

Clarence Planning Board Minutes  
Wednesday, March 1, 2006

Work Session (6:30 PM)

- Roll Call
- Minutes
- Sign review
- Update on pending items
- Committee reports
- Zoning reports
- Miscellaneous
- Agenda Items

Agenda Items (7:30 PM)

Patricia Powers, Chairperson, called the meeting to order at 7:30 PM. Councilman Scott Bylewski led the pledge to the flag.

Planning Board Members Present:

Patricia Powers	Wendy Salvati
George Van Nest	Jeff Grenzebach
Gerald Drinkard	Tim Pazda

Planning Board Member(s) Absent:

Philip Sgamma

Other Town Officials Present:

Councilman Scott Bylewski  
James Callahan, Director of Community Development  
James Hartz, Asst. Director of Community Development  
David Donohue, Town Attorney

Other Interested Parties Present:

Daniel Singer	Don Hoffman
Bill Storr	Chris Landon
Bryan Schaefer	Sean Lawley
Laurence Tosetto	Elaine Berardi
Hal Folckemer	Steve Frey
Vincent Delgato	Tom Hagner
Andy Gow	Gary Wright
Charles Chimera	Sean Hopkins

Motion by Gerald Drinkard, seconded by Timothy Pazda, to APPROVE the minutes of the meeting held on February 1, 2006, as written.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	ABSTAIN
Gerald Drinkard	AYE	Tim Pazda	AYE

**MOTION CARRIED.**

**Item 1**

Norm Castine  
Agricultural Rural-Residential

Requests Preliminary Concept Plan Review of a 1,400' public road extension to serve 12 single-family lots and 3 additional single-family lots off existing public road frontage at 7060 Goodrich Road.

**DISCUSSION:**

Jim Callahan provides the history on the project. The property is located on the west side of Goodrich Road between Martin Road and Lapp Road. It consists of approximately 43 acres and is zoned Agricultural Rural Residential. The property contains remaining frontage along Goodrich Road and Lapp Road. The Master Plan identifies the area in the Agricultural classification. The applicant previously proposed a five lot open development, and is now introducing a proposed public road extension to service twelve sub-lots. This is the introduction of the new proposal to the full Planning Board.

Andy Gow, of Nussbaumer & Clarke, Inc. is present and speaks to the Planning Board. Mr. Gow advises that the application and the EAF may have to be changed to reflect the twelve lots being addressed, as opposed to fifteen lots. The three additional lots would be considered a separate application. The parcel in the middle of the site completely separates the properties. There has been no subdivision on the large parcel. There is no deed on file showing a lot line. The Planning Board needs to address the whole parcel.

Timothy Pazda suggests that it might be beneficial to the applicant if the Planning Board provides information and reviews the Town Board minutes of February 8, 2006. Patricia Powers reads the Town Board minutes into the record:

“A representative from Nussbaumer and Clark said they removed one of the lots to make a 12-lot subdivision. It will be serviced by public water and private sewer systems. Councilman Bylewski said the open space development that was originally proposed was the preferred design. The problems have been that things kept changing. If the parcels that are to be developed at a later date were split off, we would know what is going on with them. There could be a segmentation issue. Supervisor Hallock added that there is an issue of a public road also. Councilman Weiss said we are looking at private roads rather than public. Supervisor Hallock said we prefer the 5-acre lots as more fitting to the neighborhood. James Hartz said any move forward on this project should look at the overall parcel. Councilman Bylewski said it would be preferable to have a plan that has all of the parcels identified as to their use. Motion by Councilman Weiss, seconded by Councilman Kolber, to forward the request for Preliminary Concept Review of a 13-lot Residential Development at 7040 Goodrich

Road to the Planning Board with a plan that includes all of the parcels, and considers the preferences of 5-acre lots and a private road.”

Councilman Bylewski advises the Planning Board that the Town Board minutes of February 8, 2006 have not yet been approved.

