

Town of Clarence
Planning Board Minutes
Wednesday November 9, 2011

Work Session 6:30 pm

Status of TEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:30 pm

Approval of Minutes

Item 1

Mike Ranallo
Agricultural Floodzone

Requests Minor Subdivision at 10150 Tonawanda
Creek Road.

Item 2

Niagara County Produce
Major Arterial

Requests Preliminary Concept Review and Action
under the State Environmental Quality Review
Act (SEQRA) for the construction of a new
facility at 8555-8615 Transit Road.

Item 3

Rock Garden Properties/Stephen Development
Commercial

Requests Action under the State Environmental
Quality Review Act (SEQRA), Concept Review
and Recommendation on a Special Exception Use
Permit (SEUP) for a Mixed Use Development at
9470 Main Street.

Item 4

Rocco Del Grosso
Major Arterial

Requests Preliminary Concept Review of a
proposed Multi-Family project at 8035 Clarence
Center Road.

Item 5

Northwoods Open Space Design Development
Residential Single Family

Requests Recommendation under the State
Environmental Quality Review Act (SEQRA) for
a Major Open Space Design Subdivision west of
8990 Greiner Road.

Chairman Al Schultz called the meeting to order at 7:30 p.m.

Councilman-elect Robert Geiger led the pledge to the flag.

Planning Board Members present:

Chairman Al Schultz	Vice-Chairperson Wendy Salvati
2 nd Vice-Chairman Richard Bigler	Timothy Pazda
Paul Shear	Robert Sackett
Gregory Todaro	

Planning Board Members absent: George Van Nest

Town Officials Present:

Director of Community Development James Callahan
 Assistant Director of Community Development Brad Packard
 Councilman Peter DiCostanzo
 Deputy Town Attorney David Donohue

Other Interested Parties Present:

Michael Ranallo	Aldo Ranallo
John Hornung	Dave Albert
Robert Wojcik	Joseph Bulger
Nancy Kelsch	Karen Willyoung
Chuck Incorvia	Noel Dill
Douglas Klotzbach	Andrea Kimbriel
David Reinecke	Sandy Reinecke

In the absence of Planning Board member George Van Nest, alternate Planning Board member Gregory Todaro will participate in all discussions and vote on all agenda items.

Jim Callahan will introduce each project on the agenda. An explanation will be provided indicating what action will be taken and what the Town Board and the Planning Board roles are. Anyone in the audience will have the opportunity to opine.

Agenda item 4 has been struck from the agenda at the applicant's request.

Item 1

Mike Ranallo	Requests Minor Subdivision at 10150 Tonawanda
Agricultural Floodzone	Creek Road.

DISCUSSION:

Jim Callahan provided the history on the proposal noting that it is located on the north side of Tonawanda Creek Road, west of Salt Road. It is existing residential property. The applicant is proposing a minor subdivision to create one (1) new residential building lot. Per the Subdivision Law the Planning Board has authority to approve such minor splits.

Mike Ranallo and his father and current owner of the property, Aldo Ranallo, are present. Mike Ranallo said his father has agreed to split his property so Mike can build a home on it. The property to the west belongs to Aldo's daughter; she has built a house on it. Aldo Ranallo's home at 10160

Tonawanda Creek Road is 530ø setback from the road, his daughterø house is setback approximately 200ø Mike Ranallo plans on building a house setback 200-300ø from the road, he has no intention of clearing the property; the trees will remain except for the few that need to be cleared for the house. Most of the trees are at the rear of the property and will not be touched.

ACTION:

Motion by Robert Sackett, seconded by Wendy Salvati, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed Ranallo Minor Subdivision. This Unlisted Action involves a minor subdivision creating one new residential building lot, meeting all minimum lot size requirements in the Agriculture Flood Zone. After thorough review of the submitted site plan and short environmental assessment form, it is determined that the proposed action will not have a significant negative impact upon the environment.

Gregory Todaro	Aye	Robert Sackett	Aye
Paul Shear	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Robert Sackett, seconded by Paul Shear, to **approve** the minor subdivision located at 10150 Tonawanda Creek Road to create one new residential building lot in the Agriculture Flood Zone per the application submitted on October 14, 2011 with the following conditions:

1. Review and approval of the Town Engineer related to a flood plain development permit.
2. Review and approval of the Building Department related to any future building construction on the property.
3. Subject to open space recreation fees.

ON THE QUESTION:

Chairman Schultz noted that this approval represents the total lot split of the parent parcel; there will be no more splits. Erie County must agree to the curb cut and approve the septic system.

