

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday February 21, 2018

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

Clarence Center United Methodist Church
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot at 9570 Clarence Center Road.

Item 2

Wilson Greatbatch LTD
Industrial Business Park

Requests a Major Subdivision to split the existing property at 10000 Wehrle Drive into several lots.

Item 3

Small Cell Wireless Code

Review and Recommendation.

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

Two (2) Boy Scouts from Troop # 664 led the pledge to the flag.

Planning Board Members present:

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|--|--|
| 1 st Vice-Chairman Richard Bigler | 2 nd Vice-Chairperson Wendy Salvati |
| Timothy Pazda | Steven Dale |
| Jeffrey Buckley | Jason Geasling |

Planning Board Members absent: Chairman Robert Sackett Gregory Todaro

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:

Mr. & Mrs. Fred Wroblewski Robert Pidanick Dean Colis Sue & Bob Tufte

In the absence of Chairman Robert Sackett and Planning Board member Gregory Todaro, alternate Planning Board member Jason Geasling will have full voting privileges at tonight’s meeting.

Motion by Timothy Pazda, seconded by Wendy Salvati, to **approve** the minutes of the meeting held on February 7, 2018, with the following amendment:

-the word “mobile” in the second last sentence of the third paragraph on page 15 is amended to “mowable”.

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|----------------|-----|-----------------|-----|
| Jason Geasling | Aye | Jeffrey Buckley | Aye |
| Steven Dale | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Richard Bigler | Aye |

MOTION CARRIED.

Vice-Chairman Bigler explained the protocol for the meeting noting that Mr. Callahan will introduce each project. The applicant will be given an opportunity to add comments regarding the project. The Board will ask the applicant questions on the project. The audience will be invited to ask questions or provide comments on the project. The applicant will be asked to answer any questions the audience had. The Board will then decide what action to take on the project.

Item 1

Clarence Center United Methodist Church
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot at 9750 Clarence Center Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the north side of Clarence Center Road, east of Herr Road. The property to the east of the church proper contains approximately ten (10) acres. The applicant is seeking a Minor Subdivision Approval to create one (1) new residential building lot. The Planning Board has final review and approval action, the proposal will require an action under the State Environmental Quality Review Act.

Mrs. Salvati asked why the lot did not go all the way back to the northern property line.

Charles Haskell is present, he is the finance chair for the Clarence Center United Methodist Church. The church has owned the land for about 60 years. After having the property appraised they were told the best use of the property is single family lots. Their intent is to sell one (1) single family lot. A parishioner approached the church and asked if they could purchase a lot. Mr. Haskell addressed the question about the 30’ at the back of the lot, he said the Town has the desire to connect bike paths. They have only discussed this but in an effort to be a good neighbor they opted to save 30’ at the back of the lot to tie the bike path in.

Mr. Pazda asked if the applicant has plans to sell future lots. Mr. Haskell said there are no immediate plans to do anything with the rest of the property.

ACTION:

Motion by Timothy Pazda, seconded by Steven Dale, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and to approve the Part 2/3 Short Environmental Assessment Form as prepared and to **issue** a Negative Declaration on the proposed minor subdivision of Clarence Center United Methodist Church. This Unlisted Action involves approval of a minor subdivision to create one (1) new residential building lot in the Residential Single Family 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.

ON THE QUESTION:

Deputy Town Attorney Steven Bengart said what differentiates this from other lot splits is that it is only one (1) split.

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| Jason Geasling | Aye | Jeffrey Buckley | Aye |
| Steven Dale | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Richard Bigler | Aye |

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Steven Dale, to **approve** the Minor Subdivision of Clarence Center United Methodist Church located east of 9750 Clarence Center Road as per the submitted site plan received February 7, 2018 in the Planning and Zoning Office, creating one (1) new lot in the Residential Single Family Zone per the submitted plan received on February 7, 2018, with the following conditions:

1. Subject to review and approval by the Town of Clarence Building and Engineering Department on any future building permit applications.
2. Subject to approval by the Erie County DPW on any future curb cuts to access the new lot.
3. Subject to Erie County Health Department approval on any future on-site sanitary facility applications.
4. Subject to open space and recreation fees on the building permit application.

ON THE QUESTION:

Mr. Haskell said he agrees with and understands the conditions of the approval.

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|----------------|-----|-----------------|-----|
| Jason Geasling | Aye | Jeffrey Buckley | Aye |
| Steven Dale | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Richard Bigler | Aye |

MOTION CARRIED.

Item 2

Wilson Greatbatch LTD
Industrial Business Park

Requests a Major Subdivision to split the existing property at 10000 Wehrle Drive into several lots.

DISCUSSION:

Mr. Callahan provides the background on the project noting that it is located on the north side of Wehrle Drive, west of Shisler Road. The property contains over 300 acres and is located in the Industrial Business Park Zone. The applicant is seeking subdivision approval to split the property to create several lots. The Planning Board has final review and approval authority for such actions. This project will be subject to the State Environmental Quality Review Act.

