

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday September 3, 2014

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

Agenda Items 7:30 pm

Approval of Minutes

Item 1

PPS Services
Restricted Business

Requests a Building Permit and Architectural Approval for the construction of a building and parking lot addition at 8660 Sheridan Drive.

Item 2

Grimm Brothers
Traditional Neighborhood District

Requests Preliminary Concept Review of a proposed Open Space Design Subdivision at 8196 County Road.

Chairman Robert Sackett called the meeting to order at 7:30 p.m. Jonathan Bleuer led the pledge to the flag.

Planning Board Members present:

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

Vice-Chairman Paul Shear
Timothy Pazda
Gregory Todaro

Planning Board Members absent: Steve Dale

Town Officials Present:

Director of Community Development James Callahan
Junior Planner Jonathan Bleuer
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

Ron Grimm
Thomas Mumma
Robin Tomasula
Justin Daugherty

Michael Soveriegn
Rob Pidanick
Jerry Haas

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the minutes of the meeting held on August 20, 2014, as written.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye	Robert Sackett	Aye

MOTION CARRIED.

Chairman Sackett explained that Mr. Callahan will introduce each agenda item. The applicant will then have the opportunity to provide additional comments to the Board. The Board will ask the applicant questions or provide their comments. The people from the audience will be invited to ask questions and/or make comments regarding the project. Either the applicant or the Board will respond to any questions or comments from the public, if appropriate. The Board will then take an action.

Item 1

PPS Services
Restricted Business

Requests a Building Permit and Architectural Approval for the construction of a building and parking lot addition at 8660 Sheridan Drive.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the north side of Sheridan Drive, west of Wenner Road. It is an existing professional office located in the Restricted Business Zoning Classification. Per the Zoning Law the Planning Board has approval authority for permitted uses in this zone.

Robert Pidanick, of Nussbaumer and Clarke Engineers, is representing the project sponsor. Mr. Pidanick said they are looking for site plan approval and issuance of a Negative Declaration pursuant to the State Environmental Quality Review Act. They have submitted a site plan application, building plans, and an Environmental Assessment Form on August 4, 2014 for the Town's consideration. The sponsor is proposing a 620 square foot addition to the existing building and 4700 square feet of a proposed additional parking area which will be located along the east side of the building. Five (5) additional spaces are proposed along the east side of the building and there is a turn around area to be able to back cars into. There is one curb cut on Sheridan Drive that will remain, there are no other curb cuts proposed. The applicant has lived in Clarence for eight (8) years, prior to this they were in the City of Buffalo and then Williamsville, but this is their home now. There are currently ten (10) employees and they will bring on two (2) more. The applicant will be rearranging the inside of the building, they will move the kitchen in to the new wing and there will be four (4) offices added to that new wing. The proposed building will be brick and sided exactly in keeping with the existing building.

Chairman Sackett asked for clarification regarding a SEQRA review. Mr. Callahan clarified that the project has been determined, based on size, to be a Type II Action, therefore no further action is required.

Mr. Pidanick said they received a comment letter from the Town Engineer last Thursday, they were able to address the comment quickly. A revised plan was submitted today to Mr. Lancellotti. Mr. Lancellotti left a voicemail this afternoon indicating that the changes the applicant made addressed his concerns and he is ready to grant approval.

Mr. Shear asked what the changes were that the applicant made to the plan. Mr. Pidanick noted that the Mr. Lancellotti asked for additional information on the drainage. They are proposing an absorption trench adjacent to the parking lot on the east side of the parking lot at the top of the slope. They were asked to provide storm water mitigation. A measure to ensure the greater discharge remains the same, they submitted information on that. Heights for the southwestern drop-in are now shown on the plan. They were asked to put additional contact information for the owner on the plan, they have provided that. They are proposing to use the existing topsoil that will be stripped and stockpiled on the site for landscaping and surface grading in the parking lot. Mr. Salvati asked if they were ok with the one (1) on four (4) slope. Mr. Pidanick said yes. Mrs. Salvati said she had a concern regarding drainage because it is being built up high and there is a slope and a drain, she trusts the Town's engineering abilities working with the applicant to ensure the applicant will not be impacting the property immediately to the east. She confirmed that this all drains to the road.

