

PLANNING BOARD MINUTES

Wednesday April 6, 2005

WORK SESSION 6:30 P.M.
Roll call Miscellaneous
Minutes Agenda items
Sign review Communications
Update on pending items
Committee reports
Zoning reports

AGENDA ITEMS 7:30 P.M.

- | | |
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| ITEM I | PUBLIC HEARING ON SUBDIVISION LAW. |
| ITEM II
Kathleen Fleming/Waterford Village Bank
Commercial | REQUESTS CONCEPT PLAN APPROVAL FOR
CONSTRUCTION OF A 6000 SQUARE FOOT
BANK LOCATED AT 8411 MAIN STREET. |
| ITEM III
Rocco Del Grosso
Major Arterial/Residential A | REQUESTS CONCEPT PLAN APPROVAL FOR
CONSTRUCTION OF A 7400 SQUARE FOOT
KRISLYN OFFICE BUILDING LOCATED AT
6215 TRANSIT ROAD. |
| ITEM IV
First Niagara Bank
Major Arterial | REQUESTS CONCEPT PLAN APPROVAL FOR
CONSTRUCTION OF A 2,688 SQUARE FOOT
BANK LOCATED ON OUT PARCEL #3 IN THE
CLARENCE MALL AT MAIN & TRANSIT. |
| ITEM V
Norman Castine
Agricultural Rural Residential | REQUESTS CONCEPT PLAN APPROVAL FOR
DEVELOPMENT OF A 4 LOT OPEN
DEVELOPMENT WITH 3 FRONTAGE LOTS
BETWEEN 7020 & 7070 GOODRICH ROAD. |
| ITEM VI
Jim Bevilacqua
Major Arterial/Commerical | REQUESTS DEVELOPMENT PLAN
APPROVAL FOR DEVELOPMENT OF A
MEDICAL OFFICE
PARK LOCATED AT 6475 TRANSIT ROAD. |

ATTENDING: Patricia Powers
 Wendy Salvati
 Roy McCready
 George Van Nest
 Tim Pazda
 Jeff Grenzebach

INTERESTED
PERSONS:

Gerald Drinkard
Councilman Bylewski
Attorney David Donohue
Matthew Balling
Kyle Mastalinski
Kailee Nenner
Mike Thomson
Paul Dudowski
James Blum
Erica Pesking
Nancy Rehat
Ryan Hoffman
Jerry Chen
Pat Cummings
Don Cummiomgs
Amer Horoon
Norman Castine
Ruth Haas
Michael Pease
Marion Pfohl
John Haas
Bryan Schaefer
Chris Cardillo
Paul Meosky
April Folckner
Dan Michnik
Loretta Neff
William Neff
Dennis Raquet
Sharon Raquet

Jeffrey Palumbo
Kathleen Fleming
William Schutt
John Bevilacqua
Laurie LaDuca
Rocco Del Grosso
Scott Williams
James Hartz
James Callahan
Kathryn Tiffany
Andre Sadoff

MINUTES

Motion by Tim Pazda, seconded by Jeff Grenzebach to approve the minutes of the meeting held on March 16, 2005 as written.

ALL VOTING AYE (with the exception of Roy McCready who abstained because he was not at the meeting).

MOTION CARRIED.

ITEM I

PUBLIC HEARING ON SUBDIVISION LAW.

Jim Callahan said the purpose of the public hearing is to solicit public comment on the general content of this proposed law, and on the proposed review and approval process. This is the third draft, and they are working on the fourth draft. Chairman Powers said this is a public hearing and asked if anyone in the audience wanted to comment. Matthew Balling of 8327 Hirschwood Drive said “There are two sections of the proposed subdivision law that I believe warrant some further review. Specifically, it has to do with how the law would treat a Traditional Neighborhood design project. We all know there are people in this community who are for traditional neighborhood design and people who are against. It is our responsibility to evaluate these projects based upon doing a traditional neighborhood design right. There are certain places in this town where it is appropriate and there are certain places where they are not. We know where these places are and we have designated them as such in our zoning map. Unfortunately, I don’t think that our subdivision law in two specific sections of it would allow for someone to be able to go forward with a traditional neighborhood development if it were located in the right place, and designed to the standard that they need to be in. Mr. Balling passed out papers to the Planning Board members. The two specific areas that I don’t think that would compliment the idea of traditional neighborhood design where we want them to be, pertains to the provision of sidewalks in new subdivisions, and also pertains to the provisions that address right of way widths in with the pavement. I have done a significant amount of research on this particular topic, because I am a professional planner in my private life. First of all I think the policy of the Town of Clarence should be to have sidewalks on both sides of every public road. I think that there was some thought given to the fact that sidewalks would not be appropriate in some places in Town, and I can agree with that. There are certain levels of density in residential subdivisions where there is too low a density for people to feel like there is a safety issue on those roads. I live in one of those neighborhoods on Hirschwood Drive. I don’t have any major through roads in my

