

Clarence Planning Board Minutes  
Wednesday, May 17, 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)

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| <b>Item 1</b><br>Joseph Nemmer<br>Agricultural Rural-Residential  | Requests Development Plan Approval for a one (1) lot Open Development Area at 9330 Lapp Road.                 |
| <b>Item 2</b><br>Frey's Olde Time Furniture<br>Commercial         | Requests placement of an ice cream/hot dog vending stand at the existing furniture store at 9992 Main Street. |
| <b>Item 3</b><br>Frizlen Assoc.<br>Agricultural Rural-Residential | Requests Concept Review of a 21,000 square foot office building at 9435 Main Street.                          |
| <b>Item 4</b><br>Master Plan 2015                                 | Review of comments.   |

Patricia Powers, Chairperson, called the meeting to order at 7:40 PM. Councilman Scott Bylewski led the pledge to the flag.

The Town of Clarence Planning Board has completed a Land Use Training Management Program; the Board is now certified by the New York State Planning Federation.

Planning Board Members Present:

Patricia Powers	Wendy Salvati
Gerald Drinkard	Richard Bigler
Jeffrey Grenzebach	Philip Sgamma
Timothy Pazda	George Van Nest

Other Town Officials Present:

Councilman Scott Bylewski  
James Hartz, Assistant Director of Community Development  
Anne Case, Deputy Supervisor  
David Donohue, Deputy Town Attorney

## Other Interested Parties Present:

Don Sennett  
Karl Frizlen  
Chris Groff

Fred LoFaso  
Brad Davidzik  
Henry Jurek

Motion by Jeffrey Grenzebach, seconded by Gerald Drinkard, to approve the minutes of the meeting held on April 19, 2006, as written.

Patricia Powers	Aye	George Van Nest	Aye
Jeff Grenzebach	Aye	Phil Sgamma	Aye
Gerald Drinkard	Aye	Tim Pazda	Aye

## MOTION CARRIED.

Motion by Patricia Powers, seconded by Phil Sgamma, to **approve** the minutes of the meeting held on May 3, 2006 noting that on page 2006-111, it is believed that, in reference to the sewer line that extends easterly along Greiner Road, Mr. Pidanick meant to say **Eastern Hills** as opposed to Lutheran Hills.

Patricia Powers	Aye	George Van Nest	Abstain
Jeff Grenzebach	Aye	Phil Sgamma	Aye
Gerald Drinkard	Aye	Tim Pazda	Aye

## MOTION CARRIED.

**Item 1**

Joseph Nemmer  
Agricultural Rural-Residential

Requests Development Plan Approval for a one (1) lot Open Development Area at 9330 Lapp Road.

**DISCUSSION:**

Jim Hartz provides the background on the project. The property is located on Lapp Road west of Goodrich Road; it consists of a twenty-one (21) acre parent parcel. There is an existing home on the property. The applicant is proposing to build one single-family home on a 5.1 acre piece under the Open Development Area regulations. At the Town Board meeting of April 26, 2006 approval was granted for the Concept Plan. The Town Engineering Department has reviewed and approved the plans.

Don Sennett, of Abate Engineers, is present and representing Joseph Nemmer. Patricia Powers asks what the distance is from the proposed home to the nearest fire hydrant. Mr. Sennett said it is approximately 580' from the rear of the proposed home. The fire department would not travel through the fields, they would take the road, therefore, the distance will be greater than 600' and the measurement needs to be taken appropriately. There are no plans to have the house sprinklered.

Gerald Drinkard explains that according to the Subdivision Law under the Open Development Areas section a paved road is required. Mr. Sennett explains the difference: this project is not a large multiple open development, ready for development, it is going to be a one or two single-family

residence. Mr. Sennett asks if a condition can be made that the road would be upgraded to twenty feet (20') if anyone ever develops the other lot. The applicant is not a developer looking to sell off lots.

Mr. Nemmer chose to ask for approval on this project as an Open Development Area. Wendy Salvati explains that the Planning Board utilized the Subdivision Law/Open Development Area when reviewing Mr. Nemmer's request, this law requires a paved driveway.

Mr. Sennett explains this is a bad lot to be able to do anything with it except to subdivide it as an Open Development, because it could not be divided beyond that. There is also the desire, in the future, for other family members to build at this site; however, there are no plans currently. This is an open development by a private home owner.

Wendy Salvati states that if it was the intention to put just one house on the lot, Mr. Nemmer could have done that with the Minor Subdivision Approval that he previously received. Mr. Sennett points out that if the Minor Subdivision Approval was accepted and pursued by Mr. Nemmer the lot could not be subdivided further. This is the Planning Board's point.

