

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday September 15, 2021

**Work Session 6:00 pm**

Status of SEQR Coordinated Reviews  
Review of Agenda Items  
Miscellaneous

**Agenda Items 7:00 pm**

Approval of Minutes

**Item 1**

Bevilacqua Development  
Commercial &  
Residential Single Family

Requests conceptual review of a proposed mixed use project, containing commercial space, multiple-family housing and single family residential lots at 6625 Transit Road, SBL 43.05-2-1.1

**Item 2**

Stephen Development - North  
Commercial

Requests Concept Plan approval of a proposed mixed use project at 9740 Main Street, SBL 71.11-2-4.

**Item 3**

Stephen Development - South  
Commercial

Requests Concept Plan approval of a proposed mixed use project at 9745 Main Street.

**Item 4**

Phoenix Physical Therapy  
Restricted Business

Requests Site Plan approval for a proposed rear yard parking lot with access to Shimerville Road at 8865 Sheridan Drive.

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

Councilman Paul Shear led the pledge to the flag.

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

Planning Board Members absent: Jeffrey Buckley

Town Officials Present:

Director of Community Development Jonathan Bleuer  
 Junior Planner Andrew Schaefer  
 Councilman Paul Shear

Other Interested Parties Present:

Sue Freeman-Russo	John Russo	Pat Sheedy	Mary Tamrowski
Sandy & John Gaulocher	Steve Favale	Nicole Swiatek	Scott Snyder
Peter Sorgi	Andrew Romanowski	Carla Kosmerl	Robert Callan
Anne & Bob Koerner	Dan & Kelly Braunschidle		

Motion by Wendy Salvati, seconded by Richard Bigler, to **approve** the minutes of the meeting held on August 4, 2021, as written.

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

MOTION CARRIED

**Item 1**

Bevilacqua Development  
 Commercial &  
 Residential Single Family

Requests conceptual review of a proposed mixed use project, containing commercial space, multiple-family housing and single family residential lots at 6625 Transit Road, SBL 43.05-2-1.1

**DISCUSSION:**

Mr. Bleuer introduced the project, which is located east of Transit Road, north of Miles Road, an existing vacant 36-acre parcel located in the Commercial and Residential Single-Family Districts.

The applicant is requesting conceptual review of a mixed-use project featuring commercial space, multiple-family housing and residential single-family lots.

The layout of the proposal consists of:

- two 3-story mixed-use buildings (25,000 sq. ft. of 1st floor commercial space, 25 upper floor apartments and 6 upper floor townhomes per building),
- three 3-story townhome buildings (1st level garages and a total of 28 upper floor townhomes),
- proposed commercial building for a restaurant with drive-through facility,
- nine 2-story multi-family buildings consisting of 4 units each (36 total units), and

- Open Space Design Development subdivision consisting of 16 lots.
- 95 multifamily units, 16 residential lots, total 111

The initiation of a coordinated review under the State Environmental Quality Review Act will allow for involved agency and interested party comment.

The proposal will require a variance from the Zoning Board of Appeals for the 3rd floor of multiple-family housing buildings.

Representing the applicant is Peter Sorgi with the law firm Hopkins Sorgi McCarthy as well as Pat Sheedy, project engineer, Jonathan Bevilacqua, and Andrew Romanowski of Alliance Homes.

Mr. Sorgi reviewed the input that they have received from the Planning Board Executive Committee, which includes expanding their traffic impact study to consider the potential impact of a car wash that is being proposed, the addition of parking behind the three-story townhomes, which they have done, engineering work which is in process, and they were also asked to consider screening around lots five and six which they will work on with a Landscape Plan as well.

The entire project is consistent with the Town of Clarence Master Plan 2030.

Mrs. Salvati noted that several correspondences have been received from residents, with concerns primarily regarding traffic, development density, public safety and congestion.

Correspondence has been received from the following individuals:

1. Scott Snyder - 8100 Miles Road
2. Barb Arnold - Miles Road
3. Bill and Carol Conwall – Meadowbrook Road
4. Denise Gonzales – Miles Road
5. Richard & Mary Lou Brazell – 8085 Miles Road
6. Steve & Penny Favale – 8115 Miles Road
7. Lynn Winiarczyk – 8120 Miles Road

All comments that are received become part of the file, and are distributed to all Planning Board members prior to the meeting for their review.

After reviewing the Environmental Assessment Form, Mrs. Salvati suggested to Mr. Sorgei that the form needs to be reviewed in depth by the applicant to assure that all answers are correct and coincide with other responses with similar questions.

Further review and discussion of the Environmental Assessment Form continued.

Mr. Sorgi explained that the Environmental Assessment Form is an online fillable form that comes with certain fields automatically filled out, and no manipulating of those are fields are permitted by the Department of Environmental Conservation.