neighborhood and people are able to walk very safely. But there are certain levels of density that we may be looking at in the future, where sidewalks should be considered the standard, not the exception to the rule. I think the way the subdivision ordinance is written now, the requirement to provide sidewalks in your subdivisions is too soft a language. Right now it leaves it up to the discretion of the Planning Board whether they are appropriate. I think we need to state that they are appropriate everywhere, and the Town should be reserving the right to say okay, they don't need to be in certain places after all. But I think the Town standard should be that they are required on every public highway on both sides of the street to start off with. The second part about sidewalks is I think the subdivision ordinance should also contain some provisions to allow for seasonal pathways that can interconnect commercial and residential development. Particularly residential subdivisions that may be abutting one another but don't have interconnected roadways. That is currently the situation that we live in now on Hirschwood Drive - due to certain design considerations that were compromised throughout the review process for Roxbury Estates. I now have approximately 45 new neighbors that I will probably never get an opportunity to meet. Unless it was an adversarial situation like they were honking their horn at me, and I could actually hit their house with a rock if I chose to. The reason why, is the street design that was proposed put these people on a dead end street within walking distance from my home. I will never get a chance to say hello, I will never get a chance to meet their children, and I will never get an opportunity to look after them if there were an adverse situation in the neighborhood. So, I think we need to give some consideration to permit the Planning Board when reviewing a subdivision project, in which the new neighborhood is going to be adjacent to an existing neighborhood, or when the new project is going to be adjacent to an existing project, that there be some provision for people to be able to walk in and between those two projects safely. I think that seasonal walkways are an example of a way that we can do that. I am not suggesting that this is a standard that every project would have to have, but I can point out several examples where having that level of walk ability between existing projects and new projects, would be very welcome in this community."

Chairman Powers told Mr. Balling that his three minutes are up. If there isn't too much public comment time wise, perhaps we can come back to you later. Mr Balling said "Take a very close look at the table I have prepared in regard to street widths in traditional neighborhood design, and thank you very much."

James Blum of 5509 Martha's Vineyard said I will hand out the five items I intend to talk about this evening.

1) (Article III - page 6, item 10E; page 7, item 11A; and page 8, item 11C(3) - the Town Board should be Lead Agency for SEQR and give the final approval for all subdivisions including minor subdivisions. All subdivisions are of interest to nearby neighbors and often even to others for various reasons. Elected officials should make the final decisions. There should be a fast track process for Minor Subdivisions. However, it must also protect the rights of all Town citizens.

2) (Article III - page 10, item 12B3f) - Concept approval is the most significant step in the development process. There should be a public hearing for input to the Town Board after the final concept is known and before concept approval. Before that point much discussion and many changes can take place after the initial opportunity for public input to the Planning Board occurs. The public needs a chance for input on the "Final" proposed concept. This issue may also require an update to the wording of the new Zoning Law Section 7.06 - Administration - Town Board Review and consideration.

3) (Article III - page 12, item 12E7b) Waivers or exceptions to the application of the law should require a super majority vote of the Town Board. Exceptions should not be easy to do unless there is broad agreement that they are valid.

4) (Article IV - page 19, item 16E) - No storage or parking should be allowed in buffer strips.

5) (Article V - page 28, item B5) - In order to promote the rural country look, we should not allow frontage lots with Open Developments.

Thank you for considering my suggestions.

Matthew Balling came back to the podium. “In traditional neighborhood design we just don’t have the three types of streets that subdivision law has dictated in it. Local Street, Collector Street, and Arterial Street are the three types of streets that we currently have in our subdivision law. Well, traditional neighborhood design does not follow that guideline, particularly the 70 foot wide right of way width. The way it is written now, is that every public right of way has to be 70 feet wide. Traditional Neighborhood design is a much denser type of design. I think that many of you would agree, if you were to visit some of the very financially successful traditional neighborhood designs throughout the country. You would find that they are much, much narrower. Our subdivision would simply not allow that to happen. So what I have drafted here very briefly, if you look at the tables, was some dimensional criteria that I drew from zoning ordinances from Colorado Springs, Colorado, Miami, Florida, and another Town in California, whose name escapes me. These are the actual right of way dimensions and pavement widths that they recommend on alleys and lane ways that you typically find in a traditional neighborhood design project. I think what you are going to find in the future, when someone does propose one of these and again, in the right place in our Town, they are going to want to have these narrower widths. But our law simply will not allow it. I don’t think it is a fair thing to adopt that zoning district, and not be able to allow them the dimensional criteria to let their projects happen. I am not really sure legally, if they would be able to get area variances from the subdivision law either. So that is an important consideration to make. Again, when you are adopting this, you are not mandating that you are absolutely going to permit it in certain places, but we should at least be accommodating in what we are asking people to do in the right place. Thank you very much.”

Chairman Powers asked if anyone else wanted to speak. No one responded, and Pat asked for a motion to close the hearing.

ACTION: Motion by Jeff Grenzebach, seconded by Wendy Salvati to close the public hearing.

On the Question? Roy McCready addressed Jim Blum and said “Most of our Open developments are in the back lots. I am just not clear on what you meant by that”

Jim Blum said “ If that were the case it wouldn’t work. If someone puts an open development where there is an open space, then the

frontage should stay open. That is the idea of new ruralism - that as you drive down the road, you see trees, bushes, and rural type things. You don't see very many houses."

ITEM II REQUESTS CONCEPT PLAN APPROVAL FOR THE
Kathleen Fleming/Waterford CONSTRUCTION OF A 7400 SQUARE FOOT BANK
Commercial LOCATED AT 8411 MAIN STREET. (WATERFORD BANK)

DISCUSSION:

Jim Callahan gave a brief description of the proposed project. The property is located on the south side of Main Street, just to the west of Harris Hill Road. It is identified in the Harris Hill Traditional Neighborhood District and consists of approximately 1.6 acres. The Master Plan identifies this area in that Traditional Neighborhood district. The applicant is introducing the full Planning Board to the concept after several meetings with the Executive Committee of the Planning Board to revise the plan to its current state. Jeff Palumbo said "I normally identify myself as an Attorney with Renaldo & Palumbo, representing the petitioner, however today, I am still an Attorney, but I am acting as a Board of Director of the bank itself, and not as the attorney. It is a proposed 6000 square foot building. Jim Rumsey is here, he is the architect. They have removed all the parking from the front of the building, and moved it to the side of the building as requested by the board. Safety and security are the most critical issues to the bank. In keeping with the federalist style, we have attempted to incorporate a number of different features in this bank. With respect to the clock tower itself, it will be 38 feet high with quoined corners and a pyramidal roof which is highly visible to both the eastbound and westbound traffic. We have cut the number of drive-thru lanes from five lanes to four lanes. The screened wall is reminiscent of how masonry openings were supported in the federalist style. All opening corners are also quoined. They have capped the brick roof top units enclosures that are capped off with a thirty degree hipped roof that compliment the roof tower. Now they have two pitched roofs where they essentially had none. Landscaping is always important to this board, and our landscaping will be done to the highest standard. Tim Pazda asked if the brushed silver had been changed to the same material as the clock tower. I am assuming it has been changed. Jim Rumsey said they have accented the back part of the building and the drive thru with lucobond, a metal material that will compliment the architecture that is there now. It is very durable high end material, and we believe that is the best solution for that part of the bank. In addition

the lucobond material accent reflects the brick and the masonry that we have incorporated into the rest of the building. Tim Pazda asked what material is at the base of the clock tower surrounding the clock? Mr. Rumsey said "That is another panel system where the clock will sit right on top of it. It is glass that has some reflectivity to it. Tim Pazda said "So it is similar to the original pictures we had here." Mr. Rumsey said "Yes." Tim Pazda said "At the Executive Board meeting we had discussions about bricking all the way up or doing another surface. What happened to that?" Mr. Rumsey said "I think we felt that this was proportionately and from an architectural point of view, the best way to handle it." Kathleen Fleming "We did do a rendering with that, and it was almost impossible to see the hands and the tick marks on the clock, which really negated the point of us constructing the clock tower. The whole purpose of the clock tower, which is visible from Main Street, is so that it is reminiscent of a community or town square. We tried it all different ways, we tried all different colored bricks, and we came back to this solution. But if you want us to take it up a little bit higher, just to right under the face of the clock, but we really feel that behind the face of the clock you need that reflective glass to be able to see it visibly from Main Street. But, we would be happy to make additional modifications to bring that brick up higher. Wendy Salvati said "It was the reflective material that we had concerns about." Tim Pazda said "I thought we were in agreement that we had a beautiful looking - somewhat federalist building, when in fact, we have this ultra modern, what looks to be brushed stainless steel all the way around the back of it - when we discussed having drivot there so that it would appear to be a masonry material." Kathleen Fleming said "We did explore that option both from a cost perspective and a maintenance perspective. The image that you see here is what you would see from Main Street. By eliminating the one drive thru lane, you don't even see it from Main Street. The lucobond is twice as much as the material you are recommending. There is more maintenance and it would not hold up as well. We went with the advice of our architect to stick with the maintenance free reflective material that is going to reflect and compliment the brick on the building. It is cheaper to do what you are recommending but in the long term, it is really going to be an eyesore from a maintenance perspective. Because we are spending two million dollars to build this building, and as you can see from the interior, the ceramic tile floors, the granite counter tops and custom made wood, we didn't want to sacrifice the look on the outside of the building beyond the one year period." Chairman Powers invited members of the audience to come forward to speak on this item. No

one responded. Pat Powers said this project has received approval from Fire Advisory with the suggestion of installing a Knox box. Traffic Safety approved the plan as presented. Based on the information and analysis contained in the full environmental assessment form that this proposed action will not result in any significant environmental impact, I am ready for a motion to recommend a negative declaration to the Town Board on this project.

ACTION: Motion by Wendy Salvati, seconded by Jeff Grenzebach to recommend a Negative Declaration on this project to the Town Board.

On the Question? Chairman Powers said there is a complete archeological report included in the file.

ALL VOTING AYE. MOTION CARRIED.

ACTION: Motion by Roy McCready, seconded by Jeff Grenzebach to recommend concept plan approval to the Town Board for construction of a 6000 square foot bank at 8411 Main Street with the following conditions:

- 1) Checklist for development plan for a commercial plan.
- 2) Town Engineers approval.
- 3) Erie County Health Department approval.
- 4) Approved landscape plan

Chairman Powers said “For this particular project, a Special Exception Use permit is going to be required. That will be handled through the Town Board, and they will set a date for the public hearing.

ALL VOTING AYE. MOTION CARRIED.

ITEM III REQUESTS CONCEPT PLAN APPROVAL FOR THE
Rocco Del Grosso CONSTRUCTION OF A 7400 SQUARE FOOT KRISLYN
Major Arterial/Residential A OFFICE BUILDING LOCATED AT 6215 TRANSIT ROAD.

DISCUSSION: Jim Callahan said the property is located on the east side of Transit Road north of Woodbridge Village subdivision and adjoining Gott Creek. The property consists of approximately one acre in the Major Arterial zone. The Master plan identifies the area in a commercial classification. The applicant presented the original concept to the Planning Board on March 16, 2005, and the applicant

has made several modifications based on the initial review. Rocco Del Grosso and his architect John Haas presented the project. Jim Callahan said "This is an alternative plan, the plan that is up for consideration is in the file, unfortunately we did not get a photo of that today. It identifies parking to the front and to the rear. This is an alternative plan that was discussed at the Planning Board Executive meeting, and it moves the building forward.

