

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday March 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

Damian Baird
Residential Single Family

Requests a Major Subdivision Approval including a 2-Lot Open Development Area at 5645-5685 Shimerville Road.

Item 2

Lavocat's Nursery
Agricultural Rural Residential

Requests an Action under the State Environmental Quality Review Act (SEQRA) for a Demolition Permit for a structure built prior to 1950 at 8441 County Road.

Item 3

Mercedes Benz of Buffalo
Residential Single Family

Requests a recommendation for a Temporary Conditional Permit for an Automotive Repair Facility at 8500 Roll Road.

Item 4

Tom Witnauer
Industrial Business Park

Requests Minor Subdivision Approval to create one (1) new lot along County Road frontage in the Industrial Business Park Zone at 9515 Martin Road.

Item 5

Rosa Hocko
Agricultural Rural Residential

Requests Minor Subdivision Approval to create three (3) new lots at 10926 Miland Road.

Item 6

West Shore Brewing Company
Traditional Neighborhood District

Requests a recommendation for a Temporary Conditional Permit for Outside Dining at 10995 Main Street.

Item 7

Benderson Development/Eastgate Plaza
Major Arterial

Requests a recommendation for a Temporary Conditional Permit for a Farmer's Market at 4972-5183 Transit Road.

2nd Vice-Chairwoman Wendy Salvati called the meeting to order at 7:00 p.m.

Councilman Paul Shear led the pledge to the flag.

Planning Board Members present:

2 nd Vice-Chairperson Wendy Salvati	Timothy Pazda
Gregory Todaro	Steven Dale
Jeffrey Buckley	Jason Geasling

Planning Board Members absent: Chairman Robert Sackett, 1st Vice-Chairman Richard Bigler

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:

Michelle Weinstein	Paul Frisicaro	Amy Ernst	M. Stuermer
Susan Hocko	Gary Klemmand	Keith Rapin	Philip S. Vilaro
Trisha Velez	Tom Witnauer	Vicki Bashaw	Chris Lavocat
Meredith Chamberland	Cheryl Anthony	Donna Ioviero	Kathy Frauenhoffer
Joe Meyers	Carol Cornwall	Anna Milone	Heath Szymczak
Greg Weber	Larry & Kathy Lopian		Colleen & Geoff Goodwin

2nd Vice-Chair Salvati noted that in the absence of Chairman Sackett and Vice-Chairman Bigler, she will be presiding over the meeting and alternate Planning Board member Jason Geasling will have full voting privileges at this meeting.

2nd Vice-Chair Salvati 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. 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.

Motion by Steven Dale, seconded by Jeffrey Buckley, to **approve** the minutes of the meeting held on February 21, 2018, as written.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Abstain
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 1

Damian Baird
Residential Single Family

Requests a Major Subdivision Approval including a 2-Lot Open Development Area at 5645-5685 Shimerville Road.

DISCUSSION:

The applicant is not present. This item will be moved down the agenda to allow the applicant time to arrive.

Item 2

Lavocat's Nursery
Agricultural Rural Residential

Requests an Action under the State Environmental Quality Review Act (SEQRA) for a Demolition Permit for a structure built prior to 1950 at 8441 County Road.

DISCUSSION:

Jim Callahan provides the background on the project noting that it is located on the south side of County Road, east of Westminster Drive. The property is an existing greenhouse/nursery operation. The applicant is proposing to demolish an existing home which was built prior to 1950. Per the local Town Environmental Quality Review Law the Action is identified as a local Type I Action under the State Environmental Quality Review Act (SEQRA). Coordinated review was completed administratively with a recommendation for a Negative Declaration from the Clarence Historic Preservation Commission. They identified that the structure is not contributing to the historic character of the community. The Planning Board as Lead Agent now is free to take final action under SEQRA.

Chris Lavocat is present and explained that they build the nursery around the house and they want to improve the visibility from the street. The house has been vacant for four (4) years, they had no intention for anyone to live in it. The furnace does not work, the waterline has cracked and the chimney is falling apart. To restore the home would cost \$10,000-\$15,000. In place of the house they want to do landscaping, there is not plan for a structure to be built there.

Mr. Todaro asked if there is any intent to take down the trees in the area, Mr. Lavocat said no, they want to keep the trees. They are working with the Fire Department, and if they get approved for the demolition, they don't want a full blown fire because they don't want to harm those trees.

Mr. Pazda asked if the stacked stone foundation can be saved, if not will there something decorative in its place, this was a suggestion made by the Historic Preservation Commission. Mr. Lavocat said they are looking to put flower beds there, they discussed saving the foundation on the right part of the house. The problem is there is a glass block window on that side which breaks up the foundation and it might not look good if they tried to put other stone in there. They might keep part of it and tie it to a bed of some sort.

