

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday August 21, 2019

**Work Session 6:00 pm**

Status of TEQR Coordinated Reviews  
Review of Agenda Items  
Miscellaneous

**Agenda Items 7:00 pm**

Approval of Minutes

**Item 1**

Paul Bliss/Deerview Estates  
Residential Single Family

Requests an Action under the State Environmental Quality Review Act and Concept Plan Approval for a proposed Open Space Design Subdivision located on the east side of Goodrich Road, north of Keller Road.

**Item 2**

Dave Lewis  
Commercial

Requests Preliminary Concept Review of a proposed Mixed Use Project 8980 Main Street.

**Item 3**

Bristol Village  
Planned Unit Residential Development

Requests Amended Concept Plan and Development Plan Approval for proposed additions to the existing Memory Care and Assisted Living Facilities located at 8455 Clarence Center Road.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Councilman Chris Greene led the pledge to the flag.

Chairman Sackett noted that in the absence of Planning Board member Jeffrey Buckley, alternate Planning Board member Ari Goldberg will participate in all discussions and vote on all agenda items.

Planning Board Members present:

Chairman Robert Sackett  
Timothy Pazda  
Ari Goldberg

Vice-Chair Richard Bigler  
Gregory Todaro

2<sup>nd</sup> Vice-Chair Wendy Salvati  
Jason Geasling

Planning Board Members absent: Jeffrey Buckley

Town Officials Present:

Director of Community Development James Callahan  
 Assistant Director of Community Development Jonathan Bleuer  
 Councilman Chris Greene  
 Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

|                |                    |                        |
|----------------|--------------------|------------------------|
| Marlene Rogers | John & Carol Glor  | Ron Talboys            |
| Bill Rogers    | Sean Hahn          | Cheryl & Charles Nagel |
| Jason Bufford  | Jean & Gary Baumen | Jon Wright             |

Motion by Gregory Todaro, seconded by Richard Bigler, to **approve** the minutes of the meeting held on July 17, 2019, as written.

|                |         |                |     |                |     |
|----------------|---------|----------------|-----|----------------|-----|
| Ari Goldberg   | Abstain | Jason Geasling | Aye | Gregory Todaro | Aye |
| Timothy Pazda  | Aye     | Wendy Salvati  | Aye | Richard Bigler | Aye |
| Robert Sackett | Aye     |                |     |                |     |

**MOTION CARRIED.**

Chairman Sackett 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.

**Item 1**

Paul Bliss/Deerview Estates  
 Residential Single Family

Requests an Action under the State Environmental Quality Review Act and Concept Plan Approval for a proposed Open Space Design Subdivision located on the east side of Goodrich Road, north of Keller Road.

**DISCUSSION:**

Mr. Callahan provided the background on the project noting that it is located on the north side of Keller Road, east of Goodrich Road and west of Deerview Court. The proposed subdivision was initially introduced to the Planning Board in November 2018 and sent out for coordinated review among interested involved agencies. Comments on potential environmental impacts have been received along with public concerns. The subdivision identifies 28 lots on 18 acres.

Sean Hopkins, of the Law Firm of Hopkins, Sorgi and Romanowski, is present on behalf of the applicant, Paul Bliss. Jason Bufford, of Greenman Pedersen Inc, is present as well. Mr. Hopkins said they are asking for a Negative Declaration pursuant to SEQRA, Concept Plan approval for the currently proposed 28-lot Open Space Design Subdivision and a recommendation to the Town Board on the use of the Town’s Open Space standards. This is the first step in the approval process and if

approved the applicant understands that they will have to come back in the future with fully engineered plans for Development Plan Approval. They have had three (3) informational meetings for the neighboring property owners in which drainage was among the concerns. The applicant must comply with the technical drainage standards of the DEC and the Town of Clarence including the need to retain a 100-year storm event. There will be another informational meeting held for the neighboring property owners. Some of the homeowners along Keller Road have repeatedly indicated that they currently have drainage problems. The applicant will be putting a drainage ditch in that open space between the proposed roadway connection at Deerview and the rear of the neighboring lots. Depending on the grading the applicant will see if they can relieve some of the existing drainage issues. Mr. Hopkins said they have been informed that some of the trees in the Open Space area are diseased or dead and need to be removed, he will work on those standards as well.

