

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday, October 5, 2022

Work Session 6:30 pm

Status of SEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm

Approval of Minutes

Item 1

John Krantz
Agricultural-Rural Residential

Requests Conceptual Approval of a proposed four (4) lot residential single family Open Development Area with access to Heise Road at SBL 30.00-3-56, including a Recommendation of Rezoning from Agricultural-Rural Residential to Industrial Business Park for the area of land south of the National Fuel Gas line at the northeast corner County and Heise Roads.

Item 2

Carolyn Cimato
Residential Single-Family

Requests Minor Subdivision of land Approval to create one (1) new vacant lot located at 9445 Roll Road.

Item 3

Jack Brownschidle
Residential Single-Family

Requests Minor Subdivision of land Approval to create one (1) new vacant lot located at 8075 Clarence Center Road.

Item 4

Steven Woodward
Agricultural-Rural Residential

Requests Minor Subdivision of land Approval to create one (1) new vacant lot located at 6854 Strickler Road, and Strickler SBL 30.00-4-45.2.

Chairman Robert Sackett called the meeting to order at 7:06 p.m.

Councilman Shear led the pledge to the flag.

Planning Board Members present:

Chairman Robert Sackett

Vice-Chair Richard Bigler

2nd Vice-Chair Wendy Salvati
Jason Geasling
Jason Lahti

Gregory Todaro
Patrick Johnson

Town Officials Present:

Director of Community Development Jonathan Bleuer
Junior Planner Andrew Schaefer
Councilman Paul Shear
Attorney Steven Bengart

Other Interested Parties Present:

Ken Zollitsch	Carmen Cimato	Lee Woodward	Russell White	Robert Rackl
Suzanne Trawinski	Patricia Rackl	Gary Zunner	John Krantz	

Motion by Gregory Todaro, seconded by Richard Bigler to **approve** the minutes of the meeting held on September 7, 2022 as written.

Jason Lahti	Aye	Patrick Johnson	Abstain	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Abstain	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED

Chairman Sackett reviewed the meeting protocol.

Item 1

John Krantz
Agricultural-Rural Residential

Requests Conceptual Approval of a proposed four (4) lot residential single family Open Development Area with access to Heise Road at SBL 30.00-3-56, including a Recommendation of Rezoning from Agricultural-Rural Residential to Industrial Business Park for the area of land south of the National Fuel Gas line at the northeast corner County and Heise Roads.

DISCUSSION:

Mr. Bleuer introduced this project, located on the east side of Heise Road, north side of County Road, and south of Martin Road. It is an existing vacant 14-acre parcel located in the Agricultural Rural Residential zone.

The applicant is requesting consideration of a 4-lot Open Development Area on approximately 10.5 acres with access to Heise Road via a single private drive, and rezoning consideration of the remaining approximately 3.5-acres south of the National Fuel Gas property at the northeast corner of County and Heise Roads.

The Planning Board previously approved a Minor Subdivision of land to create one lot on the southeast corner of Heise and Martin Roads, and began a coordinated review under the State Environment Quality Review Act (SEQRA) for the proposed Open Development Area, in August of 2021. The proposed Open Development Area previously contained 5 lots, but was reduced to 4 lots after consideration was given to utilities, specifically a private water line, by the applicant. Most recently, the applicant has received Engineering Department signoff of their preliminary grading and drainage plan.

The Planning Board has the authority to review this under a SEQRA action and consider the Open Development Area, and considering the details associated with the Rezoning component which is subject to a thorough review of any commercial project proposed for that area, to ensure that it is keeping with the community character and a low impact to the adjoining uses.

While conducting a thorough review of this proposal in the Planning and Zoning Office, it was identified that there is one remaining outstanding item needed prior to a SEQRA action; which is an archaeological study as identified by the Department of Environmental Conservation (DEC) comment. This has been identified and the applicant is aware of it. Therefore, the Planning office recommends this agenda item to be tabled by the Planning Board until such time as the applicant is able to conduct the necessary research.