At the Planning Board Executive Committee on August 16, 2021 the Town Engineer requested that the applicant show on the site plan the 100 Year Flood Plan boundaries on both sides of Ransom Creek before it is sent out for State Environmental Quality Review. Mrs. Salvati also asked if possible, that it is also delineated by elevation uses.

Mr. Sorgi requested that the Planning Board approve to commence the State Environmental Quality Review subject to the adjustments made to the Environmental Assessment Form as stated.

Mrs. Salvati requested that somewhere on the Environmental Assessment Form, the applicant recognize that Ransom Creek is on the property.

Mrs. Salvati confirmed that the traffic study took in to consideration school buses, traffic during school time, and pre-Covid.

Mrs. Salvati requested that in addition to the intersections nearby, that they also add the intersections of Poplar Road and Miles Road, as well as the intersection of Stahley Road and Miles Road.

Mrs. Salvati asked where they plan to connect to the existing public sewer system. Mr. Sheedy responded that there will be two connections, one for the subdivision which will connect on Miles Road, and the Mixed-Use and Multi-Family will connect on Transit Road.

Mrs. Salvati asked the applicant if they know where the retention pond will be located, Mr. Sheedy responded that their current plan is to have it all located on the northeast section of the property, in the existing greenspace area and avoiding the area of wetlands.

Mrs. Salvati noted that their plan states that approximately 5 acres of forest area will remain after the proposed site has been developed. She would like to confirm that they keep as close to that number as possible, preserving as much forest area as they can.

Mr. Todaro stated that one of his concerns regarding the lots which border this proposed project, is encroachment continuing to go down towards the creek. It would need to be marked to clearly show where residents cannot proceed past, mainly with grass clippings, leaves, waste, etc.

Mr. Todaro commented that his other concern is regarding traffic, he understands that traffic studies have been done, this is a potentially large project that could be going in, which would have a significant impact on that portion of Transit Road. Aside from the intersections that were denoted, another area that he feels should be added when another study is conducted is the Transit / North French / County Roads area as well. He believes the project would have an impact on that area as well.

Mr. Lahti asked about the phasing of the project, specifically where it is listed as 60 multiple family projects and 16 single family units on the initial phase of the project. He then asks which way would access come from.

Mr. Romanowski with Alliance Homes noted that during construction of Phase One, they anticipate access will be from Transit Road towards the back of the project.

Construction vehicles will always be coming in and out from Transit Road, the connection to Miles Road will not be put in until the very end of the project.

Mr. Bevilacqua stated that they anticipate the first phase which will be done by Bevilacqua Development will use an access from Transit Road. Lyons Homes will be putting in the single family homes, they anticipate putting in the sidewalk at the same time, therefore there may be times they

would need access through Miles Road. Mr. Romanowski stated that there may be instances where both access points will be utilized.

Mr. Sackett responded that before Concept Approval, this matter needs to be confirmed, especially in regards to Miles Road. Mr. Romanowski stated that they would plan on needing to use both access points. Mr. Sackett noted that the Town Highway Department will also be conferred with.

Mrs. Salvati asked whether the neighborhood meeting that the applicant has discussed has been conducted yet. Mr. Sorgei responded that it is still in the planning process.

Mr. Sackett noted that comments that are made by the developer during a neighborhood meeting are not binding, while any comments made this evening are on the record. Both the Town Board and Planning Board have final say, and while it is good to have a community meeting, it is good to have the comments repeated on the record.

Mr. Geasling asked if in the single family area, in the proximity of the creek, it is anticipated that would raise the grade significantly, which would basically require clear cutting all of those lots.

Mr. Sheedy responded that in regards to the construction yes, some substantial fill would be necessary in that area. It is to be noted that all of those single family homes do not fall in the flood plain zone. Mr. Sorgi noted that they are quite a bit away from the creek.

Discussion continued regarding the grading and preservation of vegetation during construction.

Mr. Johnson commented that an email had been received by a resident stating that she had not been informed of the meeting. Mr. Bleuer explained that the Town does an analysis of all properties within 500 feet of a proposed project, and then sends out notices. It was confirmed that all of those individuals were sent a notice, while we cannot confirm whether they received it or not, we can confirm that they were sent.

In regards to Public Participation, the following residents spoke:

1. Steve Favale – 8115 Miles Road

- There are approximately 30 homes on Miles Road, which makes this a David and Goliath situation. They are depending on the Planning Board to stand with them on this project.
- There is already discussion of construction vehicles on Miles Road, there is an expected 105 units which will generate approximately 150-175 cars residents, as well as employees of the businesses, customers, lawn care service, garbage trucks, school buses, maintenance and more, all which will generate a huge amount of traffic on Miles Road.
- This will have a huge negative impact for the people that reside on the street.
- He is requesting that there be no access to Miles Road. If you want to throw more chaos on to Transit Road, that is fine with him but please keep Miles Road out of it.

