federal Aviation Authority (FAA) has reviewed this plan
- the house currently located on the property is historical, and the residents in the area enjoy the peacefulness. How will this proposed tower be masked to mitigate the views for the neighbors

Mr. Bleuer stated that the proposed tower is over 50ft. taller than the wind turbine located on the property therefore a variance from the Zoning Board of Appeals would be required.

Mr. Bleuer noted that there is no lighting proposed for the top nor is there a light required per the FAA. The applicant has stated that they would be willing to place a light on the top of the tower if the Town of Clarence requests one. If the FAA does not require a light, the municipality may not want to request one because it may be considered a nuisance for the surrounding area.

Regarding a Balloon Test, Mr. Bleuer explained that the applicant has agreed to conduct this test once the location has been determined.

Mr. Bleuer stated that the wetland would be regulated and monitored by the NYS Department of Environmental Conservation (DEC) as it a DEC regulated wetland.

Mr. Bigler asked if noise tests would be able to be conducted as well.

Mr. Bleuer responded that yes, decibel ratings for all of the units on site can be provided from the applicant.

**Item 3**

David Glian & Connie Fleisher-Weil  
Residential Single-Family

Requests Minor Subdivision of land Approval to create one (1) new lot located at 5535 Old Goodrich Road.

**DISCUSSION:**

Mr. Bleuer introduced this project located at 5535 Old Goodrich Road. Located on the east side of Old Goodrich Road, south of Roll Road.

It is an existing 4.2-acre parcel located in the Residential Single-Family zone, containing a principal residence, multiple outbuildings, sports court, and agricultural facilities.

The applicant is requesting a Minor Subdivision of land to create one (1) new lot on the south side of the parcel, containing multiple agricultural outbuildings, and a framed garage to be converted into the principal residence of the newly created lot. Both the parent parcel and the newly created lot will share the existing curb cut access to Old Goodrich Road.

The Planning Board has authority to act on this request, after an action through the State Environmental Quality Review Act.

Jeffrey Palumbo, attorney for the applicant was present to represent the request.

Mr. Palumbo added that his clients currently reside in the main house on the property, and it has gotten a bit too large for them so they are anticipating if this request is granted, they will list the house for sale and move in to what was formerly the garage type apartment located on the property. The building will be modified to become their single-family home.

Mr. Palumbo added that they have complied with code in regards to minimum lot size, and are requesting the approval of the subdivision so that they can move forward.

Noting that the lot lines are not typical, Mr. Todaro asked if the proposed primary structure is currently under construction.

Mr. Palumbo responded that the structure that the applicants are anticipating moving in to is not under construction. There are design and landscaping plans underway, but no construction has started.

Mr. Todaro asked if on either of the properties that are being split, are there any structures that are planned to be taken down.

Mr. Palumbo responded that everything is planned to remain as is.

Mr. Todaro stated that they would like an easement agreement put in place.

Mr. Palumbo responded yes, absolutely.

In regards to Public Participation, no one spoke.

**ACTION:**

Motion by Gregory Todaro, seconded by Richard Bigler that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Glian & Fleisher-Weil Minor Subdivision at 5535 Old Goodrich Road. This Unlisted Action involves a lot split to create one (1) additional lot in the Residential Single-Family zone. After thorough review of the submitted plans and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

Jason Lahti	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

**MOTION CARRIED.**

Motion by Gregory Todaro, seconded by Richard Bigler to **approve the Glian & Fleisher Weil Minor Subdivision** at 5535 Old Goodrich Road as per the submitted sketch plan received in the Planning Office on January 11<sup>th</sup>, 2023, with the following conditions:

1. No additional curb cuts to Old Goodrich Road allowed for the parent parcel or newly created lot. The applicant shall provide an easement agreement for ingress, egress, maintenance and repair for the common driveway which shall run with the land. Said agreement shall be submitted by the applicant to the Town Attorney’s Office for review and approval. Thereafter

same shall be filed in the Erie County Clerk’s office and provide a “Stamp Filed” copy to the Town Attorney’s Office after recording.

2. Review and approval by the Erie County Health Department for any modification to the existing on-site sanitary facilities for the newly created lot.
3. Review and approval by the Town Building and Engineering Departments for any future construction on the newly created lot.
4. Should any drainage easements be required by the Town to address on-site drainage issues on the property, appropriate easements shall be submitted by the applicant and approved by the Town Engineering, Highway and Legal Departments. If required, applicant shall file same in the Erie County Clerk’s office and provide a “Stamped Filed” copy to the Town Attorney’s office after recording.
5. Subject to any Open Space and Recreation Fees as required by Town code.

Mr. Palumbo stated that he heard, understands, and agrees to the conditions.

**ON THE QUESTION:**

The frame garage as called out on the submitted survey will become the principal structure and primary single-family residence for the newly created parcel.

Jason Lahti	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting **adjourned** at 8:20 p.m. with a motion by Gregory Todaro.

MOTION CARRIED

Amy Major  
Senior Clerk Typist