ACTION:

Motion by Timothy Pazda, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law to **accept** the Part 1 Short Environmental Assessment Form (SEAF) as submitted and **approve** the Part 2/3 Short Environmental Assessment Form (SEAF) as prepared and to **issue** a Negative

Declaration on the proposed Lavocat Demolition located at 8441 County Road. This Local Type I Action involves the demolition of a structure built prior to 1950. After thorough review of the submitted application and Environmental Assessment Form (EAF), including coordinated review with a recommendation from the Local Historic Preservation Commission, it is determined that the proposed action will not have a significant negative impact upon the environment.

ON THE QUESTION:

The applicant may proceed to the Building and Engineering Department for permit processing.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 3

Mercedes Benz of Buffalo
Residential Single Family

Requests a recommendation for a Temporary Conditional Permit for an Automotive Repair Facility at 8500 Roll Road.

DISCUSSION:

The applicant is not present. This item will be moved down the agenda to allow the applicant time to arrive.

Mr. Pazda apologized for the delay to the people in the audience who are present to hear agenda items 1 and 3.

Item 4

Tom Witnauer
Industrial Business Park

Requests Minor Subdivision Approval to create one (1) new lot along County Road frontage in the Industrial Business Park Zone at 9515 Martin Road.

DISCUSSION:

Jim Callahan noted that 9515 Martin Road is the parent parcel, the action associated with this Minor Subdivision is actually along County Road frontage. The property is located on the north side of County Road, east of Goodrich Road. The parent parcel contains 12+/- acres. The applicant is proposing a minor subdivision to create one (1) new building lot in the Industrial Business Park Zone in conformance with the underlying zoning. The Planning Board will have final review and approval authority for this action.

Tom Witnauer of 8050 Clarence Center Road is present and said his request is straight forward.

Mr. Dale said the site plan he received indicates that there is a fill operation for 1.55 acres approximately 4'. Mr. Witnauer explained that was when he originally went before the Town Board for a Fill Permit

when he first purchased the property. Mr. Dale said anything the Board does tonight will in no way approve that. Mr. Witnauer said that is correct.

Amy Ernst of 9555 Martin Road asked what type of business will be going in there. She has noise concerns, especially in the summertime as she spends a lot of time outside during the summer.

Mr. Witnauer said Tony Campione is purchasing the property. Mr. Campione owns a safety business that makes equipment such as safety glasses, vests, gloves and shoes. Mr. Witnauer believes Mr. Campione’s plan is to put up a small building for a warehouse in the future.

2nd Vice-Chair Salvati said the action tonight is just the subdivision of the land.

ACTION:

Motion by Gregory Todaro, seconded by Steven Dale, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form (SEAF) as submitted and to **approve** the Part 2/3 SEAF as prepared and to issue a Negative Declaration on the proposed Witnauer Minor Subdivision. This Unlisted Action involves approval of a minor subdivision to create one (1) new building lot in the Industrial Business Park Zone at property on the north side of County Road, east of Goodrich Road. After thorough review of the submitted site plan and SEAF, 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	Wendy Salvati	Aye

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Steven Dale, to **approve** the Witnauer Minor Subdivision to create one (1) new building lot in the Industrial Business Park Zone as per the submitted drawing dated February 27, 2018, with the following conditions:

1. Future use of the newly created lot will be subject to approval by the Clarence Town Board.
2. Subject to Open Space and Recreation Fees on any future building permit applications.
3. There is no implicit approval of any fill operations contrary to the site plan being received.

ON THE QUESTION:

Mr. Dale suggested condition number 3 be added to the motion, Gregory Todaro agreed.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

2nd Vice-Chair Salvati asked if the applicant is present for agenda item 1 Damian Baird or agenda item 3 Mercedes Benz of Buffalo. The applicant is not present.

Item 5

Rosa Hocko
Agricultural Rural Residential

Requests Minor Subdivision Approval to create three (3) new lots at 10926 Miland Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the north side of Miland Road, west of Berghorn Road. The parent parcel contains over 100 acres in the Agricultural Rural Residential Zone, it is on both sides of Miland Road. The Planning Board initiated coordinated review on the project in February 2018 under the State Environmental Quality Review Act (SEQRA) to assess any potential environmental impacts on this project. The administrative act of splitting of the lots identified no significant impacts. Future land disturbance will be subject to appropriate permitting. The Planning Board will have final review authority on this request.

Susan Hocko, of 8645 Clarence Center Road, is present on behalf of Rosa Hocko. She explained that they have a potential buyer for 600' of frontage starting from the westerly side of the property. Proposed lots 1, 2 and 3 make up the 600' and goes all the way to back.