Ken Zollitsch with the engineering firm Greenman Pedersen Inc., was present to represent the applicant and further explain the project.

Mr. Zollitsch noted that this is a straightforward subdivision with 4-lots on a private drive, each lot is approximately 2 acres, very fitting with the character of the adjacent properties and the community.

Mr. Zollitsch stated that while they recognize there is one final item as it relates to SEQRA review, the State Historic Preservation Office (SHPO) signoff, as it is an archaeologically sensitive area. Nonetheless, they request the Planning Board to consider voting on the Concept Plan portion tonight. They understand SEQRA is not able to be voted on, but they are eager to move forward with the project and feel that while it is not presented, it will not materially change based on anything that comes back from archaeology and would allow them to begin to focus on the engineering aspect of the proposed project. This would allow them to begin the process while waiting for archaeology to be finalized for SHPO.

Chairman Sackett stated that his understanding of the law prevents action being taken until SEQRA is complete. This prohibits the Planning Board from considering the Concept Plan portion of this agenda item tonight. It does allow the chance for the Planning Board to ask any additional questions as well as hear resident's comments.

Mr. Geasling asked Mr. Zollitsch what the intentions are for the parcel that is intended to be rezoned. Mr. Zollitsch responded that the applicant is searching for tenants, it will not be a heavy industrial use or business park plaza. The intent is to have that parcel rezoned before the residential aspect comes up. There are currently no tenants in mind for that parcel that they are requesting to have rezoned.

Mr. Zollitsch added that given the size and shape of the parcel, more sensitivity is being given to the residents. This will need to be thoroughly reviewed as well.

Mr. Geasling stated that one of his concerns is for the residents who live in the northwest corner and have not had the area zoned industrial.

Mr. Zollitsch noted that the request to rezone to Industrial is keeping within the general character of County Road, as that stretch has many industrial businesses now. Any site plan for the proposed rezoned area would need to be reviewed by the Planning Board and include extensive buffering to mitigate any adverse effects to the neighboring properties.

Mrs. Salvati asked Mr. Zollitsch how deep the parcel is at the narrowest location to County Road. Mr. Zollitsch responded that he does not believe it to be any more than 200 ft.

Mr. Todaro asked about the location of the retention pond. The initial concept plan when there were 5 houses proposed, showed the retention pond near the road.

Mr. Zollitsch responded that this project has gone through multiple alterations. Currently the dry detention basin is located on the lowest spot on the property. The basin will not have open water with the exception of immediately following a storm event in which case it will then flow northward to Martin Road where they have secured easement. This is located on an adjacent owner's property which will remain undeveloped.

Mr. Todaro asked if there is anything that will protect the ponds from filling in.

Mr. Zollitsch responded that in terms of the two bio-retention areas and the dry detention basin, typically as they work through the approval process, there will ultimately need to be a stormwater maintenance agreement in place for this private development and ultimately any homeowner's association that is formed.

Mr. Todaro asked if there is a fire hydrant located along the private drive, which will be the access to the proposed homes, and how far back will the private drive go.

Mr. Zollitsch responded that he is unsure whether they have gotten to that point of the planning stage yet, and whether a fire hydrant would be required or not.

In regards to Public Participation, the following residents spoke.

1. Russell White of 9060 County Road:

- While reviewing the Clarence Master Plan and Agricultural Plan, they are concerned that the area could be changed to Industrial, which changes the character of the Master Plan and Agricultural Plan.
- Mr. White explained that he has no issues with the development, but does have issue with the potential rezoning.