2. Sue Freeman – 6515 Poplar Hill Lane
  - A lot of the property is designated Wetlands, she would like to know how much there is now, and how much will remain.
  - What type of multi-family housing is going to be placed there?
  - Traffic is a major issue currently. If you are heading west on Miles and attempt to turn left on to Transit Road you can expect a major delay as well as very treacherous conditions.
  - There should be a signal there currently, regardless of the additional proposed congestion.
  - Additionally, she has concerns about the drive-thru restaurant which is proposed. She cannot foresee that being plausible. Is that circle large enough to hold any drive-thru traffic?
  
3. John Russo – Poplar Hill Lane
  - Biggest concern is the traffic as it stands now trying to turn left is impossible, and during rush hour, it is absolutely dangerous.
  - The project needs to be held back until the Department of Transportation fixes Transit Road traffic. The road narrows to one lane approximately ½ mile before County Road, which causes a large mess. That traffic backs up past Miles Road. It becomes very dangerous.
  - He fears these new people can go down Poplar Hill Lane to back streets in order to access an easy and safe left turn.
  - He counts on the Planning Board to work with the DOT to make sure this is fixed.
  
4. Scott Snyder – 8100 Miles Road
  - Letter was submitted to the Planning Board, but read the letter as well.
  - The letter is on file in the Planning and Zoning Office.
  
5. Robert Callan – 8075 Miles Road
  - He has lived in his home on Miles Road since 1978, things have changed dramatically in the Town of Clarence since that time, Transit Road used to be a two-story highway.
  - The town is going a little bit nuts, and for the record, he doesn't like any of it.
  - He cannot stand the thought of an access road on to Miles Road.
  - Challenges anyone on the Planning Board to go down Miles Road and try to make a left on to Transit Road, any day around 4:00.
  - He doesn't do it, because he values his life.
  - Every one of those people, where will they go? Anyone heading south will go on to the access road on to Miles Road, in front of his home, spewing their gas fumes, then trying to make a left.
  - This is a ridiculous plan, and is ruining the quality of life in Clarence, as is everything that is being proposed.
  - This project is inviting people to come down Miles Road to make a left on to Transit Road, and this town board should know that it's a terrible idea.
  - Additionally he is concerned with the flood zones and the trees that are set to be removed. All of the wildlife will be gone.
  
6. John Gaulocher – 8209 Stahley Road
  - How many acres is forever wild on the site?
  - The previous developer was going to develop the property but the town board agreed that as long as they kept 16 acres forever wild, they should research that.

- The other speakers are correct about the traffic, it is terrible.
- Right now it's the craziest idea he's ever heard of.

7. Ann Koerner – 8050 Miles Road

- Father built the home in 1939 and has enjoyed the property for a very long time.
- Makes left on to Transit Road every morning, she has decided to not take her life in to her hands, and makes a right hand turn and go to Tops to turn around.
- Her concern is of course traffic.
- She thought there was something that was to be done at the intersection of Poplar Hill Lane and Miles Road, she doesn't understand the addition of another intersection.
- What will the lighting, fencing, berms, and property lot lines be like in the new development.
- She will follow up with written comments.

Chairman Sackett explained that this is the beginning of Coordinated Review, not approving anything tonight, with several meetings still to come. Some of the comments tonight are beyond the scope of the general concept at this point, but it is important to be on the record so that they can be addressed at future meetings.

Mr. Sackett stated that the applicant will address the concerns and questions that they can, the rest will wait until after interested and involved parties have been contacted, and research has been conducted.

Mr. Sorgei stated that once the interested and involved agencies have submitted their comments, they will have additional information to share with the residents regarding their concerns.

Regarding the access on to Miles Road, the Comprehensive Plan encourages connectivity, the town and county require second entry ways in to subdivisions, which is also the case with the fire code.

Additionally, it is important to talk about the left turn on to Transit Road. Their traffic studies suggest that a traffic light should be put in, but that is something that the Department of Transportation needs to address. One of the reasons for commencing a Coordinated Review is to prompt those discussions with the Department of Transportation.

A previous and different developer made different promises based on his project going through, but his project did not go through.

Mr. Sorgei stated that he also did some research, and no zoning conditions were filed, nor were there any deed restrictions. Any of the conditions that a previous developer placed did not happen when the project didn't happen. Those past conditions were not binding with the property, they needed to be filed with the Erie County Clerk, which they were not.

In terms of the fire company and fire trucks accessing the property, that is something that will be included with the Coordinated Review with interested and involved agencies.