Mr. Todaro asked about the perimeter trees, asking for confirmation that they won't be touched, Ms. Hocko had agreed to this at the previous meeting. Ms. Hocko also agreed that as many trees as possible in the middle of the property will be maintained and she advised that the potential buyer is in the audience this evening and can confirm his intentions.

ACTION:

Motion by Steven Dale, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, to **approve** the Part 2/3 Short Environmental Assessment Form (SEAF) as prepared and to **issue** a Negative Declaration on the proposed Hocko Minor Subdivision. This Unlisted Action involves approval of a minor subdivision to create three (3) new lots in the Agricultural Rural Residential Zone on the north side of Miland Road, west of Berghorn Road. After thorough review of the submitted site plan and SEAF, it is determined that the proposed action will not have a significant negative impact upon the environment.

ON THE QUESTION:

Mr. Pazda asked for confirmation that the first lot was previously approved. Mr. Callahan confirmed that the total is for three (3) lots, if it was four (4) it would have to be processed as a major subdivision.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Motion by Steven Dale, seconded by Gregory Todaro, to **approve** the Hocko Minor Subdivision located at 10926 Miland Road as per the submitted site plan received in the Planning Office on January 26, 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 on the newly created lots.
2. Subject to approval by the Town of Clarence Highway Department on any future access to the newly created lots.
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 all future building permit applications on the newly created lots.

ON THE QUESTION:

Ms. Hocko understands and agrees with the conditions.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

2nd Vice-Chair Salvati asked if the applicant is present for agenda item 1 Damian Baird or agenda item 3 Mercedes Benz of Buffalo. The applicant is not present.

Item 6

West Shore Brewing Company
Traditional Neighborhood District

Requests a recommendation for a Temporary Conditional Permit for Outside Dining at 10995 Main Street.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the south side of Main Street on the border with Newstead. The applicant operates an existing brewing company in the Clarence Hollow Traditional Neighborhood District Zone. The applicant is proposing to operate an outdoor beer garden. The Town Board will have final approval authority with a temporary conditional permit and has referred this application to the Planning Board for review and recommendation.

Applicant Josh Dziomba, of 34 Princeton Court, Cheektowaga, is present. Mr. Dziomba said the barrier wall that is shown leading from the concrete pad area along the driveway in front of the foyer will be extended to the parking lot to further delineate the walkway from the traffic. This will provide for pedestrian safety. 2nd Vice-Chair Salvati said the Board does not want to see parking in the driveway, she asked if Mr. Dziomba is agreeable to that. He said yes he is agreeable to no parking in the driveway, if needed they will have it striped off, a 5 mile per hour sign and a no parking sign posted. In the vicinity of the foyer there will be planter boxes, which will be 4’ high, 1’ wide and 3’ long, they will be filled with gravel then topped with dirt and plants. This will allow the barrier to be pulled out a bit more to further separate traffic and it will provide more room than barrels would have for pedestrian traffic. There will be reflective tape and reflective hangers on the boxes and fence posts. The fencing will consist of posts, 3’ into the ground and metal chain linking from post to post. The hours of operation will be late April through September, Wednesday through Sunday until 9:30pm. During the off season business will be conducted inside the building.

It is clarified that there are Jersey Barriers that separate this site from the flea market site. Between those barriers and the lawn area of the building is the two-way travel drive.

Mr. Dale asked how close the planters will be, will they be adjacent to one another? Mr. Dziomba said they will be 3’ apart, the set up will be a 3’ chain, then a 3’ barrier, then a 3’ chain, etc. The planters will be connected with chains.

Mr. Todaro asked what the plan is for signage for the outdoor proposal. Mr. Dziomba said at this point there is no plan for signage. There will only be small signs for directing people on site.

Mr. Dziomba noted that most of the parking will be upfront, the rear parking behind the beer garden is only auxiliary parking. People can park on the street and at the nearby church parking lot if needed.

Mr. Dziomba clarified his hours of operation saying that during the week he will be open from 4:00pm-10:00pm, noon to 9:30pm on Saturdays and noon to 7:00pm on Sundays. Mr. Pazda suggested the applicant change the hours of operation to closing at 11:00pm just in case he needs it. Mr. Dziomba agreed and said he would be open no later than 11:00pm. Therefore the hours of operation will now be 4:00pm-11:00pm during the week and noon to 11:00pm on the weekends.

