

PLANNING BOARD MINUTES

Wednesday September 1, 2004

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.

ITEM I

Curtis Swanton  
Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR DEVELOPMENT OF A 2592 SQUARE FOOT COMMERCIAL BUILDING AT 9595 CLARENCE CENTER ROAD.

ITEM II

Waterford Village LLC  
PURD

REQUESTS SITE PLAN APPROVAL FOR DEVELOPING PHASE II OF WATERFORD COMMONS AND PHASE II OF WATERFORD ESTATES.

ITEM III

John Raymond  
Major Arterial

REQUESTS CONCEPT PLAN APPROVAL FOR DEVELOPMENT OF A NEW FINANCIAL INSTITUTION AT 5641 TRANSIT ROAD.

ITEM IV

Bob Reggentine  
Commercial

REQUESTS BUILDING PERMIT FOR A 3120 SQUARE FOOT ADDITION TO EXISTING COMMERCIAL FACILITY AT 9920 MAIN STREET.

ITEM V

ZONING LAW.

ITEM VI

SUBDIVISION LAW.

ATTENDING: Patricia Powers  
Christine Schneegold  
Roy McCready  
Tim Pazda  
Joseph Floss  
Jeff Grenzebach

INTERESTED  
PERSONS: James Blum  
Curtis Swanton  
Sean Hopkins  
Bill Schutt  
John Raymond  
Bob Reggentine  
David Thomas

MINUTES

Motion by Joseph Floss, seconded by Jeff Grenzebach to approve the minutes of the meeting held on August 18, 2005 as written.

ALL VOTING AYE. MOTION CARRIED.

ITEM I  
Curtis Swanton  
Commercial

REQUESTS CONCEPT PLAN APPROVAL FOR  
DEVELOPMENT OF A 2592 SQUARE FOOT  
COMMERCIAL BUILDING AT 9595 CLARENCE  
CENTER ROAD.

DISCUSSION:

Jim Callahan gave a brief description of the property, which is located on the south side of Clarence Center Road across from the Clarence Center Elementary School. It consists of .34 acres with one hundred feet of frontage in the commercial zoning classification. The Master plan identifies the area in a Traditional Neighborhood District. There was a residential single family home on the property that was demolished a few years ago. The applicant is seeking to construct a commercial building per the submitted plan. Mr. Swanton said he is looking for concept plan approval to present to a potential tenant. It will not be a fast food service tenant, it will be a low impact 9 to 5 type of business - doctor, dentist, real estate office or a dry cleaners. It will be a one story brick building with architectural shingles, and a pitched roof. He restored a building at 6511 Main Street in Williamsville a few years ago, and retained the historical character of the building. The parking shown on the plan is all in the back to preserve the village character of the community. At this point he does not have any elevation drawings. Jeff Grenzebach asked if he will save the mature trees on the property. He has taken a few down, and might have to take a few more out, but he will try to preserve as many as possible. Christine Schneegold said she would like to see an architectural drawing of the building. Mr. Swanton said it is very expensive, and he would like to wait until he has a tenant, and come back at that time with drawings for approval or disapproval by the Planning Board. Mr. Swanton said the drawing he has reflects the maximum number of parking spaces (15) for the size of the building (2592 square feet). It is quite possible that the building could be smaller depending on the tenant, it can not be any larger, but it could be smaller. Roy McCready said concept is just for land use, he will have to come back with detailed drawings for development plan approval. I think at this point that concept approval could be recommended. Tim Pazda said he had some concerns about who the tenant would be with the school right across the street. Mr. Swanton said he would be happy to sign something saying

it would be a low impact tenant. Chairman Powers asked Mr. Swanton if he has tried marketing the property yet. Mr. Swanton said he has not. Pat asked if anyone in the audience had any comments or questions. No one came forward.

ACTION: Motion by Jeffrey Grenzebach, seconded by Joseph Floss to recommend a negative declaration to the Town Board.

ALL VOTING AYE. MOTION CARRIED.

