

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday March 4, 2020

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 Development Plan Approval for a 2-Lot
Open Development Area at 5645-5685
Shimerville Road.

Item 2

Roy Rosenberg
Agricultural Floodzone

Requests Minor Subdivision Approval to create
one (1) new lot at 10750 Rapids Road.

Item 3

Sean Hopkins/Rane Property Management
Restricted Business

Requests Preliminary Concept Review of a
proposed Mixed-Use project at 7621-7631 Transit
Road.

Item 4

David Lewis
Commercial

Requests an Action under the State
Environmental Quality Review Act and Concept
Review of a proposed Mixed-Use project at 8980
Main Street.

Item 5

Proposed Subdivision Law Updates

Discussion.

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

Councilman Paul Shear led the pledge to the flag.

Planning Board Members present:

Vice-Chair Richard Bigler
Gregory Todaro
Ari Goldberg

2nd Vice-Chair Wendy Salvati
Jeffrey Buckley

Timothy Pazda
Jason Geasling

Planning Board Members absent: Chairman Robert Sackett

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:

Jacob Metzger Jim Purcell Chris Doud Thomas Costlow Carl David
Wendy and Larry Merkle Colleen & Geoffrey Goodwin Larry & Kathy Lopian

Vice-Chair Bigler will be presiding over the meeting this evening in the absence of Chairman Sackett. Alternate Planning Board member Ari Goldberg will participate in all discussions and vote on all agenda items.

Motion by Gregory Todaro, seconded by Timothy Pazda, to **approve** the minutes of the meeting held on January 29, 2020, as written.

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

MOTION CARRIED.

Vice-Chair 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. 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.

It is noted that Item #2 in the name of Roy Rosenberg has been withdrawn from the agenda at the applicant’s request.

Item 1

Damian Baird
Residential Single Family

Requests Development Plan Approval for 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 applicant received approval from the Town Board for a 2-lot Open Development Area on June 13, 2018 as a component of an approved major subdivision. The applicant is now present seeking Development Plan Approval on that 2-lot Open Development Area.

Jacob Metzger, of Metzger Civil Engineering, is present along with the owner of the property Damian Baird. Mr. Metzger said they have worked with the Town Engineering Department who has reviewed and approved the project as is. Building Department approval for new structures will happen once the building plans are submitted. The Health Department Approval for on-sight waste water system will be designed in accordance with the size of the house and approved at that time. Easement and maintenance agreements need to be in place and agreed upon by the Town Attorney and filed with the Erie County Clerk’s office. Deputy Town Attorney Bengart confirmed this. Mr. Metzger noted that the Open Development area is in compliance with all the design standards of the Town.

Mr. Pazda asked if there have been any major changes to the proposal from the Concept Plan stage to now. Mr. Metzger said no.

Jim Purcell, of 5745 Shimerville Rd, voiced his concern saying he hoped there were no additional lots proposed to the original proposal. It is confirmed that there are no additional lots.

ACTION:

Motion by Ari Goldberg, seconded by Gregory Todaro, to **approve** the Development Plans for the Damian Baird 2-lot Open Development Area as per the submitted drawings from Metzger Civil Engineering dated January 17, 2020, with the following conditions:

1. PIP Permits as issued by the Town Engineer.
2. Open Space and Recreation Fees on future Building Permits.
3. Dark sky compliant lighting required for any exterior lighting along the entrance driveway.
4. Subject to cross access, maintenance and repair easements and agreements for the common driveway. The terms of the easements and agreements shall run with the land. Such easements and agreements shall be filed by the applicant in the Erie County Clerk’s Office after review and approval by the Town of Clarence Attorney’s Office and prior to issuance of a Certificate of Occupancy. The applicant shall provide the Town Attorney’s Office with copies of the filed easements and agreements.

ON THE QUESTION:

Mr. Metzger said they understand and agree to the conditions of approval.

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

MOTION CARRIED.

Item 2

Roy Rosenberg
Agricultural Floodzone

Requests Minor Subdivision Approval to create one (1) new lot at 10750 Rapids Road.

DISCUSSION:

This agenda item has been withdrawn from the agenda at the applicant’s request.

Item 3

Sean Hopkins/Rane Property Management
Restricted Business

Requests Preliminary Concept Review of a
proposed Mixed-Use project at 7621-7631 Transit
Road.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located at the southeast corner of Transit Road and Wolcott Road, and is identified as the former Bitterman's Automotive Complex. The property contains approximately seven (7) acres within the Density Floodzone. The applicant is present to introduce a proposed mixed-use project on this property.