Mr. Sennett does not think an individual homeowner should bare the burden of a twenty foot (20') paved driveway that will service one residence.

Patricia Powers explains that the Planning Board could approve the project and send it to the Town Board for Development Plan Approval, but it would be with a condition. The condition would be that the driveway for an open development area shall have a minimum right-of-way width of thirty-six feet (36'). The paved surface shall consist of a minimum width of twenty feet (20') of asphalt pavement with a turnaround provided. The required pavement cross-section and turnaround shall comply with the Town of Clarence standard details for open development pavement.

Phil Sgamma wonders if a consideration can be made regarding the size of the road, perhaps a sixteen foot (16') instead of a twenty foot (20') paved road. However, would emergency vehicles be able to travel a sixteen (16') road?

There is a ten to twelve foot (10'-12') gravel driveway on the property line that services the existing home. Timothy Pazda asks if there has been any consideration in using this driveway for the proposed project. The remainder of the parcel is under cultivation, the desire is not to be too far from the property line.

#### **ACTION:**

Motion by Phil Sgamma to **recommend approval** for a subdivision and a twenty foot (20') paved driveway as declared by law, the Town Board may consider a gravel driveway for this applicant.

#### **ON THE QUESTION:**

Gerald Drinkard asks if the consideration for a gravel driveway is for the entire driveway. Phil Sgamma explains the motion is for the one unit, any subsequent development would stand on its own.

#### **ACTION:**

Motion by Phil Sgamma to **withdraw** his previous motion.

**ON THE QUESTION:**

Jeff Grenzebach wonders if a twenty foot (20') gravel driveway will sustain emergency vehicles. Timothy Pazda explains the driveway will sustain emergency vehicles as long as it is built properly.

Gerald Drinkard asks if the gravel driveway was to be approved and it goes right up to the road, will it cause a safety problem when being plowed; should the Planning Board recommend paving a certain number of feet of the driveway, which comes off the road, and then the remaining part of the driveway can be gravel?

George Van Nest voices his concern in reference to setting a precedent for the other family owned open development areas in the community.

Phil Sgamma points out there is no explanation as to why this is not a two (2) – lot Open Development.

**ACTION:**

Motion by Patricia Powers, seconded by Jeffrey Grenzebach, to **recommend approval** of the project to the Town Board with the following conditions:

- Article V, paragraph (D.) of the Subdivision Law is cited: The common driveway for an open development area shall have a minimum right-of-way width of thirty-six feet (36'). The paved surface shall consist of a minimum width of twenty feet (20') of asphalt pavement with a turnaround provided. The required pavement cross-section and turnaround shall comply with the Town of Clarence standard details for open development pavement.
- The conditions outlined in the Town Engineer's letter dated May 11, 2006. The Town Engineer approves the project with two (2) conditions:
  1. The driveway may be constructed as designed with filter fabric and 12" of crusher run stone base. If in the future a second lot is proposed off the same stone drive it will be a requirement to pave the existing stone driveway.
  2. A Private Improvement Permit is required for the proposed storm drainage culvert crossing prior to any site work.
- Another fire hydrant to be added or the house be sprinklered.

**ON THE QUESTION:**

Although the Town Engineer's letter is in opposition to the Planning Board recommendation, Patricia Powers feels it is necessary to state the conditions of the letter in the motion so the Town Board members will be fully aware when they make their decision.

Timothy Pazda asks if the fire hydrant issue has been covered in the conditions. Further discussion ensued regarding this issue and as a result the last condition listed above has been added.

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

MOTION CARRIED.

**Item 2**

Frey's Olde Time Furniture  
Commercial

Requests placement of an ice cream/hot dog vending stand at the existing furniture store at 9992 Main Street.

**DISCUSSION:**

Jim Hartz provides the background on the project. The project was submitted to the Town Board on April 12, 2006 and referred to the Planning Board. The applicant has requested a permit for more than ninety (90) days; this request requires Town Board approval.

Brad Davidzik of Renaldo & Palumbo Attorneys is present and representing the applicant. The applicant, Chris Groff, is also present.

Frey's Olde Time Furniture is not the owner of the ice cream/hot dog stand. Mr. Groff is leasing the space. A letter from Frey's Olde Time Furniture granting permission for Mr. Groff to be on the property will be required.

The trailer is seven feet (7') by ten feet (10'). Currently located at the proposed spot is a shed that is eight feet (8') by ten feet (10'). The shed would have to be moved to make room for the ice cream/hot dog stand.

