

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday February 6, 2019

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

Domenic Piestrak
Residential Single Family

Requests Preliminary Concept Review of a proposed 40 lot Open Space Design Subdivision located on the south side of Clarence Center Road, east of Herr Road.

Item 2

Jeff Tomaro & Jeremy Heim/AJ's Tree Service
Agricultural Rural Residential

Requests a Recommendation for a Temporary Conditional Permit for a Tree Cutting Business at 9500 Martin Road.

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:

Vice-Chairman Richard Bigler
Timothy Pazda
Jeffrey Buckley

2nd Vice-Chairperson Wendy Salvati
Gregory Todaro
Jason Geasling

Planning Board Members absent: Chairman Robert Sackett

Town Officials Present:

Director of Community Development James Callahan
Councilman Paul Shear
Councilman Robert Geiger

Other Interested Parties Present:

Charles Haskell	Cheryl Hufnagel	Paul Hufnagel	John Clancey
Charlie Greene	Ken & Audrey Peterson	Edie Bauer	Ken Morerro
Vanessa Mesler	Linda Mosher	Phyllis Whitchurch	Kathleen Wierzbowski
Kevin Lee	Susan Lee	Eric Sobczynski	Jeremy Heim
Jeff Tomaro	Mike Powers	Amy Ernst	Bob Dukuzo

Motion by Gregory Todaro, seconded by Wendy Salvati, to **approve** the minutes of the meeting held on December 19, 2018, as written.

Jason Geasling	Abstain	Jeffrey Buckley	Aye
Gregory Todaro	Aye	Timothy Pazda	Abstain
Wendy Salvati	Aye	Richard Bigler	Aye

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Timothy Pazda, to **approve** the minutes of the meeting held on January 23, 2019, as written.

Jason Geasling	Aye	Jeffrey Buckley	Abstain
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Abstain

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, there will be a three (3) minute limit per speaker for audience members. The applicant will be asked to answer any questions the audience had. A Planning Department representative and/or Planning Board member may also answer questions if appropriate. The Board will then decide what action to take on the project.

Item 1

Domenic Piestrak
Residential Single Family

Requests Preliminary Concept Review of a proposed 40 lot Open Space Design Subdivision located on the south side of Clarence Center Road, east of Herr Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the south side of Clarence Center Road, east of Creekview Drive. It is an existing vacant parcel within Clarence Sewer District #2. The applicant is present to introduce a proposed residential subdivision. This represents the introduction of this project to the full Planning Board.

Domenic Piestrak is present. He is proposing a public road, there will be no road in front of the house so it will look like the house overlooks a park.

Vice-Chairman Bigler said the plan shows a 30' recreation trail to the east of the project, he asked for confirmation on this trail. Mr. Piestrak confirmed.

Second Vice-Chair Salvati said the Environmental Assessment Form indicated that there would be impacts to 1.5 acres of wetlands. However, in looking at the site plan she does not see where that is

occurring. Mr. Piestrak said it is at the front of the property near Clarence Center Road, the parking lot from the church is where the water is coming from

Mr. Pazda noted that Mr. Piestrak is trying to make a walkable community. Mr. Piestrak confirmed. Mr. Pazda asked where people would walk to, as the development is so far away from the center. Mr. Pazda voiced his concern about this project fitting into the community character. Mr. Piestrak said the walking path leads back to Town Hall and he is sure the Town will eventually connect the path to the Clarence bicycle path.

Mr. Pazda said the goal tonight is to hear from the public and to send the project out for coordinated review, which means the project will be sent to involved agencies who will provide their input. There will be no decision made this evening regarding the project.

Charlie Haskell is representing Clarence Center United Methodist Church, which is the property Mr. Piestrak claims the water is coming from. Mr. Haskell said the water has been there long before Mr. Piestrak was a resident of Clarence and comes from many different sources, not their parking lot. Mr. Haskell said the 40 homes will have sewer attachments tying into Phase 2 and Phase 1 of Spaulding Green. They have 15 acres of property, they have sewer access to the church building but not for rest of the property. There will be sewer to the south and west of them. They eventually plan to develop the 15 acres of property they own. They set aside 30' of property for a bike path at the back of their property, and they sold one (1) lot. They are looking to have the ability to have their lots the same as those across the street and to have sewer access to those lots. They have five (5) or six (6) potential lots, they have no immediate plans to sell them. He hopes that when this proposal is built a sewer connection can be put across the street or they are allowed to tie into the existing plan. He asked that the Board consider extending the sewer district into their space so when they sell the lots they will be at a marketable price. Vice-Chairman Bigler said it is not up to the Planning Board it is up to the sewer district, who will review that issue as the project progresses. Mr. Callahan said Mr. Haskell's request is now part of the record. One thing that has to happen as a part of this project before it goes anywhere is they have to identify whether there is capacity in the system to allow this type of growth, this will come out as a part of this review. Alternatives may also be looked at.