Rob Pidanick, of Nussbaumer and Clarke, is present on behalf of the applicant. Mr. Pidanick explained that they are going to create three (3) parcels as indicated on the map on display (and on file), parcels are labelled A, B and C. Parcel A is 193.85 acres, it has direct access off Wehrle Drive, there is a sewage treatment plant located on this lot which is currently owned by Erie County Sewer District #5. There is an easement on the driveway heading into that property which allows access to the plant that provides service for not only the Greatbatch Company but also Clarence High School. In the event that Parcel A is sold, Greatbatch would have to take easements from their facility over to the plant. Prior to closing on that piece all necessary easements for access will be put into place. Parcel B is 42.11 acres and is a buffer that adjoins the existing facility at 10000 Wehrle Drive that Greatbatch is proposing to keep. There is a parking lot that goes beyond the property line. The reason Parcel B can't be included now is because the original property was the subject of a PILOT (Payment in Lieu of Taxes) and the parcels that went with it are locked in for a certain period of time, the PILOT expires on this piece of property in 2024. On December 31, 2024 they will combine the parcel. A good portion of Parcel B is wetland as well as major portions of this entire project. Parcel B is heavily wooded. Parcel C is 3.96 acres. Mr. Pidanick said there is small triangular piece that is not shown on the plan, it was part of the original PILOT, it goes with the parcel on the north side of Wehrle Drive and when that PILOT expires that piece will become available to be joined with Parcel C. He went on to say that pursuant to SEQRA they filed an Environmental Assessment Form for this project.

Mrs. Salvati noted that the applicant said Parcel A has frontage along Wehrle Drive, there is a large State Wetland there so she is guessing that whoever purchases that piece will seek to have access through the existing driveway of the Research Park, so would there be some kind of an access agreement, she asked if that is feasible. Mr. Pidanick said that is feasible, however right now they are just indicating that there may not be any more opportunity to access Parcel A, without that driveway there is only a very small portion along Wehrle Drive were the piece could be accessed. Mrs. Salvati said it is a DEC wetland and they will be sensitive about letting someone cut it in half. Mr. Pidanick said any future proposal on any of the parcels will be subject to Site Plan or Subdivision review by the Town.

Mr. Dale asked if Mr. Pidanick can discuss the EAF. Mr. Pidanick referred to question #19 and said he was informed that somewhere nearby there is a hazardous site, although he was not aware of it. Mr. Dale said it used to be call Battery Disposable Technology (BDT), Mrs. Salvati knew it as Safety Kleen. There was a substantial fire about ten (10) years ago. Mr. Pidanick said he will look into it. Mrs. Salvati said the EAF will go out to the DEC who will likely comment on the hazardous site. A coordinated review will be done on this project. Mr. Pidanick requested the subdivision approval be granted subject to whatever the results are of the coordinated Environmental Review. Mr. Dale asked if the applicant wants time to discuss this with his attorney. Mr. Pidanick said yes he will discuss it with the attorney, they would prefer an approval this evening but there is no urgency on timing at this point. Mr. Dale said

he prefers to table the agenda item. Deputy Town Attorney Steven Bengart clarified that the project will only be sent out for coordinated review this evening, which means the issues will be vetted. He went on to say there will be no subdivision approvals tonight.

Robert Tufte, of 9750 Wehrle Drive, said there are a group of houses shown on the plan at the northwest corner of the site, he asked if the DEC has declared wetlands around those houses. Mrs. Salvati said that area is designated wetlands and probably extends into the back of the properties that are not shown on the map. The DEC would regulate that area. Mrs. Salvati said it is probably bigger than 12.4 acres so it's a designated DEC Wetland and they would require a 100' buffer area around it, so if the subdivision were to be approved, or anything would happen there in the future, the DEC would require that none of the wetlands could be touched.

Bruce Nisbet, of 4450 Shisler Road, asked what the plan is for the larger existing lot. He said that he and his neighbors bought their homes there with the idea that they would not be looking into the backyards of other homes. He approached the sales person for the owners of the property about purchasing an additional 200' of property along the back of those existing 6-7 houses, the owners were not interested. Mr. Nisbet said he would prefer the 200' additional buffer be part of the approval. Without the buffer it would destroy the character of what he and his neighbors purchased.

It is clarified the property is zoned Industrial Business Park.

Fred Wroblewski, of 4480 Shisler Road, asked what the applicant's intention is in parceling up this property. He voiced his concern saying it is a beautiful piece of land, it is all forested and there is a wide variety of wildlife that lives there. He has seen deer, fox, fisher cats, opossums, egrets, herons, mergansers, wood ducks, grebes and he saw a swan last year. He has also seen a Bald Eagle in his pond. He won't see that when the woods are all gone. This area should be a wildlife preserve not an Industrial Park. He is also concerned about being inundated with rabbits, woodchucks and squirrels trying to find a home once the woods are gone.