Patricia Powers reads a letter into the record; the letter is from Douglas & Darcy Snyder, of 6980 Goodrich Road:

“Dear Planning Board Members: My husband and I would like to go on record stating that we are apposed to Agenda Item #1 Norm Castine, request for a public road extension to serve 15 single family lots at 7060 Goodrich Road. We strongly feel that this project will ruin the character of the neighborhood and create an additional tax burden. This is a residential area with homes on 1+/- acre lots. Building 15 homes on a public road in the middle of an open field with septic systems will further create more water run-off and drainage concerns. Town Engineer Latona has stated “there is not nor will there ever be drainage problems in the area,” one would have to assume that Mr. Latona has never physically walked the land any where from October through May. I can assure you he would find ground water. We feel that the addition of all these homes will further saturate the ground. There is also a 90 home subdivision (The Shadow Woods) proposes for 6460 Goodrich Road; traffic on Goodrich Road is a problem now-adding all these new developments will only worsen the situation. Not to mention having snow plows in front and behind our homes all hours of the night during the winter months and traffic in the front and back of us at all hours. We are in favor of the original proposed 4-lot open development which would be more conducive to the area and retain the character of the area. We ask that you keep in mind drainage concerns and as was originally discussed a 100’ vegetative buffer behind the houses that front Goodrich and Martin Road. Please consider our concerns when deciding on this project. Thank you for your time.”

Gerald Drinkard asks why the proposal shows a public road, what is the value or benefit of a public road at this location to the Town? Mr. Gow advises the Town benefits from a tax standpoint; Timothy Pazda advises that is yet to be determined.

Mr. Gow said the applicant took great care to comply with the Town’s zoning. They met with the Town Engineer and discussed the drainage and the potential wetland and architectural concerns. This is the plan the applicant would like to move forward with.

Patricia Powers voices her concern regarding the change in the plan. Originally it was a 4-lot Open Development Area and now the proposal if for a 12-lot subdivision with a public road. The Planning Board, most likely, will not recommend a public road on this project. Ms. Powers suggests Mr. Gow share this information with his client. The preferred plan is the 4-lot Open Development Plan. Mr. Gow will pass this information on to his client.

Bryan Schaefer, of 9410 Martin Road, speaks to the Planning Board. Mr. Schaefer has similar concerns to Mr. and Mrs. Snyder’s concerns, which was stated in their letter. Mr. Schaefer feels the original plan could work.

Chris Landon, of 9420 Martin Road, speaks to the Planning Board. Mr. Landon is opposed to this project. He was “ok” with the 4-lot Open Development Plan, but has concerns with the drainage. Although Mr. Landon does not have an official source, he understands the lots have not passed a percolation test. He walked the land last summer, which was a dry summer, and the land was saturated

with water. Mr. Landon agrees with the private road, he feels the Town will not benefit from a public road.

Steve Frey, of 6890 Goodrich Road, asks for clarification on the proposed plan. As Mr. Frey sees it, if the lot to the left stays as is, the driveway for that house still goes on to the proposed roadway, this is one lot. This means only three more lots can be put on the remaining portion of the land because there have been no deed restrictions put on the road frontage that the other parcel has. Jim Callahan advises this is not necessarily correct and goes on to explain: if it were an Open Development there is an option to have a frontage lot as long as it meets the characteristics of the Open Development which includes the 200' frontage on the public road. It could be a 5-lot Open Development. This was the original plan. Mr. Castine has pulled this project; it is no longer under consideration. Mr. Frey is in favor of the 4-lot Open Development Plan and a private road.

Wendy Salvati clarifies that Mr. Castine was originally looking for 5 lots plus the Drescher property.

Timothy Pazda indicates that Mr. Castine has been invited to attend an Executive Committee Meeting to review these items so that he can be more prepared when he comes before the Planning Board. The invitation still stands.

George Van Nest points out that Mr. Castine did not have professional planning assistance, now he does. This will assist in moving the project along.

Elaine Berardi, of 6940 Goodrich Road, speaks to the Planning Board. Her concerns are the buffer zone and the drainage problems. There are low spots in the properties behind Ms. Berardi's property, thus, her drainage concern.

Mr. Gow advises that he is required by the New York State Department of Environmental Conservation (NYDEC) and the Town of Clarence to comply with all the DEC and Town regulations for storm-water discharge. He has met with the Town Engineer. To Mr. Gow's knowledge, the site has not had a percolation test. He will comply with Phase II storm-water regulations. There is a detention basin at the northwest corner of the site that would restrict post development flows to a pre-development rate.

Wendy Salvati advises there would be concerns regarding installing 12 septic systems in poor drainage areas, a sand lot would have to be put in. Mr. Gow advises the County has their own means of phasing the development if the site does not pass a percolation test.

