

PLANNING BOARD MINUTES

Wednesday January 14, 2004

WORK SESSION 6:30 P.M.

Roll call      Miscellaneous  
Minutes      Agenda items  
Sign review    Communications  
Update on pending items  
Committee reports

AGENDA 7:30 P.M.

ITEM I

Kevin Curry  
Agricultural

REQUESTS CONCEPT PLAN APPROVAL FOR DANA MARIE EXTENSION ( 14 +/- ACRES) AND RE-ZONING FROM AGRICULTURAL TO PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD).

ITEM II

Mike Falletta  
Agricultural

REQUESTS AMENDMENT TO EXISTING TEMPORARY CONDITIONAL PERMIT TO ALLOW A BANQUET FACILITY INCLUDING SOME OUTDOOR RECEPTIONS LOCATED AT 8285 CLARENCE CENTER ROAD.

ITEM III

Neil Buono  
Commercial

REQUESTS DEVELOPMENT PLAN APPROVAL FOR A NEW BEAUTY SALON LOCATED AT 8180 WEHRLE DRIVE.

ATTENDING:

Patricia Powers	Christine Schneegold
Joseph Floss	Roy McCready
Tim Pazda	Reas Graber
Jeff Grenzebach	

INTERESTED  
PERSONS:

Town Attorney Steven Bengart  
Councilman Scott Bylewski  
Gene Jason  
Bill Schutt  
Kevin Curry  
George Semko  
Kristen Lang  
Tom Lang  
Debbie Cassidy  
Mike Falletta  
Neil Buono  
Bob Conway

MINUTES

Motion by Joseph Floss, seconded by Christine Schneegold to approve the minutes of the meeting held on December 10<sup>th</sup> with a spelling correction of acre on page 298.

ALL VOTING AYE. MOTION CARRIED.

ITEM I  
Kevin Curry  
Agricultural

REQUESTS CONCEPT PLAN APPROVAL FOR DANA  
DANA MARIE EXTENSION (14 +/- ACRES) AND  
RE-ZONING FROM AGRICULTURAL TO PLANNED  
UNIT RESIDENTIAL DEVELOPMENT (PURD).

DISCUSSION:

Jim Callahan gave a brief history of the proposed project. It is located on the west side of Thompson Road north of the NYSEG substation on the corner of Thompson and Roll Road. It is currently zoned Agricultural. The Master Plan identifies the area as a low density residential area. The project was initially introduced to the Town Board on October 8, 2003 and to the Planning Board on October 15, 2003. A Negative Declaration from the Municipal Review Committee was recommended on December 15, 2003 and a Negative Declaration was issued by the Town Board on December 17, 2003. The project is here for consideration of a revised concept plan. Bill Schutt said "Kevin and I would like to bring the Planning Board up to speed on the new plan. The first plan was very aggressive, but through a series of meetings with the Planning Board Executive Committee, the Municipal Review Committee, and of course Mr. Curry met with some of the neighbors from Thompsonwood. Our plan has been refined and re-shaped to the plan you see tonight. The reason the plan was changed is a result of the meetings we had, three meetings with the MRC, and more than one meeting with the Planning Board Executive committee. Primarily what we have heard is that the goal that the town wanted us to achieve is to preserve a natural buffer between our development and Thompson Woods. We felt that this type of project achieves that goal the best. This is proposed to be developed as an executive home type of development. The roads and utilities would be privately owned, as well as the common areas by a Homeowner's Association. The Homeowner's Association would control and would insure that the existing vegetative buffer would remain between the proposed homes and our north property line, which is the south property line of Thompson Woods. It will be geared toward empty nesters so to speak, who are seniors, or independents or whatever you want to call it. So the impacts of the development is much less than a normal single family subdivision would be. That whole philosophy helps preserve that buffer concept as well. If you take a normal