Technically it is in violation of the zoning law, but may be a preferred design alternative. Rocco Del Grosso said it will be more attractive to move the building forward, and put the parking lot behind the building. They put four additional parking places out front at the entrance way driveway which could be the accessible parking for handicapped parking. They probably wouldn't be used as frequently as the other parking in the back. It was a great recommendation from the executive committee of the Planning Board. Mr. Del Grosso said he has been helped tremendously by Tim Lavocat of the Engineering Department. There seems to be a lot of ambiguity as to where the flood way line really is. In order to avoid any conflict or risk of ambiguity we moved this building even further away from that flood way. Mr. Del Grosso said this is his preferred plan. Tim Pazda said "This is kind of interesting. We are reviewing a plan that isn't legal currently by our codes - so which plan should we be discussing first?" Wendy Salvati said they revised their plan and came back with a plan that met all the requirements. That plan could be approved tonight. Now he is entertaining putting all the parking in the back of the building. He would have to go to the Zoning Board of Appeals because the building is too far forward. If this is the plan we go with, we would have to deny it, and he would have to seek relief from the Zoning Board of Appeals. Mr. Del Grosso said the plan that they submitted that conforms to the towns ordinances is acceptable so, he would rather know that plan is accepted, and they could move forward in the event he was denied by the Zoning Board of Appeals. The building is 7160 square feet, a little bit smaller than the other plan, with 37 parking spaces, four out in front. There will be one entrance in the front and two in the back of the building. Tim Pazda said the four parking spots in front seem to be out of place. If you are backing out, and a car pulls in right away, it seems like a lousy spot for parking. Mr. Del Grosso said they could re-arrange the parking. Wendy Salvati said "I don't know how the rest of you feel but I would like to see those four spaces in front go. If it meant that we approved this with him being one or two spaces short, I think I would be agreeable to that." Pat Powers asked what the percentage of green space is on that plan. They have 58% green space. Wendy Salvati asked

Attorney David Donohue “How do we go about approving one plan and denying the second? Jim Callahan said “If I may, because we still need some environmental information finalized, you could refer the plan that meets current zoning requirements to the Municipal Review Committee for environmental review and recommendation under SEQR. You could act on this site plan to deny, so that he has the opportunity to go and present to the Board of Appeals. Tim Pazda said “While we could do that, I hate to send a piece of work to the Municipal Review Committee that they perhaps know is a waste of their time.” Jim Callahan said “Let’s understand it is the same size building on the same property. They are looking at the environmental impacts at the time, not the specific details that you are.” Mr. Del Grosso said “let’s call this plan number one dated March 18, 2005, and plan number two dated April 6, 2005. Chairman Powers asked if anyone wanted to speak on this project. Paul Meosky of 8061 Floss Lane said he is concerned about the retention pond being so close to his property line. It is a dry pond, and won’t have water in it unless there is a heavy rain. Wendy Salvati asked about fencing in the back? Mr. Meosky said at the last meeting Mr. Del Grosso said he is going to put a fence in. Mr. Meosky said that would certainly help out, but it isn’t going to help with a mosquito problem if there is standing water in the pond. Wendy Salvati said the pond would only have water on a temporary basis after a rainfall. It should not have water for any prolonged period of time. The detention area will be able to be mowed. Mr. Meosky asked if the fence would extend to the northern property owned by Roger’s Piano. No, it won’t. Wendy Salvati told Mr. Del Grosso that the zoning would allow retail and professional offices, but you would need more parking for retail, so stick with professional office. Councilman Bylewski asked the square footage of the pond. John Haas said it was 5000 cubic feet. Councilman Bylewski said the Town Board can reduce the number of required parking spaces where there is shared access upon the recommendation of the Planning Board which I will ask them to make at the appropriate time.

ACTION: Motion by Jeff Grenzebach, seconded by Wendy Salvati to refer project number one to the Municipal Review Committee, Fire Advisory, and Traffic Safety Committee for review and comment.

On the Question? Patricia Powers asked if there was anything else on the question on project number one, other than what we just talked about which is with shared access the Town Board can reduce the number of parking spaces. Would this be the proper place for us to put this in then?

Councilman Bylewski said "It would have to be carried forward."

On the question?

Jim Callahan said "At the appropriate time of development when the final design comes in the landscaping, buffering, and fencing will be incorporated into the plan."

Wendy Salvati asked that it be restricted to professional office and uses that conform to the number of required spaces.

ALL VOTING AYE. MOTION CARRIED.

ACTION:

Motion by Tim Pazda, seconded by Wendy Salvati to deny project number two it will require a variance for the setback of the building.

On the question?

Tim Pazda said "There will be more lighting, and we could get started with it now."

Pat Powers said "It too will be restricted to professional office building. Eliminate the four spaces in front of the building. Adequate buffering be incorporated into the design in terms of lighting, landscaping, and fencing.

ALL VOTING AYE. MOTION CARRIED.

ITEM IV
First Niagara Bank
Major Arterial

REQUESTS CONCEPT PLAN APPROVAL FOR THE
CONSTRUCTION OF A 2688 SQUARE FOOT BANK
LOCATED ON OUT PARCEL #3 IN THE CLARENCE MALL
AT MAIN AND TRANSIT.