Sean Hopkins, of the law Firm of Hopkins, Sorgi and McCarthy, is present on behalf of the Rane Management LLC. Mr. Hopkins said this project was presented to the Town Board in December of last year and at that time Mr. Lavocat made it clear that they needed to comply with the Town's Floodway Density Development Standards. These standards require a certain portion of the property, in an east to west direction and at least 30%, remain unfilled. The original plan had to be reconfigured to meet these standards. The self-storage units would be limited to tenants of this site and tenants of other properties owned by Rane, which includes Dockside Village on the west side of Transit Road and Fox Creek which is at 9500-9510 Transit Road. The storage units will not be open to the public, the best way to assure this would be through a Temporary Conditional Permit. The project has been scaled back so that there is one 2-story mixed-use building, the footprint of the building 6,700 square feet and will include one (1) first floor apartment and seven (7) second floor apartments. There are three (3) townhome buildings along the southern portion of the site, there is one (1) detached garage plus the self-storage units. There is a large water feature being proposed. This is a Type I Action pursuant to the State Environmental Quality Review Act. Once the comments have been received back from the environmental review the applicant will address them and should be able to come back before the Board. Due to the proposed multi-family component the applicant will be required to obtain a Special Exception Use Permit as issued by the Town Board.

Vice-Chair Bigler asked for details on the existing buildings. Mr. Hopkins said he client purchased the property last year and all the existing buildings will be removed.

Mrs. Salvati asked if an Environmental Assessment has been started on the project. Mr. Hopkins said there is a preliminary environmental evaluation for purposes of a lender, a full assessment has not yet been done. The applicant will do the full assessment if and when they receive the approvals to move forward.

Mr. Todaro asked if there are any buried tanks on the property, Mr. Hopkins said no nothing that is discernable at the surface. If there are it would have to be cleaned up and reported to the DEC.

Mr. Pazda asked who would monitor the self-storage units to make sure they are only being used by the proper people. Mr. Hopkins said there will be no public signage and will be monitored by using a Temporary Conditional Permit. The storage units will truly only be used by the tenants. The properties will be managed by Rane management. Mr. Hopkins said, aesthetically, the self-storage units will resemble high-end garages with residential sloped roofs with actual shingles and windows. The renderings will be updated with these features when the applicant comes back before the board.

Wendy Merkle owns Room to Spare Storage which is located a few doors down from this proposal. She said there have been a lot of self-storage projects that have come before the Board that affect her but she has never once been in the audience because there is nothing she could say that the Board would give credence to. She went on to say that this proposal is crazy, the Board just approved self-storage on County Road, there is also a business on Main Street that took over the dealership. She chuckled at the article in the Bee and said the Town is going to make out from this because they are going to get some great taxes from this, but it will kill the rest of us. As far as competition goes, Eagle just opened on Transit Road and Fox Creek and Dockside have put in their garages. She has already lost 15% of her tenants when they opened those garages. She objects to the fact that the applicant says they will only be for their tenants, that is not the case. What happens when those people don't want to pay for that, who are you going to rent to then? The self-storage industry is not the same as a residential rental. People move in and put crazy stuff in there. She has surveillance cameras so people don't do goofy stuff. To not have tight control over what is going on in the units is something she objects to. This is a killer for her and the Town continually raises her property taxes. She really has a problem with the Town taxing her on the value of her property if she were to sell it, not what it would cost to build. So every time she pays that bill she is paying it on her rents, she already pays an income tax. So now the Town is going to kill that business. This is something is going to look to fight.

Mr. Hopkins makes it very clear for the record that it will not be open to the public, it is only for tenants of Rane Property Management. In terms of the need to strictly regulate the use of those units, they understand that as they manage thousands of units. As far as what this will do to neighboring businesses that falls outside the confines of the Planning Board. Zoning cannot be utilized to regulate competition. Mr. Hopkins agreed that in the Temporary Conditional Permit it will be stated that the storage units will not be available to the public, only the Rane Management Property tenants.

Mrs. Salvati asked if the applicant cannot fill the self-storage units, would they come back before the Board to remove them and replace them with a different use. Mr. Hopkins said if they really misjudged this proposal, maybe they would do that, but the applicant is not going to make the investment thinking that may occur.

It is approximated that the unit count between Dockside Village and Fox Creek is 750.

Mr. Pazda reiterated that while he sympathizes with Ms. Merkle's situation, the Planning Board is not the place for the competition concern, it is totally above their regulation.

Ms. Merkle said the next question is how many garages are over in Amherst that he has put up. The garages he is putting up in Clarence are not just going to be used by those tenants, they already have tenants for their garages on the other side too, so this is just more. And as far as not filling them, she wants to tell the Board what the applicant is doing, they are charging half what everybody else in the industry is. So while this may not be a problem or within the purview of the Planning Board, the taxes are. So the Board is already taxing her on the value of the property based on the rents that are posted on line, well they are going down.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to seek Lead Agency status and commence a review among involved agencies on the proposed Rane Property Management Mixed Use Project located at 7621-7631 Transit Road. This Type

I Action involves the development of a mixed use project including 20+/- residential units, commercial space and storage space.