single family home, the person who buys that lot, controls that lot. If they wanted to clear cut that lot, they could do that if they wanted to build a swimming pool, accessory structures or whatever they wanted to do. Our type of development would thoroughly control that buffer, as it would become part of the common area controlled by the Homeowner's Association. The plan has seventeen (17) executive homes along the north and east side perimeters. The interior area has seventeen (17) patio homes, and along the south which backs up to the NYSEG facility are eleven (11) two unit town homes." Kevin Curry said "We appreciate the opportunity to present this plan to the new board at the first meeting of the year, and we do understand there is neighbor involvement and neighbor concerns to which we have attempted to be sensitive. We had an initial meeting with the neighbors, and will probably meet with the neighbors again. We do feel that what we are doing would be consistent with the character of the area, in that the properties immediately to the west will be more or less identical to what we would be doing here and quite similar in use. The properties to the north of course, are a little bit different. Thompsonwood is quite a nice neighborhood. We intend on trying to provide them with the most significant buffer, that we believe would occur in virtually any development scenario. Properties to the east are either owned by us or are duplex rental units (2) and the property to the south is the NYSEG power station. In going through the process with your board, the Town Board, and the Municipal Review Committee, I believe we addressed most all of the issues. It has been noted, I believe by the Negative Declaration that in the course of that, the character of the neighborhood was addressed. It will not have a significant impact on the area, we plan on continuing to address that topic." Kevin Curry showed pictures of the type of housing that would be used along the south side of the property and what it would look like. The smaller pictures are what the patio homes and town homes would look like. Also on the back of one of the photos there is a picture of what the proposed community center would look like. Our hope is to continue working with the neighbors, and elicit more of their concerns, and do the best that we can to address those concerns, while still having a project that we can be happy with as well. Jeff Grenzebach asked if there were going to be deed restrictions, and would there be a maintenance fee. Mr. Schutt

said "I didn't say there would be deed restrictions, I said there would be a home owners association that encompasses the entire development." Jeff said "So, if I lived there and I wanted to do something, I would have to go to the Homeowner's Association and they would vote on it?" Mr. Schutt said "There would be certain restrictions such as preserving the buffer area." Jeff Grenzebach said "You eluded to the fact that each house would have a maintenance fee, and each one would look the same landscaping wise." Bill Schutt said "That would be the case as well. The Homeowners Association would take care of the landscaping and the yard as well. The snow plowing of the driveways, and the streets, it would be a unified development." Kevin Curry said "These would be custom homes, designed individually with our customers, this is not tract housing, there will be a tremendous amount of variation in architecture. The styling will be traditional American colonial style. The executive homes will be the bigger homes. Their backyard size will be limited because we are providing a wildlife preserve on the north side of our property. Jeff asked the sizes of the lots for the three types of homes being proposed. Bill Schutt said "The executive home lots are 70' x 200' of which 50 feet is for the buffer zone. The interior patio homes are on lots that are 70' x 77'. The town homes don't necessarily have individual lots." Kevin Curry said the lots to the north are very deep (200') and we will also be very shallow in our development of those lots being that they are patio homes. The occupants aren't typically going to want to have the extensive backyard to mow, maintain, or play ball with their children. They really want a patio home with a small amount of grass, five or ten or fifteen feet of grass, and then we plan on leaving the area natural which is perfect with the buffer. Also, the patio homes will be closer to the street, to create a nicer street scape. Tim Pazda said he had a couple of concerns. "When you began your presentation you said this project was in keeping with the character of the neighborhood. I just don't see how you can say that, as far as I am concerned, it is a semi-rural neighborhood. The only one I see that you are in keeping with the character of the neighborhood is the one you are building to the west of that. It was noted on the letter that we received from Mr. LeVan who couldn't be here tonight that he was pretty upset about the size of the lots. When you drive down Thompson road you don't

see any houses like that. The second concern I have is on the whole project, how many more times will you be coming to the boards to increase the size of Waterford? Mr. Curry said “We have indicated at past meetings this and the Wexford Ct parcel which was recently added to Waterford.

These are the only two parcels that would be under consideration to annex in to the project of Waterford Village. One of the Waterford partners does own a parcel on the south side of Roll Road, but there have been no discussions of joining that. This is the last contiguous parcel (Dana Marie) owned by any of the Waterford partners. I would note too, that Patrick Homes of which I am a principal, is the owner of this parcel. We bought it several years ago from the gentleman who built the duplexes on Thompson Road, and at this point Patrick is the owner. At some future point, the determination will be made, when and whether this would become a part of the Waterford project. At this point Patrick is the sponsor. We have been referring to it as Dana Marie, but there are no other Waterford parcels whatsoever.” Joe Floss said there is a letter in the file from Mr. LeVan stating his concerns for the health hazards from electro magnetic field transmissions. Mr Curry said he reviewed the letter. Joe Floss said he might want to check with NYSEG about their output before the next meeting. Mr. Curry said that was identifies and addressed during the SEQR process. Chairman Powers said she would like the letter read into the record:

Wayne LeVan  
9155 Thompsonwood  
Clarence Center, NY 14032

Dear Ms. Hallock,

As I am unable to attend the Planning Board meeting this Wednesday, I wanted to express my opinion on the matter of the Dana Marie Extension. This proposed development will have a direct negative impact both aesthetically and economically on our secluded, upscale neighborhood.