Mr. Pazda said written comments can be submitted to the Planning Office if a speaker runs out of time.

Phyllis Whitchurch, is present on behalf of her mother Elizabeth Whitchurch who lives at 5871 Kamner Drive. Ms. Whitchurch appeared before the Board back in April 2013 when this project was previously proposed. At that time she submitted a written brief, she assumes this brief is available to all the Board members. The arguments set forth in that brief are as pertinent now as they were then. She referred all the Board members to that document. She said it appears that the Board has decided to bifurcate this project, the Clarence Center TND, from the Spaulding Green subdivision, she wants an explanation as to how this occurred and on what evidence it was based upon. The original Spaulding Green had this portion listed as part of the development and now it is a separate development. Previously he maxed out the number of units that were authorized under Spaulding Green, therefore it would appear that he could not build this one. If this was conducted in a meeting or executive session she wants the minutes from that meeting so she can review them. Ms. Whitchurch asked if an Environmental Impact Study has been done yet, if so she wants it made available so she can review it. She asked what impact this has on the Federal Wetlands that are abutting the project. The character of this project does not fit with Clarence Center. She has lived in Clarence Center since 1961 and this development looks like something that belongs in Albany, it doesn't make sense.

Vince Salvatore, of 9725 Clarence Center Road, said the character of this development is inconsistent with the current development of the Town, the project is too dense. He is also concerned with traffic and said there will be 80-100 vehicles going in and out of the parcel, which will make traffic much worse than it already is. He worries about Clarence Center Road being a 4-lane road one day. He sees that there is a buffer between his property and the road that is planned for the east of his property, he wonders how wide the buffer is. If the road is too close to his property he does not want snow to be thrown killing the trees that he has planted over the past 33 years. He is also concerned with the drainage, he said the southern half of his property is pretty swampy but does dry out in the summer, he is afraid that he will have a year round swamp with this development. He enjoys the view of a rural landscape, this does not seem consistent. He suggested putting 20 homes in. He is also concerned with the sewer capacity. His house is historical, there used to be a parsonage down the street.

The audience is asked to be respectful to all speakers.

Amy Ernst does not live near the project but is a long-time resident of Clarence. The size of the lots are so small, if we want to maintain the Clarence heritage, the rural community, she believes building lots should be at least three quarters of an acre. This is not Amherst, do not turn this into Amherst. The size of the subdivisions the Board is allowing to come in here and the size of the lots is ridiculous. We are a farming community, let's maintain that along with our dignity.

Linda Mosher, of 10165 Keller Road, has been a Clarence resident, on and off, for the past 65 years. She said new arterial roads have not been added since her parents moved here. Roads are being added that feed into the main roads without any thought to the fact that families used to have one (1) car but now can have up to three (3) or four (4) cars. Adding 80 new cars onto the road without adding new arterial capacity will be an issue. 52' wide lots is not at all in keeping with the character.

Vice-Chairman Bigler referred to the elevations of the project and explained that the front of the homes will face the central area of the development and all the garages will be on the rear of the homes, you might see this design in an urban/city area in the olden days, which is the concept of this plan.

Mike Powers, of 5845 Creekview, said this is not a walkable community, it never was and it never will be. He went on to say that Mr. Piestrak said Spaulding Green was going to be a walkable community, that concept completely disappeared and we have what we have like it or not. The creek near the project site is downhill, the runoff from the development, with oil and salt, will kill that creek. He has been concerned with overdevelopment for a long time, that's why the Greenspace program was developed in 2001. This Town has spent over 11 million dollars to preserve greenspace in the town, primarily for the purpose of preserving the rural character. They spent thousands of hours putting the program together, it won a local WNY Planning award and a NYS Planning award, and was invited to submit for a National award. People who live here or have moved here do not want to see this kind of project, it will increase the traffic and the noise. To cram 40 houses on this parcel is ridiculous, it makes no sense. It will be on a 2-lane road that is between the soccer center, the baseball fields and the elementary school. Currently he sometimes has to wait for traffic because they are backed up to the four corners or to the elementary school. If this development goes through the traffic will be a disaster. He questioned the wetland delineation. He asked where the downstream sewer capacity is coming from. He also wants to know how this became bifurcated, in 2013 it was presented as part of the Spaulding Green project. This is a sensitive area with wildlife and the creek. The drainage and the traffic will be disastrous. It does not fit the character of the community. It does not fit what the taxpayers were promised. If this project is allowed it will destroy the hard work and the taxpayer's investment into the Greenspace program.