ACTION: Motion by Christine Schneegold, seconded by Roy McCready to refer this to Traffic Safety, and Fire Advisory. Concept plan approval was added to the motion by Christine Schneegold, and seconded by Roy McCready with the stipulation that when Mr. Swanton has a tenant he will be required to come back to Planning Board.

Mr. Swanton was invited to come into the Planning Board Executive meeting, which is held every Tuesday morning.

ALL VOTING AYE. MOTION CARRIED.

ITEM II  
Waterford village LLC  
PURD

REQUESTS SITE PLAN APPROVAL FOR  
DEVELOPING PHASE II OF WATERFORD  
COMMONS AND PHASE II OF WATERFORD  
ESTATES.

DISCUSSION: Jim Callahan gave some background . The Waterford Village PURD - the final findings under SEQR were completed in August of 2001. Development plan approval and re-zoning to PURD was granted by the Town Board in 2001. Site plan approval for phase I was granted in November of 2003. They are seeking site plan approval for the extension of Phase I into Phase II representing 33 Estate lots on approximately 1000 feet of Corrine Lane, 550 feet of Curry Lane, 100 feet of Wexford Manor, and 32 Commons lots on approximately 1000 feet of Shannon Court and 600 feet of Monihan Lane. Sean Hopkins said “Basically I think we have addressed all the outstanding issues. Finally, we now have Erie County Health Department approval. We also have final approval from the Clarence Engineering Department. I believe the layout that you are looking at is exactly the same as the development plan that

has previously been reviewed by this board, and subsequently approved by the Town Board. I know there are a couple of issues that you might want to discuss. One that I am very much aware of is the timing of the installation of the Town's recreational trail. Our clients are ready to proceed whenever the Town is ready. We have agreed to provide the materials, whenever the Town is in the position to accept those materials. Our clients would like to see that done now, because of the issue that we have discussed." The issue being that purchasers will know exactly where the bike path is, and choose their lot accordingly. Pat asked if there were any questions from the Planning Board.

Tim Pazda "What are we recommending here for approval? The initial recommendations that the Planning Board made? Or the recommendations that the Town Board subsequently came up with after the Planning Board recommendations were presented?" San Hopkins said "Tim, I am not going to speak for Mr. Callahan but, our position is that the conditions that were ultimately imposed by the Town Board are the conditions that are enforceable on this phase of the project. We have designed this project in accordance with the conditions that were imposed by the Town Board. So to the extent that there may be some discrepancies between the Planning Board and the Town Board - no lack of respect to this board - I think ultimately it is the Town Board that makes that decision."

Tim Pazda said "That was agreed upon in Phase I, does it hold for Phase II? That is my question." Sean Hopkins said "Yes, subsequently I believe on December 17, 2003, the Town Board imposed conditions for the remaining residential phases of that project. Those conditions are precisely identical conditions that were imposed for Phase I." Tim Pazda said "Correct me if I am wrong, but the Town Board reduced the side setback to 6 ½ feet, and then they put a 20 foot limit between houses?" Sean Hopkins said "Yes, it says a minimum separation of 20 feet between houses. It is right in the minutes." Tim Pazda said "That confuses me, and I think it will begin to confuse future residents there. What do they go by?" Sean Hopkins said "Well, basically if someone does build a house, it is six and a half feet from the side yard, that means the adjacent property on that side is going to have to comply with a

minimum setback of 13 ½ feet.” Tim Pazda said “The first guy in has got the benefit, the next guy....” Sean Hopkins said “That is one of those things that gets reviewed by the Building Department each time a building permit is issued.

To date as far as I know it has not been a problem. But you are right the first person that builds on a lot is going to have an advantage in terms of a little bit more area, in terms of defining where they want to set their house. That is definitely true.” Bill Schutt said “Actually Waterford has their own architectural review board. They review it before it goes to the Town for a permit. The reason for that is to weed something like that out specifically. They review all the site plans against their own charter.”

Christine Schneegold asked Sean if it is possible at this time to identify all the daylights and walkouts? Mr. Schutt said “There are none. There are possibly side load garages.” Pat read a document from the Waterford PURD zoning standards that stated all side load garages must be denoted and co-ordinated as each phase of the project is being developed. This was established by the Town Board on May 14, 2003, when they addressed walk out basements, daylight basements, and side load garages.