Bonnie Tarbell, of 4590 Shisler Road, concurs with what the previous gentlemen said. She went on to say that the Tarbell Estate owns multiple properties totaling 196 acres on Shisler and Greiner Roads. The properties in question on Shisler Road were purchased in the 1950's by families who sought out many properties in Clarence but specifically picked these properties. To say what the woods are like is an understatement, they are pristine. There are considerations with the Tillman Nature Preserve across the street. Animals don't know boundaries so she see's endangered turtles in the area, she has deer on her property constantly. She is concerned with what would happen if the woods are disturbed, where would are those animals going to go? And how is this justified? She also voiced her concern with the travel on Shisler Road. That road is not well patrolled and if there will be added traffic this is cause for concern. She questioned the possibility of an access road on Shisler Road, this is a major concern for her. She also questioned what the divisions will look like, how many houses? Vice-Chairman Bigler said that is not part of the discussion this evening, what is before the Board is only to split the property. He went on to explain that the large existing lot was previously split, it is not on the agenda this evening.

Bill Nolan, of 4380 Shisler Road, asked when the existing lot was clarified as residential. Mrs. Salvati said it is not zoned Residential, it is zoned Industrial Business Park. Tonight's meeting has nothing to do with that existing lot. Mr. Pazda clarified further that there is no proposal this evening for any type of development or re-zoning of the property. Mr. Nolan said he agrees with everyone who has talked about nature. He has lived there since 1978, there is a lot to be said for the wildlife in Tillman Park that crosses the street. Turtles go back there and nest. He is also concerned with traffic. Vice-Chairman

Bigler said that will not be pursued today, if there is a proposal that goes further the appropriate paperwork will be sent and the traffic will be reviewed along with other potential environmental impacts.

Alfred Roehrig, of 9764 Wehrle Drive, asked if there is an obvious reason why Greatbatch is looking to break up parcels A, B and C into separate divisions. He did not know there was a water treatment plant back there and is curious as to why it is only for the high school and Greatbatch, why is it not shared amongst the people on Wehrle Drive. Mrs. Salvati said there is probably a capacity limitation.

Mr. Pidanick said this property has been delineated for State and Federal Wetlands which are noted on the plan with crosshatching. A large portion of the property has wetlands on therefore will probably never be developed. Mr. Callahan noted that the Town has maps that show an approximate location of the wetlands.

Mr. Pidanick said the existing lot on Shisler Road is part of the contiguous 330 acres that Greatbatch Limited controls, but it is not part of the proposal this evening, only parcels A, B and C are. The applicant’s intent is to subdivide the property and sell the parcels, any future proposals would come before the Town by whomever purchases those parcels. Those proposals will be subject to the same review as any other proposal. Greatbatch will keep the 42.11 acre parcel. When the PILOT expires they will combine Parcel B with 10000 Wehrle Drive.

With regards to the question about an access road on Shisler, Mr. Pidanick said he cannot answer that question but will look into it with the project attorney. Vice-Chairman Bigler noted that there is no project at this time.

The applicant’s attorney submitted a letter to the Town which explains the division of the property. The letter is on file.

Mr. Pazda recapped: the applicant is proposing to split and sell Parcels A and C, keep Parcel B. Mr. Pidanick said the larger existing lot is also for sale.

With regards to the existing lot and when it was split, Mr. Callahan said his educated guess is that it was assembled when Greatbatch built, and that was a separate lot to begin with and they never combined it. It appears that it was always a separate lot.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law to seek Lead Agency status and **commence** a review among involved agencies on the proposed Greatbatch Ltd. Subdivision. This Unlisted Action involves the subdivision of land to create three (3) additional lots within the Industrial Business Park Zone.

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| Jason Geasling | Aye | Jeffrey Buckley | Aye |
| Steven Dale | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Richard Bigler | Aye |

MOTION CARRIED.

Item 3

Small Cell Wireless Code

Review and Recommendation.

DISCUSSION:

Mr. Callahan provided the history on this agenda item noting that the Town Board placed a moratorium on Small Cell Wireless facilities in August 2017, after the Town received a couple applications requesting approval of the same. The Planning Board Executive Committee and Planning Department have been working on a draft code since that time. Coordinated review under the State Environmental Quality Review Act (SEQRA) has been completed along with 239M review by Erie County. The Planning Board action is for recommendation to the Town Board for determination on approval or denial of this code.

Mrs. Salvati said the draft code has been reviewed internally, it has been reviewed by the Town of Amherst, the Clarence Town Attorney’s Office and by the Verizon attorney.

ACTION:

Motion by Steven Dale, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** that the Clarence Town Board approve the Environmental Assessment Form as prepared, and issue a Negative Declaration on the proposed Small Cell Wireless Code. This Unlisted Action involves the adoption of a local law dealing with the placement of small cellular wireless devices within the Town of Clarence. After thorough review of the draft law and including coordinated review and comment from involved agencies, it is determined that the proposed action will not have a negative impact upon the environment.

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| Jason Geasling | Aye | Jeffrey Buckley | Aye |
| Steven Dale | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Richard Bigler | Aye |

MOTION CARRIED.

Motion by Steven Dale, seconded by Wendy Salvati, to **recommend** to the Clarence Town Board, adoption of the draft Small Cell Wireless Code dated February 21, 2018.

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| Jason Geasling | Aye | Jeffrey Buckley | Aye |
| Steven Dale | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Richard Bigler | Aye |

MOTION CARRIED.

Meeting adjourned at 7:50 p.m.

Carolyn Delgato
Senior Clerk Typist