Patricia Powers suggests tabling the item to afford Mr. Gow the opportunity to discuss the situation with his client. The Planning Board will not recommend a public road. The Open Development design that was presented to the Town Board and referred to the Planning Board was consistent with the Master Plan and is the preferred plan.

**ACTION:**

Motion by Timothy Pazda, seconded by Jeffrey Grenzebach, to TABLE Item No. 1, pending further information as discussed.

Patricia Powers      AYE  
George Van Nest      AYE  
Gerald Drinkard      AYE

Wendy Salvati      AYE  
Jeff Grenzebach      AYE  
Tim Pazda      AYE

**MOTION CARRIED.**

**Item 2**

Roger Czarnecki  
Residential Single-Family

Requests Preliminary Concept Plan Review of a 200' public road extension to serve 5 single-family lots and an additional 5 single-family lots off existing public road frontage on 14.2 acres at the end of Willow Lake Drive.

**DISCUSSION:**

Jim Callahan provides the history on the proposal. The property is located between Thompson Road and Old Goodrich Road as an extension of Willow Lake Drive. The property consists of approximately 12 acres with frontages on Thompson Road, Old Goodrich Road and Willow Lake Drive. It is zoned Single-Family Residential, the Master Plan identifies the area as a Residential Single-Family classification. Public sewers are not available at the site. The applicant is proposing frontage lots along Thompson Road and Old Goodrich Road, as well as a road extension of Willow Lake Drive to complete a cul-de-sac. This is the introduction of the project to the full Planning Board.

Don Hoffman, on behalf of Roger Czarnecki, is present and speaks to the Planning Board. Mr. Czarnecki has owned this property for thirty years and has now decided to sell. He would like to divide the property into building lots in order to maximize his investment. Mr. Hoffman explains that originally the idea was for a minor subdivision and the lots would have been sold with the existing frontages, however at the end of Willow Lake Drive there is no frontage, so lots 8, 9 and 10 could not have existed. This is the reason for the cul-de-sac. With the proposal of the cul-de-sac, it made the project fall under the major subdivision category.

Mr. Czarnecki is prepared to build the cul-de-sac at his own expense; there would be some water-line extension involved. Upon completion of the cul-de-sac it would be turned over to the Town. The results would benefit Mr. Czarnecki and the Town. Mr. Czarnecki would gain lots 8, 9 and 10, it would aid in the operational characteristics of snow plowing and it would be more aesthetically pleasing at the end of Willow Lake Drive.

Mr. Hoffman suggests this proposal be completed in two phases. Due to the cost of the cul-de-sac, the first phase would be to sell lots 1 through 7, the second phase would be the development of the cul-de-sac. The entire project would take at least seven years due to the County Health Department requirement for the septic system; to develop four lots every three years.

Mr. Hoffman and Mr. Czarnecki are both aware of the easement pertaining to the New York State Electric and Gas Corporation. The plan was designed to minimize the effects of building near the power lines. On lots 9 and 10 the opportunity is there to build a house away from the easement. Obviously nothing can be built on the easement.

Gerald Drinkard points out lots 5, 6 and 7 are under the required width. Mr. Hoffman realizes if this plan moves forward he needs to obtain a variance from the Zoning Board of Appeals for these

three lots. He also hopes for some consideration from the Planning Board since the lots met the requirements prior to the Zoning Law change in March 2005.

Gerald Drinkard voices his concern regarding the setback for lots 3 and 10. This would need to be a variance request as well.

David Donohue asks if lots 3 and 10 can be combined. Mr. Hoffman advises the more lots Mr. Czarnecki sells the more he gains, combining lots 3 and 10 would cause him to lose a lot.

Wendy Salvati explains the suggestion of enlarging lot 3 and extending lots 5 and 6 straight back.

Mr. Hoffman indicates the 100' easement looks worse on paper than it really is.

Wendy Salvati voices the concern regarding lots 1 and 2 being heavily wooded and how much vegetation would be taken down at these sites. The lots would probably be more valuable if some of the trees were retained. Mr. Hoffman clarifies that his client would not be taking any trees down; he is just going to sell the lot. Ms. Salvati understands but indicates that conditions can be established at this point. She also suggests maintaining a buffer in this area.

George Van Nest explains another concern of the Planning Board: in the past "wooded lots" have been advertised for sale, when in fact, most of the trees are gone from the site at the time of sale.

