

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday July 6, 2022

**Work Session 6:30 pm**

Status of SEQR Coordinated Reviews  
Review of Agenda Items  
Miscellaneous

**Agenda Items 7:00 pm**

Approval of Minutes

**Item 1**

Kevin Gallagher  
Agricultural Rural Residential

Requests Minor Subdivision of land Approval to create two (2) new vacant lots located at 9740 Lapp Road.

**Item 2**

Epic Motor Cars, LLC.  
Commercial

Requests Recommendation to the Town Board of a Temporary Conditional Permit for an automotive sales operation at 9825-9829 Main Street.

**Item 3**

West Herr Automotive Group  
Commercial

Requests Concept Plan Approval for a proposed automotive storage lot expansion to the rear of the property at 8129 Main Street, with access to Auto Place.

Chairman Robert Sackett called the meeting to order at 7:03 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Chairman Robert Sackett  
2<sup>nd</sup> Vice-Chair Wendy Salvati  
Jason Geasling  
Jason Lahti

Vice-Chair Richard Bigler  
Gregory Todaro  
Patrick Johnson

Town Officials Present:

Junior Planner Andrew Schaefer  
Councilman Paul Shear  
Deputy Town Attorney Steven Bengart

## Other Interested Parties Present:

Andrew Gow                      Robert Pidanick                      Robert LaMastra                      Jim Mulka

Motion by Gregory Todaro, seconded by Richard Bigler to **approve** the minutes of the meeting held on April 20, 2022, as written.

Jason Lahti	Abstain	Patrick Johnson	Aye	Jason Geasling	Abstain
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

## MOTION CARRIED

Motion by Gregory Todaro, seconded by Richard Bigler to **approve** the minutes of the meeting held on May 4, 2022, as written.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Abstain	Richard Bigler	Aye
Robert Sackett	Aye				

## MOTION CARRIED

Motion by Gregory Todaro, seconded by Richard Bigler to **approve** the minutes of the meeting held on May 18, 2022, as written.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Abstain
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

## MOTION CARRIED

Motion by Gregory Todaro, seconded by Richard Bigler to **approve** the minutes of the meeting held on June 1, 2022, as written.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Abstain	Richard Bigler	Aye
Robert Sackett	Abstain				

## MOTION CARRIED

**Item 1**

Kevin Gallagher  
Agricultural Rural Residential

Requests Minor Subdivision of land Approval to create two (2) new vacant lots located at 9740 Lapp Road.

**DISCUSSION:**

Andrew Schaefer introduced the project at 9740 Lapp Road, located on the north side of Lapp Road, east of Goodrich Road. It is an existing 62.5-acre vacant parcel located in the Agricultural Rural Residential zone.

The applicant is requesting a Minor Subdivision of land to create two (2) new building lots (lots 1 & 2). Lot 3 is a pre-existing lot of record, and the applicant is proposing to extend the depth to match the newly proposed lots.

The Planning Board has authority to act on this request, after an action through the State Environmental Quality Review Act.

Rob Pidanick from Nussbaumer and Clark was present to represent the applicant. Mr. Pidanick explained that the original request was for a 3-lot subdivision, then found out that one already exists. They plan to extend the length of one lot, while creating two additional lots for a total of three. Each lot will be approximately an acre and a half in size, which brings the total to four and a half acres.

Mr. Johnson asked in reference to the Part 1 Short Environmental Assessment Form, a question asked whether public transportation services will be available at the proposed location, and the applicant responded yes. Mr. Johnson asked if this was true.

Mr. Pidanick responded that it was a response marked in error.

Mr. Johnson asked about the cars that are parked adjacent to Lot 1, and the nature of the business being conducted. Mr. Pidanick responded that he knows the applicant operates a business but is not sure of the details of that business. Mr. Pidanick stated that he will check with the applicant and contact the Planning and Zoning Office to notify them.

Chairman Sackett voiced his concern regarding Mr. Pidanick not being aware of what type of business the applicant conducts on the property. Chairman Sackett noted that while it doesn't influence the decision of the subdivision, it does influence what type of business is being conducted, and whether or not it is an allowable use in that zone.

Chairman Sackett advised Mr. Pidanick that his client, the applicant, contacts the Planning and Zoning Office to discuss the type of business being conducted on the lot.

Mr. Todaro noted that the lots are heavily treed, and asked for confirmation that there will not be any clearing done on the lots unless legally allowed. Mr. Pidanick agreed.

Mr. Pidanick added that there are no sewers located on these parcels, therefore individual septic systems will be installed. Approval will be required from the Erie County Health Department. Mr. Pidanick added that there is public water available along Lapp Road.