Timothy Pazda voices his concern with reference to the directions given by the Town Board and their concern with the applicant using the little greenspace that is left at this site. The Town Board asked that the vending machine be placed on pavement. Mr. Davidzik did not think the Town Board asked for the vending machine to be placed on the pavement. Since the machine would replace an existing shed it will not be taking up more greenspace.

Timothy Pazda asks if the fact that the vending machine is a lease and not owned by the owner of the property is a concern. Jim Hartz advises, under the Peddling and Soliciting ordinance, this would not be a problem as long as the owner of the property provides a written statement indicating approval for the vending machine to be located on the property.

Wendy Salvati voices her concern with the little greenspace that is left at the site. She is also concerned with the parking. Are the parking requirements met? The site plan shows a row of parking, however, Wendy Salvati thinks there are actually structures located on that row of parking. Before putting another structure on this site, the parking requirements need to be reviewed.

Mr. Davidzik refers to the Executive Planning Board meeting he attended on May 16, 2006 in which he was told there is plenty of parking at the site and parking is not a concern.

The customers that this hot dog stand will be servicing are people who are already at the site, whether it be children who run over from Berrafato's to play on the furniture or people crossing over because the line is too long at Berrafato's.

Since there has been a Special Exception Use Permit granted at this site, George Van Nest would like to see an updated site plan showing the products that are stored on the lot.

The trailer is self-sufficient, it uses propane.

Mr. Davidzik said if the trailer is in the middle of a parking lot, it may be more of a safety hazard than if it is tucked in a corner on the site.

David Donohue wonders what the Special Exception Use Permit allows for the acceptable number of structures and the location of the structures on the lot. This needs to be determined before making any decision on this request.

Mr. Groff has not purchased the trailer yet.

Gerald Drinkard provides specifics on the days and hours of operation. Per the Town Board minutes of April 12, 2006, the applicant is asking for a permit to operate from June 1<sup>st</sup> to October 1<sup>st</sup>, this exceeds the 90 day requirement. The applicant also asked for every day operation, the Planning Board can only approve a permit for Monday through Saturday with no holidays 9am to 9pm.

Patricia Powers explains that, if the request is granted, in addition to the license and permit fees, another condition would be a deposit of \$150.00 to ensure that the area is cleaned up after the trailer is removed, this must be done within 72 hours after the permit expires.

Timothy Pazda suggests the applicant read page 143 of the Town Board minutes from the April 12, 2006 meeting.

#### **ACTION:**

Motion by Timothy Pazda, seconded by Gerald Drinkard, to **table** Agenda Item # 2 to allow the applicant time to obtain the information that has been requested.

#### **ON THE QUESTION:**

Phil Sgamma suggests obtaining an aerial photo. Wendy Salvati agrees with Mr. Sgamma and goes on to list the items the Planning Board has discussed and requested:

- An aerial photo of the entire site.
- An accurate site plan.
- Information from the Special Exception Use Permit that indicates where Frey's is allowed to display.
- Review the parking requirements.

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

**MOTION CARRIED.**

**Item 3**

Frizlen Assoc.

Agricultural Rural-Residential

Requests Concept Review of a 21,000 square foot office building at 9435 Main Street.

**DISCUSSION:**

Jim Hartz provides the background on the project. The parent parcel is 21.3 acres. The delineated wetland area is 16 acres. At the April 26, 2006 meeting of the Town Board, the project was referred to the Planning Board as a three (3) story, 21,000 square foot office building.

Fred LoFaso and Henry Jurek are present.

Patricia Powers explains that any information regarding the project needs to be to the Planning Board prior to the day is on the agenda, information provided on the day of the meeting does not allow enough time for the members to review it, she requests that the information be submitted at least one (1) week prior to the appropriate Planning Board meeting. Mr. LoFaso explains that the 3-D rendering of the building was a request of the Town Board.

Mr. LoFaso explains that the new rendering takes in the Town Board's concerns with regards to the style of the building. The height of the building is approximately forty-two feet (42'). At this point, there will be no medical use offices. If there are medical use offices, Mr. LoFaso is aware of the difference in parking space requirements. There are approximately ninety (90) parking spaces displayed on the site plan. There are no residential areas on the site. Jim Hartz clarifies the parking space requirement for a building with professional offices is one (1) per two-hundred square feet (200'), for retail the requirement is one (1) per one-hundred fifty square feet (150'), this per Chapter Two (2) of the Zoning Law. Karl Frizlen, architect, advises there are one-hundred nine (109) parking spaces at the site; the required minimum is one-hundred six (106).