Regarding minimum lot width, Mr. Sorgei noted that this is an Open Development subdivision which has different size lot widths required by code versus a regular subdivision. It is applicable in the zoning district, but they have chosen this option which preserves more Open Space.

Sewer connections are not shown at this point because it is a preliminary level of the plans, once it progresses, full engineering connections will be shown.

All lighting will be dark sky compliant, once they get further in to the project they will submit a photometric plan.

There are 8.8 acres of qualified Open Space in the Residential Zoned area of the subdivision. In terms of the Multi-Family Mixed Use portion, there will be approximately 10 acres of greenspace.

**ACTION:**

Motion by Wendy Salvati, seconded by Richard Bigler that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Long Environmental Assessment Form as amended by comments issued at the Planning Board Meeting of September 15, 2021 and seek Lead Agency status to **commence a coordinated review** among involved and interested agencies on the proposed Bevilacqua mixed use project located at 6625 Transit Road, SBL # 43.05-2-1.1, which is located in the Commercial and Residential Single Family zoning districts. This Type I Action involves the development of a mixed use project containing commercial space, multiple family housing and single family residential lots.

**ON THE QUESTION:**

Mr. Geasling the applicant needs to correct the changes to the Environmental Assessment Form that Mrs. Salvati pointed out before the start of Coordinated Review.

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**

Stephen Development - North Commercial

Requests Concept Plan approval of a proposed mixed use project at 9740 Main Street, SBL 71.11-2-4.

**DISCUSSION:**

Mr. Bleuer introduced the project, which is located at 9740 Main Street, on the north side between 9734 and 9760 Main Street, it is an existing .92 acre vacant parcel located in the Commercial zone. The applicant is requesting conceptual actions for a mixed use project featuring a single 2-story building containing 3,390 sq. ft. of commercial space and one residential unit on the first floor, and five residential units on the second floor.

This proposal was referred from the Town Board in May of this year. In June, the Planning Board initiated a coordinated review under the State Environmental Quality Review Act. Since that time, the

Town has accepted numerous comment from involved and interested parties, and the applicant has worked to address comments received.

Noel Dill from Stephen Development added that they have taken great care to establish a proto-typical design, focusing on the first floor mixed use with upper floor residential units. This keeps with the Vision Main Street plan that the Town has adopted.

They are working with all high end, durable materials, and a façade with a lot of variation to it. Additionally, they are incorporating a stone wall which has become a signature for each of the properties that they have developed.

They see this is as an opportunity to expand on Main Street.

Mr. Todaro thanked Mr. Dill for the way in which this project has been designed, and adhering to more of what the Town is looking for. From the stone wall, the façade, and types of material options that are being used.

Mr. Todaro asked Mr. Dill where the Wetlands are on this particular project, and asked for explanation of septic on this parcel.

Mr. Dill responded that there are no Wetlands on this project. The septic is located in the Northeast corner of the property. They'd like to move it as far back as they can, while also preserving as many trees as possible.

Mr. Metzger spoke regarding the Environmental Assessment Form and how the State of New York's online program auto-fills certain responses. In terms of Wetlands, it looks to see if there is anything shown in what is called the National Wetland Inventory Map, which is simply an indicator that there may be wetlands on site.

They had a certified Wetlands Biologist look at the site to conclude that there are no wetlands located on the property.

Mr. Todaro asked Mr. Metzger whether the septic will be above ground, or how the septic will work.

Mr. Metzger responded that the type of septic is one which utilizes the rock itself. It is built on the rock surface, and will be an area which is slightly risen but not an actual mound.

In Regards to Public Participation, no one spoke.

#### **ACTION:**

Motion by Gregory Todaro, seconded by Wendy Salvati, 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 Forms as prepared and to issue a Negative Declaration on the proposed Stephen Development mixed use project at 9740 Main Street, SBL # 71.11-2-4. This Unlisted Action involves the construction of a mixed use building containing commercial space and multiple family housing in the Commercial zone. After thorough

review of the submitted plans, documents, Environmental Assessment Forms and comments, 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 Gregory Todaro, seconded by Wendy Salvati to **approve the Concept Plan** for Stephen Development at 9740 Main Street per the submitted plan by Metzger Civil Engineering dated February 12<sup>th</sup>, 2021, with a revision date of August 17<sup>th</sup>, 2021 and to **approve the Conceptual Architectural** drawings by Sutton Architecture received in the Planning Office on July 21<sup>st</sup>, 2021, all with the following conditions:

1. As per the Town of Clarence Engineering Preliminary Grading and Drainage Memo dated August 17<sup>th</sup>, 2021, and associated conditions.
2. Subject to Building and Engineering Department approval on any construction on the site.
3. Subject to Erie County Health Department, and if required, New York State Department of Environmental Conservation approval on any future on-site sanitary facilities.
4. Subject to New York State Department of Transportation approval for access to Main Street.
5. Landscape Committee approval of a final Landscape Plan prior to Development Plan Approval, including but not limited to buffering of parking along Main Street, to include street trees and stone wall, and dumpster enclosure detail.
6. Final building elevations to be submitted as part of the Development Plan review, labelling material types and colors.
7. Building mechanicals to be identified and detailed on any future Development Plan submittals.
8. Required on-site recreational features such as bike racks and lockers, benches, and pedestrian accommodations to be identified and detailed on any future Development Plan submittals.
9. All lighting must be dark sky compliant and shielded to prevent spillage onto adjoining parcels. No lighting shall be elevated above the roof lines and all lighting shall be turned off no later than one hour after business hours except for necessary security and residential lighting.
10. No outside display or storage of any kind on the property, including but not limited to goods, materials or other items.
11. Any signage subject to review and approval by the Sign Review Committee.
12. Subject to Open Space and Recreation Fees.

Mr. Dill heard, understands, and agrees to the aforementioned conditions.

Mr. Metzger asked in regards to the approval of the Erie County Health Department and the New York State Department of Environmental Conservation (DEC) for the septic system, this system is not large enough to require DEC approval, as it is under 1,000 gallons per day.

Mr. Todaro amended the motion to read “approval based on required approval”

#### ON THE QUESTION:

Mrs. Salvati asked where the dumpster will be located, Mr. Sackett stated that will be covered with the Landscape Committee, they will be required to detail that. Mrs. Salvati asked if they know where they

will put it, as she is curious. Mr. Metzger responded that they have not worked that out yet, it is to be determined once they reach that part of the process with the Landscape Committee.

Mrs. Salvati then asked in regards to the Landscape Plan, do they plan on placing some buffering along the back. Mr. Dill responded that they will work on that once they reach the Developmental Stage.

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 Gregory Todaro, seconded by Wendy Salvati to **recommend a Special Exception Use Permit** for Stephen Development at 9740 Main Street per the submitted plan by Metzger Civil Engineering dated February 12<sup>th</sup>, 2021, with a revision date of August 17<sup>th</sup>, 2021 to the Clarence Town Board to allow multiple family housing.

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**

Stephen Development - South Commercial

Requests Concept Plan approval of a proposed mixed use project at 9745 Main Street.

**DISCUSSION:**

Mr. Bleuer introduced this project, which is located on the south side of Main Street at 9745 Main Street.

It is an existing 6.26 acre parcel located in the Commercial zone, containing an existing principle and accessory structure proposed for demolition as part of this project. The parcel also contains a recently blocked temporary access road to Rock Oak Estates.

The applicant is requesting conceptual actions for a mixed use project featuring a single 2-story building containing 3,390 sq. ft. of commercial space and one residential unit on the first floor, and five residential units on the second floor. The proposal also includes a shared access point for the proposed mixed use building and Rock Oak Estates.

This proposal was referred from the Town Board in May of this year. In June, the Planning Board initiated a coordinated a review under the State Environmental Quality Review Act. Since that time, the Town has accepted comment from involved and interested parties, and the applicant has worked to address comments received.

Noel Dill from Stephen Development addressed this project, noting that it is different from their proposed project at 9740 Main Street. While the building itself is similar, the site has differences. They conducted a tree survey and made a couple of adjustments, which resulted in adjusting the location of the building in order to better preserve some additional trees.

Also, they altered the proposed road, moving it to establish a permanent connection. It will be a shared use road with Rock Oak Estates and this proposed building. This road will have a slightly different location, in part because the entrance on to Main Street will be moved slightly to be compatible with the project to the north, anticipating some Department of Transportation requirements.

They anticipate the septic will be located in the western portion of the site, likely behind the parking area.

Mr. Dill pointed out that they developed the two buildings to be different, yet tie in together, this was done with help from the executive committee as well.

Mr. Todaro asked Mr. Dill and Mr. Metzger in regards to the septic, that it will be similar to their other parcel located at 9740 Main Street. Mr. Metzger responded that they have the same geologic and soil conditions at this location as they do at their other proposed property, therefore it is the same type of system.

Mr. Todaro commented to Mr. Dill about their plans to not make their two projects look identical to one another, but rather have some diversity and uniqueness along Main Street with different facades and materials. He looks forward to hearing more about the materials and options that the applicant is planning to use.

Mr. Sackett asked about the proposed access road, how much is presently developed and how much they need to further develop. Mr. Dill responded that the road which is there currently was built for the purpose of providing a temporary construction road. They will make that road in to a permanent road to be shared.