Mr. Pidanick noted that they understand that the Town of Clarence Engineering Department has requested drainage piping and an easement to be installed on the rear of the property, which the applicant has agreed to.

Mr. Pidanick stated that there is 57 ½ acres of property that remain, that the applicant has no immediate plans to do any development on that property. There is 218 ft. of frontage remaining for access to the property in the future.

In regards to Public Participation, no one spoke.

### **ACTION:**

Motion by Patrick Johnson, seconded by Richard Bigler that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Gallagher Minor Subdivision at 9740 Lapp Road. This Unlisted Action involves a lot split to create two (2) additional lots in the Agricultural Rural Residential zone. After thorough review of the submitted plans and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

### **MOTION CARRIED**

Motion by Patrick Johnson, seconded by Richard Bigler to **approve the Gallagher Minor Subdivision** at 9740 Lapp Road as per the submitted sketch plan by Nussbaumer & Clarke dated July 26<sup>th</sup>, 2019, with the following conditions:

1. Review and approval by the Erie County Department of Public Works for any future access to Lapp Road.
2. Review and approval by the Erie County Health Department for any future on-site sanitary facilities for the newly created lots.
3. Review and approval by the Town Building and Engineering Departments for any future residential construction on the newly created lots.
4. Creation of a 30' wide public drainage easement offset from the western property line as shown in the memo from the Engineering Department, dated June 22, 2022. Said easement shall 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. Applicant shall provide a "Stamped Filed" copy to the Town Attorney's office after recording.
5. Should any additional drainage easements be required by the Town to address on-site drainage issues on the property, appropriate easements shall be submitted by the applicant and approved by the Town Engineering, Highway and Legal Departments, if required. Applicant shall file same in the Erie County Clerk's office and provide a "Stamped Filed" copy to the Town Attorney's office after recording.
6. Subject to any Open Space and Recreation Fees as required by code.

7. No clear cutting of vegetation on new lots.

**ON THE QUESTION:**

Mr. Todaro asked if the 30 ft. easement should be shown on the diagram or future diagrams that need to be submitted.

Mr. Pidanick responded that when they receive the memo from the Engineering Department, they will look in to that and include it on any future maps that are filed.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

**MOTION CARRIED**

**Item 2**

Epic Motor Cars, LLC.  
Commercial

Requests Recommendation to the Town Board of a Temporary Conditional Permit for an automotive sales operation at 9825-9829 Main Street.

**DISCUSSION:**

Andrew Schaefer introduced this project, located at 9825 & 9829 Main Street. These properties are located on the South side of Main Street, east of Gunnville Road. They are existing Commercial properties, containing existing buildings, and associated parking.

The applicant is requesting a recommendation to the Town Board of a Temporary Conditional Permit for an automotive sales operation. The sales operation is proposed to occur within the existing building, containing approximately 4,000 sq. ft. Sales will be by appointment only, and the vehicles will be licensed, registered, and contain dealer plates. At the time of Town Board referral, the applicant had proposed all vehicles to be displayed indoors only. Since referral, the applicant has requested outside display of vehicles for sale, which is subject to Town Board review.

The Planning Board is a recommending body for this proposal.

Louis Visone of Epic Motor Cars, LLC was present to further explain his request.

Mr. Todaro recognized that there are multiple businesses located on this property, and asked Mr. Visone to point out where the proposed new business would be operating in the building, as shown on the diagram. Mr. Visone identified a location towards the back of the building, on the west side.

Mr. Todaro confirmed with Mr. Visone that based on the recommendation that came from the Town Board, that he understands the Planning Board is only reviewing the request for auto sales and vehicle displays within the building, none outside. Mr. Visone would be required to return to the Town Board in order to include outdoor car displays and vehicle sales. Mr. Visone agreed.

Mr. Todaro asked if any type of signage or advertising for this operation are planned on the premises. Mr. Visone responded that there is an existing sign with the businesses on site, with no plans to add an additional sign.

Mr. Todaro confirmed with Mr. Visone that the potential business would operate by appointment only. Mr. Visone agreed, stating that no walk-ins will be permitted, and only those with appointments will be seen.

Mr. Todaro asked what the average number of cars will be on site. Mr. Visone responded that the space fits up to four cars. The spots would cycle through as cars sell.

Upon Mr. Todaro's request, Mr. Visone explained that the facility had not been repaved since it was built. To clean up the property, he has had the facility repaved, and new lines have been placed as well.

Mr. Todaro asked where Mr. Visone's employees park. Mr. Visone responded that while some park in the front, most of them utilize the parking lot located on the side of the building, which is paved.

Mr. Todaro asked whether any materials or parts will be stored outside of the structure, or are there any plans to do so. Mr. Visone responded no.

