

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday May 7, 2014

Work Session 6:30 pm
Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:30 pm

Approval of Minutes

Item 1

Jack Davis
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot at 9290 Hunt Club Lane.

Item 2

Northwoods Open Space Design/
Cimato Enterprises
Residential Single Family

Requests a final recommendation on a recreational trail, sidewalks, setbacks and pond access.

Item 3

Spaulding Green Open Space Design/
Dominic Piestrak
Residential Single Family

Requests amended Concept Plan Approval for the previously approved overall Concept for a subdivision on the east side of Goodrich Road, north of Greiner Road.

Chairman Robert Sackett called the meeting to order at 7:30 p.m.

James Callahan led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chairperson Wendy Salvati
Richard Bigler
Steven Dale

Vice-Chairman Paul Shear
Timothy Pazda
Gregory Todaro

Planning Board Members absent: none

Town Officials Present:

Director of Community Development James Callahan
Junior Planner Jonathan Bleuer
Town Attorney Lawrence Meckler

Other Interested Parties Present:

| | |
|-----------------|----------------------|
| Al Hopkins | Peter and Bea Morgan |
| Norm Radtke | Gail Berger |
| Carol Conwall | Susan Greene |
| David Horbinski | Marlene Horbinski |
| Darren Doell | Vic and Bev Trabucco |
| Dan Palumbo | |

Chairman Sackett noted that since there is a vacancy on the Board, the alternate member, Steve Dale will be voting on all agenda items this evening.

Motion by Gregory Todaro, seconded by Paul Shear, to **approve** the minutes of the meeting held on April 9, 2014, as written.

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|----------------|-----|----------------|-----|
| Steve Dale | Aye | Gregory Todaro | Aye |
| Richard Bigler | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Paul Shear | Aye |
| Robert Sackett | Aye | | |

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Steve Dale, to **approve** the minutes of the meeting held on April 23, 2014, as written.

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|----------------|---------|----------------|---------|
| Steve Dale | Aye | Gregory Todaro | Aye |
| Richard Bigler | Aye | Timothy Pazda | Abstain |
| Wendy Salvati | Abstain | Paul Shear | Abstain |
| Robert Sackett | Aye | | |

MOTION CARRIED.

Chairman Sackett explained that Mr. Callahan will introduce each agenda item, the applicant will then be given a chance to add comments about the project. The Board will then have a dialogue with the applicant. Then the members of the audience will be invited to participate in the conversation directing their comments/questions to the Board. Questions will be answered at the end of the comment period. The Board will take action as they see fit.

Item 1

Jack Davis
Residential Single Family

Requests Minor Subdivision Approval to create one (1) new residential building lot at 9290 Hunt Club Lane.

DISCUSSION:

Mr. Callahan introduced the first project noting that it is located on the east side of Thompson Road, north of Main Street, along Hunt Club Lane. It is an existing single family residential use located in the Residential Single Family zone. Previously, a 2-lot Open Development Area was approved and a variance to the required lot frontage and setbacks has been granted by the Zoning Board of Appeals. An

Action under State Environmental Quality Review Act (SEQRA) will be required on this Unlisted Action.

Al Hopkins of Metzger Civil Engineering is present on behalf of the applicant. He explained that the Davis' currently live on the 11.2 acre parcel. They like the parcel but are finding that the current house is too big for them. They want to build a new house on the other side of the property and split the parcel in two (2). In order for that to happen they needed two variances, which were granted.

ACTION:

Motion by Gregory Todaro, seconded by Timothy Pazda, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Davis Minor Subdivision located at 9290 Hunt Club Lane in the Town of Clarence. This Unlisted action involves the minor subdivision of property to create one (1) new residential building lot. After thorough review of the submitted site plan and Short Environmental Assessment Form (SEAF) it is determined that the proposed action will not have a significant negative impact upon the environment.

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|----------------|-----|----------------|-----|
| Steve Dale | Aye | Gregory Todaro | Aye |
| Richard Bigler | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Paul Shear | Aye |
| Robert Sackett | Aye | | |

MOTION CARRIED.