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

MOTION CARRIED.

Item 4

David Lewis
Commercial

Requests an Action under the State Environmental Quality Review Act and Concept Review of a proposed Mixed-Use project at 8980 Main Street.

DISCUSSION:

Mr. Callahan provided the background on the project noting that it is located on the north side of Main Street, east of Shimerville Road and contains approximately 4.9 acres.

Jacob Metzger, of Metzger Civil Engineering, is present along with owner and applicant David Lewis. Mr. Metzger pointed out that the applicant also owns the property to the west of the project site, which is the existing Montessori School. Dr. Lewis currently uses a small space in the school. He plans to build the mixed-use building in Phase 1 and move his business to that building. Phase 1 will be a mixed-use 2-story building with 5 apartments and commercial space on the first floor. If things go well they will build Phase 2 which would be a similar building. On August 21, 2019 this project was before the Board and they initiated the SEQRA process and comments have been received from numerous involved agencies. The DEC has issued comments but nothing of consequence, the typical SPDES Permits will need to be obtained because they are disturbing more than one (1) acre of land. SHPO sign-off was also required and received after an archeological study was done. The DOT has issued comments advising they need a permit to work in the right-of-way. The applicant has created a preliminary grading and drainage plan that the Town Engineering Office has reviewed and has agreed to.

Mrs. Salvati referred to the calculations for parking and advised that the applicant needs more parking. The plan shows 34 spaces, but the project needs 36. The error is under the retail space where there are two (2) buildings at 1100 square feet, the calculation is for only one building. Mr. Metzger said they will address the issue. Mrs. Salvati said the Board will continue to work with the applicant on the design. She suggested the applicant bring in sample materials, he agreed. Mr. Geasling asked if the vinyl siding will be a high quality foam backed siding, Mr. Metzger said yes that is his understanding.

Mrs. Salvati asked that the applicant indicate the existing vegetation on the site plan. Mr. Metzger said yes they will identify each tree on future plans, they plan to save as many trees as they can. It is clarified that a Landscape Plan will need to be reviewed and approved by the Landscape Committee.

Mr. Todaro asked about the utility storage unit in the back of the property, Mr. Metzger said that is a storage barn and he assumes it will be the same material as the building. Mr. Callahan clarified that if the storage barn is visible from Main Street then it has to be the same material as the building. Mr. Todaro noted that the materials to be used on the barn should be listed on the Development Plan.

ACTION:

Motion by Gregory Todaro, seconded by Jason Geasling, pursuant to Article 8 of the Environmental Conservation Law, to **approve** the Part 2 and 3 Environmental Assessment Form as prepared and to **issue** a Negative Declaration on the proposed Lewis Mixed Use Project. This Unlisted Action involves the development of a mixed use project including residential and commercial uses. After thorough review of the submitted site plan, involved agency correspondence and the completed Environmental Assessment Form (EAF) it is determined that the proposed action will not have a significant negative impact upon the environment.

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

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Jason Geasling, to **approve** the Concept Plan for the proposed Lewis Mixed Use Project as per the submitted plans from Metzger Civil Engineering dated February 10, 2020, with the following conditions:

1. Subject to Landscape Committee approval prior to Development Plan approval.
2. Subject to all requirements of the Town Engineer.
3. Subject to Open Space and Recreation fees on future Building Permits.
4. All exterior lighting to be dark sky compliant and screened to eliminate spill to adjoining properties.
5. Final architectural approval to be subject to Town Board approval via a Special Exception Use Permit.

ON THE QUESTION:

Mr. Metzger understands and agrees to the conditions.

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

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Jason Geasling, to **recommend** a Special Exception Use Permit for Multiple Family Housing to the Town Board as per the approved Concept Plan.

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

MOTION CARRIED.

Item 5

Proposed Subdivision Law Updates

Discussion.

DISCUSSION:

Mr. Callahan noted that the Planning Board Executive Committee and the Planning Department have been working on amendments to the Town’s Subdivision Law to provide clarity and an update to procedural requirements within the law including adding a preliminary drainage step under Concept Review and allowing existing right-of-way extensions without minimum setbacks. The proposed changes are considered minor in scope and detail, the full Planning Board now has an opportunity to review and comment.

Vice-Chairman Bigler said the Board has reviewed the amendments.

Deputy Town Attorney Steve Bengart said the proposed amendments have been vetted by the Town Attorneys’ office and the Engineering Department.

ACTION:

Motion by Wendy Salvati, seconded by Timothy Pazda, to **recommend** adoption of the proposed amendments to the Town of Clarence Subdivision Law (Chapter 193 of the Code of the Town of Clarence) as per the final draft iteration dated March 4, 2020.

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

MOTION CARRIED.

Meeting adjourned at 7:44 p.m.

Carolyn Delgato
Senior Clerk Typist