Joe Floss said he wanted to re-iterate some of the things we discussed a year ago. There was an approved landscape plan for two trees per lot, and you said you would provide the easement and the material for the bike trail. You would need co-ordination from the Town. I am not sure how that co-ordination will take place. Sean said he would write a letter to the Supervisor, the Town Engineer, and the Planning Board Chairman. It would be a lot more difficult to retrofit after the houses are built in. Joe asked Sean about mitigation of the traffic, and their portion to mitigate the traffic. Sean said he has provided the Town with traffic projections from each phase. They are looking for direction from the Town as to what needs to be done. If mitigation is required, we would appreciate discussing it now. Joe Floss said he thought it should be discussed soon.

A good portion of the parcel is now in the ownership of the Western New York Land Conservancy, has that been finalized? Sean Hopkins said “ I believe that has been finalized. They have all the documentation, I hope they have recorded it. They have been given a thirty thousand dollar fee, the deed, the legal descriptions, but I do need to check and

make sure it has actually been recorded. I will follow up on it.” The wetlands mitigation on the site has been done, and inspected by the Army Corps of Engineers. We obviously have an obligation to continue to monitor that for five years, so they are going to be out there periodically.” Pat Powers asked if anyone in the audience had any questions or comments regarding this project. No one responded.

**ACTION:**

Motion by Roy McCready, seconded by Jeffrey Grenzebach to recommend site plan approval for developing Phase II of Waterford Commons and Waterford Estates.

**On the Question?**

- 1) The applicant agrees and will follow all stipulations outlined in the declaration of restrictions in accordance with the conditions previously imposed by the Town Board in a letter dated January 19, 2004, and received in the Planning and Zoning office January 21, 2004.
- 2) Subject to all conditions outlined in the SEQR written findings statement dated August 22, 2001.
- 3) The Assessors approval given August 13, 2004.
- 4) Subject to all conditions in the Town Engineers approval.
- 5) We have approval from Erie County Health Department for both sewer and water for both projects.
- 6) You will be subject to an open space fee.
- 7) We would like an inventory list of all proposed side load garages before you go to Town Board.
- 8) We would like to recommend that the Town Board initiate the design and construction of the bike path through Waterford Village as soon as it is feasible. The applicant is committed to donating 55,000 square feet of blacktop material to be used by the Town in the construction of this initial section of the north south bike path.

Roy McCready asked if that was 55,000 tons or 55,000 square feet. Pat said she believes it is square feet.

On the Question?

Sean Hopkins said he didn't think they could make any representations for side load garages right now as to precisely what lots those would be. So if there is a process that you want us to do to co-ordinate that with the Town that is fine.

Patricia Powers said " I am only going with what was established by the Town Board, that they would be identified and co-ordinated as each phase of the project is being developed."

Sean Hopkins said "That is not a problem."

Tim Pazda said "Would we be willing to amend that condition to pave all the way to Roll and not have to mess around with going through Niagara Mohawk?"

Sean Hopkins said "Neither I or Mr. Schutt is in a position to make that commitment."

Pat Powers said "I am not sure about that Tim, because they don't own the property, and the Town doesn't own the property. It belongs to NYSEG."

Tim said "You can't go around it? You don't own that lot?"

Bill Schutt said "We own that, but that becomes the right of way for Dana Marie Lane. There is not enough room for both the road and the bike path there. The bike path comes down here, and the idea was to go by easement across the NYSEG property. The width is just wide enough for the pavement and the utilities for Dana Marie Lane."

Pat Powers asked if it was up to the Town to seek the easement?

Mr. Schutt said that was the original program.

Tim Pazda said he would rescind his motion, because they cannot comply.



9) We further recommend the Town Board pursue the easement on the NYSEG property for the completion of the bike trail.

Tim Pazda said “It is still my provision that we are recommending the initial Town Planning Boards recommendations, so I will ask that the motion will be adjusted to accommodate that.

Pat Powers said “We could submit our original recommendations, it would be up to the Town Board. But they already looked at them once, but there is no harm in reminding them.”