Mr. Hopkins goes on to explain that when they submitted the application on September 5, 2018 a Part I of a Full Environmental Assessment form was included. At that point the proposal was for 31 Open Space Design lots as well as two (2) frontage lots on Goodrich and one on Deerview. The current plan is for 28 lots. They will only impact about a quarter of an acre of the wetlands on the site, the remaining 1.94 acres will remain undisturbed.

Chairman Sackett noted that among the steps the applicant needs to take the Landscape Committee's review and approval is required. They will also have to come back before the Planning Board. Chairman Sackett asked for confirmation that the actual location of the detention pond is yet to be determined. Mr. Hopkins said yes the pond will be located in that general vicinity, the precise shape and depth of it will be determined during the engineering stage. Chairman Sackett asked if there is any further information that the applicant can't share about the pond. Mr. Bufford said he feels it is necessary to wait for the review before discussing it further. Chairman Sackett asked why there are lots going into the detention pond. Mr. Hopkins said the goal would be to avoid that and have the pond more westerly.

Mr. Todaro asked how the wetlands will be monumented. Mr. Hopkins said one of the draft conditions of the Planning Department is that the permanent open space itself be monumented so it will be monumented within the permanent open space. It will also be subject to a deed restriction to be recorded with the Erie County Clerk's Office. Chairman Sackett asked if the applicant would be opposed to monumenting each residential lot adjacent to the Open Space. Mr. Hopkins said he would not be opposed to that.

Mrs. Salvati asked if it is the intention of the applicant that the entry area remain in its natural condition. Mr. Hopkins said they will work out the details as they go forward, there are some dead trees and the plan is to supplement the existing trees. Pursuant to the Town's Open Space Design standards the requirement is 200' of permanent Open Space on Goodrich Road and 200' permanent Open Space on Deerview, the applicant exceeds this. There is 440' on Deerview and 241' on Goodrich Rd. There are no longer any homes that will back up to the rear or side lots of homes on Keller, Deerview or Goodrich. Mr. Hopkins said he had discussions with Mr. Lafalce and they have worked out a landscaping plan with him, this plan is subject to review and approval of the Landscape Committee.

Mr. Hopkins referenced traffic impacts and said a traffic study was done in December of 2018 and was provided to the involved and interested agencies. In February 2019 a letter was received from Gina Wilkolaski, the Traffic Engineer for Erie County Department of Public Works, saying they agree with the traffic analysis and its conclusion.

Mrs. Salvati noted that there is a letter on file received August 21, 2019 from Judith Torrontor noting her concerns with respect to the rate of speed vehicles are traveling in the area.

Ron Talboys, 9511 Keller Road, said the proposed development is not consistent with the Clarence Center Heritage of being rural. The proposal is tough getting behind Goodrich Road, Keller Road and Deerview Lane. They would be shoe-horning in 28 houses on postage stamp lots. The property around the proposed development on Deerview, Keller and Goodrich are on at least half acre lots, several are on even larger lots. He went on to say that 18.2 acres of land currently serves as a retention area for the water coming off the 100 acres of land that is south of Keller Road. There is a field in the area and a greater percentage of the water from the field finds its way down Mayfield through Deerview and is piped on to that 18 acres. The piping goes in 30' and the water is free to run across. 18 acres provides a lot of opportunity for absorption. If a pipe is run under the 18 acres to carry the water, that eliminates any absorption. All the water would go to Swallow Creek and would flood those properties. This is a major concern and he speaks against this proposal.

Jon Wright, of 6466 Deerview Court, asked if there is a plan for the current detention pond. Chairman Sackett explained that the drawing is a pre-engineered drawing and the details are yet to be discussed. It is clarified that there is an existing detention pond in the Deerview Subdivision, water is piped in from Deerview Court into the detention pond and then there is a ditch that goes out to Goodrich Road. Mr. Wright wonders what will become of this detention pond.

Bill Rogers, of 9266 Keller Road, said there is a grass area that runs off Keller Road. When they built Deerview Court whoever designed where the water goes did a very poor job. The water comes down to the south side of Keller, makes a turn, comes down two lots, makes a right hand turn under Keller, makes a left hand turn under Deerview and then goes out. Erie County replaced all the piping this fall and insisted on putting in all 18" piping instead of 2'. He is concerned because when there is a heavy snow melt or a heavy rain Keller Road floods. He has expressed this concern before. Whatever they do to replace that drainage creek it has to be able to carry the water out of there.