The neighbors have met collectively with Mr. Curry and have reviewed the proposed drawing for this small parcel of land. The number of homes/units that are proposed is absurd considering the surrounding semi rural setting. It is completely out of character with the adjacent properties and the overall character of the village of Clarence Center.

Although we are opposed to any development in the pristine setting directly behind our homes, we realize the developer may have certain rights to the property and would not be opposed to a development that would mirror the Thompsonwood development of several larger homes.

There are several issues that I am sure the Planning Board has addressed such as potential wetlands, electromagnetic field transmissions and their potential health hazards, the potential need for NYSEG to expand their outpost on the adjacent property due to the 250 new homes approved for that immediate area, and traffic congestion to name a few. I assume that these studies are a matter of public record and would appreciate the opportunity to review them. How can I obtain copies of these reports?

One area of major concern is the EMT and the unknown health effects of living close to a high dosage of output such as the NYSEG outpost. I have enclosed one study that I have found on the subject for your review. Although the study is inconclusive it does suggest further investigation is warranted. It would seem then, that any further development closer to a potential hazard could be deemed irresponsible.

Thank you for your time and consideration. The neighbors and I hope that the town Planning Board will embrace and uphold the current semi rural character of Clarence Center by saying "NO" to a congested, multi-unit, treeless, unattractive development!

Sincerely,  
Wayne LeVan

c.c. John Lally, George Semco, Jim Ribbick, Brian Noble

Christine Schneegold asked the applicant about the garages. Mr. Curry said the garages will be pushed back from the front lot line, rather than a snout house where the garage sticks out in front. Bill Schutt asked for a copy of the letter and the report from Wayne LeVan. George Semco of 9145 Thompsonwood asked to see pictures of the homes that were shown to the board. Mr. Semco said there are seven homes on Thompsonwood ranging from over one acre to five acres. This project hardly mirrors the development behind it. He is concerned about the wildlife, the birds, and the trees are dying because they are getting old. He would like to see one single cul-de-sac and seven or eight lots like theirs. Councilman Joe Weiss said "In this last election there was a great mandate to start building things a little differently in Clarence. I listened and was being told that these were executive homes. Looking at these homes and the construction and styling, these are going to be two income people struggling to make a mortgage. A true executive wouldn't be living across from a patio home. What you are doing is adding more children, more traffic,

more demands on the infrastructure of Clarence. Also, it violates the Master Plan. Look at the density of this thing. The people don't want this, they want to see some green space, they want to retain the rural character, and this doesn't do it. Gene Jason of Thornwood Drive said he can't understand the selfishness of the neighbors. They are typical NIMBY'S. This is a very good project, and he supports it. Kevin Curry said they will continue the dialogue with the neighbors, they understand and appreciate their input. Chairman Powers asked for a motion to table this project, and ask the applicant to consider lower density, and a larger width lot for the executive homes.

ACTION: Motion by Jeffrey Grenzebzh, seconded by Christine Schneegold to table this project, and give the applicant time to redesign the plan.

ALL VOTING AYE. MOTION CARRIED.

ITEM II  
Mike Falletta  
Agricultural

REQUESTS AMENDMENT TO EXISTING TEMPORARY  
CONDITIONAL PERMIT TO ALLOW A BANQUET FACILITY  
INCLUDING SOME OUTDOOR RECEPTIONS LOCATED AT  
8285 CLARENCE CENTER ROAD.