Tim Pazda said “That was an extremely contentious meeting that it occurred at, and I just feel that 6 ½ feet was appalling, and I will go kicking and screaming. I feel it should be included in the record, but that is up to you.”

10) Pat Powers said “ The original recommendations of the Planning Board on Waterford Commons and Waterford Estates will be submitted along with our recommendations to the Town Board.”

ALL VOTING AYE. MOTION CARRIED.

ITEM III  
John Raymond  
Major Arterial

REQUESTS CONCEPT PLAN APPROVAL FOR THE  
DEVELOPMENT OF A NEW FINANCIAL  
INSTITUTION AT 5641 TRANSIT ROAD.

DISCUSSION:

Jim Callahan gave a description of the proposed project. It is located on the east side of Transit Road , north of Roll Road. It consists of approximately 1.35 acres in the Major Arterial zone, and houses the existing Arby’s restaurant and office building. The Master plan identifies the area in a commercial classification, and the applicant is seeking concept approval for the development of the Summit Federal Credit Union on the site as presented. John Raymond of Parrone Engineering along with Barbara Roth represented the applicant. They will be re-using all the system utilities such as water services, the sanitary,

the storm water detention ponds that are there, and they will be using the existing road access. Chairman Powers said “We have the completed check list for concept plan approval and an approved landscape plan.” Jeff Grenzebach asked if they will be removing some of the mature trees on the property. Mr. Raymond said some of them will be removed to modify one of the detention ponds, and they will be adding new trees as well. Christine Schneegold asked about the lighting. Mr. Raymond said they do have to follow the ATM safety agreement for lighting security. The ATM lane will be the one closest to the building, and the other two lanes will be drive thru lanes. There will be one way traffic around the building. They are looking at a possible sign where the existing pole sign for Arby’s is located now.

ACTION: Motion by Joseph Floss, seconded by Jeff Grenzebach to recommend a negative declaration to the Town Board.

ALL VOTING AYE. MOTION CARRIED.

ACTION: Motion by Christine Schneegold, seconded by Tim Pazda to recommend concept plan approval to the Town Board with the conditions stated:

- 1) Subject to commercial open space fee.
- 2) Checklist for development plan approval.
- 3) Demolition permit from the building department.
- 4) Approved Landscape plan.

On the question? Pat Powers asked if the building is going to be brick. Mr. Raymond said yes it will be brick.

ALL VOTING AYE. MOTION CARRIED.

ITEM IV  
Bob Reggentine  
Commercial

REQUESTS BUILDING PERMIT FOR A 3120 SQUARE  
FOOT ADDITION TO EXISTING COMMERCIAL  
FACILITY AT 9920 MAIN STREET.

DISCUSSION:

Jim Callahan gave a brief description of the proposed project, which is located on the north side of Main Street, on the west side of Kraus Road. It consists of approximately 3/4 of an acre in the commercial zone. The Master plan does identify this area in a commercial classification. The applicant is seeking approval to construct a pole barn warehouse addition to the existing commercial structure. The Town Board referred this project to the Planning Board at their last meeting. Bob Reggentine of Land Design represented Mr. Dave Thomas of MacDuffies Cookies, who was also in attendance. At present Mr. Thomas needs to expand his wholesale business, and needs more storage space for cookies and boxes. He has had to utilize off premise space for storage, and it has become a hardship for him. We are proposing a 78 foot by 40 foot expansion to the back of the building. It will be a pole barn with metal siding that will complement the colors of the existing building. The addition will not be seen from Main Street, and it will be hard to see it from Kraus Road seeing as there are several trees to camouflage it. There will not be any parking expansion, it is strictly for storage. The addition will have a fire door in the back, and five windows. There will not be any overhead doors, there is no access to it, it is strictly an exit in case of a fire. The entrance will be strictly from within the interior of the existing building. It will be similar in design to the existing building. This will be a slab on grade addition. Chairman Powers asked if there would be any additional lighting. Mr. Thomas said there is an existing security light in the back that will light that additional building as well. Roy McCready asked what Mr. Thomas stores in the building. Cookies and containers. Christine Schneegold asked if they bake the cookies there. Mr. Thomas said "Yes, We are the only Scottish Shortbread cookie manufacturer in the United States." The roof will have architectural shingles that will match the existing roof on the existing building. Joe Floss asked if there will be any additional employees. Mr. Thomas said "No, they actually have fewer employees than they started with, due to automation." There will not be any additional motorized