Mr. Hopkins noted that the site is zoned Residential Single Family and that has been designated as appropriate for a residential development. While the lots are smaller, the trade-off is the benefit of the permanent Open Space, which wouldn't exist if they followed the residential development pattern on the nearby streets. The density remains low, 50% of the site will be set aside and permanently preserved. He referenced the existing ditch and said the goal is to relocate the ditch. The existing ditch is federal waters under USA jurisdiction and has not been well maintained, the applicant will be putting in a new ditch, which will not be a Federal Wetland, that will be cleaned and maintained on a regular basis. He referenced the comment that came up from Deerview about standing water and said that is probably why there are Federal Wetlands there. The Federal Wetlands in the corner will not be impacted. They will be taking some water and redirecting it over to their storm water management area, this will need to be an underground ditch. There has been some work done in terms of grading and drainage, Ken Zollitsch has submitted preliminary grading and drainage plans to Tim Lavocat, on July 31 Mr. Lavocat issued a memo stating, in terms of Concept Review, that those plans were sufficient. Mr. Hopkins said the detention pond will be located in the area indicated, it's just that the details are not available yet. He went on to explain that per the DEC and Town requirements they need to hold a 100 year storm event. Chairman Sackett asked if the applicant would anticipate the water that crosses Keller would be affected in any way, Mr. Hopkins said no. He went on to say that the drainage from Keller cannot be made worse, Mr. Pazda asked if it can be made better. Mr. Hopkins said they know they can improve the ditch.

Mr. Geasling asked the size of the existing ditch. Mr. Hopkins said it is a fairly well designed ditch but there is just a lot of vegetation in it that needs to be maintained.

**ACTION:**

Motion by Wendy Salvati, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **approve** the Part 2 and Part 3 Full Environmental Assessment Form (EAF) as prepared and to issue a Negative Declaration on the proposed Deerview Estates Open Space Design Subdivision. This Type I Action involves the construction of a 28 +/- lot Single Family Home Subdivision in the Residential Single Family Zone and within Clarence Sewer District #2. After thorough review of the amended site plan the completed EAF and numerous supporting reports and studies addressing identified potential environmental impacts, including a coordinated environmental review among involved and interested agencies, it is determined that the proposed development will not result in any potentially significant adverse environmental impacts.

**ON THE QUESTION:**

Mrs. Salvati said they have taken the time to thoroughly review the EAF Part 1 and 2 and they have done a Part 3 analysis to thoroughly assess the potential for traffic impacts to archeological resources, impacts to wetlands and other items that were shown to potentially have a larger impact. A thorough review has been done and the Negative Declaration is justified.

|                |         |                |     |                |     |
|----------------|---------|----------------|-----|----------------|-----|
| Ari Goldberg   | Abstain | Jason Geasling | Aye | Gregory Todaro | Aye |
| Timothy Pazda  | Aye     | Wendy Salvati  | Aye | Richard Bigler | Aye |
| Robert Sackett | Aye     |                |     |                |     |

**MOTION CARRIED.**

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the Concept Plan for the proposed 28 Lot Deerview Estates Open Space Design Subdivision as per the submitted final amended site plan from GPI, received in the Planning Office on August 8, 2019 with the following conditions:

1. Installation of a sidewalk along the east side of Goodrich Road from the entrance to the development south to Countryside Drive, in lieu of recreation fees.
2. Landscape Committee approval of a final landscape plan, to include 2 street trees per lot, prior to Development Plan approval.
3. A Homeowners Association must be created and approved by the Town Attorney's Office prior to any home occupancy.
4. Submittal of a Conservation Easement to permanently protect all identified open space must be prepared and submitted for review and approval by the Town Attorney's Office.
5. All open space to be permanently monumented via a marker adjoining all adjoining lots.
6. Subject to the Applicant providing the Planning Department with a copy a wetland permit issued by the United States Army Corps of Engineers prior to the disturbance of any jurisdictional wetlands and/or ditches on the project site.
7. The applicant agrees to grant any easements determined to be necessary by the Town of Clarence Engineering Department based on its technical review of the fully engineered plans.