Bill Storr, of 5311 Willowlake Drive, speaks to the Planning Board. Mr. Storr is not in favor of any plan that extends the road. A cul-de-sac is obviously better than some other options. He is concerned with the phasing of the project. The cul-de-sac is the central point of this subdivision, it will have the most impact on the existing residents; there are drainage, green space, vegetation and wildlife concerns on this block. Due to these concerns, Mr. Storr thinks the cul-de-sac should be considered as phase one. Mr. Storr advises there are many children in this area. If lots 1, 2, 5, 6 and 7 are developed as proposed, it allows no access to the area for construction vehicles other than down Willow Lake Drive. This poses a risk with heavy equipment and people who are not germane to the neighborhood. He has concerns with the variance that would be needed for lots 5, 6 and 7. Mr. Storr also has concerns with the setback issue on lots 3, 4 and 10.

Mr. Storr has general questions regarding the process; these questions are indicated on the paperwork that will become part of the file. He will follow-up with the Planning and Zoning Office for answers. One of his questions concerns the environmental impact and when would it be done and how would it be communicated to him. This is the first he has heard of this project.

Patricia Powers addresses some of Mr. Storr's questions. If this project were to move forward it would be referred to the Municipal Review Committee, they conduct the Environmental Impact Study. Anyone within 500' of the site should have received a notice regarding this evening's meeting. The Planning Board and Municipal Review Committee meetings are open to the public.

Wendy Salvati said once the Environmental Impact Study is reviewed by the Municipal Review Committee it can be determined whether the layout can remain as is or if it needs to change.

Timothy Pazda asks what makes this subdivision different from others as far as the 200' buffer off the main road. Jim Callahan states it is existing road frontage.

Gary Wright, of 5400 Old Goodrich Road, speaks to the Planning Board. His home is directly north of lots 5 and 10. Mr. Wright has suffered structural damage to his home since the Heise-Brookhaven sewer was installed. Reverend Walker, who lives to the south, has also had problems with his house. Other homes and buildings in the area have had problems as well. Mr. Wright believes Mr. Czarnecki has the right to sell his property but until the problems that have resulted from the Heise-Brookhaven Sewer project have been corrected there should not be any certificates of occupancy or any building permits issued in this area. This is for public safety. Mr. Wright is also concerned with the frontage for the 3 lots at Old Goodrich Road. He does not favor a variance for these lots.

Charles Chimera, of 5330 Old Goodrich Road, speaks to the Planning Board. Mr. Chimera is opposed to this development. Old Goodrich Road is one of the prettiest streets in the Town and crowding homes in this area will take away from that. It will also increase traffic.

Vincent Delgato, of 5375 Thompson Road, speaks to the Planning Board. Mr. Delgato is against this project. He is not opposed to new development, but asks the Planning Board to consider the existing residents and wildlife in the area. He asks if the drainage will go into Gott Creek. Mr. Delgato would like to know the results of the environmental impact study. Within the past 6 years he has lost 4' of his front yard due to erosion from the creek. He is concerned about the majority of the 14 acres draining into Gott Creek. Mr. Delgato names a variety of wildlife that make their home in the area. The creek sometimes runs fast and this is dangerous for the children of the neighborhood. Lot number 8 is heavily wooded with mature trees; it would be a shame to lose them. He suggests leaving some of the property for a natural habitat and to act as a buffer for the existing homes.

Mr. Delgato voices his concern regarding the power lines. Through his research he found that there are numerous serious health effects that could be related to living near power lines. He also asks that the Town not take on the additional road and utilities associated with this project. John Machniak, of 5363 Thompson Road, could not be present at the meeting but wanted to go on record as having the same concerns Mr. Delgato. Mr. Machniak owns three properties in Clarence and to see the area over-developed would be disheartening.

Mr. Delgato has concerns with the setback on lots 1 and 2; he does not want the houses on these lots to be looking into his backyard. He also suggests a buffer in this area.

Mr. Hoffman addresses some of the concerns previously stated. Regarding the setback requirements for lots 1 and 2, when building on the lots the houses are usually required to keep in line with existing homes.

Mr. Hoffman states that building a cul-de-sac is expensive. The reason for selling some lots first is to fund the cul-de-sac.

Regarding the construction vehicles that would be present at the site, Mr. Hoffman does not see this as a major construction effort; therefore the concerns regarding large machinery and the safety of children would not exist.

Mr. Hoffman indicates the variance on lots 5, 6 and 7 would only be 8 feet, he wonders if this is really a problem.