equipment in the addition, so there will not be any additional noise. They are a benign operation. Jeff Grenzebach asked if there would be any berming to shade the building from the neighbor back there? Mr. Thomas said "Several years ago the neighbor to the north asked if he could plant trees along the property line, and he did." Mr. Thomas said he had no problem planting the same kind of trees down his north property line down to the little building. Christine Schneegold asked where the septic system is located. It runs north and south, and they will not be affecting the septic lines. Tim Pazda asked why they chose an elongated rectangle instead of something boxier and closer to the existing structure. Mr. Thomas said they are limited by the property lines, the leach field, and they wanted to have access points from the inside where heavy equipment wasn't presently installed in the existing building. Patricia Powers asked if anyone in the audience had any questions or comments regarding the project. Elaine Dinola of 4790 Kraus Road is the neighbor next door. She asked if there would be delivery trucks coming in off of Kraus Road, or off Main Street? Mr. Thomas said there are no access doors for deliveries on Kraus. Mrs. Dinola also said it looks like the addition comes very close to their property line and their deck. She would like a fence for privacy. Mr. Thomas said "We will do whatever it takes to make Dinola's happy." Patricia Powers explained to Mrs Dinola that one of the things that will be required for the project is an approved landscape plan. It would be reviewed by the Landscape Committee to insure as much coverage as possible will be given to you.

ACTION: Motion by Jeffrey Grenzebach , seconded by Joseph Floss to recommend a negative declaration to the Town Board.ALL VOTING AYE. MOTION CARRIED.

ACTION: Motion by Joseph Floss, seconded by Roy McCready to recommend a building permit for this project with the following conditions:

- 1) Subject to commercial open space fees.
- 2) Approved landscape plan that is satisfactory to the Dinola's.
- 3) Bottom of building will be Tudor Brown, upper part is Light Stone with an architectural shingle to match existing building.

ALL VOTING AYE. MOTION CARRIED

ITEM V

ZONING LAW

Jim Callahan said they have completed the fifth draft that incorporates all the comments that were forwarded through the Planning Board Review and public input. The fifth draft is much thinner and they kept all the pictures. Here are the changes from the 4<sup>th</sup> draft :

- 1) Removed the PDD section
- 2) Identified PURD as a pre-existing zone on the proposed zoning map.
- 3) Landscaping sections were removed and will be included in a future updated landscape law.
- 4) The Planning Board and Zoning Board of Appeals creation/appointment section was formalized and completed.
- 5) We added additional building materials to the architectural sections, for input from the residents.
- 6) Architectural styles were coordinated among Commercial Zones.
- 7) Lots of records were established and finalized bringing forward all the lots of record in current zoning, and creating new lots of record for the changes we are making from current laws to new laws.
- 8) We have established incentives for lot size reduction, in the Agricultural and Residential zones.
- 9) Reorganized the document placing administration and definitions to the rear of the document.
- 10) Clarified administrative section for the input of the Planning Board.
- 11) All the charts match the text of the law.
- 12) All the grammar and spelling corrections are identified.
- 13) Added a section on private vehicle sales.
- 14) Added specific uses and design criteria to several Special Exception Use permits that were previously not listed.
- 15) Rewrote the purpose and intent section.
- 16) Added enforcement section to the administrative chapter.
- 17) Made the document thinner, while keeping the pictures.

Jim Callahan said we have ordered twenty five copies. We will have it on-line. It will be on the Town's website.

Jim Hartz told the board about the private vehicle sales. If you

own the vehicle and own the property you are selling it from, you can sell it. You can sell up to four vehicles (one at a time) a year that meet those conditions. You can't have anyone dropping off vehicles to be sold on your property.

James Blum of Martha's Vineyard wanted to reflect on five or six items.