**ON THE QUESTION:**

The applicant understands and agrees with the conditions.

|                |         |                |     |                |     |
|----------------|---------|----------------|-----|----------------|-----|
| Ari Goldberg   | Abstain | Jason Geasling | Aye | Gregory Todaro | Aye |
| Timothy Pazda  | Aye     | Wendy Salvati  | Aye | Richard Bigler | Aye |
| Robert Sackett | Aye     |                |     |                |     |

**MOTION CARRIED.**

Motion by Wendy Salvati, seconded by Gregory Todaro, to **recommend** approval of an Open Space Design Development for the Bliss Deerview Estates Subdivision to the Town Board as per the approved Concept Plan.

|                |         |                |     |                |     |
|----------------|---------|----------------|-----|----------------|-----|
| Ari Goldberg   | Abstain | Jason Geasling | Aye | Gregory Todaro | Aye |
| Timothy Pazda  | Aye     | Wendy Salvati  | Aye | Richard Bigler | Aye |
| Robert Sackett | Aye     |                |     |                |     |

**MOTION CARRIED.****Item 2**

Dave Lewis  
Commercial

Requests Preliminary Concept Review of a  
proposed Mixed Use Project 8980 Main Street.

**DISCUSSION:**

Jim Callahan provided the background on the project noting that it is located on the north side of Main Street, east of Shimerville Road. It is a proposed new Mixed-Use project.

David Lewis, Anna, and Michael Metzger are present. Mr. Metzger explained that his clients own both the properties depicted on the display. The Montessori School has been operating out of the property for many years. Dr. Lewis' practice is in the other building and he needs more space. The applicants decided on a mixed-use project and want to live in one of the units once constructed. If things go well they will build a similar building to the east. The building towards the back is for storage purposes of the applicants own materials, this building is not a commercial venture. Mr. Metzger said they are asking for the Environmental process to begin tonight.

Chairman Sackett said the Environmental Review would last at least 30 days and will be an opportunity for involved and interested parties to comment.

Mrs. Salvati referenced question #9 of the Part I EAF: does the proposed action meet or exceed the state energy code requirements? The applicant answered yes on the form. Mrs. Salvati asked for an explanation. Mr. Metzger said it is difficult to explain what they are right now because they are in such an early stage of the design. They will definitely meet the energy code, but he does not know that they would exceed them so there is no need to discuss this further. Mrs. Salvati went on to talk about taking the parking closest to Main Street and lining it up with the other parking that the applicant has which is perpendicular to Main Street. She thinks ultimately the Town's vision is to have buildings go closer to the road, in this case if the buildings are going to be located where they are there should not be so much parking out front. She wants to make sure the applicant will address dumpsters and where the

solid waste will go, where the lighting will be ensuring that it is dark sky lighting. She asked why the septic is being located so far back in the storage building. Mr. Metzger said it is located that far back just to keep options open for the future although his clients have no intent of doing anything further. He went on to say it is Main Street and the property is zoned Commercial and there may be opportunities in the future to do something there and it makes more sense to not have the septic system in the middle of the yard. Mr. Todaro asked if the septic would be built for the expansion. Mr. Metzger said no it will be built for the buildings that are shown on the plan. In terms of phasing, the two buildings that would be built first are the one furthest to the west and the storage building in the back.

Chairman Sackett agrees with Mrs. Salvati's comment and would like the applicant to consider having a single row of parking in front of the building to the west, this can be addressed at the Concept Plan stage. The applicant should also consider a stone wall in front, which is per code. The length of the stone wall would be linked with the phasing of the project.

Chris Reinhart, of 4455 Shimerville Road, voiced her concern about drainage, the septic lines, the septic tank, etc. There is poor drainage on the road now and the road floods.

Chuck Nagel, of 4375 Shimerville Road, asked for a clearer definition of a Mixed-Use project. Chairman Sackett said it is a combination of retail and housing, traditionally the retail goes on the bottom and the housing goes on top, but could vary somewhat. Mr. Nagel said he thought he heard 5 apartments, if there are 2-3 vehicles per unit plus residential and stores with the traffic in and out. He does not see adequate parking. Parking on Main Street would be a hazard because across the street is Hayes fish store and it's hard to find a parking spot on Friday night.

Mr. Metzger said the site drains from front (south) to back (north). The storm water management system that will be employed here will incorporate storm water injection wells such that there would not be a surface discharge from the storm water pond. Right now the site drains off by the surface. They would collect water from the improved portions of the site and direct them to the storm water management pond where the water after being detained and cleansed would be discharged to the wells, so it will actually decrease the amount of discharge from the site. The developed site will ultimately discharge less. The parking plan is slightly over-parked based on the code, the code requires 29 and the plan shows 34. The first and second building will have 5 apartments in each, the first floor of Building A, on the west, is 5800 square feet. The first floor of Building B, on the east side, is 4800 square feet.