DISCUSSION:

Jim Callahan gave a brief review of the proposed project which is located on the northeast corner of Main and Transit on an out parcel of the Clarence Mall. It is located in the Major Arterial zone. The Master plan identifies the area in a commercial classification. The concept for the overall plaza design was approved by the Planning Board on March 16, 2005, as well as a Negative Declaration under SEQR for the entire plaza re-design. The applicant is introducing details of the out parcel as described. Architect Laurie LaDuca said she has two changes in the original data. They are working with William Schutt & Associates because they are doing the whole master site plan for the entire Clarence Mall. The original survey called this piece out parcel # 3. The latest survey references it as out lot B - just to clarify it. The gross square footage would be 2764. They are

increasing the east and west eight inches in each direction. They have also proposed having access from the bank to the existing exit lane from the plaza that goes out to Transit. Wendy Salvati asked "What is the distance between that curb cut and Transit Road?" Laurie LaDuca said "It is about 60 feet back." Wendy Salvati and Tim Pazda said they were concerned about the safety issue, it is a conflict point. Laurie La Duca said "I can take it out, I just wanted to bring it to your attention, that was what they were showing. We don't care." Laurie LaDuca showed a rendering of the proposed bank. Wendy Salvati said "I would like to commend you on your beautiful building. I don't think we would ask you to change one thing." Chairman Powers asked her to show it to the audience. Wendy said "One of the things we were concerned about is that you requested to put a stand alone sign out at the road, and we felt that was not necessary. Your name will be on the Mall sign and three sides of your building. I would request if the board agrees with me, to eliminate that sign." Jeff Grenzebach asked if the dumpster would be fenced. Yes, it will be fenced in, and there will be shrubs around it. Wendy Salvati said "We looked at the parking calculations for the bank yesterday, and you are providing 34 spaces based on the standards in zoning. You really only need 19 spaces based on the new square footage. You could safely remove those 12 spaces along Transit Road, and still meet your parking requirement. We would rather see that landscaped" Roy McCready asked if the plaza owners had hired a landscape architect for the whole plaza. Laurie LaDuca said the bank will be responsible for the landscaping. Councilman Bylewski said he is not in favor of the additional curb cut that was discussed earlier.

ACTION: Motion by Jeff Grenzebach, seconded by Tim Pazda to recommend a Negative Declaration to the Town Board.

ALL VOTING AYE. MOTION CARRIED.

ACTION: Motion by Roy McCready, seconded by George Van Nest to recommend concept plan approval for the construction of a new bank on out lot B in the Clarence Mall to the Town Board with the following:

- 1) A Special Exception Use permit will be at the Town Board level.
- 2) A check list for a commercial project at development plan approval.
- 3) An approved landscape plan.
- 4) No access at the present time to the mall.
- 5) Parking along Transit Road (12 spaces) to be eliminated.
- 6) No stand alone sign.

7) Increase of buffering to the dumpster area.

ALL VOTING AYE. MOTION CARRIED

ITEM V

Norman Castine

Agricultural Rural Residential

REQUESTS CONCEPT PLAN APPROVAL FOR THE
DEVELOPMENT OF A 4 LOT OPEN DEVELOPMENT WITH
3 FRONTAGE LOTS BETWEEN 7020 & 70070
GOODRICH RD.

DISCUSSION:

Jim Callahan gave a description of the property which is located on the west side of Goodrich between Martin Road and Lapp Road. It consists of approximately 44 acres and is zoned Agricultural Rural Residential. The Master Plan identifies the area in an agricultural rural residential classification. The applicant is proposing an open development area with frontage lots, and is here to specify some detail about the future lot locations and the development. Chairman Powers asked Mr. Castine if he had something to add. Mr. Castine said he had individual surveys if the board wanted to see them. Pat Powers asked Tim Pazda to read the letter from a neighbor into the record.

Because of prior commitments, my husband and I will not be able to attend the April 6, 2005 Planning Board meeting. Agenda Item V regarding Norman Castines request for Concept Plan approval for the development of a 4 lot open development area with three frontage lots between 7020 and 7070 Goodrich Road is of particular concern.

Our house is located at 6980 Goodrich Road; part of the proposed development will go in directly behind my house. We do not have a problem with the 4 lot open development per se but have serious concerns about drainage. The proposed site is always under water even into early summer, especially if we have a rainy spring. We have never experienced water in our basement, and do not want any problems in the future. We would like to be reassured that the drainage situation will be thoroughly reviewed and we would like assurances that if there are any problems in the future, they will be corrected by the developer, and not at our expense.

We would also like assurances that only four houses are being proposed, and that the developer cannot come back at a later date and request additional building lots.

Thank you.

Sincerely,

Darcy & Douglas A. Snyder

Mr. Castine said "There are five houses, five open lots." Chairman Powers said "Our first question has to be, just exactly what is it you are proposing, because the survey that you gave us just shows vacant lot number three. It doesn't identify any of the other lots. Mr. Castine said "Each survey is a different lot. The small survey is the one lot that faces Lapp and one that faces Goodrich. They have nothing to do with the open development." Wendy Salvati said "What he is showing us is an open development area with five lots, plus he is proposing to break off a sixth lot. My concern is we are venturing in to major subdivision because he is asking us to approve six lots. I also have a question, because you don't show anything for these." Mr. Castine said "Those are the individual lots that you have right there on the small surveys, the one that faces Lapp and the one that faces Goodrich." Wendy Salvati said "So you want two more lots in addition?" Mr. Castine said "They are part of the 45 acres, but it has nothing to do with the subdivision, the open development." Tim Pazda said "But it is all coming from the one parcel." Jim Callahan said "That is going to be the concern related to the major subdivision here. Wendy Salvati said "You are asking us to approve eight lots split off a parent parcel. Norm Castine said "I talked to Jim Callahan." Jim Callahan said "The open development can proceed, and I guess that is the confusion. But as soon as you get into lots away from the open development, you are creating more splits off that parent than what would be considered a minor subdivision, because of all the previous splits through history. That creates a major subdivision which is subject to a moratorium. So it is really compounded here by the moratorium." Wendy Salvati said "If you just wanted to propose the five lot open development area, then we could discuss that." Norm Castine said "That is all I want to do." Wendy said "But we cannot entertain...say we do this and he comes back in two weeks and asks us to look at the other three...we can't do that." Attorney David Donohue said "You are already going to have six lots. If you parcel off five, you automatically have a sixth lot that is remaining. Jim Callahan said "As long as they conform to the open development portion of the subdivision law, they can proceed, but as soon as you get away from the open development - you are right, then you have hit major subdivision and moratoriums." Wendy Salvati said "The open