Mr. Dill noted that there is an existing structure towards the north of this property which will be demolished, in order to make room for the road.

Mr. Sackett noted that during the development phase, they will work with the Town Engineer in regards to the location of this proposed road. Mr. Sackett stated that when it comes time, he would like some more information and detail regarding the road.

Mrs. Salvati commented that the applicant's future plans for the area east on Mai Street, and behind their current property. Mr. Dill responded that they do not currently have any plans for those areas, and they do understand if they decide develop that land, they will need to go through the State Environmental Quality Review process again.

Mr. Geasling asked if the site located to the west, will that construction site be cleaned up. Mr. Gill responded that they anticipate utilizing much of that material for the permanent road and in other areas that they can with their project.

Mr. Sackett noted that this will also be further discussed during Development Plan review.

In Regards to Public Participation, no one spoke.

**ACTION:**

Motion by Gregory Todaro, seconded by Wendy Salvati 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 Forms as prepared and to issue a Negative Declaration on the proposed Stephen Development mixed use project at 9745 Main Street. This Unlisted Action involves the construction of a mixed use building containing commercial space and multiple family housing in the Commercial zone. After thorough review of the submitted plans, documents, Environmental Assessment Forms and comments, 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**

To **approve the Concept Plan** for Stephen Development at 9745 Main Street per the submitted plan by Metzger Civil Engineering dated February 12<sup>th</sup>, 2021, with a revision date of August 17<sup>th</sup>, 2021 and to **approve the Conceptual Architectural** drawings by Sutton Architecture received in the Planning Office on July 21<sup>st</sup>, 2021, all with the following conditions:

1. As per the Town of Clarence Engineering Preliminary Grading and Drainage Memo, dated August 17<sup>th</sup>, 2021, and associated conditions.
2. Subject to Building and Engineering Department approval on any construction on the site.
3. Subject to Erie County Health Department and if required, New York State Department of Environmental Conservation approval on any future on-site sanitary facilities.
4. Subject to New York State Department of Transportation approval for access to Main Street.
5. Landscape Committee approval of a final Landscape Plan prior to Development Plan Approval, including but not limited to buffering of parking along Main Street, to include street trees and stone wall, and dumpster enclosure detail.
6. Final building elevations to be submitted as part of the Development Plan review, labelling material types and colors.
7. Building mechanicals to be identified and detailed on any future Development Plan submittals.
8. Required on-site recreational features such as bike racks and lockers, benches, and pedestrian accommodations to be identified and detailed on any future Development Plan submittals.
9. All lighting must be dark sky compliant and shielded to prevent spillage onto adjoining parcels. No lighting shall be elevated above the roof lines and all lighting shall be turned off no later than one hour after business hours except for necessary security and residential lighting.
10. No outside display or storage of any kind on the property, including but not limited to goods, materials or other items.
11. Any signage subject to review and approval by the Sign Review Committee.
12. Subject to Open Space and Recreation Fees.

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

**ON THE QUESTION:**

Any additional future proposals for this parcel shall be subject to a separate and new environmental review under the State Environmental Quality Review Act.

Mrs. Salvati thanked the applicant for make the effort to work with them with their requests that they have had. She believes we are changing the look of Main Street one project at a time, and it makes a difference.

In turn, Mr. Metzger thanked the Planning Board for their input, suggestions, and comments not only with all of their projects, but this one specifically.

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 Gregory Todaro, seconded by Wendy Salvati to to **recommend a Special Exception Use Permit** for Stephen Development at 9745 Main Street per the submitted plan by Metzger Civil Engineering dated February 12<sup>th</sup>, 2021, with a revision date of August 17<sup>th</sup>, 2021 to the Clarence Town Board to allow multiple family housing.

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

**MOTION CARRIED**

**Item 4**

Phoenix Physical Therapy  
Restricted Business

Requests Site Plan approval for a proposed rear yard parking lot with access to Shimerville Road at 8865 Sheridan Drive.

**DISCUSSION:**

Mr. Bleuer introduced this project, located at 8865 Sheridan Drive, southeast corner of Sheridan and Shimerville Road. It is an existing .44 acre parcel located in the Restricted Business zone, containing an existing structure and associated facilities formerly used by an insurance and café business. The applicant is locating a physical therapy office in the building, and has proposed to convert a portion of the rear patio area into employee parking, including vehicular access to Shimerville Road.

While the Town has deemed this proposal a Type 2 action under the State Environmental Quality Review Act, not subject to further action or review, we have coordinated with the Erie County Department of Public Works, as the proposal would require an Erie County Highway Work Permit for access to Shimerville Road.

Michael Metzger from Metzger Civil Engineering was present to further discuss this project, as well as his client Nicole Swiatek.