ACTION:

Motion by Timothy Pazda, seconded by Steven Dale, to **recommend** to the Clarence Town Board approval of a Temporary Conditional Permit for an outdoor Beer Garden for West Shore Brewing Company located 10995 Main Street as per the submitted site plan dated March 12, 2018, with the following conditions:

1. There is to be planter boxes or similar protective barrier with reflective treatment to be located between the building entrance walkway and the adjoining driveway to provide protection for pedestrians extending to the front face of the building.
2. Safety railing/fencing to be extended from the main entrance to the beer garden to safely guide customers to the access and to protect customers from driveway traffic.
3. Seating will be approved for eight (8) tables with open game area.
4. Hours for outdoor seating shall be from 4:00pm-11:00pm during the week and from noon-11:00pm on Saturdays, Sundays and Holidays.
5. Low volume unamplified live music or soft background music only, unless authorized via a separate permit as issued by the Town Board.
6. Initial permit shall be for a one (1) year term.

ON THE QUESTION:

Mr. Geasling suggested adding “and Holidays” to the end of the sentence of condition #4. Mr. Pazda and Mr. Dale agreed to the addition. Mr. Dziomba understands and accepts the conditions.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

2nd Vice-Chair Salvati asked if the applicant is present for agenda item 1 Damian Baird or agenda item 3 Mercedes Benz of Buffalo. The applicant is not present.

Item 7

Benderson Development/Eastgate Plaza
Major Arterial

Requests a recommendation for a Temporary Conditional Permit for a Farmer's Market at 4972-5183 Transit Road.

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 operate a seasonal farmers market in the parking lot behind Moe's Restaurant. Town Board will have final approval authority on the request and has forwarded the application for review and recommendation by the Planning Board.

James Boglioli of Benderson Development is present and explained the entire property is over 70 acres, they are proposing to use approximately 25,000 square feet for the location of a farmer's market. The farmer's market will measure approximately 120' by 215'. It will be a weekly market operating from May 2, 2018 to October 24, 2018. It will start on Wednesdays at 3:00pm and close by 7:00pm. They will set up on Wednesday before 3:00pm and then after 7:00pm everything is cleaned up. They will use Jersey Barriers, indicated by red on the plan, to block off the main drive isles of traffic just to delineate that area, the barriers will be picked up with a machine and stored behind the shopping center. The yellow area on the plan is the walkway for the pedestrians, the blue area is where the vendors will set up. As far as protection, to the south is the landscaped area, the concrete barriers will block the drive access, and to the north vendors will pull their cars in which will effectively act as a block. They chose Wednesday because that is the slowest day of the shopping center. This area is very underutilized which is also why they located the market there. Mr. Boglioli provided a list of the potential vendors for the Farmers Market, they are all farm related produce, goods, and services. They also chose Wednesday because many of the vendors participate in other farmer's markets on the weekends and this was a good day for them.

There will be a main 10' by 10' tent for Benderson, the vendors will have tents as well. Comments from the fire chief has been addressed with regards to weighing down the tents. It will be required that the vendor's tent is weighed down with something like a cinder block tied on all four (4) corners. Gallon jugs may be used, or buckets filled with water, rocks or sand. It will be required that the tents are secure and cannot blow away.

Mr. Boglioli said this will not be a flea market. Benderson keeps their sites beautiful and well maintained, this proposal will only enhance the site. They are only asking for a one (1) year permit so if it is not what everyone thinks it should be they won't be renewed next year.

Mr. Pazda asked if this proposal could evolve into a permanent, as in more days of the week than just Wednesday. Mr. Boglioli said they are not anticipating any other days at this point. The permit would only be good for Wednesday. Mr. Pazda asked about blocking off the first entrance permanently, the one that is close to the Stop sign. Mr. Boglioli will work with the Planning Department to see what can be done.

2nd Vice-Chair Salvati said she likes this idea, she thinks there is a growing demand for local produce, and there is not one of this nature in the general vicinity.

Cheryl Anthony, of 5475 Salt Road, is the market manager of the Clarence Hollow Farmer's Market. This Farmer's Market has been in the Hollow for sixteen (16) years, they operate on Saturdays from May through October. They are not-for-profit with an all-volunteer committee. They object to another Farmer's Market in Clarence as it may have a negative impact on their market. 2nd Vice-Chair Salvati asked for clarification on how a market that operates on Wednesday could negatively impact a market that operates on Saturday. Ms. Anthony said people are probably not going to buy produce twice a week, if they go on Wednesday they might not come to the Clarence Hollow Farmer's Market on Saturday. She thinks it will impact the Williamsville market as well, she is surprised they (Williamsville) don't have representation here tonight. She would like the Board to take into consideration that the Clarence Hollow Farmer's Market has been operating in the Hollow for sixteen (16) years. 2nd Vice-Chair Salvati asked if any of the vendors that are proposing to operate at the Eastgate Plaza also vend at the Clarence Hollow Farmer's Market. Ms. Anthony said there are two (2), Pet Wants and Colorful Crafting.