ACTION:

Motion by Gregory Todaro, seconded by Timothy Pazda, to **approve** the minor subdivision application of Jack Davis located at 9290 Hunt Club Lane to create one new residential building lot, subject to the following conditions:

1. Town Building and Engineering Department review and approval of required building permits on future construction.
2. Erie County Health Department review and approval of required permits for construction of any on-site sanitary facilities.
3. Open Space and Recreation Fees.

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|----------------|-----|----------------|-----|
| Steve Dale | Aye | Gregory Todaro | Aye |
| Richard Bigler | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Paul Shear | Aye |
| Robert Sackett | Aye | | |

MOTION CARRIED.

Item 2

Northwoods Open Space Design/
Cimato Enterprises
Residential Single Family

Requests a final recommendation on a recreational trail, sidewalks, setbacks and pond access.

DISCUSSION:

Mr. Callahan provided the history on the project noting that it is located on the north side of Greiner Road between Shimerville and Thompson Roads. It is existing vacant land located in the Residential Single Family zone. The applicant is seeking final overlay approval for an Open Space Design Development. The Town Board has referred the project to the Planning Board to provide final details associated with a recreational trail, sidewalks, drainage access and setbacks.

Timothy Pazda recused himself and left the dais.

Jeffery Palumbo of the Law Firm of Damon Morey is present along with Fred Cimato.

Darin Doell, of 5485 Thompson Road, asked for further clarification on the black line that is shown on the plan as an easement for a future recreational trail.

Dave Horbinski, of 5480 Thompson Road, is also concerned with the bike trail and where it is headed. He asked whether it is something need in the plan now or is it for something in the future. He is referring specifically to the black line on the plan. Mr. Horbinski said if he understands correctly, it is going down the north side of his property, over the sewer line.

Norm Radtke, of 5566 Thompson Road, said his concern is the proposed bike path (the black line on the plan), which, early on, was on his property. He went on to say that originally he was told it was off the table, it was voted down twice and now it's back.

Mr. Palumbo said the plan shows the proposed easement (black line) at the request of the Town. He clarified that the applicant is providing the easement for it, but they are not putting it in. It is scheduled to go down the sewer line, this was the preference of the Town. It is only an easement, there is no construction plan for that area.

Chairman Sackett said from the Planning Board's perspective they are talking about future generations. Should the opportunity exist to connect the bike path to other bike paths in the future, the opportunity is there. At present, there are no plans to connect that trail. The Planning Board understands that there is private property between the end of the black line on the plan and any other bike path. That private property needs to be respected. It is understood that the present owners of that land don't wish there to be a bike path. Ownership changes, situations change, and there may be an opportunity in the future to do it or not do it. The easement is invisible, there will be no stone or anything built on it.

Mr. Horbinski said there is a new Planning Board and all of a sudden this easement is acted on. Why does there have to be an easement? Why doesn't the Board face the easement in the future if that ever comes up that they need to? Don't put the easement on now. Both property owners do not want the bike path there. It would run along the side of the house where the bedroom is of the son of the man across the street. He asked the Planning Board to honor his and his neighbor's request.

Mrs. Salvati said the reason it is being done now is because in 10-50 years when the possibility exists that perhaps a trail could extend further, the Town may not have the opportunity to acquire that easement. It could sit there for 100 years. Mr. Horbinski asked why the Town couldn't acquire an easement 50 years from now. Chairman Sackett noted that there will be different owners to the land that exists now. The easement would be owned by a Homeowners Association. Mr. Horbinski said the man who owns the property now is not selling his land to any Homeowners Association. Mr. Palumbo noted that all the

common areas shown on the plan will be owned by a Homeowners Association, including the area upon which the easement is proposed. Chairman Sackett clarified that the easement ends at the property line, it does not go onto Mr. Horbinski's property. This easement in no way affects private property. Mrs. Salvati said there will be no easement next to Mr. Horbinski's home or on his property.

Richard McNamara, of 5430 Thompson Road, said he understands the easements but there are certain things that can happen to eminent domain that the neighbors have nothing to say and it makes him nervous. Chairman Sackett noted that the easement has nothing to do with the property that is east of the project. Mr. McNamara said none of the Planning Board members live there; they make these easements then he and his neighbors have to live with it.