Mr. Metzger pointed out that Nicole and her husband Brett are investing heavily in the Town of Clarence with their businesses.

This existing building is on a unique parcel, whereas it almost have to frontages.

Mrs. Swiatek has found that with relocating her physical therapy business to this location, that she does not have parking to accommodate both her clients as well as her employees.

Mr. Metzger explained that they would like to utilize an existing asphalt pad located in the back of the building, and add a bit more of asphalt which they would use to make 5 new parking spaces. These new spaces would be utilized by the employees, and have access to Shimerville Road.

It is not a retail facility where people will be traveling in and out and to and fro, this additional parking area will only be utilized by the employees of the physical therapy office.

Mr. Geasling asked if there are reasons as to why they cannot expand to the front. Mr. Metzger stated that they have looked at that option, but the septic system is located there. Additionally, they don't want to push further in to the intersection.

Mr. Geasling asked if the employees will utilize the back door to access the building as well, Mr. Metzger confirmed yes.

Mr. Geasling noted that it appears that the three spots that are back there are very close to the building. Mr. Metzger stated that it will come close to the drop of the overhang, but won't come to the overhang. Mr. Geasling then asked if the posts of the overhang are in the asphalt, as they appear to be significantly far away from the concrete. Mr. Metzger responded that he believes they are, but is unsure.

Mr. Geasling stated that it appears the parking spaces will extend right up to the concrete, Mr. Metzger responded that the parking area stops short of the roofline, but the material will continue to the concrete.

Mr. Geasling asked how wide the parking spaces are, Mr. Metzger responded that they are per regulation, whatever the Town of Clarence requires.

Discussion continued regarding the spacing and direction of the parking spaces. Mr. Metzger stated that they cannot propose to have an access lane within a right of way.

Mrs. Salvati asked how many parking spaces there are currently, Mr. Metzger responded there are 14. Mrs. Salvati asked what the hours of operation are, Mrs. Swiatek responded that they are open from 7:00 a.m. until 7:00 p.m., two days when they close early at 1:00 p.m.

Mrs. Salvati asked Mrs. Swiatek about lighting in the back, Mrs. Swiatek responded that there is already recessed lighting as well as lighting at the door back there now, they would not add any more lighting.

Mrs. Salvati stated that one of her concerns with the parking in the back is the potential for car headlights to shine in the windows of nearby neighbors. Mrs. Swiatek commented that there would not be any more traffic or possible light pollution than if there was a residence located there. Mr. Metzger pointed out that the driveway for the potential project lines up with the driveway of the property across the street.

Mrs. Salvati referred to a correspondence received from the property owner at 4645 Christian Drive, which is directly south of the proposed project, and is opposed to the potential for commercial traffic in the front of their yard.

Mrs. Salvati asked about curb stops, Mr. Metzger responded that at least the three on the east side as indicated would be added.

Mrs. Salvati inquired about landscaping, Mr. Metzger commented that they aren't opposed to any landscaping, and he understands that the county may have concerns about the evergreens that are planned to be removed. Mr. Metzger responded that if they need to be removed, they will replace them with new landscaping.

Mr. Sackett responded that the Planning Board will be pro-active about this issue with the evergreens on location, rather than waiting for the county to make a decision. During the work session prior to this meeting, it was determined that they are deeply concerned about the site lines. They would like the trees in question removed, and a new landscape plan developed, consistent with the county's concern regarding site lines.

In regards to Public Participation, the following residents spoke:

1. Allen Gozdalski owns 8895 and K & A Ponds at 8905 Sheridan Drive
  - Very pro-business, but 15 years ago when he developed his site plan he was told no regarding access to Shimerville Rd. There is a grandfathered driveway which he is allowed for personal use only.
  - When he is out of town he has to secure the gates closed, which keep people from utilizing that driveway.
  - If this request is approved, he will return to the town to request more Shimerville Road access in order to get his employees in and out. He has spent a lot of money developing the front of his property on Sheridan Drive to accommodate his employees and customers.
  - Additionally, he has pulled multiple cars from that corner due to accidents.
  - He would like to have the Town of Clarence review this thoroughly.
  - Mr. Gozdalski wanted to know if the current owner of the lot would be allowed to have residential cars utilizing that driveway as well.
  - He was told that everyone in that area must access on to Sheridan Drive, not Shimerville Road
2. Mary Tamrowski of 4630 Shimerville Rd.
  - Other businesses have previously been denied access to Shimerville Road from this location.
  - The area is notorious for speeding and multiple accidents
  - The proposed driveway coming out of the back of the building is in a very congested area, near a dangerous curve.
  - They cannot control the limit in the back of the parking lot, there will be multiple people coming and going.