2. Robert Rackl of 9040 County Road:

- They were aware that their property is adjacent to an industrial property, but have appreciated having a buffer there. Although they have to put up with a lot of truck traffic, they cannot see the industrial properties from their home.
 - His preference is to leave that area as the buffer zone to keep the industrial area away from the residential neighbors.
 - There is a lot of unused industrial land in the industrial parks, do they need to rezone for more rather than use what is already in existence and vacant.
3. Suzanne Trawinski of 9050 County Road:
- Stated that she has read the Clarence Master Plan, and referred to several areas that she feels pertains to the potential rezoning aspect of this project. Including keeping with the rural character of the area and permanently protecting farmland in Clarence for future generations.
 - Strongly opposed to the proposal to rezone a portion of the property.
 - This will increase traffic in an already busy area.

At this time, Public Participation was closed for this item for tonight's meeting.

Mr. Zollitsch returned to respond to the questions and concerns, noting that most of the concerns were related to the potential rezoning to industrial rather than the residential portion of the proposed project. Mr. Zollitsch noted that this section does keep with the character of the neighboring industrial properties around it.

Mr. Zollitsch stated that they recognize the need for buffering between the residential and industrial use.

Mr. Zollitsch noted that the stretch of land that Mr. Krantz owns along County Road is not suitable for residential or agricultural use. Any homes that would be built in that area would have frontage along County Road, which is not ideal.

Mr. Zollitsch understands that without having a tenant or specific business to be located on that property, it makes it more difficult to request a rezone. Mr. Zollitsch added that the whole point to having the rezone portion of this proposed project in the forefront now, is so the intent is known from the beginning.

Chairman Sackett stated that the request to rezone is not before the Planning Board at this time, noting that he would not consider a request to rezone unless he had a project in front of him. There will not be any action regarding the rezone request at tonight's meeting.

When a rezone request comes before the Planning Board, they will take all components in to consideration including the Master Plan and resident comments.

Mrs. Salvati asked Mr. Zollitsch in regards to the narrowest depth to County Rd. being 200 ft., if that includes the National Fuel Gas easement. Mr. Zollitsch responded no it does not. Mr. Zollitsch added that he believes it is actual property owned by National Fuel, not an easement.

ACTION:

Motion by Jason Geasling, seconded by Richard Bigler to **table** this item to allow time for the applicant to conduct an archeological investigation per comment received from the Department of Environmental Conservation.

ON THE QUESTION:

Discussion ensued regarding Chairman Sackett’s comment based on his personal opinion that the request to rezone will need to be done separately and only when the board has had substantial time to thoroughly review all components.

Chairman Sackett stated that it is highly unlikely that they would consider a rezoning without a project.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED

Item 2

Carolyn Cimato
Residential Single-Family

Requests Minor Subdivision of land Approval to create one (1) new vacant lot located at 9445 Roll Road.

DISCUSSION:

Mr. Bleuer introduced this project, located at 9445 Roll Road. Southwest corner of Roll and Goodrich Roads, it is an existing 5.5-acre parcel with pre-existing duplex located in the Residential Single-Family zone, and located within Clarence Sewer District 2.

The applicant is requesting a Minor Subdivision of land to create one (1) new building lot at the corner of Roll and Goodrich Roads, of approximately .86 of an acre with access to Roll Road.

The Planning Board has authority to act on this request, after an action through the State Environmental Quality Review Act.

In consultation with the Highway Department and Engineering Department there has been a request for a public drainage easement along an existing drainage ditch.

Carmen Cimato was present, representing his daughter Carolyn Cimato. Mr. Cimato had no additional comment.

Mr. Lahti reiterated the easement that Mr. Bleuer referred to.

Mrs. Salvati asked Mr. Cimato if there are any future plans to further subdivide the larger parcel.