Heath Szymczak, of 10897 Main Street, he is not speaking on behalf of the Clarence Hollow Farmer's Market but as a volunteer he does set up the tents for the market. He seconds Ms. Anthony's points. It is a not-for-profit volunteer organization that is there to benefit Clarence, it is not a for-profit entity just trying to drum up more business. They bring in local produce, support local charities, local dog rescue groups and an educational component. It is a shining gem in the Hollow, he can't understand why the Board would risk bringing in another farmer's market to jeopardize, some of the vendors are already being peeled off. Some vendors might not want to do every Saturday now, there is a risk and potential harm to the Farmer's Market in Clarence Hollow. If the Town is going to take seriously the idea of Vision Main Street and what the commitment has been, and there are a lot of good things happening on Main Street, this commitment should be first and foremost on the minds of the Board members and not take a risk on something that is not needed and inconsistent with that vision.

Mr. Boglioli noted that one of the criteria for license is not competition. They purposely picked Wednesdays so as not to directly conflict with the Hollow. Benderson has property on Wehrle Drive in Lancaster and he could have opened a farmers market there on Saturday mornings, but he purposely chose not to do that. They have another shopping center in East Aurora, it is a Tops Market shopping center and there is a farmer's market that runs Wednesdays and Saturdays. Benderson is not making any profit on this proposal, they require a small down payment and if the vendors clean up that down payment will be refunded. There is no impact to any neighbors and is consistent with what Clarence is, selling local goods and produce. Mr. Boglioli said competition is not a reason to deny. The proposed farmer's market is located on the opposite end of Town, adjacent to Amherst.

Mr. Pazda voiced his opinion for the record saying that he is aware of the non-profit organizations and what they do for the community and he respects what the Clarence Hollow Farmer's Market does. He explained that the Planning Board's prevue is to discuss land use issues and they are a recommending body to the Town Board to see if this is a good use of this land. It has nothing to do with competition. It's the same reason people ask the Board why they approved a restaurant when there is a restaurant right next door. 2nd Vice-Chair Salvati agreed and said there are drugstores that go next to drugstores and coffee shops that are located in close proximity to each other. The Board cannot use the competitive edge as a reason to turn down those items. She understands the concerns that have been expressed.

ACTION:

Motion by Steven Dale, seconded by Timothy Pazda, to **recommend** to the Clarence Town Board approval of a Temporary Conditional Permit for an outdoor Farmer’s Market in the parking lot of Eastgate Plaza behind the Moe’s Restaurant as per the submitted drawing from Benderson Development dated January 12, 2018, with the following conditions:

1. Market to operate from 3:00p.m. to 7:00p.m. on Wednesdays from May 2, 2018 through October 24, 2018.
2. For each Wednesday during the approved period of operation concrete barriers are to be placed immediately prior to that evening’s opening and removed completely from the area upon the market closing that same evening.
3. Adequate protection to the north side of the market through the parking of vehicles or other means.
4. Initial permit shall be for a one (1) year term.

ON THE QUESTION:

Mr. Boglioli understands and accepts the conditions.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

2nd Vice-Chair Salvati asked if the applicant is present for agenda item 1 Damian Baird or agenda item 3 Mercedes Benz of Buffalo. The applicant is not present. Deputy Town Attorney said he understands they are on their way and suggested moving forward with the introduction of the project in hopes that the applicant will arrive soon.

Item 1

Damian Baird
Residential Single Family

Requests a Major Subdivision Approval including a 2-Lot Open Development Area at 5645-5685 Shimerville Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the east side of Shimerville Road, north of Roll Road. The property consists of approximately 36 acres and is within the Residential Single Family Zone with two (2) existing homes on the property. The applicant is proposing a modification to a previous Minor Subdivision approval along with a two-lot Open Development Area. The project as proposed will require Planning Board approval for a Subdivision approval plus Town Board approval for an Open Development Area.

The applicant has not arrived yet.

Joe Meyers, of 8920 Roll Road, said his primary concern is Gott Creek and the protection of the wetlands that surround it. Why they are attacking the two (2) open development area first is beyond him. All the

drainage back there heads towards Gott Creek which affects everybody in the community. He understands development along Shimerville Road but not the two lots in the back, which he said is all basically wetlands. He has water and drainage issues on his property now and is further concerned for the drainage when these lots are established.