Patricia Powers counted a possible 5 variances for this project.

**ACTION:**

Motion by Patricia Powers, seconded by Wendy Salvati, to TABLE Item No. 2, to allow Mr. Hoffman the opportunity to further discuss the proposal with Mr. Czarnecki, asking him to consider an Open Development Area. Mr. Hoffman also needs to advise Mr. Czarnecki the difficulty in receiving 5 variances on one project.

**ON THE QUESTION:**

Mr. Hoffman asks for clarification on what an Open Development Area is. The Open Development Area would include fewer homes and more open space than what was proposed. It includes 2 acre lots.

The existing road is a public road.

Wendy Salvati recommends Mr. Hoffman and his client attend a Tuesday morning Executive Committee meeting to discuss the possibilities of developing this area.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

**MOTION CARRIED.**

**Item 3**

Dan Singer  
Residential Single-Family

Requests Preliminary Concept Plan Review and consideration for rezoning to Traditional Neighborhood District for a 2,200 square foot ice cream shop and nail salon at 8353 Main Street.

**DISCUSSION:**

Jim Callahan provides the background on the project. It is located on the southeast corner of Main Street and Susan Drive consisting of 1/2 acre, zoned Residential Single-Family. This represents the introduction of the project to the Planning Board.

Daniel Singer, of 8805 Stonebriar Drive, speaks to the Planning Board. The square footage of the building will be closer to 2,400 sq. ft. One third of this building will be operated similar to that of the Big Sing's Ice Cream Parlor on Goodrich Road. Mr. Singer owns this ice cream parlor as well. The proposed plan would allow for customers to come into the facility to obtain their order and then exit the facility when they are done. The other two thirds of the building would be a high-end nail care facility; it can accommodate 12-14 clients at one time. The hours for the nail facility would be 8am to 4pm. The hours for the ice cream parlor would most likely be seasonal business, open in the evenings and on weekends. The parking would not be an issue with both businesses being at the same location.

An effort has been made to include extensive green space. The primary entry and exit would be on the Main Street side. There is an exit on Susan Drive which would only be used by those who live in that area or for the exiting of delivery vehicles. A sidewalk has been included on the plan. The natural drainage on the property is from the Northwest corner. There is a drainage receiver on Main



Street. Mr. Singer looked at the Erie County Soil Survey and there should not be a negative impact on the drainage.

Mr. Singer took care in placing the building so a maximum amount of greenspace could be saved; he also minimized the parking area, which is close to the neighbor to the south.

Mr. Singer refers to the Zoning Law Section 3.4.7 Setbacks. The Law indicates a front yard setback of 10'. The next paragraph reads: "Where there is a pre-existing building setback line established, principal structures may vary up to thirty-five feet (35') from the established build-to-line as measured from structures within three hundred feet (300') of the proposed building. In no case may the front yard setback for a principal structure exceed forty-five feet (45') from the front property line." The proposed building is in line with all the businesses along Main Street.

Jeffrey Grenzebach clarifies the sand filter will be sized for both businesses. Mr. Singer advises there will be bathrooms for both places.

Both businesses will be family owned and operated; Mr. Singer feels it would be a welcome addition to the neighborhood.

There are fifteen parking spaces on the plan. David Donohue did a rough estimate and came up with a requirement of 20 parking spaces. Wendy Salvati thinks more parking spaces are needed. There are thirteen stations in the proposed nail salon; this would require 26 parking spaces, one for each employee at each station and one for each customer. Parking spaces would need to be added for the ice cream parlor as well.

Mr. Singer advises the property was originally zoned commercial; there was a deed restriction on the property to make it strictly residential. The Town rezoned the parcel, under the Master Plan, to residential, because of the deed restriction. The deed restriction has since expired.

Gerald Drinkard refers to the setback requirements and states, "They have to be within 300'." Mr. Singer advises he can downsize the building. Mr. Singer currently owns the property.

Wendy Salvati voices her concerns regarding the traffic that may affect Susan Drive. Mr. Singer advises there is only an egress on Susan Drive, which would only be used by Susan Drive residents. There is no traffic that will go back into the Susan Drive development.

Gerald Drinkard refers to the Zoning Code 3.4.5 Lot Dimensions. The minimum width requirement is one hundred fifty feet (150') and two hundred twenty feet (220') in depth. The parcel is one hundred fifty nine feet (159') by one hundred forty two feet (142'). If this parcel can not meet these criteria how can it be rezoned?