Mr. Cimato responded no.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Jason Lahti, seconded by Gregory Todaro that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Cimato Minor Subdivision at 9445 Roll Road. This Unlisted Action involves a lot split to create one (1) additional lot in the Residential Single-Family zone. After thorough review of the submitted plan and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED

Motion by Jason Lahti, seconded by Gregory Todaro, to **approve the Cimato Minor Subdivision** at 9445 Roll Road as per the submitted sketch plan received in the Planning Office on September 15th, 2022, with the following conditions:

1. Subject to Erie County Department of Public Works approval for access to Roll Road.
2. Consultation with the Town Engineering Department regarding any future sanitary sewer connection.
3. Review and approval by the Town Building and Engineering Departments for any future residential construction on the newly created lot.
4. Creation of a 20’ wide public drainage easement offset along the north/northwest edge of the existing ditch as shown in the memo from the Engineering Department, dated September 29th, 2022. Said easement shall be provided to the Town Attorney’s office for review and approval, and once approved to be recorded in the Erie County Clerk’s office with a filed copy to be provided to the Town Attorney. Applicant shall provide a “Stamped Filed” copy to the Town Attorney’s office after recording.
5. Should any additional drainage easements be required by the Town to address on-site drainage issues on the property, appropriate easements shall be submitted by the applicant and approved by the Town Engineering, Highway and Legal Departments. If required, applicant shall file same in the Erie County Clerk’s office and provide a “Stamped Filed” copy to the Town Attorney’s office after recording.
6. Subject to any Open Space and Recreation Fees as required by Town code.

ON THE QUESTION:

Mr. Cimato stated that he heard, understands, and agrees to the conditions on behalf of his daughter, Carolyn Cimato.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED

Item 3

Jack Brownschidle
Residential Single-Family

Requests Minor Subdivision of land Approval to create one (1) new vacant lot located at 8075 Clarence Center Road.

DISCUSSION:

Mr. Bleuer introduced this project, located at 8075 Clarence Center Road, located on the south side of Clarence Center Road, east of Transit Rd. It is an existing 1.43-acre parcel with existing residence located in the Residential Single-Family zone, and located within Erie County Sewer District No. 5.

The applicant is requesting a Minor Subdivision of land to create one (1) new building lot, of approximately .61 of an acre, and 125' of frontage.

The Planning Board has authority to act on this request, after an action through the State Environmental Quality Review Act.

Lee Brownschidle was present to represent his brother Jack Brownschidle, the applicant.

Mr. Brownschidle noted that this is the estate of their dad, that they would like to create a vacant lot next to the home that they grew up in.

Mr. Brownschidle stated that they have contacted Sewer District No. 5 to confirm that they can tie in to the sewers. They did receive email confirmation from the Sewer District, which Mr. Brownschidle stated he would share with the Planning Board.

Mr. Todaro noted that this is the last split that can be made on this property. Mr. Brownschidle stated yes.

Referring to the Environmental Assessment Form, Mr. Lahti asked Mr. Brownschidle if he was aware of any remediation for hazardous waste.

Mr. Brownschidle responded no; he is not aware of any remediation for hazardous waste in that area. He has lived in that house since the 1950's.

Chairman Sackett noted that should they decide build on this property in the future, that the Environmental Assessment Form may come in to play. As far as the subdivision, this board is not looking at the buildability of the property.

In regards to Public Participation, the following resident spoke:

1. Gary Zunner of 8060 Roseville Lane:
 - Asked if the property is subdivided will it remain Residential Single-Family. He is aware that there is a multi-family home with multiple apartments close by on Clarence Center Road.

Chairman Sackett stated that there is not request to rezone in front of the Planning Board for this item at tonight's meeting.

Mr. Bleuer noted that this property is zoned Residential Single-Family, and Multi-Family Use is not a permitted use in the zone.

Public Participation for this item was closed.

ACTION:

Motion by Gregory Todaro, seconded by Wendy Salvati that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Brownschidle Minor Subdivision at 8075 Clarence Center Road. This Unlisted Action involves a lot split to create one (1) additional lot in the Residential Single-Family zone. After thorough review of the submitted plan and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Motion by Gregory Todaro, seconded by Wendy Salvati to **approve the Brownschidle Minor Subdivision** at 8075 Clarence Center Road as per the submitted sketch plan received in the Planning Office on September 16th, 2022, with the following conditions:

1. Subject to Erie County Department of Public Works approval for access to Clarence Center Road.
2. Subject to Erie County Sewer District Number 5 review and approval for any future sanitary sewer connection.
3. Review and approval by the Town Building and Engineering Departments for any future residential construction on the newly created lot.
4. Should any drainage easements be required by the Town to address on-site drainage issues on the property, appropriate easements shall be submitted by the applicant and approved by the Town Engineering, Highway and Legal Departments. If required, applicant shall file same in the Erie County Clerk’s office and provide a “Stamped Filed” copy to the Town Attorney’s office after recording.
5. Subject to any Open Space and Recreation Fees as required by Town code.