development deals with all this, but we still have this that sits right next to it, which becomes the sixth lot.” Norm Castine said “Well, let’s leave those three lots alone then.” Wendy Salvati said “I don’t think it is that simple, I think what David is saying is that the way you are dividing it still leaves us a sixth lot.” Norm Castine said “When I started this, I went to the right people I believe, and this is the way they told me to do this. I will do it any way you want to do it, I am interested in the five lot open development. If you want to put the other lots off until there is a difference in the zoning....fine, I don’t care, I don’t want to build on them. Tim Pazda said “In order to proceed, wouldn’t it have to be a four lot open development?” Jim Callahan said “As long as it complies with the open development, now remember that the open development allows four lots plus whatever frontage that complies with the open development lot size 150 feet of frontage and two acre minimums.” Norm Castine said “No Jim, this is five acres.” Wendy Salvati said “We have five back lots and green space which would make Mr. Blum happy. Out in front we don’t have the frontage.” Jim Callahan said “But there is frontage available for that. I guess that is the concern.” Wendy Salvati said “He doesn’t have it as part of anybody’s lot if you look at this.” Norm Castine said “That is the way I was told to draw it. You asked for 200 feet of frontage for the open development. Correct?” Jim Callahan said “Yes.” Norm Castine said “I am giving you two hundred feet of frontage.” Chairman Powers said “This is confusing Mr. Castine because we have three different drawings up here.” Mr. Castine said “Well they explain the whole subdivision, why is it confusing? Just look at the five acre lots.” Pat Powers said “We are not familiar with it, we have just gotten the three documents that you presented to us this evening. We haven’t had a chance to study it.” Norm Castine said “I presented this to Mr. Callahan on a large survey a month ago.” Jim Callahan said “But that is different from what you have got. Mr. Castine said “Yes, I understand that but wouldn’t you rather look at what we are going to do then look at an open thing. Everything I was told to do I did...gas company electric company, telephone company, water company, the Town Engineer approved everything. No one said anything about a subdivision.” Wendy Salvati said “This is the first time we have seen it.” Norm Castine said “What happened to my other sketch?” Jim Callahan said “That is different from what they have got.” Norm Castine said “It is no different.” Wendy and Jim both said “Yes it is.” Pat Powers said “It is considerably different.” Mr. Castine said “I disagree with you that it is different, it is the same parcel of land.” Wendy Salvati said “But it is laid out differently sir.” Norm Castine

said "My original shows the lots." Jim Callahan said "But the one you just submitted now is different." Mr. Castine said "No it isn't."

Jim Callahan said "Yes it is." Mr. Castine said "It is not different than my five lot subdivision that I gave you." Tim Pazda said "We could sit here, and argue about this all night. Roy McCready said "I am going to suggest that we table this and have Mr. Castine come in on Tuesday morning sit down, and straighten this out." George Van Nest said " At one of the prior meetings with this parcel, didn't we ask for an opinion regarding the number of splits off this parcel during the course of history?" Jim Callahan said "I talked to the Town Attorney about that, and the only way this can proceed is through the open development for which there is no moratorium - technically. If there are additional frontage splits and that is what Wendy was getting at, that constitutes the major subdivision that can't be reviewed." David Donohue said "It would be helpful to have the entire parcel on one survey where the lots can be drawn up." Mr Castine said "It is on one survey right now." Wendy Salvati said "We have three surveys in front of us right now." Norm Castine said "Mam, you have one survey that shows every parcel of my land there." Pat Powers said "Excuse me, but we are not going to debate that right now. I appreciate Roy's motion. If there is anyone in the audience who would like to speak to this agenda item, please come forward and state your name and address for the record. Michael Pease of 7020 Goodrich Road said he dropped off pictures and a letter this afternoon. The pictures were circulated to the board members. Mr. Pease said there are considerable drainage problems in the area on the Goodrich Road section right now. Any further development would probably increase those problems, unless the infrastructure is addressed to compensate for it." Chairman Powers said "If this project were to move forward, he would have to have an approved drainage plan from the Town Engineer's department. Tim Pazda read Mr. Pease's letter into the record.

Concerns I have about proposed development (Subdivision between 7020 & 7070 Goodrich Road.) First off I admire the five acre lot concept. Something the Town should pursue for all new residential upscale development. Some of our small homes are on larger lots than some of the new 3500 + square feet homes recently built. Seeing these beautiful homes crammed together is pathetic. The following concerns should not be seen as a "Not in my backyard position."

- 1) Existing drainage problems along Goodrich road flowing north. The open drainage ditches never seem to dry up anymore.
- 2) Existing drainage problems behind west side of Goodrich flowing

south all the way to County Road.

3) Both 1 & 2 intensify mosquitoes and their potential effects on health.