Mrs. Salvati's other concern is that the parking lot is almost doubled in size, a lot more pavement is being added. She suggested the applicant put together a landscaping plan to show some plantings to mitigate the excessive pavement area. Mr. Pidanick said there is landscaping around the front of the site. He spoke with the owner who indicated he would definitely consider additional landscaping. Chairman Sackett asked the applicant if he is amenable to having the Certificate of Occupancy dependent on Landscape Committee approval of the frontage along Sheridan Drive. Mr. Tomasula has no objection to the condition of a landscape approval.

Mr. Pazda asked if there will be additional exterior lighting on this project. Mr. Pidanick said the only additional lighting would be on the building itself, there will be no additional poles in the parking lot. There will be decorative lighting along the proposed sidewalk adjacent to the new parking area. There will be no nuisance lighting or parking lot lighting, it is not needed. No lighting will project beyond the property line.

ACTION:

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the proposed addition and the architectural style as depicted in the drawings dated July 2014 from Nussbaumer & Clarke, Inc., with the following conditions:

1. Subject to review and approval by the Town Building and Engineering Department for any required permits.
2. Subject to NYSDOT approval for the drainage/stormwater additions/connections.
3. Subject to final Landscape Committee review and approval on the final Landscape Plan prior to Certificate of Occupancy issuance.
4. Subject to Open Space and Recreation Fees.

ON THE QUESTION:

Mr. Pidanick clarified that they are not using an infiltration system, so they are not discharging any water to the State's system. The project will still require approval from the NYSDOT. Mr. Pidanick agreed with and understood the conditions listed above.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye	Robert Sackett	Aye

MOTION CARRIED.

Item 2

Grimm Brothers
Traditional Neighborhood District

Requests Preliminary Concept Review of a proposed Open Space Design Subdivision at 8196 County Road.

DISCUSSION:

Jim Callahan provided the background on the project noting that it is located on the north side of County Road, east of Stahley Road. It is existing vacant land located within the Traditional Neighborhood District in Swormville. The project was referred by the Town Board on May 14, 2014. The final approval will be the responsibility of the Town Board. The Planning Board is a recommending body on this project.

Ron Grimm and Andrew Grimm are present. Ron Grimm said they have owned the property for several years. It is a straight forward project, they are not asking for any variances. They have worked with the Planning Board Executive Committee and have worked through some of the items that were discussed at those work sessions.

Chairman Sackett said a letter was received from the applicant dated September 3, 2014, the Board members have reviewed it and the letter is on file.

Mr. Shear noted the three (3) lots to the east of the project site and said they measure 88' x 69'. He asked what the front yard setback is. Ron Grimm said he does not know. Mr. Shear said his concern is if the lot is 88' deep and the house is 35'-40' deep and depending on how far back it sits from the street and the right-of-way and depending on whether it is a public or private road, the house may come close to the back property line and start encroaching on existing homes. The applicant may potentially leave some of the tree growth and coverage behind the buildings but once someone buys a house that is built there, it will be up to them to decide whether to have a narrow rear yard or remove the trees and increase the size of their backyard.

Ron Grimm said in order to maximize the depths of the lots they decided to go with a private road system. Mr. Shear asked if a setback from a private road allows an 88' lot. Ron Grimm said according to his architect Wes Stone, it will.

Mrs. Salvati echoes Mr. Shear's concerns. She asked if it is possible to have more vegetation remain on the applicant's property than what is currently planned. She then asked how it will be guaranteed that the vegetation remains when new homes are built. Ron Grimm agreed and said he will look into it for a positive solution.