Larry Lopian of 5638 Chatham Lane in the Essex Green Development said there are a lot of trees that outline both sides of Gott Creek, is the intention of the developer to remove a lot of those trees? What kind of protection will there be along the creek. 2nd Vice-Chair Salvati explained that the Gott Creek area is a floodway, a floodplain and a designated wetland and is regulated by the NY State Department of Environmental Conservation. The developer cannot touch it. The wetland was delineated and is shown on the plan, 2nd Vice-Chair Salvati referred to the boundary of the delineation and explained that there is a 100' buffer area from the boundary and nothing can happen within that 100'. Trees cannot be removed, fill cannot be brought in, nothing can be built there.

Trisha Velez, of 5632 Chatham Lane, she is concerned if a septic system is installed in this subdivision because there are always problems with septic systems. Between the septic system and the drainage going to Gott Creek, she wondered what kind of problems it will cause for the existing homes. 2nd Vice-Chair Salvati explained that all the lots are a minimum of 2 acres which is a sufficient area to install an on-site septic system but the applicant would have to get approval and permits from Erie County Health Department for all of those systems, thereafter it would be the responsibility of the home owners to maintain those systems. Mr. Callahan said the action is on the Planning Board agenda to send out coordinated review under the State Environmental Quality Review Act (SEQRA) so they will coordinate with the Health Department, the Department of Environmental Conservation and the Army Corp of Engineers to obtain their comments as to what impact this may have on the environment, the Board will not take action until those agencies respond. Vice-Chair Salvati explained the action that the Board would take, if the applicant shows up, would be to send this out for environmental review under SEQRA which is a 30 day process. Comments will be received by the agencies and will be considered by this Board and are part of their deliberations for recommendation to the Town Board.

Michael Metzger, of Metzger Civil Engineering, apologized for being late. He explained the property has 30+ acres with two (2) existing homes, one (1) home is on the main parcel and the other is on a separate lot which is land-locked and does not have access to Shimerville, that home is near the front property line. That home has access via easement through the common driveway. Property comes out to Roll Road and extends along Gott Creek Corridor. Mr. Metzger referred to the Collana Subdivision proposal of 2011 and said they want to improve on that project and improve the entire property. They are proposing is a two (2) lot Open Development Area in which each lot is over five 5 acres in size, the requirement is two (2) acres. Mr. Metzger went on to explain the plan would take the middle lot and attach it to the land-locked parcel making it a legal lot. The other change would be to take the sliver of land and add it to more land to make another lot which becomes one (1) of the two (2) Open Development lots. The blueberry patch would be left in its entirety, which is over ten (10) acres, which includes the land where the equipment is kept. To summarize: there would be four (4) estate lots nestled into the Gott Creek Corridor each five (5) acres in size, two (2) of which have homes on already. There is an existing lot which goes with the prior approved frontage lot, there is also a lot that would have legal frontage on Roll Road, but there are a lot of wetlands on that property, so they are proposing the access off Shimerville Road. His client has every intension to operate the blueberry farm. 2nd Vice-Chair Salvati said the plan shows a structure on the ten (10) acre blueberry field but that is just to show that it could be a developable lot but there is no plan to ever build a house there. Mr. Metzger said that is correct. If there is a home built there in the future he knows there must be a use and maintenance agreement for the common driveway. He understands that access management is a prime concern of the Town. One of the

benefits of this proposal is it would clean up the problem with the existing lot making it a legal lot. The proposal is for only two (2) access points. The existing common driveway would be used for the two (2) Open Development lots as well as the existing home. The frontage lot on Shimerville would access Shimerville via the common driveway. There are two (2) other properties, one that fronts on Shimerville and the lot that has frontage on Roll Road. The one with frontage on Roll Road would utilize the Shimerville access.

2nd Vice-Chair Salvati explained the residents' concerns about the impact this proposal will have on the Gott Creek system. The second concern is with the potential removal of vegetation within the Gott Creek Corridor, and the third concern is the use of septic systems on the site.

Mr. Pazda asked about the building envelope on the lot. Mr. Metzger said there are State and Federal Wetlands, plus the 100' buffer which is also protected. Vegetation in State Wetlands cannot be touched. There is a small Federal Wetland that was delineated within the site, it was not classified as an isolated Wetland. The building envelope would be approximately one (1) acre in order to build the home.

2nd Vice-Chair Salvati referred to the site plan and asked if the applicant thought to annex the sliver of property to the larger lot and take away the tail. Mr. Metzger said they were attempting to minimize the amount of impact made by the previously approved subdivision but he can talk to his client about it.