Gerald Drinkard asks what the plans are for the parcels to the front and to the east of the site. Mr. LoFaso advises there are no concrete plans for those areas. If the offices go well with this project, perhaps offices will be proposed for those empty parcels. A retail building is a consideration as well. He realizes he will have to come before the Town for any development of the parcels.

Wendy Salvati explains that the applicant would want to avoid a SEQR segmentation issue. The Planning Board would like to assess the impacts of the entire parcel as opposed to a "piece meal" of the environmental review. Mr. LoFaso states any project will stay within the Zoning Code.

George Van Nest points out that the applicant will be substantially constrained due to the wetlands in the area. Mr. Lofaso is aware of this.

Wendy Salvati would like to know where the storm water detention basin and the septic system will be located. She is also concerned with preserving some of the natural vegetation.

Gerald Drinkard suggests rethinking where the road will go in order to bring it away from the intersection. Mr. LoFaso explains that he looked at relocating the road further west, however, there is a drive that abuts the property line into Orazio's parking lot and two drives can not be so close. There is also an easement issue with the Department of Transportation (DOT) along the property line. The intention would be to come in off of Main Street and service the out parcel, then service the 21,000 sq. ft. building and then service the rear parcel. The road would be across from the Wilson Farms site. The Planning Board is concerned with properly managing traffic in this area.

The office building will have normal business hours.

Patricia Powers asks if the applicant would be amenable to shared access with whatever goes on the property on Main Street and the proposed office building. If and when the property to the east is developed the Planning Board will ask for shared access so there will be no curb cut on Main Street. Mr. LoFaso said this issue is always open for discussion. Phil Sgamma advises there is a large commercial area to the west of this property. George Van Nest thinks this area might be adjacent to the wetlands.

Mr. LoFaso explains the building materials will be brick and glass.

Mr. LoFaso explains that he has had several meetings with the Department of Environmental Conservation (DEC) to discuss the wetlands, storm water and septic system.

This project will go through the Town Environmental Quality Review (TEQR) Committee.

The parcel that the applicant is considering for retail is mainly scrub. The majority of the trees start on the wetlands.

George Van Nest cautions the applicant, based on the size of the wetlands, to carefully review any development plans with the DEC.

Mr. LoFaso advises there will be no parking in the buffer area.

The DEC mentioned draining into the storm ditch, which would be carried back into the wetlands.

The Planning Board would like to know the location of the septic system and the detention ponds prior to taking action. The applicant is currently discussing draining on to the buffer area.

The meeting between the applicant and the DEC will be rescheduled for sometime within one week from today.

The applicant and the Department of Transportation (DOT) have had discussions regarding parking. The DOT has not issued the permit yet, but do not see a problem with parking on top of their drainage easement.

If the project moves forward the next step would be referral to the TEQR Committee for an Environmental Study, Traffic Safety Committee and Fire Advisory Board. The traffic study is in the works. A tree survey will be submitted as well.

When the traffic study is being prepared, Wendy Salvati asks that the proposal across the street be taken into consideration. It is unknown who is doing the traffic study.

The applicant has met with Jeff Dietz at the DEC.



**ACTION:**

Motion by Patricia Powers, seconded by Wendy Salvati, to **table** Agenda Item # 3 to allow the applicant time to obtain the information that has been requested regarding:

- The front parcel.
- Parking in the buffer zone.
- Tree Survey.
- Traffic Study.
- Proposed locations for the detention basin and septic system.
- Wooded wetlands.
- DEC input.

**ON THE QUESTION:**

Mr. LoFaso wonders if the project can be referred to the TEQR Committee this evening. George Van Nest said this project will not be referred due to the information that is being requested. He advises the Planning Board to be as specific with the referral as possible, in order for any other Board to make an accurate decision.

Patricia Powers asks if, whatever is proposed for the front parcel, would it be in keeping with the architectural design of the building that will go on the proposed site. Mr. Lofaso thinks it will.

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

**MOTION CARRIED.**

Patricia Powers advised the applicant, once he obtains the requested information; he has the option to attend an Executive Planning Board meeting to discuss it.

**Item 4**

Master Plan 2015

Review of Comments.

**DISCUSSION:**

Wendy Salvati refers to number five (5) of the comments. It is her understanding that the sewer transmission line was part of the action being reviewed, so it would not have been proposed as mitigation. Jim Hartz will reword the response.

Work on the traffic model is on going. Timothy Pazda thinks the Town should start paying for the traffic study for appropriate projects and have the applicant then reimburse the Town. It was also discussed among the Planning Board Members that perhaps an individual be hired to review the traffic studies that are submitted.