Chairman Sackett asked for clarification regarding the monument sign located on the front of the property, asking if Mr. Visone plans to do a face-change to add the name of this proposed business. Mr. Visone responded that the necessary signage is already there, and additional signage is not necessary or planned.

In regards to Public Participation, no one spoke.

Mrs. Salvati asked if the trailers located on the property will be removed. Mr. Visone responded that they will be removed within the week, according to plans. All of the other equipment has already been removed, or will be removed shortly.

Mr. Todaro asked if there is any type of proposal to shield any of the equipment or dumpster currently on site. Mr. Visone responded nothing has been put in to writing at this time.

#### **ACTION:**

Motion by Gregory Todaro, seconded by Wendy Salvati to **recommend issuance of a Temporary Conditional Permit to the Town Board** for automotive sales by Epic Motor Cars, LLC., located at 9829 Main Street per the submitted plan stamped received in the Planning Office on March 21, 2022, subject to the following conditions:

1. Initial permit shall be for a term no greater than one year.
2. No outside display of vehicles for sale.
3. No outside storage of unlicensed vehicles.
4. No outside storage of vehicle parts, tools, debris, tires or other automotive related items.
5. Landscape Committee approval of a final landscape plan, to be submitted by the applicant, prior to Town Board Public Hearing. Landscape Plan to include, but not limited to, screening of outside construction yard area from Main Street and adjoining parcels.

6. Applicant shall install landscaping and screening features per the approved Landscape Plan within the first year of permit issuance, and prior to consideration of permit renewal.
7. Any future proposed site or building modifications subject to Town review.
8. Building, site, landscaping, and screening shall be maintained, in perpetuity, and any deficiencies shall be repaired or replaced.
9. Paved areas to be striped and maintained in perpetuity. No parking of vehicles outside the designated paved parking areas.
10. Applicant shall remove trailer boxes and construction dumpster on the west property line within the first year of permit issuance, and prior to consideration of permit renewal.
11. All existing conditions of the Special Exception Use Permit previously issued by the Town Board for an automotive repair facility on-site to remain active and in full force.

**ON THE QUESTION:**

Mr. Visone heard and understood the conditions. He questioned the landscape plan, and who sits on the Landscape Committee. Mr. Bigler explained the Committee and the process to him.

Mr. Visone agreed to the conditions as stated.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

**MOTION CARRIED**

**Item 3**

West Herr Automotive Group  
Commercial

Requests Concept Plan Approval for a proposed automotive storage lot expansion to the rear of the property at 8129 Main Street, with access to Auto Place.

**DISCUSSION:**

Andrew Schaefer introduced this project, at 8129 Main Street, located on the south side of Main, west side of Auto Place.

The applicant is requesting Concept Plan Approval for an automotive storage gravel lot expansion to the rear of the property, with access to Auto Place. The existing storage lot is proposed to primarily expand to the west on property recently acquired from the Transitown Plaza, with minor additions to the north.

The Planning Board has authority to act on this request, after an action through the State Environmental Quality Review Act.

Due to the transfer of land from Transitown to West Herr, a condition was imposed by the Town that requires landscaping improvements to Transitown Plaza to recoup lost greenspace as a result of this proposal. The applicant has submitted landscape plans for review.

Andy Gow from Nussbaumer and Clarke as well as Jim Mulka, Facilities Director with West Herr Automotive Group were both present to further explain this request and answer any questions.

Mr. Gow reviewed the project, noting that the 500 yd. addition is surrounded by commercial development. They acquired 1.5 acres from Transitown Plaza, and are leaving some of the property greenspace.

As stated in their application paperwork, they are proposing to add interior greenspace as well. Mr. Gow noted areas on the plans that are bio-detention areas, and are landscaped. Mr. Gow explained that these sites on Auto Place don't have natural drainage, so they put in an injection well where all of the drainage from the site runs in to the bio-detention areas. Ultimately it will all drain in to the ground from that well.

The plans have been enhanced since the last time, with a photometric plan added and some engineering details, which have been submitted to the Engineering Department for review.

Mr. Lahti asked Mr. Gow if the berm located on the property will be maintained or removed. Mr. Gow responded that the berm on the south side will remain, and the berm on the west side will be leveled, because they will be crossing over that piece in order to develop on the other side of it.

Mr. Lahti asked if there will be anything between the proposed parking lot and Transitown Plaza, either a fence or trees. Mr. Gow responded that there are trees that will remain along the back area of the parking lot, and also some grass. Otherwise, they have no plans to erect a fence.

Mr. Lahti noted that the landscape plan will need to be reviewed by the Landscape Committee. Mr. Gow stated that they have submitted the landscape plan, and have also met with the Landscape Committee to preliminarily review the plan. They have taken the input that they received from the Landscape Committee and applied it to their updated landscape plan, which they have submitted.