4) At least three properties along Goodrich have experienced water line breaks and property damage from breaks. This could have been due to increased water pressure for new builds north of us on Goodrich road. I suspect that more of the older lines are leaking. Contributing to the drainage problem along Goodrich and probably why the town of Clarence had trouble keeping track of water supply. During peak usage hours our water pressure drops. Increasing water pressure for the high demand of possibly 8 more new homes could cause even more problems.

5) Watershed from the new road and homes would probably flow into open ditch along Goodrich Road. This could hinder the northward flow for homes south of the new road. Most of our homes do not drain rain water directly to the ditches as do most new homes. For us it is a slow process ground water via sump pumps.

6) I am concerned with elevation of new homes in relation to existing properties. A higher elevation behind us would increase our back yard drainage problems.

7) Adding more septic systems to this area does not seem like a good idea to me. I have been told this is not a Town of Clarence decision. This is an Erie County Health Department problem. I was under the impression that new homes would not be built in this area until sanitary sewers were brought in?

8) The drainage ditch maintenance along Goodrich Road is the responsibility of Erie County. How will this maintenance continue with the recent cutbacks?

My concerns are all related to infrastructure and the current and potential increase to the already existing problems. I am not against having new neighbors. Fixing the problems is expensive and creates a higher tax burden for all of us. Allowing this development to proceed without addressing these concerns would be "placing the cart before the horse." I apologize for not putting in my two cents at the earlier meeting.

Sincerely,
Michael Pease

Hal Folckemer of 9351 Lapp Road said he owns the property on both sides of the major drainage ditch on Lapp Road. All the water that comes down that drainage ditch, and all his property that he has, there is a natural drainage that runs through the property that I own on the other side of the drainage ditch, and it all winds up running down to Lapp Road and it has to go through a 24" culvert pipe. They have 30" culverts coming down the road, so all the water running north down Goodrich, all the water coming down Lapp Road, and all the drainage coming off of his property, has to try and fit through a 24" culvert. It is like trying to run it through a funnel. So those houses there on Lapp Road and even the lot that he owns on Lapp Road, during a rain is under water. This past weekend the major drainage, the long drainage that runs from Martin to Lapp was down, but the water was still backed up on these peoples property because it couldn't get over that major drainage. There should be some way they could drain that property back in that area he owns, right over to that big ditch, rather than try and bring everything down Lapp Road and funnel it, and go under the bridge. That is my concern. I am not against the development, I just want to make sure that the drainage is taken care of because most of the time that lot I have on the other side of the ditch is like a lake. It is completely under water."

Dennis Raquet of 7070 Goodrich Road said "I live adjacent to the property Mr. Castine owns. Between 7070 and 7020 is me.' Mr. Raquet asked Mr. Castine "How are we getting back to this property? Are we going between our houses? Or are you going off of Lapp Road? Mr. Castine said "Two hundred feet off Goodrich." Mr. Raquet said "So is it going to be next to 7070 or 7020?" Mr. Castine said "It is going to be to the right. We have 400 feet of frontage. We can put it any place, but right now it is planned to put it on the right hand side. Mr. Raquet said "On the south side? Are you planning to put in any berms along the roadway or anything like that?" Mr. Raquet said his biggest concern is the drainage. All those backyards are always wet until the middle of summer, but the fields are extremely wet. When I built there, I brought in numerous loads of fill. Look at Goodrich and Lapp on the corner. They are going to have to bring in numerous loads of fill, and we are all going to be flooded. Mr. Castine said "I will leave my drainage up to Mr. Latona. The Town Engineer will tell me what to do."

Bryan Schaefer of 9410 Martin Road said he also has concerns for the drainage

Donald Cummings of 6990 Goodrich Road said "I have a concern too for all the ground water. I think a lot of it is from the ditch that comes down from Lakeside Sod, that floods down through the whole back area down there. If you go down there now, you can see the high water."

Councilman Bylewski said "I would like to make one comment. It has come up on other projects, in particular a project that was proposed by Lou Visone that may be rearing its head here. That is the issue of segmentation. We have a number of lots that have been identified that are not part of the open development area. So. I just raise that red flag, that as this project is being reviewed that is another issue - permissible versus impermissible segmentation that will need to be addressed."

Wendy Salvati asked Mr. Raquet When you brought in fill when you built your house, did it change the elevation of your property?
Mr. Raquet said "I had to have my basement two feet above the road level. Wendy asked "So does your land sits higher than the property behind you ?" Mr. Raquet said "Yes, all the houses along there do." Wendy said "So all those properties drain on to Mr. Castines property?"

Chairman Powers said if there is no more comment, we are ready for a motion.

ACTION:

Motion by Roy McCready, seconded by Wendy to table this project and have Mr. Castine come in on Tuesday morning and meet with the Executive Committee of the Planning Board.

ALL VOTING AYE. MOTION CARRIED.

ITEM VI
Jim Bevilacqua
Major Arterial/Commercial

REQUESTS DEVELOPMENT PLAN APPROVAL FOR THE DEVELOPMENT OF A MEDICAL OFFICE PARK LOCATED AT 6475 TRANSIT ROAD.