Susan Lee moved to the area in September and paid a significant amount of money for her house. She has been told the project will impact them within 85'. Right now she has wildlife behind her. Even though the backs of these houses is going to be facing her, that means the dog is going to be out back barking, all that activity is going to be in her backyard. What happened to the mission of trying to keep Clarence a small town? She doesn't understand the walk either, all it's going to do is keep going around in a circle. She has a deaf son, the traffic will effect anyone with any disabilities. Those houses will stand 2-3 stories high overlooking her property. She wants to know what the permeability will be, what will the visual impact be and how will it affect the value of her house. It certainly is not going to enhance it. She is concerned with how this project went from just an idea/proposal to something that she has been told is possibly already going to take place. She understands that it is going for environmental review. She went on to say, "We already know this is going to take place, why are we doing this is just beyond me because I know how these things go." She would like to know what the mission statement is for Clarence. To put this in and to degrade what has been a beautiful area. She did not move from the Adirondack area to come to this and then have all that beauty coming within 85' of her property. She does not understand it and it makes no sense to her. How does she find out about the updates and the findings? What impact does she have on the Board's findings? Vice-Chairman Bigler said all the findings and all the coordinated review information are public record and will be available at the Planning Office. Ms. Lee asked how she should check for the information, will she be notified. Mr. Callahan said anytime the proposal is on a Town Board or Planning Board agenda it will be noticed and agendas will be sent to everyone within 500' of the project, if you received notice of this meeting that means you will receive future notices. If anyone cares to leave their name and address, it will be added to the list. Information comes in sporadically and will always be in the file, the file is public record. Ms. Lee asked about the zoning and compliance.

Kevin Lee moved from central NY and looked all over to find their home here. Nothing was said to them until afterwards. They have deer, turkeys, everything out back. What reason is there to have this wiped out? He understands everybody needs money and to protect their revenue but this does not fit in. He never dreamed this would happen, they wanted to make this their town but now they are having second thoughts. He asked if there will be any woods left between the development and the properties. Vice-Chairman Bigler said that will be addressed as they move forward, but his understanding is that there will be an 85' buffer left in its natural state between the properties.

Paul Hufnagel, of 9715 Clarence Center Road, has lived at this address for forty (40) years. He asked what the square footage of the proposed homes is, and will it be condo status. Vice-Chairman Bigler does not believe it will be condo status but will obtain confirmation. Mr. Hufnagel had previous communication with the Board in 2013, that letter should be on file and stated his concerns with traffic, drainage, encroachment on the farm to the east. It is not fair to the people in the development or to the farmer because there will be friction.

Mr. Pazda reminds the audience that neither the Town nor the County has any control over condo status, it is under the State's control.

Mrs. Salvati said no decisions have been made on this project, not even back when it was before the Board in 2011. She said the audience needs to understand the fact that the applicant owns the land and it is zoned for a certain type of development. He has the right to develop his land in accordance with the way it is zoned, so if it is zoned Residential Single Family he is allowed to establish half acre lots on this land, as-of-right. This project as proposed is an Open Space Design which means that it needs approval from the Town Board, this has not been issued yet because the proposal is currently with the Planning Board going through the preliminary review. The purpose of tonight's meeting was to hear comments

from anyone interested in speaking and to send it out to involved agencies for environmental review. The agencies will provide comments which will give the Board more information with respect to potential wetland impacts, potential traffic impacts, etc. The Town Engineer will have to be involved regarding drainage issues as this moves forward.

Vince Salvatore asked if the Gypsum Mines are an issue with the level of development for this proposal.

Mr. Callahan said the letters that people referred to previously will be taken out of the old file and forwarded to the Planning Board members.