DISCUSSION: Jim Callahan gave a brief history of the project. The restaurant is located on the south side of Clarence Center Road, west of Newhouse Road. It is zoned Agricultural and the Master Plan identifies this property in a residential classification. The restaurant was re-opened upon approval of a Temporary Conditional permit by the Town Board on September 22, 1999. Subsequent public hearings in 2000 and 2002 renewed the permit. The applicant is now proposing additions and modifications to the operation which will be subject to permit modification. Mr. Falletta said they would like to build a banquet facility that would hold 148 to 175 people. He would also like to renovate the existing barn that he uses now, perhaps make it into a small bakery. He and Mr. Jason would like to get everything moving. There would be a man made pond, and a gazebo. There will be a turn around in the front of the building, and they will try to keep the trees. Christine Schneegold asked Mr. Falletta what the square footage of the existing restaurant is. He was not sure, but thought the main floor was about 3000 square feet. He didn't believe that the addition would be that large, but wasn't sure. The architectural style of the building will match with the existing structure. He may have the existing building sided. Roy McCready asked if they planned on having entertainment,



music, or dancing, and what would the hours be? Mr. Falletta said “If I do, the hours would be between seven and ten thirty p.m. The addition would be to the right of the existing building. There would be a screened in porch overlooking the pond and the gazebo. Patricia Powers asked Mr. Falletta if he uses the deck on the back of the building. Yes, he does and he has had live music on the lower deck, but not on the top deck. The upper deck has piped in music only. Pat asked if he was going to have weddings, or bar mitzvah’s? Mr. Falletta said his original permit does not allow weddings, he had no idea he couldn’t have weddings. Pat read the original conditions to Mr. Falletta:

1. Operating hours Tuesday through Saturday from 11 a.m. until 12 p.m.
2. Outside music not audible to the neighbors. No bands or weddings at this facility.

Mr. Falletta said he has worked extremely hard and worked with the neighbors for the past five years. There are one or two neighbors that he can’t get to know. He and Gene Jason have worked very hard. What they are looking to do is run maybe a cocktail reception on the lower patio, maybe having a small quartet play. I don’t have rock music, there is no dancing in the yard. Roy McCready asked why no weddings was included in the original temporary conditional permit. Jim Callahan said that was a condition that the Planning Board put on the permit in 1999. Tim Pazda asked what is the current seating capacity? Mr. Falletta said it is 148 seats, and if we are setting for a party using the whole place, it is 175 seats. Joseph Floss said “The applicant is not asking for a re-zoning, simply an amendment to a temporary conditional permit. I think we are fortunate to have entrepreneurs willing to invest and take risks to rehabilitate buildings like this. I think he has worked out in the past five years, and if he hasn’t, I think we are going to hear it from the neighbors in a few minutes. Just as a matter of point for the neighbors to understand with a temporary conditional permit, we can limit this to a year, and identify some conditions such as the illumination of the new parking area lights, so as not to intrude on the neighbors, limitations on noise, not necessarily weddings, I agree with Roy, perhaps the hours of operation as well. We set the proper conditions, we make a recommendation to the Town Board and they can accept those, add to those, or deny you, just as a matter of point for the residents to understand where we are at.” Chairman Powers said “We had previously agreed that we were going to table this item tonight because letters were sent out to the neighbors, but we didn’t have your plan. Some neighbors were told

that it would be tabled. So, I would be uncomfortable because some of those people may not have come because they thought it was going to be tabled this evening. I would be uncomfortable moving it forward. Patricia Powers asked if there were any neighbors in attendance, if they would like to comment. Kristen Lang of 8260 Clarence Center Road said she lives directly across from Falletta's. They are great neighbors, and at first they did have problems with the parking. But she is concerned with traffic, and noise from large outdoor parties. With the addition there will be more traffic and more noise. Shirley Bent of 6060 Gott Creek Trail said she is concerned about the music in the summer, and there is not plenty of parking because cars park on their street. Also there will be more traffic up and down the street. Debbie Cassidy of 8280 Clarence Center Road said they have done wonders with the restaurant. As wonderful as it is to look at, we are a residential neighborhood for a half mile in either direction, and this is a business in the midst of that. There are problems living across from a business, the large delivery trucks make my china cabinet rattle. The folks leave at night, and when the staff leaves it can get noisy with garbage cans, tooting horns, motorcycles. If you have a banquet facility folks will arrive and leave at the same time. Going from an upscale restaurant to a banquet facility says this problems are going to be enhanced, and there will be bigger problems. Mr. Jason might say that I am being selfish, but I would like you to think about what it would be like to live across from this. Tom Lang of 6065 Gott Creek Trail said he would agree that Falletta's has been a good neighbor. But, he is concerned that this banquet facility may change the nature of the business to more commercial, more traffic, and more noise. Mike Falletta said he has done everything possible about the parking issue. Once they had a party where the Stanley cup showed up at a private party, and the news media broke the story. About 400 people showed up, and they were utterly overwhelmed. This is not a banquet facility, it is a banquet room for parties and meetings. He is not going in to competition with Salvatore's and Samuel's. Lyons Tea Room has been there since 1948, and it has always been a business. When the residents moved there, they knew what they were moving into an area with a restaurant. He tells the delivery people not to come before 11 a.m. He is not going to have parties for \$10.00 a head. He will enhance the landscape. Patricia Powers stated that for reasons stated before, she is looking for a motion to table this item.