Mr. Singer was never notified when the zoning changed on this parcel.

When the parcel was map covered it was residential.

The re-zoning question needs to be answered prior to moving forward on this project.

**ACTION:**

Motion by Gerald Drinkard, seconded by Patricia Powers, to obtain a resolution on Item No. 3, as to whether this property can be re-classified.

**ON THE QUESTION:**

Mr. Singer asks who determines if the parcel can be re-zoned. Patricia Powers states the Town Board deals with re-zoning.

Jeffrey Palumbo speaks to the Planning Board. The question is whether the Board has the authority to rezone the property in light of the non-conforming nature of the lot. According to the Law, this can be done unless the Town Ordinance specifically prohibits it, Mr. Palumbo does not think the Town Ordinance prohibits this.

David Donohue thinks the lot can be rezoned but the Town would not permit the use that Mr. Singer is proposing.

The Planning Board is a recommending body only; they do not have the authority to rezone.

Mr. Palumbo said that the Planning Board can make a recommendation to the Town Board regarding changing the land use to Traditional Neighborhood.

Jim Callahan agrees with Mr. Palumbo that a non-conforming lot could be created, however the specific lot size is the question.

**ACTION:**

Gerald Drinkard rescinds his original motion. Patricia Powers rescinds her second of the previous motion.

Motion by Gerald Drinkard, seconded to by Patricia Powers, to TABLE Item No. 3 to allow the Planning Board time to seek legal council on the issue.

**ON THE QUESTION:**

Daniel Singer says he is looking for a recommendation on the project not a recommendation on the rezoning of the parcel. He would look at the rezoning after he received a recommendation on the project. This is the way the procedure was explained by the Town Board. Wendy Salvati advises there is no project unless the property is rezoned.

Councilman Scott Bylewski explains what the Town Board discussed at the meeting; in past practice, the Planning Board would have to consider the project and the rezoning simultaneously.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

**MOTION CARRIED.**

**Item 4**

Joseph and John Rubino  
Residential Single-Family

Requests Preliminary Concept Plan Review of a 35-lot single-family subdivision on 28.3 acres on the southwest corner of Clarence Center Road and Shimerville Road.

**DISCUSSION:**

Jim Callahan provides the background on the project. It consists of approximately 45 acres, zoned Residential Single-Family; it is within Clarence Sewer District No. Six (6). The project was introduced to the Town Board on December 21, 2005 and referred to the Planning Board to consider alternate options including Open Space Design as well as adequacy of available infrastructure to service the project. The project as initially presented was an Incentive Lot Design. This represents the introduction of the project to the full Planning Board.

Jeffrey Palumbo, of Renaldo and Palumbo, represents the client and addresses the Planning Board. He refers to the Open Space Design Overlay section 4.3 of the Zoning Code. The code allows flexibility in design to preserve natural and scenic qualities of open lands such as woodlands. Mr. Palumbo provides a quick calculation and indicates 56 units would be allowed. He refers to 4.B.6 of the Zoning Code to clarify the acceptable density. Under 4.B.6.i. there are no subtractions. In reference to 4.B.6.ii, Mr. Palumbo advises there are no bodies of water or designated wetlands at the site. There are Federal Wetlands on the site, but they are not designated wetlands or part of an official map. Therefore, there would be no subtraction under this section. Mr. Palumbo advises section 4.B.6.iii does not apply to this project, so there would be no subtractions that apply. The next section 4.B.6.iv does not apply because there are no public streets proposed in this project. Jim Callahan advises the density has to be calculated based on public streets, therefore this section does apply. Mr. Callahan voices his disagreement with 4.B.6.iii., as Federal Wetlands are considered unusable/unbuildable as deemed by the Planning Board. Mr. Palumbo disagrees and advises a Federal Wetland does not mean the area is unusable, if a building permit to fill is obtained, the land then becomes usable. Jim Callahan points out that Federal Wetlands are hydrologically sensitive.

Mr. Palumbo questions the woodland area. There is woodland area in excess of the wetland area. Is this truly a "mature woodland"? Mr. Palumbo thinks that, until the information is complete regarding the wetlands, a calculation on density can not be determined. He will provide the information to the Planning Board.

Mr. Palumbo has calculated the density and the results show 41 lots in a private road development, and approximately 35 lots under the Incentive theory.