Vanessa Mesler, of 5912 Kamner Rd, has lived at this address for six (6) years. They selected Kamner Drive for its quaint, charming feel. She noted the access from this new development that would open up to Kamner Drive and asked what they can do to preserve the neighborhood they have, she asked who approves this. Vice-Chairman Bigler explained that the connection has been there for years, before she moved in, he went on to say that the fire department is requiring a second point of entrance into the development. This will be further reviewed as part of the process.

Linda Mosher said Mr. Kamner did not own that adjoining property and that extra stub was never meant to be a connecting road, it was there for the reason of adding two (2) extra lots on the north side.

Ken Bradel, of 5865 Kamner Drive, wants to know what the 85' is measured from, his property to what? It is clarified that it would be to the back of a proposed lot.

It is further clarified that 5901 Kamner Drive will have 85' between their property and the proposed private road.

Edie Bauer, of 5975 Creekview Drive, said if Kamner is going to become an access to this it will cause a lot of traffic and there are a lot of small children in the neighborhood. They live there now with the aspect of if you are on the street it is because you live on the street. She doesn't think anyone will appreciate this.

Kathleen Wierzbowski, of 5892 Kamner Drive, asked if there are less lots does that mean the access road would not be needed by the fire company. Vice-Chairman Bigler noted that every development needs a second access. Mr. Callahan said there are requirements in the Subdivision Law and this will all be addressed during the environmental review.

A member of the audience said the buffer listed on the plan that is on-line is 100' not 85'. She does not know the date of the plan. Vice-Chairman Bigler said the plan will be updated appropriately.

Mr. Piestrak said this project was withdrawn/bifurcated from the original plan because of the I and I problems in Clarence Center, which have now been corrected. Mr. Callahan explained that it was an issue with infiltration and flow within the sewer system. There has been some remedial work to open up some capacity. That capacity has to be analyzed as part of every project. Mr. Piestrak said an environmental impact statement cannot be done on something that cannot be put in and is not buildable.

Vice-Chairman Bigler asked what the buffer is between Mr. Salvatore's lot and the road. Mr. Piestrak said he can push the road over except that is part of the wetlands that they are disturbing to put the road in. He said he would prefer not to put the connection in but the Traffic Safety Board and the Fire Department demanded it. Vice-Chairman Bigler asked if this is to be a walkable community. Mr.

Piestrak said Spaulding Green is the only community in Clarence that has sidewalks, it also has a bicycle path, what more can you put in to make it walkable? He thinks to have sidewalks is enough to say it is walkable. Vice-Chairman Bigler asked the applicant what else he can do with regards to the project that is before them this evening. Mr. Piestrak said he will put sidewalks in, the bike path runs behind the property of one house. He said maybe the Town should put sidewalks in Clarence Center to make it walkable. Mrs. Salvati noted that there are sidewalks in Clarence Center, Mr. Callahan said they end at Countryside. Mr. Piestrak said a walkable community is just where you can walk around the community.

Vice-Chairman Bigler asked about the proposal fitting into the character of the neighborhood. Mr. Piestrak said there is a similar house to what he is proposing on the corner of Clarence Center Road. He went on to say that Clarence is not a new town, there are houses that are 100 years old and there are those that are recently built.

Mr. Pazda asked if the applicant will be both the builder and the developer. Mr. Piestrak said he doesn't build. Mr. Pazda asked if he is requiring the houses look like what is proposed. Mr. Piestrak is not requiring it, it is what he pictures it as being a part of the original Clarence Center. However, he can control the builders. The average square footage of these homes are 2500.

Vice-Chairman Bigler asked who owns the land to the east of the project, beyond the gas line. It is confirmed that property is owned by Dave Spoth.

Vice-Chairman Bigler said if the audience has further comments/questions they can put it in writing and submit it to the Planning Office. The file for this project is public record and available in the Planning Office.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 EAF as prepared and to seek Lead Agency status and **commence** a coordinated review among all involved agencies on the proposed Piestrak Open Space Design Subdivision located on the south side of Clarence Center Road east of Herr Road. This Type I Action involves the development of a 40 +/- lot Subdivision in the Residential Single Family Zone and within Clarence Sewer District #2.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye

MOTION CARRIED.

Mr. Callahan clarified that this process initiates right now, so when the proposal is sent out, ultimately the Planning Board and the Town Board will have to make a determination as to the significance of the impact associated with it. This may trigger an Environmental Impact Statement.