Town Attorney Lawrence Meckler said the Town has the ability for public purposes to use eminent domain but there is absolutely no intention to do anything on the black line shown on the plan. If he lived there he would have zero concern.

Mr. Radtke said when the sewer was put in, it was never supposed come across his property, and someone decided to change the path. Now there is talk of a potential bike path, no one has ever told him if would increase or decrease the value of his property. He can't sell that side of his land. He has no objections to the development but it is creeping in on private property. The sewer was put in to benefit the Town, if a bike path goes in it benefits 150 homes. Mrs. Salvati said if a bike path was to ever go in there, the idea is to be designed to continue the Town's bike path system. The reason the Planning Board would want a bike path to run through this project is so it can connect to a path that is being constructed through the Waterford project which in turn would connect to the Peanut Line bike path. They are trying to develop a system or a network of town-wide bike paths.

Town Attorney Lawrence Meckler explained that the Heise Brookhaven Trunk Sewer Line was never intended to have an easement for a bike path. Once the ownership of the easement is transferred from the Corporation to the Town it will be an easement for access to the sewer trunk line. Mr. Radtke said it was presented as a bike path and he is saying he is not interested.

Chairman Sackett noted that the Planning Board is a recommending body on this project. The Town Board will make the final decision.

Mr. Callahan noted that there will be a Public Hearing at the Town Board level and neighbors will be sent notifications of that meeting date. Chairman Sackett advised Mr. Radtke, and any neighbor who wants to be notified of future meetings, to advise the Planning Office of their name and address.

Peter Morgan, of 5450 Thompson Road, said the way the Planning Board can respect private property is to create the easement but subject to the rite of the current owners to have the rite of vetoing the modification of the current sewer line by the addition of some blacktop or some form of public access. He noted the comments of a previous resident who stated his capital loss due to a public sewer easement and land that he cannot sell. Perhaps the Planning Board should consider that when it creates public accesses such as a bike path, that it serves as a loss to personal wealth.

Chairman Sackett noted that tonight's action is silent on the sewer easement passed the eastern boundary of this land. He said Mr. Morgan referred to private property that exists beyond the boundaries of this project and that is not an issue in front of the Board this evening. There is no implication regarding any of that land beyond this property.

Mrs. Salvati said the Planning Board is not the final decision maker on this project, they do not have the authority; they are just a recommending body to the Town Board. The final decision lays in the Town Board's hands, not the Planning Board's.

ACTION:

Motion by Wendy Salvati, seconded by Richard Bigler, to **recommend** to the Town Board approval of the Northwoods Open Space Design Subdivision subject to the following details associated with the final Open Space Overlay for that property:

1. As depicted on the Exhibit A site plan and further described as follows:
 - a. Applicant clears, boxes and stones the recreational trail to extend from Roll Road, opposite Dana Marie Parkway, adjacent to and within the eastern right of way of Road D and extending to the southern side of the Sun Oil Pipeline Easement. The required separation to be a minimum of 10' of grass area from the curb of Road D. Recreational trail area is to be constructed to standards of 10' wide with 2' shoulders and the minimum depth of the stone base to be 6" as verified and approved by the Town Engineer.
 - b. Applicant clears, boxes and stones the recreational trail from Greiner Road, opposite Brookfield Lane, adjacent to and within the western right of way of Road A and extending north to Road B. The required separation from the access road to be a minimum of 10' of grass area from the curb of Road B. The recreational trail area is to be constructed to the standards of 10' wide with 2' shoulders and the minimum depth of the stone base to be 6" as verified and approved by the Town Engineer.
 - c. A 20' easement to be provided for construction of a future recreation trail along the north and west side of sublots 81 through 87 and sublots 135 through 145, connecting the Road A recreation trail with the Road D recreational trail (a striped street crossing with signage, as approved by the Highway Superintendent on the required Road D trail crossing).
 - d. A 20' easement to be provided for the potential future construction of a recreation trail from Road D to the east property line of the project along or adjacent to the Heise-Brookhaven Trunk Sewer Line Easement.
 - e. Sidewalks required to make a loop around Road B and Road D, from subplot 109 to the north side of subplot 81, on one side of these streets.
 - f. Maintenance is required of sidewalks to be the responsibility of an established Homeowners Association.
 - g. Hard surface maintenance roads shall be provided within access easements for drainage facilities to be constructed and approved by the Town Engineer.
 - h. Homeowners Association Agreement, which shall include the sidewalk maintenance responsibilities, is to be provided to the Town Attorney's office for review and approval and once approved to be recorded in the Erie County Clerk's office with a filed copy to be provided to the Town Attorney.