**ACTION:**

Motion by Joseph Floss, seconded by Roy McCready to table this item due to the fact that some residents were told this was going to

be taken off the agenda, because there wasn't a drawing submitted.

ALL VOTING AYE. MOTION CARRIED.

ITEM III  
Neil Buono  
Commercial

REQUESTS DEVELOPMENT PLANA APPROVAL FOR A  
NEW BEAUTY SALON LOCATED AT 8180 WEHRLE DRIVE.

DISCUSSION:

Jim Callahan said the property is located on the north side of Wehrle Drive, west of the Golf Dome. The property is zoned Commercial, and the Master Plan recommends that it remain in a commercial classification. The project was introduced to the Town in April of 2002, and came to Planning Board in August of 2002 where concept plan approval was approved. A Negative Declaration was issued in August of 2002. The applicant received out of district service approval on November 19, 200, and is here tonight for development plan consideration. Patricia Powers expressed her regrets for the disastrous fire that he suffered on the property last week. Mr. Buono said he thinks their plan complies with everything the Planning Board asked for. Architect for the project, Robert Conway said there were five issues that the Planning Board had, and they have all been addressed. They have increased the width of the driveway to facilitate fire fighting equipment. The second issue was two way traffic into the back building, versus two separate one way entrance and exit on to the site. They have used signage to eliminate access into the site from the westernmost driveway. They have increased the foundation landscaping around the building, and increased the berm on the west side of the property. Jeff Grenzenbach asked if they were going to bulldoze the house that burned and start over. Mr. Buono said the house is a total loss, and he plans to demolish it after the insurance company has completed their part. Reas Graber asked if the driveway design is going to change because of the demolition of the house. Mr. Conway said they are in somewhat of an unusual situation tonight, because we were scheduled for this meeting, and due to the loss. Obviously we want to know if we have a project here, so we can work on plans. We may consider moving this project forward, and if we do I think logically there will be some changes made fundamental to this plan. I am interested in two things. Do we have an approval on the project in general, and if we do come back with the building brought forward a quick response so we could have a project this spring. Chairman Powers said "Mr. Buono has all the approvals he needs for a development plan approval on the building. If the building moved

forward and necessitates changes in the plan. Wouldn't it be better to consider that. We can't consider what he doesn't have at this point, but why would we not consider approving this building if the real possibility exists that it will be built on this site. Jim Callahan said as Bob had stated we had this on the agenda, and we are ready for approval. The best we could offer is that if the site plan does change we could fast track that for him. Engineering is going to have to look at it again. There are a lot of issues there, but I don't believe it is going to change the engineering substantially. After much discussion, it was decided to take an action on the development plan with the understanding that relocation of the structure would require some review by Engineering, Planning, and Landscaping Departments to insure that all conditions were met before it goes to the Town Board. The general development plan approvals would remain as they currently are. The Planning Board Executive Committee meets most Tuesday mornings. Jim Callahan said another option is recommending approval of this development plan. If the applicant wants to amend that, he could come back to Executive Committee or to the Town Board as long as the general conditions are maintained.

**ACTION:**

Motion by Joseph Floss, seconded by Reas Graber to recommend development plan approval to the Town Board for a new beauty salon at 8180 Wehrle Drive subject to :

1. The approval of the executive committee should there be any changes.
2. Approval of the Town Engineer.
3. Elimination of the residential driveway or a combination of the two driveways.
4. No increase in the impervious surface, other than what has been provided.
5. An approved landscape plan before going to the Town Board.

**On the Question?**

Roy McCready asked the applicants architect how long it would take to prepare another site plan. Mr. Conway said he would get back with Jim Callahan and endeavor to come back to the Executive Board next week.

**On the Question?**

Patricia Powers read the comments from the Engineering Department.

Also, this project will be subject to the commercial open space fees, and signage is a separate issue. Joseph Floss amended his motion to include these comments.

ALL VOTING AYE. MOTION CARRIED

Motion by Roy McCready, seconded by Reas Graber to adjourn the meeting.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 9:00  
Patricia Powers, Chairman