Item 2

Jeff Tomaro & Jeremy Heim/AJ's Tree Service
Agricultural Rural Residential

Requests a Recommendation for a Temporary
Conditional Permit for a Tree Cutting Business at
9500 Martin Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located at the northeast corner of Goodrich Road and Martin Road. It is an existing 19+/- acre parcel. The applicant is seeking approval to operate a tree cutting operation at this location. The Town Board will have final approval authority and has referred this application to the Planning Board for review, comment and recommendation.

Jeremy Heim and Jeff Tomaro are present.

Mrs. Salvati said they have discussed the business with the applicant and have come up with a set of conditions and mitigations that are, hopefully, agreeable to the Planning Board and the Town Board to help the business continue properly. She is grateful that the applicant has been amenable to working with the Board.

Mr. Pazda said other than the fact that what the applicant is doing is adding a pole barn and a small residence to the property, the property is going to continue being used as it has been for many years and has been without complaints. The applicant is improving the operation by putting some of the equipment into storage.

Linda Mosher, of Keller Road, said it is wonderful to see two (2) hometown young men that she has known all their lives to do well and to bring jobs into the Town. It is a real asset to the Town.

Amy Ernst, of 9555 Martin Road, has lived at this address for 22 years and said the applicants are good neighbors. She is never disturbed by their vehicles coming and going, they are quiet, she has no issue with them and is all for it continuing for the applicants.

ACTION:

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** to the Clarence Town Board that a Temporary Conditional Permit be issued to AJ's Tree Service to operate a tree cutting business at 9500 Martin Road as per the submitted site plan form GPI and received in the Planning and Zoning Office on January 25, 2019 and as per the building elevations received in the Planning and Zoning Office on January 25, 2019, with the following conditions:

1. Temporary Conditional Permit will be issued for an initial term of one (1) year.
2. The entire 19 +/- acre parcel is not to be subdivided during the active term of the permit so as to maintain the rural character of the area.
3. The business operation shall be seasonal from April 1st to Mid-December operating within standard business hours with employees leaving in personal vehicles after the end of the business day which shall not exceed 8:00pm.
4. The Temporary Conditional Permit shall allow licensed and registered business fleet vehicle storage of up to 10 vehicles, all stored as per the site plan and behind identified fencing and screening.
5. Outdoor storage of logs and small equipment is to be screened from public view as per the approved site plan dated January 25, 2019.
6. Office and bathroom will be constructed within the accessory structure as per the approved site plan.
7. No firewood sales or pick-up shall occur on the site.

- 8. The proposed residential unit must be legally occupied as a residence during the time period of the Temporary Conditional Permit as granted and prior to accessory structure use.
- 9. Subject to all drainage easements, if required.
- 10. Subject to all building code requirements.
- 11. Subject to any required permits and fees.
- 12. The transfer of the subject property shall be registered prior to construction.
- 13. The hours of operation for the wood splaying noise will be between 10:00am and 5:00pm.
- 14. The structure will be clad with vinyl trim on top, clay color. It will have knee board on the bottom that will contrast the vinyl and be acceptable to the Town Board. The vinyl product on the bottom will look like stone.

ON THE QUESTION:

Vice-Chairman Bigler noted that the hours of operation for the wood processing noise will be between 10:00am and 5:00pm. This is added to the conditions. The applicants agree with this. Mrs. Salvati and Mr. Todaro both agree to add this condition.

The elevation is displayed for all to view, Mrs. Salvati said the elevation indicates that the structure will be clad with vinyl trim on top, clay color. It will have knee board on the bottom that will contrast the vinyl and be acceptable to the Town Board. The vinyl product on the bottom will look like stone. This is added to the list of conditions, Mrs. Salvati and Mr. Todaro both agree to add this condition.

One of the applicants said he doesn't think it makes sense to put the knee wall up and then a stockade fence in front of it, he doesn't understand why they need the knee wall because no one will ever see it behind the fence. Vice-Chairman Bigler said that is the plan the applicant submitted. They will be recommended to the Town Board, who will have the final say on the project, so if the applicant wants to change it then they are welcome to submit the change at the Town Board level.

Mrs. Salvati suggested the applicant take the materials that they showed the Planning Board to the Town Board when they meet with them.

The applicants understand and agree to the conditions.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Gregory Todaro	Aye	Timothy Pazda	Aye
Wendy Salvati	Aye	Richard Bigler	Aye

MOTION CARRIED.

Meeting adjourned at 8:18 p.m.

Carolyn Delgato
Senior Clerk Typist