2nd Vice-Chair Salvati asked for details on the impacts the project would have on Gott Creek. Mr. Metzger said there are 38.5 acres, 10 of which are being farmed, 2 acres are associated with existing homes. He went on to say that the acreage they are taking out, which would have been another buildable lot, will most likely be kept natural by the people who buy the house. So there is no additional impact to Gott Creek because this situation already exists. There will be a home built on each of the two (2) frontage lots and will most likely drain towards Shimerville. The balance of the 38 acres would have two (2) more homes built on it, the impact would be negligible. The only paved area would be the new driveway.

Mr. Metzger said with four (4) new homes they would do percolation testing to see if the soils will perc to allow for a standard absorption field. He thinks it will probably be a sand filter. A sand filter system works in such a way that the waste from the home goes into the septic tank where solids are removed, then drains into a constructed sand filter and percolates through where it is treated. The last step is the absorption trench system where the water is disposed and reintroduced in the ground.

Colleen Goodwin, of 5605 Shimerville, does not support the driveway going in next to her home. She said along the sliver of land she can hardly cut her lawn in the summer because it is always wet. Along the hedges of the south side of her property is also always wet too due to the run-off from the church property and Gott Creek. She has lived her house for 20 years, a house does not belong back there were it is wet, it is not protecting Gott Creek.

ACTION:

Motion by Jeffrey Buckley, seconded by Steven Dale, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency Status and **commence** a review among involved agencies on the proposed Baird Major Subdivision, including a 2-Lot Open Development Area. This Unlisted Action involves a major subdivision of land in the Residential Single Family Zone on the east side of Shimerville Road, north of Roll Road.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Item 3

Mercedes Benz of Buffalo
Residential Single Family

Requests a recommendation for a Temporary Conditional Permit for an Automotive Repair Facility at 8500 Roll Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the north side of Roll Road, west of Harris Hill Road. The property consists of existing previously approved commercial buildings in a previously approved Commercial Zone. The applicant is proposing to utilize an existing space in the rear building for an automotive repair operation. The Town Board may consider the use with a Temporary Conditional Permit and has forwarded the application to the Planning Board for review and comment.

Ralph Lorigo is present on behalf of Mercedes Benz of Buffalo and is requesting a Temporary Conditional Permit for an automotive repair operation. It is primarily for the Sprinter Vans that Mercedes Benz has. They will lease and utilize approximately 4200 square feet for automotive repair. It is simply service repair, tire repair and rotation, oil change, tune ups and other routine maintenance. There will be six (6) above ground lifts; there will be nothing in the ground nor a permanent structure. There will be no collision, no painting and no consumers would come to this facility. The Mercedes Benz employees would drive the vans to the site to be serviced and then drive them back. Customers would only appear at the Mercedes Benz Main Street dealership. They have checked with the Department of Environmental Conservation and have been told they can obtain a State Pollutant Discharge Elimination System (SPDES) permit to allow the use of the floor drain, which will be monitored, they will have an oil-water separator at this location. Approximately a year ago in February 2017 the Town did grant a similar Temporary Conditional Permit for a detail shop at this location which never materialized. Mercedes needs additional space and this facility fits that need.

Mr. Todaro asked how air compressors and the noise would be handled. Brook Arber, general manager of Mercedes Benz, stated that each technician in their bay would have a compressor machine to take nuts and bolts off. If the garage doors are closed you will not hear any noise. The hours of operation will be Monday-Friday 8:00am to 5:00pm, no Saturday work.

Mr. Pazda reads a letter dated March 15, 2018 into the record: “Dear Planning Board, I will not be able to attend the Planning Board meeting scheduled for March 21st but I would like to voice my concern about Item 3, Mercedes Benz of Buffalo's request for an automotive repair facility at 8500 Roll Road. My main concern would be the noise an auto repair shop would generate especially in the warmer weather when the bay doors would be left open while work is being done inside. Also, the additional truck traffic that would travel on Roll Road and Harris Hill and the noise associated with this additional traffic would adversely impact the residential areas in this neighborhood. I respectfully request that the temporary conditional permit for Mercedes Benz of Buffalo be denied. Thank you, Maureen Delaney, 5570 Privet Dr., Williamsville, NY.”

Mr. Buckley asked if the vehicles will be driven in individually for service, not brought in on trucks with multiple vehicles at a time. Mr. Lorigo said yes they will be driven in individually, not on trucks. There are only six (6) lifts proposed, it is not a heavy duty operation. The parking spaces on the plan are not for customers, they are for employees only. Mr. Lorigo confirmed that there will be no signage at this site.

Mr. Dale asked what will become of the logs that are there, the Sprinters will be parked on top of the logs. Mr. Lorigo said the logs will be moved out of the parking spaces.