1) At the last Town Board meeting there was a discussion from a resident about duplexes appearing in his neighborhood. I have recommended to this board that there should be no residential zoning that allows duplexes as a matter of right. I don't mind duplexes as a special exception, or some kind of category that you review, but I think the neighbors should have some input to the Planning Board before you put duplexes in a residential area.

Jim Callahan said they are eliminated from all residential, the only place duplexes are allowed is in the Agricultural Flood zone, with a two acre minimum and 200 feet of frontage.

Jim Blum said "Even there I think the neighbors should have some input."

Chairman Powers said "Those rarely come before us Jim. An individual meeting the requirements can just go to the building department and get a permit."

Jim Blum said "That is exactly my point. I don't want it to be their right where they can just do that."

Jim Callahan said "When this is adopted they won't be able to do that, other than two acre minimum lot size with 200 feet of frontage in the flood zone."

Jim Blum said "If you are happy with that, it is your decision. I can assure you that those people who were here last week would say - we don't think it should be a matter of right, it should be a matter of evaluation."

2) Building height in the Traditional Neighborhood Zones. I am unhappy with the 45 feet allowed unless it is a very unique building. My recommendation would be that it would be a

special exception if you wanted 45 feet.

Jim Callahan said "Our final recommendation in a TND is for 40 feet, and it would not be a flat roof."

3) Jim Blum said "Irregularly shaped lots. I would suggest to you that one logical way to handle them is much the way you handle special exceptions - where there would be a public hearing where the neighbors would have a chance to say what they think, before you go ahead with it."

Jim Callahan said "To follow up on that one - it is going to be related more to the subdivision law where lot splits are creating the design and configuration of lots in the future. In that proposed subdivision law we do have minor subdivision review and approval and public hearing requirements for subdivisions that will hopefully address the configuration and design of lots."

Jim Blum said "Let's dump it from this law."

Jim Hartz said "It comes up very rarely. There are some irregularly shaped lots out there that exist. This law would deal with those. It will automatically go to the Zoning Board of Appeals."

Jim Blum said "As long as it ends up to be a public hearing and the neighbors can have some input, I will be happy with that. That makes two."

4) Jim Blum said "The minimum thirty foot front on a dead end lot."

Jim Callahan said "That is 60 feet now."

Jim Blum said "Sixty feet is fair. I would argue for a little more, but it is a lot better than thirty."

My number one issue is lot coverage. I think most people in town would like to see some kind of control on the lot coverage issue. Whether it be the percent of the lot that the silhouette covers, or whether it be variable setback dimensions that are related to how immense the house is. The bigger it

gets, the bigger the setback gets. Or some other approach, those are two approaches. The percent approach is mentioned in State law, so apparently it is very commonly accepted. I don't know about variable setbacks, but there are a lot of us in Town who would have preferred it would have stayed the way it was."

Chairman Powers congratulated Jim Blum for his input, reading the drafts, attending meetings, and making suggestions.

Pat said it was her hope to refer this 5<sup>th</sup> draft to the Town Board along with the list of changes made from the fourth draft to the fifth draft and schedule 1 & 2.

ACTION:

Motion by Jeff Grenzebach, seconded by Christine Schneegold to send the draft to the Town Board to pursue adoption of draft number five as prepared.

|                      |      |
|----------------------|------|
| Tim Pazda            | AYE  |
| Jeff Grenzebach      | AYE  |
| Roy McCready         | AYE  |
| Joseph Floss         | NAY  |
| Christine Schneegold | AYE  |
| Patricia Powers      | AYE. |

Joe Floss said "Just for clarification Madame Chair, I haven't read the document." Pat Powers said "We haven't either, but it is no different than the fourth draft, except the changes that are listed right here."

ITEM VI

SUBDIVISION LAW

Motion by Roy McCready, seconded by Joseph Floss to table this item until the next meeting September 29, 2004.

ALL VOTING AYE. MOTION CARRIED.

Motion by Joseph Floss, seconded by Jeff Grenzebach to adjourn the meeting at 9:00 p.m.

ALL VOTING AYE. MOTION CARRIED

Patricia Powers, Chairman