DISCUSSION:

Jim Callahan said this property is located on the east side of Transit Road north of Old Post Road. This consists of approximately five acres in the Major Arterial zone. The Master plan identifies the area in a Commercial classification. The applicant received a Negative Declaration under SEQR on October 27, 2004. The applicant

received concept plan approval on October 20, 2004 with conditions and is here seeking development plan approval. Bill Schutt and Jonathan Bevilacqua represented the project. Bill Schutt said "We have amended our site plan based on the red line mark up that we received from the Town. After that we made final engineering drawings and submitted them to the Town Engineering department, and we got Town Engineering approval. So here we are." Pat Powers said "Well, I have a real problem with your project. You referred to the red line mark up and when we compared the red line mark up to the plan that you submitted for development plan approval - it is hard to find any of the changes addressed on the plan." Bill Schutt said "Well I have the red line mark up right here." Pat said "We have one as well.. It is my understanding that you and Mr. Bevilacqua met with Mr. Callahan back in February around the first, and the red line mark up was shown to both of you. It is my understanding that pictures were taken of the red line mark up, and when we compare the red line mark up to the site plan for development plan approval, it is very difficult to find any real substantive changes addressed there." Bill Schutt said "We moved building 6 & 7 back so we have 10 feet of clear green space behind the sidewalk. We added landscaping to the front basin, and we added landscaping to the rear. We took out the two spaces that are shown on that conceptual plan there, and designated that entire triangular island as green space. Those were the mark ups that were provided to me. When we received the mark ups we revised the site plan, and then went back a second time to verify that we had addressed all the issues. Upon receiving a confirmation that we had, it was only at that point, that we went and did the final engineering." Tim Pazda said "If I understand we have problems with the connectivity here. The way it is drawn there is no possible way it can go to HSBC because it is splitting their parcels. You have problems back here due to the changes in the law, you have twenty five feet here, and we now need forty five feet. This is thirty three, so you are still short. You may be near the end of the road, but there is a curve in the road." Bill Schutt said "Well that is a brand new curve because that wasn't ever discussed before." Pat Powers said "That was shown on the red line site plan - where that access management road was to go." Bill Schutt said "Well we never had an access management road that I know of, we always talked about providing an access to the neighboring parcels. We have worked out an arrangement with the property owner to the south, we have solicited comments from HSBC before, and they have rebuffed any kind of action there. If I was going to do it, I would have done it how we showed it on our earlier plan that was showing an access road

in the front that lines up with HSBC 's parking lots rather than in the back so it is close to the residential. Again it was our impression that we were doing it as per red line plan that we were provided. Pat Powers said "Could we compare your red line plan to the one that we have?" Bill Schutt said "I was provided this red line plan by Mr. Bevilacqua. I was under the impression that he was given that plan, but maybe that wasn't the case." There was a discussion among members of the board, Jim Callahan and Mr. Schutt that was mostly inaudible. Mr. Schutt said he has an affidavit signed from the two neighbors (Mr. Floss and Mr. Jurek) in the back that they have seen this plan and they have no problems with the 25 foot setback. Chairman Powers said Mr. Harold Gates of 8055 Centre Lane was in and he is concerned about the lighting and the parking. Mr. Bevilacqua said that the lights would all be shielded and the lights would only be on at certain times. Since Mr. Bevilacqua is selling these buildings Mr. Bevilacqua won't always have control of the lighting. Mr. Schutt said the lights will be shielded, and these buildings will essentially follow normal business hours. There won't be anyone open twenty four hours seven days a week. Chairman Powers asked if anyone in the audience wished to speak to this project. Bill Schutt said "With respect to the rear setback issue, just for clarification, I would like to confirm just what our options are - so to speak. Do we have two options or three options? The three options being one that he would revise the plan that would provide a 45 foot rear yard setback, two go to the Zoning Board of Appeals, or three could we appeal to the Town Board?"

Pat Powers told Mr. Schutt back on December 28, 2004 they met with Mr. Bevilacqua and one of the points discussed was move the parking away from the northern property line to provide more landscaped area against the neighbors, and still not lose any parking. The parking is still along the northern property line. Roy McCready gave Bill Schutt a solution to how this could be accomplished.. Jim Callahan said we talked about that but it wasn't part of the red line for a purpose. Wendy Salvati said "We had a lot of discussions about a lot of things, and some of the things that we have talked about have just been dropped." Pat Powers said the space is there to do what has been asked to be done. The applicant chose not to make the changes that were requested. Pat said "At this point I think we are ready for a motion."

ACTION:

Motion by Patricia Powers, seconded by Wendy Salvati to recommend denial of the project to the Town Board due to the rear lot setback.

Jim Callahan said to Pat Powers “Just as an alternative would you ask the applicant if he would consider amending the site plan before you take that action?” The other option would be to approve it conditional to meeting a 45 foot setback.

Bill Schutt said it would cause be too big of a hardship for his client to increase that rear setback. It would involve two buildings out of seven.

Chairman Powers said she didn’t have too much faith that he would. The board has asked continually for conditions on this project. We have seen this evening what we have received. Pat asked if there was a second, and Wendy Salvati was the second to the motion. Is there anything on the question?

ALL VOTING AYE. MOTION CARRIED.

Jim Callahan said “Just to further this, maybe just some discussion ... If it is denied based on the rear yard setback. He can’t go to the Town Board. He could proceed to the ZBA if he is successful with a variance and then come back to this board. I just want to make sure that if that is the course this takes, that there aren’t any other issues that are going to come up.

Pat Powers said “We discussed the 45 foot setback, and we discussed the access management road.

Bill Schutt said “I believe there was a motion made, and you already voted on it.

David Donohue said “They are trying to help you know what the conditions are when you come back.

Councilman Bylewski said Mr. Callahan is just trying to lay out everything now, so it doesn’t explode down the road. There was more discussion between members of the board.

Jeff Grenzebach said “There were three issues - the access road, the setback, and the buffer.

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Roy McCready said there is the option to make those changes.

Motion by Jeff Grenzebach, seconded by Wendy Salvati to adjourn the meeting.

Meeting adjourned at 10:00 p.m.
Patricia Powers, Chairman