Mr. Todaro asked what happens to the output of the septic, Mr. Metzger said it will be discharged in to the bedrock, they will use an open bottom sand filter.

Mrs. Salvati suggested the applicant add a table to the plan when they come back for Concept Plan approval. The table should show the site calculations, the parking calculations, the zoning setbacks, etc. She will also want to see additional elevations. Mr. Metzger said they are currently working on elevations for four sides of the buildings.

#### **ACTION:**

Motion by Gregory Todaro, seconded by Richard Bigler, pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as prepared and to seek Lead Agency status and commence a coordinated review among interested and involved agencies on the

proposed Lewis Mixed-Use Development located at 8980 Main Street in the Town of Clarence, NY. This Unlisted Action involves the development of a Mixed-Use project consisting of residential and commercial components in the Commercial Zone.

|                |     |                |     |                |     |
|----------------|-----|----------------|-----|----------------|-----|
| Ari Goldberg   | Aye | Jason Geasling | Aye | Gregory Todaro | Aye |
| Timothy Pazda  | Aye | Wendy Salvati  | Aye | Richard Bigler | Aye |
| Robert Sackett | Aye |                |     |                |     |

MOTION CARRIED.

### **Item 3**

Bristol Village  
Planned Unit Residential Development

Requests Amended Concept Plan and Development Plan Approval for proposed additions to the existing Memory Care and Assisted Living Facilities located at 8455 Clarence Center Road.

### **DISCUSSION:**

Jim Callahan provided the background on the project noting that it is an existing assisted living and memory care facility located in a Planned Unit Residential Development. The applicant is proposing an expansion to the existing facility which received Concept Approval in April 2016. The applicant is now requesting Development Plan Approval on the project which is reduced in scope from the original concept.

Mike Hellbringer, president of Bristol Village, is present along with Patricia Bittar, civil engineer, with William Schutt and Associates. Mr. Hellbringer said they are extending the existing building by adding a total of 32 resident rows, 13 on each of two assisted living wings, toward the back of the property they are adding 6 units to the memory care wing, internally will be some renovation to an existing activity room.

Chairman Sackett asked for details on the buffering for the neighbors to the west. Mr. Hellbringer explained that as required by the Town the road will be extended around the property and connecting to the front parking lot. Ms. Bittar said the vegetation on the west will be preserved, there will be minimal impact on vegetation in that area, the existing trees along the property line are not being touched.

Mrs. Salvati said her understanding is that the septic is for the new addition until capacity is available through the sanitary sewer system, then the septic would be abandoned. Ms. Bittar said those were the conditions that were discussed, they would rather not have to deal with the maintenance of an on-site septic system if they don't have to. The applicant had to ensure the fact that the elevations at the septic system can still maintain a gravity flow to Clarence Center.

Michelle Paul, of Newhouse Road, asked for clarification on the location of the proposed road. Mrs. Salvati said the road will be on Bristol Village's property, not Vincroft's property. They will have to go through the trees on the property to build the road.

It is clarified that the plan indeed shows the limits of disturbance.

**ACTION:**

Motion by Timothy Pazda, seconded by Wendy Salvati, to **approve** the amended Concept Plan and Development Plans for Bristol Village as per the submitted plans from William Schutt & Associates with a revision date of August 8, 2019, with the following conditions:

1. Applicant to obtain PIP Permits as issued by the Town Engineer.
2. All approved and installed landscaping to be maintained in perpetuity.
3. A recreational trail easement, as identified on the approved site plan, is to be reviewed and approved by the Town Attorney’s Office. The approved easement is to be filed with the Erie County Clerk’s Office with a filed copy returned to the Town Attorney’s Office prior to obtaining Certificate of Occupancy.
4. Dark sky compliant lighting on all exterior lighting fixtures.
5. Open Space and Recreation Fees on future building permits.

**ON THE QUESTION:**

The applicant understands and agrees with the conditions.

|                |         |                |     |                |     |
|----------------|---------|----------------|-----|----------------|-----|
| Ari Goldberg   | Abstain | Jason Geasling | Aye | Gregory Todaro | Aye |
| Timothy Pazda  | Aye     | Wendy Salvati  | Aye | Richard Bigler | Aye |
| Robert Sackett | Aye     |                |     |                |     |

MOTION CARRIED.

Meeting adjourned at 8:06 p.m.

Carolyn Delgato  
Senior Clerk Typist