Kathy Frauenhofer, of 13 Heathrow Court, voiced her concern with the traffic and asked for confirmation that there will never be more than six (6) transporters bringing the vans for work. She has lived in the Hollows for seven (7) years and in the last year she has noticed the amount of traffic on Harris Hill and Roll Roads has increased tremendously. She does not want to see a substantial increase in traffic with this operation. There are a lot of single family homes being built on Harris Hill Road and Roll Road. She noted that the property is zoned Residential Single Family. Mr. Callahan clarified that there was a use variance granted for this property to be Commercial prior to anything being out there.

Gary Klemmand, of 5558 Privet Drive, is concerned with traffic. With the businesses that are at the existing Roll Road properties he questions putting an automotive repair shop in the midst, it does not seem to fit in the area. How many of these vans will be repaired per month? Has Mercedes looked at other locations for this operation and what is the reason they are looking at this area? Why don't they have a repair shop at their dealership instead of coming out to a residential area for it? The stigma that goes along with an auto repair shop is that all the cars that are waiting to be repaired sit and sit out at the site.

Mr. Lorigo said with regards to the noise, this property is zoned commercial, it will be rented to someone with some type of commercial use. Mercedes will not have any type of commercial customers come to this location, this substantially lowers the amount of traffic that is there and the amount of parking. The vans will not be brought in on trucks, they will be driven there and back. It is a typical residential van that would be on the road. The parcel adjacent to the site is zoned Industrial, in terms of tempering the use with what exists, this is a low volume use of the site. Mercedes has repair facilities at the Main Street dealership, this proposal is the growth factor of Mercedes Benz which is probably a temporary location for some period of time until they find their own growth.

2nd Vice-Chair Salvati asked if there will be a number of vehicles sitting there waiting to be cared for, and after they are fixed how long will they sit there. Mr. Lorigo said there are twelve (12) parking spaces, so there could be some vans parked outside. The goal is to utilize personnel so they drive a van there and then drive one back.

Mr. Dale asked for a comparison of the size of the Sprinter Vans so people understand how big they are. Mr. Lorigo clarified that it is the size of a commercial van.

Mr. Geasling asked how many vans will be repaired on a daily or weekly basis. Mr. Metzger said this is fairly new, they need it now because of the growth and the amount of business they do at the Main Street facility. There is no room to expand on Main Street. This will only be mechanical work, no painting. The building already exists, it is not a new building and it will have a relatively low impact.

Mr. Lorigo said he is sure Mercedes Benz would prefer something closer to the Main Street location but this facility is existing and is available, at this time it makes sense and works on a temporary basis. Mr. Metzger said he has knowledge of other sites that were looked at but just did not work out.

Mr. Geasling noted that the 12 parking spots are shielded from the road.

It is clarified that if a Temporary Conditional Permit is recommended it is only for one (1) year and would have to be renewed in one (1) year. Mr. Lorigo understands.

Kathy Frauenhofer asked if the only usage for this facility will be for those specific vans, that they will not at some point add bringing other vehicles. Mr. Lorigo said it could be other vehicles, but there are only six (6) lifts so that limits the number of vehicles to be worked on.

ACTION:

Motion by Gregory Todaro, seconded by Steven Dale, to **recommend** to the Clarence Town Board approval of a Temporary Conditional Permit for an automotive repair operation at 8500 Roll Road as per the submitted site plan from Metzger Civil Engineering, dated January 11, 2018, with the following conditions:

1. Issuance of an Industrial State Pollutant Discharge Elimination System (SPDES) Permit from the NY State Department of Environmental Conservation prior to occupancy.
2. Identified parking area for the project to be striped as per the site plan.
3. No outside storage of parts and/or materials or any outdoor repairs of automobiles.
4. Overhead doors to remain closed during business hours with openings limited to pulling vehicles in and out for repairs.
5. Initial permit for a one (1) year term.
6. Hours of operation are to be 8:00 a.m. to 5:00 p.m. Monday thru Friday.
7. Vehicles are to be parked in the striped areas only.
8. There will be no collision or paint work done on site.

ON THE QUESTION:

Mr. Dale suggested adding the hours of operation to the list of conditions above. Mr. Todaro agreed. Assistant Deputy Town Attorney Steve Bengart suggested adding number 7 to the conditions listed above. Mr. Todaro and Mr. Dale agreed. Mr. Pazda suggested adding condition number 8 to the conditions listed above. Mr. Todaro and Mr. Dale agreed. Mr. Lorigo said he understands and accepts the conditions.

Jason Geasling	Aye	Jeffrey Buckley	Aye
Steven Dale	Aye	Gregory Todaro	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye

MOTION CARRIED.

Meeting adjourned at 8:43p.m.

Carolyn Delgato
Senior Clerk Typist