Mr. Pazda referred to the letter sent by Ron Grimm dated September 3, 2014 and asked for clarification on the 15' of trees that are on the east and north sides of her property, are they actually on her property? Ron Grimm clarified saying the side of her house is 15 feet from the new rear yard. The trees are on the Grimm property. If all the trees were cut down the neighbor would have no buffer. Mr. Shear said there

is not sufficient property to put in a conservation easement in place to conserve those trees. Ron Grimm said he will look into it because the obvious beauty of the property is the trees.

It is clarified that the layout cannot be shifted due to the wetlands.

Mr. Todaro suggested taking lots that have been configured to the west side of the property and create a larger cul-de-sac, Ron Grimm said he had Wes Stone look at all different options and this was the best scenario. Ron Grimm does not know the average lot size of the lots on the cul-de-sac.

Chairman Sackett asked if the area to the north will be deeded to the Home Owners Association to maintain. Ron Grimm said yes.

Mr. Todaro asked if the hook configuration can be “flipped” so the road would be near the house and the cul-de-sac turned in the opposite direction. Andrew Grimm said they looked at all options and the presented plan is the only option available. They cannot access out through Stahley Road because the two lots there are sold.

Jerry Haas said his brother owned the property 35 years ago and it was his proposal to back there with a cul-de-sac with nine (9) lots. Mr. Callahan noted that there are Federal Jurisdictional wetlands that restricts going any further north with the project. Mr. Haas does not oppose the project.

Michael Sovereign, of 6826 Rivera Way, built his home less than a year ago. The reason he built there is because of the privacy, quiet, the lack of noise, the lack of light pollution and the lack of sight pollution. He invested \$500,000 in a home and now he finds out he is going to have neighbors in a 12-lot subdivision behind him. He is also concerned that the proposed subdivision borders the Federal Wetlands area and there could be potential run-off issues. He also spoke on behalf of his immediate neighbor, Pierre Cuomo, 6823 Rivera Way. Mr. Sovereign finds it appalling that the developer and the builder have no idea what the size of the lots are. He asked if the traffic ramifications have been considered. He said there are all kinds of accidents between County Road and Stahley Road now. What are the sizes of the lots?

Terry Finn, of 8208 County Road, has lived there for 25 years. He said Natale Builders has put him and his family through a nightmare. Natale Builders repeatedly pumped 100's of 1000's of gallons of water onto his property. Mr. Finn has been to the Engineers Office and the Town Engineer has been out to the property and have stopped Natale builders from pumping the water, but the continued to pump the water the following day. Natale Builders removed 75 year old trees that belonged to Mr. Finn, they said they would replace the trees that were mistakenly removed but they did not. The Sheriffs and the State Police have been to his house because of the issues he has had with the builder. Mr. Finn has not had problems with the residents of the development but with the developer. He does not want to have problems with the developer on the other side of him now. He had a finger pushed into his chest by the Natale Builder owner and was told that they will do whatever they want to his property and there is nothing he can do to stop it. The proposed road for this development is within 75' of his house. There is quite a bit of difference in elevation coming down from the road to the property. If a road is put in, his house is going to be 2' lower and he will have flooding and drainage issues. His sump pump will run constantly. He asked if there will be street lights. He also voiced his concern with the traffic issues. The street that is going in with the houses on it will be built up and make his land low causing flooding issues on his property. He is concerned about the liability of all the children that will live in these homes when they play in the woods that are on his property. He put up “posted” signs twice, he attached them to the trees

and they were ripped off both times. People still go on his property. Bulldozers dump debris on his property.

Thomas Mumma of 6844 Rivera Way shares Mr. Sovereign's and Mr. Finn's concerns. Traffic safety is the biggest concern. His home was built and his money was invested with the knowledge of woods and privacy around him. He is also concerned with the size and depth of the wetlands. If another development goes up to the north, there will be serious drainage issues. He is appalled that this has been presented without knowing the lot sizes. He thinks it is way too small of an area to shoehorn that type of development in there.