- 2. Minimum side yard setback requirements to be 6.5’ from the foundation on all lots.
- 3. Applicant agrees to pay the Recreation Fees of \$68,000.00 in lieu of providing a fully completed recreational amenity on the project.

ON THE QUESTION:

Mr. Cimato asked if the motion could state the appropriate color code. Chairman Sackett clarified that the motion included the wording, “as depicted on the Exhibit A site plan” which is color coded. Mr. Cimato agreed that Chairman Sackett’s response satisfied his request.

Mr. Palumbo asked for clarification on the responsibility of the Homeowners Agreement on the sidewalks as opposed to the individual lot owners shoveling their own sidewalk. Mrs. Salvati said the Planning Board referred to the maintenance of the sidewalks not snow clearance.

Mr. Cimato and Mr. Palumbo said they understand and agree to the motion.

Mr. Dale said the Town Board may ask the applicant for a small parking lot at the trail head on Greiner Road as a point of access to the recreational trail. Mr. Shear clarified that this request is not part of the motion.

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|----------------|-----|----------------|-----|
| Steve Dale | Aye | Gregory Todaro | Aye |
| Richard Bigler | Aye | Wendy Salvati | Aye |
| Paul Shear | Aye | Robert Sackett | Aye |

MOTION CARRIED.

Timothy Pazda returned to the dais.

Item 3

Spaulding Green Open Space Design/
Dominic Piestrak
Residential Single Family

Requests amended Concept Plan Approval for the previously approved overall Concept for a subdivision on the east side of Goodrich Road, north of Greiner Road.

DISCUSSION:

Mr. Callahan provided the history on the project noting that it is located on the east side of Goodrich Road, north of Greiner Road. It is an existing Open Space Design Subdivision under development. The applicant is seeking an amendment to the previously approved Concept Plan on the project. The application has been forwarded by the Town Board to review the request.

Stephen Schop is present and representing the applicant.

Victor Trabucco, of 10 Paddock View, asked what the changes are to the plan since the last meeting.

Mr. Schop said it is a proposed change off of Goodrich Road in the area that was originally labeled “4A and 4B” It is a proposed changed to the north side of the proposed Spaulding Parkway. The change is reflected in the power point presentation that is on display for all to view.

Chairman Sackett said the site plan is not being reviewed at this meeting, they are simply starting the coordinated review for environmental reasons. The review of the actual lot layout will be at another phase at another meeting. Once the Town Board receives comments from the involved agencies, the site plan will be discussed.

ACTION:

Motion by Wendy Salvati, seconded by Paul Shear, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** to the Town Board, as Lead Agency, to seek Lead Agency Status and commence a coordinated review among involved and interested agencies on the proposed Spaulding Green Open Space Design Subdivision Concept Amendment. This Unlisted Action involves an amendment to the previously approved Concept Plan for the project.

ON THE QUESTION:

Sending this for out coordinated review does not mean that this Board will ultimately recommend approval of the applicants proposed changes to the project. Mr. Schop said he understands.

Mr. Todaro said the proposed change, in the context of the entire project, does not increase the number of lots that are within the overall project. It is a re-alignment of lots within a certain area of the project.

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|----------------|-----|----------------|-----|
| Steve Dale | Aye | Gregory Todaro | Aye |
| Richard Bigler | Aye | Timothy Pazda | Aye |
| Wendy Salvati | Aye | Paul Shear | Aye |
| Robert Sackett | Aye | | |

MOTION CARRIED.

Meeting adjourned at 8:13 p.m.

Carolyn Delgato
Senior Clerk Typist