Mr. Lahti stated that the Engineering Department will need to approve the drainage plan before Development Approval.

Mr. Lahti asked if parking lot striping will be possible with the millings. Mr. Gow responded yes; Mr. Mulka also confirmed it.

Regarding the lighting plan, which will be further reviewed during the development stage, Mr. Lahti asked what time the lights will be on and will any of it be turned off after business hours.

Mr. Gow explained that the security lighting will be similar to the lot next to this location.

Mr. Lahti referred to the landscaping on the Transitown plaza, a condition would be placed stating that prior to using this proposed area, the landscaping would all be complete.

Further discussion ensued regarding the timeline and space in question on the condition.

Mr. Lahti asked how many mature trees would be removed along the west side of the property. Mr. Gow responded that they have not done a tree inventory of every tree on the site, but he believes there are a number of Cottonwood Trees, and shrubs. Mr. Lahti responded that he was on the site, and there



are a number of mature trees on the site. He does not see a way around removing those the way that the plan exists.

Mr. Lahti stated that any trees that don't need to be removed or disturbed, they would encourage Mr. Gow that they remain.

Chairman Sackett reiterated that any mature trees stay on the site if they do not need to be removed, and will be indicated as such on the landscape plan. Mr. Gow agreed, and stated that they have no intention of removing anything outside of the footprint.

Chairman Sackett added that as discussed in the work session, there will be a condition imposed stating that there is to be no use of the new lot until the Transitown landscaping is installed. The landscaping needs to be complete in order to replace the greenspace which they are removing. Chairman Sackett asked if that would be an agreeable condition.

Discussion continued regarding the use of the existing storage lot versus the newly proposed storage lot.

After much discussion, it was understood that the condition refers to the section of land that was purchased from Transitown Plaza. The land that has been purchased from Transitown Plaza cannot be used for vehicle storage until the approved landscaping for Transitown Plaza is installed.

Mr. Mulka stated that if the condition can be limited to the land purchased from Transitown, he would be in agreement of that.

Discussion continued regarding the landscaping and when it will begin once approved.

In regards to Public Participation, no one spoke.

Mrs. Salvati asked to clarify that the vegetation at the southwest corner of the proposed lot will remain intact. Mr. Gow confirmed that everything outside of the footprint of the lot itself will remain intact, adding that the old pump station that is on the property will be removed as well as any vegetation that comes out with it. Mr. Gow added that the area will be seeded and left to grow naturally.

Mr. Geasling asked if the new spaces planned for the east and west sides of the proposed lot are double stacked, or if they are intended for larger vehicles. Mr. Gow responded that they are double-stacked for cars.

Mrs. Salvati questioned the inset photo on the plan, and asked for clarification. Mr. Gow responded that area is to the north. They have purchased two separate parcels from Transitown, one is a 30 ft. strip north of the detention pond.

#### **ACTION:**

Motion by Jason Lahti, seconded by Gregory Todaro that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed West Herr automotive storage lot at 8129 Main Street. This Unlisted Action involves the expansion of an automotive parking lot in the Commercial zone. After thorough

review of the submitted concept plan and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Motion by Jason Lahti, seconded by Gregory Todaro to **approve the Concept Plan** for West Herr Automotive Group at 8129 Main Street per the submitted drawing set by Nussbaumer & Clarke dated June 3<sup>rd</sup>, 2022, with the following conditions:

1. Subject to Development Plan approval by the Clarence Planning Board prior to any permits being issued by the Town Engineer.
2. Subject to Town Building and Engineering Department approval prior to any permits obtained for the construction on the property.
3. Landscape Committee approval of a final landscape plan prior to Development Plan approval. In addition, a maintenance plan shall be submitted to ensure landscaping remains in perpetuity, and is replaced in the event of death or disease to plantings.
4. Landscape Committee approval of a final landscape plan prior to Development Plan approval associated with Transitown Plaza at 4301 Transit Road for the transfer of required greenspace as a result of this project. Installation of such landscaping shall be completed prior to use of newly constructed automotive storage lot.
5. Review of a lighting plan prior to Development Plan approval. All site lighting shall be dark sky compliant and shielded to prevent spillage onto adjoining properties.
6. Lot to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas.
7. The thickness of any millings shall be approved by the Town Engineering Department.
8. No automotive sales, advertisement or display of vehicles for sale. Lot to be used for vehicle inventory storage only.
9. Subject to any Open Space fees as required by code.

**ON THE QUESTION:**

The applicant heard, understands, and agrees to the motion and conditions.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Meeting **adjourned** at 7:50 p.m. with a motion by Wendy Salvati.

MOTION CARRIED

Amy Major  
Senior Clerk Typist