Gerald Drinkard explains that a woodland is not a forest. A mature tree is the period when the tree is seed or fruit bearing.

John and Joe Rubino have attended two Executive Committee meetings, one on January 24, 2006 and the other on January 31, 2006. A plan identifying yield was presented that identified 38 lots. It was noted that the yield design encroaches within 200' of the public roads and therefore will need to be recalculated. The wetlands area must be removed from the density yield calculation. The Planning Board asked the applicant to redesign and to provide a narrative statement as to conformance with the adopted Master Plan 2015 and the Master Sewer Plan. With that additional information, the project will be introduced to the Planning Board on February 15, 2006.

Mr. Palumbo said the Town rezoned this site pursuant to the Master Plan, why would he need a statement as to why the Town rezoned the property? Patricia Powers clarifies; the statement is for how this project fits the Master Plan including sewer, water and the calculations as to how the yield was obtained, the Planning Board has not received this information yet. Mr. Palumbo will provide a letter with the calculations on how he arrived at the yield.

Mr. Palumbo does not think the 200' rule applies to private roads. He refers to the Subdivision Law Article IV B.7. and advises there is no public road dedication in the proposal, therefore the 200' rule would not apply.

There would be a Homeowners Association for this development.

Paul Nenni, of 8835 Clarence Center Road, speaks to the Planning Board. Mr. Nenni advises traffic has doubled over the past decade; it is hard to exit his driveway during rush hour. The traffic will only get worse. He feels his house will be unsellable. Mr. Nenni suggests moving Clarence Center Road 150' south so that it intersects with Candlewood Lane creating a four-way intersection. Patricia Powers states that Clarence Center and Shimerville Roads are county roads, therefore, moving the road be difficult.

David Donohue agrees that there is probably not a 200' minimum setback requirement.

**ACTION:**

Motion by Wendy Salvati, seconded to by Timothy Pazda, to TABLE Item No. 4, pending the receipt and review of the information requested by the Planning Board.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

**MOTION CARRIED.**

**Item 5**

Walgreen's  
Traditional Neighborhood

Requests Development Plan Approval for a  
14,900 square foot retail building at 6785 Transit  
Road.

**DISCUSSION:**

Jim Callahan provides the background on the project. It is located at the northeast corner of Transit Road and County Road. It consists of approximately 3.3 acres, zoned Traditional Neighborhood District. The Master Plan identifies the area in the Swormville TND. The project was originally introduced to the Town Board on November 3, 2004 and was referred to the Planning Board. A variance to allow parking in the front and reduce the parking numbers was granted in June and August 2005. A negative declaration under SEQR was issued on April 27, 2005. A Special Exception Use Permit was granted by the Town Board on the submitted design on August 10, 2005. The applicant is seeking Development Plan Approval with the submitted design.

Sean Hopkins, of Hopkins, Garas and Sorgi, on behalf of the applicant is present and addresses the Planning Board. Also present is Tom Hagner. Mr. Hopkins has obtained permits from all outside agencies including Department of Environmental Conservation approval for the storm water facilities, the curb cut approvals are in place. Both Erie County and DOT have looked at drainage concerns, utility availability, etc. The only issue that needs to be addressed is the updated comments due to the Landscape Committee; Mr. Hopkins has the comments with him. He is confident the Landscape Committee will be pleased.

Mr. Metz, owner of the only residential parcel on County Road adjacent to the site, has been supportive of the project.

Patricia Powers advises there is a deed restriction on a portion of the site that contains wetlands and is possibly located in the floodplain; this is to remain permanent greenspace. Mr. Hopkins agrees and advises there will not be any additional commercial development on the northern portion of the site. A deed restriction will be recorded.

**ACTION:**

Motion by Patricia Powers, seconded by Jeffrey Grenzebach, to recommend Development Plan APPROVAL subject to the following conditions:

- the conditions listed in the Town Engineers letter dated February 16, 2006.
- a copy of the deed restriction to be submitted to the Town Attorney's office.
- an approved Landscape plan to be in hand prior to the applicant being placed on a Town Board agenda.
- subject to Commercial Open Space Fees.

Patricia Powers	AYE	Wendy Salvati	AYE
George Van Nest	AYE	Jeff Grenzebach	AYE
Gerald Drinkard	AYE	Tim Pazda	AYE

**MOTION CARRIED.**

Meeting adjourned at 9:42 p.m.

Patricia Powers, Chairperson