Jay Waters of 6832 Rivera Way shares all the previously stated concerns. He is also concerned about the destabilization of the land like what happened in Amherst. He would like to talk to Mr. Finn about that land, they may be able to take it off his hands if he asked for a reasonable amount of money. Mr. Waters said they do want to keep the area private.

Ida Hoehman, owner of the property that borders the west side of the proposed development, stated that she is concerned with everything that has been said. Her house sits very close to the property line and in the winter when the leaves are gone she can see directly into the back window of the first house in Rivera Green. If there are more houses put up 15' from her house they will be right next to her. She is also concerned about the trees, they are very old and if all of the soil to the east side of the trees is disrupted from digging are those trees going to fall down on her house? Limbs from these trees have fallen due to wind storms and have taken off her gutters, which she had to have replaced. The developer talked about leaving the trees as a buffer but they only block out the sun because they are so high, they do nothing to buffer other houses that will be sitting right there just a few feet away from her house. She is also concerned with the drainage problem. Her backyard is low, if they build houses there, is it going to flood her backyard completely? Ms. Hoehman said someone was out over the summer looking at the wetlands and they put ribbons up to mark the wetlands boundary. One of the ribbons is on a tree in the back corner of her property. There is a ditch that comes up to her property then bends and goes back, she assumed this ditch was meant for drainage, what will happen to that? The Town dug the ditch years ago, she has lived in the house her entire life. She is not totally opposed to this project but she is concerned on how it will affect her. Her sump pump runs out the back and over to that lot line where it drains and presumably went into the ditch. If this is all gone what will happen to her sump pump line? Her home sits 300' back from the road, she could not afford to change the sump pump line and have it connect through the front of her property to go out to the storm sewers. She has a very limited income and is worried about the financial impact this project will have on her.

Chairman Sackett stated that the Board is being asked to commence a 30 day review. All the comments are on the record in the official minutes and they need to be addressed in the review process. There are various agencies that will be asked to investigate all the concerns presented. He clarified that the project is not being approved at this point, only the 30 day SEQRA review is being started. The Planning Board needs to address the issues within the next 30 days and make a recommendation to the Town Board relative to the impact of this project on the surrounding land. Chairman Sackett said there is a diagram that indicates the lot sizes, but not the house sizes. This diagram is in the Planning Office along with a map of the wetlands and is available to the public.

Ron Grimm clarified that he thought the residents were asking for the size of the proposed houses; there are twelve different sizes. Andrew Grimm said the house sizes will be between 1800 and 2200 square foot single story homes, the size will depend on the size of the lot.

Ron Grimm said he understands that nobody wants to have new construction in their backyard however what they are proposing is zoned properly and they are not asking for a variance. They will go through all the necessary steps and agencies to ensure it is a good project and done right.

Chairman Sackett asked that in terms of noise, lighting, storm water etc., will the developer comply with regulatory agencies to not impact your neighbors. Ron Grimm said absolutely. Chairman Sackett noted that project restrictions will be determined in order to protect those things.

ACTION:

Motion by Paul Shear, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **recommend** to the Clarence Town Board to seek Lead Agency status and commence a coordinated review among involved agencies on the proposed Grimm Open Space Design Subdivision Overlay located at 8196 County. This Unlisted Action involves the development of a 12 lot subdivision within the Traditional Neighborhood Zoning District and within Erie County Sewer district #5.

ON THE QUESTION:

Chairman Sackett noted that it is the policy of the Board to commence a coordinated review of maximum development, so in no way will the statement being made sanction 12 lots, it take the maximum development and studies the impact of that. The final authority on this item is the Town Board. The Planning Board is the recommending body. There needs to be a Town Board action before the 30 day comment period starts.

Gregory Todaro	Aye	Richard Bigler	Aye
Timothy Pazda	Aye	Wendy Salvati	Aye
Paul Shear	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting adjourned at 8:23 PM

Carolyn Delgato
Senior Clerk Typist