Phil Sgamma suggests the wording be added to the response for comment number nine (9) that speaks to “a mix of housing types” in the Open Space Development Design.

Wendy Salvati refers to comment number eight (8). She suggests down zoning Transit Road from Clarence Center to just south of County Road. The zoning would reflect a Commercial Zone. George Van Nest would like to see the rezoning go even farther north.

**ACTION:**

Motion by Wendy Salvati, seconded by Phil Sgamma, to **recommend** a revision to the Master Plan to reflect the zoning be changed on the east side of Transit Road between Clarence Center Road, north to just south of County Road where the Traditional Neighborhood District begins. The revision will show this area to be down zoned from Major Arterial to Commercial.

**ON THE QUESTION:**

Jim Hartz advises the motion specifically relates to Chapter Five (5), page 23, Item F. There will be an additional bullet point added.

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

**MOTION CARRIED.**

Deputy Supervisor, Anne Case is acting as spokesperson for Councilman Bylewski and addresses the Planning Board. Councilman Bylewski needed to leave the meeting. Anne Case reads from the Town Board minutes of the February 22, 2006 meeting.

“He (Councilman Bylewski) believes we should also review, from page 34 (of the Master Plan), the limit on the number of sewer taps issued on an annual or monthly basis. Especially in light of the fact that we have been informed, at least in theory, that we do not have much more capacity. We always hear from the development community that we must grow or die. Councilman Bylewski said he thinks it is about adapting and changing. The Erie County Sewer Authority said that the entire infrastructure coming out to the second ring suburbs meant there were additional people. We have a city loosing population and expanding rapidly into the second ring suburbs further stretching out our infrastructure. We need to look at our planning practices as a region. The Town also must make sure our planning and growth practices are in conformance with our Master Plan and with a changing and adapting situation.”

Jim Hartz refers to the Growth Cap on page 34 of the Master Plan and advises it has been referred to the TEQR Committee. The TEQR Committee has made a recommendation back to the Town Board; it is still in environmental review at this point. The consideration is to reduce the permits to 160 per year. He believes Councilman Bylewski is asking for additional wording in the Master Plan, however, after further discussion amongst Planning Board members, it is decided the wording is adequate to address Councilman Bylewski’s concerns.

The comments from the Planning Board should be returned to the Town Board by May 22, 2006.

Between the Town Engineer, the Town Attorney’s office and the Town Board, the sewer capacity is thoroughly under review.

**ACTION:**

Motion by Phil Sgamma, seconded by Patricia Powers, to **pass the recommendations** discussed this evening on to the Town Board with the provision that the Planning Board has a chance to review the last minute changes made this evening by Friday May 19, 2006 and forward any further changes to the Town Board prior to their next meeting on Wednesday May 24, 2006.

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

**MOTION CARRIED.**

Jim Hartz will provide the Planning Board members with the list of items, which are suggested changes to the Zoning and Subdivision Laws that will be discussed at the May 31, 2006 meeting. George Van Nest questions if the list may be subject to litigation and wonders if it should be reviewed by the Town Attorney's office prior to distributing to the Planning Board Members. David Donohue does not see this as a concern, the list will be generic.

Tim Pazda questions the best mechanism to forward the traffic study concerns previously discussed to the Town Board in order to change the policy. Jim Hartz advises the Town is paying Nussbaumer & Clarke to provide a traffic study. In the past the traffic study has taken into consideration new developments.

Wendy Salvati explains that the Planning Board wants the Town to hire a consultant to review traffic studies.

Tim Pazda clarifies his suggestion: the Town should be hiring the traffic consultant for the project and, in turn, the applicant will be billed for the study.

The Planning Board would like to set up a meeting with the Town Board to discuss certain procedures. The Executive Planning Board will discuss this at the next meeting, which is May 23, 2006.

Wendy Salvati voices her concern regarding a previous applicant that came before the Planning Board with a site plan that had a tree survey on it. Decisions had already been made as to what trees were to be saved and what trees were to be removed. She thinks that a recommendation under the SEQR decision, as opposed to a decision, on the trees should have come back to the Planning Board. Ms. Salvati believes the MRC (TEQR) Committee made decisions that are outside of their jurisdiction. A recommendation should have been made and then the Planning Board would have been able to work with the applicant to determine how the tree situation should be handled. She felt the Planning Boards "hands were tied" when the applicant came before them.

Meeting adjourned at 10:05 p.m.

Patricia Powers, Chairperson