ON THE QUESTION:

Mr. Brownschidle stated that he heard, understands, and agrees to the conditions as stated, on behalf of the applicant Jack Brownschidle.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Item 4

Steven Woodward
Agricultural-Rural Residential

Requests Minor Subdivision of land Approval to create one (1) new vacant lot located at 6854 Strickler Road, and Strickler SBL 30.00-4-45.2.

DISCUSSION:

Mr. Bleuer introduced this project, 6854 Strickler Road, and Strickler Road SBL 30.00-4-45.1. Both are located on the west side of Strickler Road, north of County Road.

6854 Strickler Road is an existing 5.25-acre parcel with residence in the Agricultural-Rural Residential zone. Strickler SBL 30.00-4-45.1 is an adjacent vacant parcel containing approximately 1.8-acres.

The applicant is requesting a Minor Subdivision of land to create one (1) new building lot, of approximately 2-acres, and 150’ of frontage. In order to create the new lot, the existing two lots will be reconfigured through a Lot Line Adjustment Approval of the Planning Office. After such adjustment, all lots will meet the minimum required standards of the underlying zone.

The Planning Board has authority to act on this request, after an action through the State Environmental Quality Review Act.

In consultation with the Highway Department, the Engineering Department has requested a public drainage easement associated with existing drainage ditches on the property.

Steven Woodward was present to represent his request, and had no additional comment.

Mr. Johnson noted that the request is straightforward and all parts of the Environmental Assessment Form are acceptable.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Patrick Johnson, seconded by Gregory Todaro that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Short Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Short Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Woodward Minor Subdivision at 6854 Strickler Road and Strickler SBL 30.00-4-45.2. This Unlisted Action involves a lot split to create one (1) additional lot in the Residential Single-Family zone. After thorough review of the submitted plan and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Motion by Patrick Johnson, seconded by Gregory Todaro, to **approve the Woodward Minor Subdivision** at 6854 Stricker Road and Stricker SBL 30.00-4-45.2 as per the submitted sketch plan received in the Planning Office on September 8th, 2022, with the following conditions:

1. Subject to Erie County Department of Public Works approval for access to Strickler Road.
2. Review and approval by the Erie County Health Department for any future on-site sanitary facilities for the newly created lots.
3. Review and approval by the Town Building and Engineering Departments for any future residential construction on the newly created lot.
4. Creation of 20' wide public drainage easements as described and shown in the memo from the Engineering Department, dated September 30th, 2022. Said easements shall be provided to the Town Attorney's office for review and approval, and once approved to be recorded in the Erie County Clerk's office with a filed copy to be provided to the Town Attorney. Applicant shall provide a "Stamped Filed" copy to the Town Attorney's office after recording.
5. Should any additional drainage easements be required by the Town to address on-site drainage issues on the property, appropriate easements shall be submitted by the applicant and approved by the Town Engineering, Highway and Legal Departments. If required, applicant shall file same in the Erie County Clerk's office and provide a "Stamped Filed" copy to the Town Attorney's office after recording.
6. Subject to any Open Space and Recreation Fees as required by Town code.

Mr. Woodward stated that he has heard, understands, and agrees to the conditions.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye
Robert Sackett	Aye				

MOTION CARRIED.

Meeting **adjourned** at 7:52 p.m. with a motion by Wendy Salvati.

Amy Major
Senior Clerk Typist