- Doesn't understand why the trees need to be removed, and whether other plans have been reviewed for a different location to place five parking spots.

At this time Mr. Metzger responded to the questions and concerns of the resident's, first stating that other locations have been explored, expanding the parking lot in the front was the preference, but due to the location of the septic system and the right-of-way, this is not a viable option.

Mr. Metzger stated that as far as previous requests for access to Shimerville Road, which is why there is a board, to review each situation individually and make an informed decision. Taking a look at the specifics for what they are requesting, it is very simple. This proposed parking lot will alleviate any potential issues of needing to park along Sheridan Drive, as it will offer five more spaces.

Mr. Sackett agreed that each project is unique, Shimerville is a County Road therefore the Town of Clarence does not control the curb cuts. The county was consulted, their concerns regarding the evergreen trees but once those are removed, they have no additional concerns with the project.

Mr. Sackett agreed that the uniqueness of the type of parking lot adds to the differences with this parking lot.

Mr. Bleuer noted that one of the factors that has remained consistent through the years is that the Department of transportation, Erie County, and the Town of Clarence have ensured that there will be no cut-through traffic from Shimerville to Sheridan, outside of the signalized intersection. This proposal does not provide access to Sheridan Drive.

Mr. Geasling asked if there should be a condition that the applicant is not permitted to install a cut-thru access road at a later date. Mr. Metzger and Mrs. Swiatek responded that it is not an option, which is why they are requesting this driveway.

Mr. Geasling asked if they ever intend to connect the rear lot to the front lot. Mr. Metzger responded that they would not have any issues with a condition be implemented stating they cannot connect the two lots at any point in time.

Mrs. Salvati asked exactly where the septic system is located, Mr. Metzger responded that is located with the area of the building and the trees to the parking area.

Mrs. Salvati asked at any given time how many clients there are inside the building. Mrs. Swiatek responded that there can be anywhere between 5-10 patients, sometimes up to 13.

Discussion continued regarding past decisions and the potential for neighboring properties to request similar access to Shimerville Road. Mrs. Swiatek would like to avoid needing to have her employee's park across the street and need to cross Sheridan Drive to access the business.

Mr. Metzger stated that each request should be reviewed on a case by case basis. Mr. Metzger noted that the County has approved it contingent on the site line issue being alleviated. Mrs. Salvati noted that the County's decision does not hold much bearing with her, they will approve any project that comes through.

**ACTION:**

Motion by Jason Geasling, seconded by Richard Bigler to issue **Site Plan approval** for Phoenix Physical Therapy at 8865 Sheridan Drive per the submitted plans by Metzger Civil Engineering dated July 26<sup>th</sup>, 2021 with the following conditions:

1. Subject to any required permits by the Clarence Building and Engineering Departments.
2. Review and approval by the Erie County Department of Public Works for access to Shimerville Road.
3. Parking lot striping to be installed per the approved site plan, and maintained in perpetuity.
4. Installation of "Employee Only" signage at the newly created parking lot, and pedestrian access consideration for any non-employees who enter the employee-only parking lot.
5. In order to increase vehicular site lines, applicant shall remove three existing pine trees on the southwest corner of the property and submit a landscape plan for review and approval by the Landscape Review Committee prior to construction. All required plantings shall be installed within one (1) year of Site Plan approval, and maintained in perpetuity. Such plantings shall not block the line of sight for vehicular traffic.
6. Subject to Open Space and Recreation fees.
7. The proposed rear lot shall not be connected to the front lot.

Mr. Metzger stated that they have heard, understood, and agree to the conditions.

**ON THE QUESTION:**

Mr. Geasling stated that this proposal has been deemed a Type 2 action by the Town of Clarence, whereby requiring no further environmental review and no action under the State Environmental Review Act.

Mr. Bigler noted that this is a unique situation, and that the applicant understated the need for parking in the front lot by virtue of the fact there will be clients leaving the business with others arriving earlier, all of which may create a dangerous situation on Sheridan Drive.

The potential for employees or patients to be walking across Sheridan Drive in order to access parking across the street could be even more dangerous.

Mr. Bigler believes it is a completely unique situation, Erie County has approved it. It does not mean that they will approve every project on that street but that is up to them not this board.

Mr. Todaro asked whether it is possible to tie the curb cut per the use, so that if the use changes, then the curb cut would no longer be available.

Mr. Bleuer stated that his opinion is it that would be less about the use and more about the use of the parking lot itself. With tying it to a condition of employee only parking, that limits the use, which was Condition number 4 as stated with the conditions.

Further discussion continued regarding the use of the parking lot.

Mr. Bleuer stated that each application is reviewed individually based on its merits and flaws, with decisions made based on a case by case basis.

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 9:18 p.m.

Amy Major  
Senior Clerk Typist