Gregory Todaro	Aye	Robert Sackett	Aye
Paul Shear	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Motion by Timothy Pazda, seconded by Richard Bigler, to **approve** the minutes of the meeting held on October 19, 2011, as written.

Gregory Todaro	Aye	Robert Sackett	Aye
Paul Shear	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 2

Niagara County Produce
Major Arterial

Requests Preliminary Concept Review and Action under the State Environmental Quality Review Act (SEQRA) for the construction of a new facility at 8555-8615 Transit Road.

DISCUSSION:

Jim Callahan provided the background on the project. The property is located on the east side of Transit Road, south of Tonawanda Creek Road. It is an existing produce market. The applicant is proposing to construct a new facility.

Chairman Schultz said the Planning Board will conduct a SEQRA review and will act on the site Concept Plan. Any decision will ultimately require a Town Board Special Exception Use Permit because of the size of the building.

Michael Metzger, of Metzger Civil Engineering, is representing the applicant. Currently, there is a conglomeration of buildings on the site that equal about 52,000 square feet in size. The proposal on this 13 acre site is to remove all existing buildings, some of which were built in 1949, and replace them with a building sized just under 87,000 square feet. The proposed building would be a retail store, a greenhouse and some storage space. This is similar to what is at the site now, just larger. The proposal was for a larger building but there are Federal and State Wetlands on the property so the building had to be scaled back in order to work around and avoid the wetlands. The applicant is currently working on the wetlands with the DEC and the Army Corp of Engineers. The wetland areas are on the north and east sides of the property. Currently the building is very near the right-of-way. There is just over 5 acres of wetland on the property. The proposed building had to be extended into the wetland just a little.

Mr. Metzger explained there are two safety related reasons for proposing this project. The applicant is familiar with many traffic accidents since he purchased the property in 1961, some of which have included the existing building. There were fatalities as well. The second reason is the hodge-podge in and out traffic flow around the building. Mr. Metzger said there are two access points, one on Transit Road and one on Tonawanda Creek Road. The access on Tonawanda Creek Road will help anyone coming from Clarence and southern portions of Niagara County to access the store while avoiding Transit Road. All truck traffic will be channeled through the Tonawanda Creek Road access. The plans have been sent to DOT for review, positive feedback has been received. The DOT has no comments on the plan and will deal with it when the applicant applies for the curb cut.

The building has structural issues. The majority of the building is wood and there is rot and deterioration. The applicant has fixed up what he could however it is time for a new building. There are drainage problems on site; the catch basins back-up in the parking lot and in the building itself flooding the area. This can be taken care of with the new project.

Another reason for this proposal is the growth of the business. The applicant wants to offer more and different things to their customers.

Mr. Metzger noted that the plan meets all the zoning requirements of the Town Code. No variances will be required.

It is noted that the plan does not include a driveway.

Mr. Metzger said the septic system will probably be a sand filter with a following absorption field after that. The system will probably use 8,000-9,000 gallons per day.

Wendy Salvati pointed out that the proposed road to Tonawanda Creek Road will bisect a wetland; she asked if the applicant plans on creating a hydraulic connection between the two sides. Mr. Metzger said yes.

Gregory Todaro asked why the driveway ðelbowsö as opposed to going in straight on the property. Mr. Metzger explained that the applicant is trying to minimize the wetland that is cut off.

The proposal impinges on the wetland about 2-2.5 acres; Mr. Shear asked if the mitigation will take place at the project site or off-site. Mr. Metzger said the proposal is to establish a wetland bank off-site on Raymond Road in Lockport NY. Mr. Metzger explained the wetlands in the back of the property will grow by 5 acres with the work that is going to be done.

Dave Albert, of 8070 Tonawanda Creek Road, has lived there for 35 years. The intersection at Transit Road and Tonawanda Creek Road is very difficult to get out of at any time of the day. There is a lot of truck traffic on Tonawanda Creek Road and there is no weight limit. If more trucks use this road it will ruin the road. The road is narrow and the lighting is poor at night. He suggested combining the roads at the Millersport Highway and Transit Road intersection; Mr. Dorr could have his entrance at that intersection and it would have a traffic signal to make it safer. Belknap Heating and Cooling is on the corner and their truck traffic combined with more traffic from the market will make situation worse. There are no sidewalks.

Chairman Schultz referred to a letter from Linda Critelli of 8061 Tonawanda Creek Road dated November 7, 2011. The letter stated many of the same issues Mr. Albert addressed. The letter is on file. Chairman Schultz said part of the environmental review will be to study traffic and its effect on the neighborhood.

Robert Wojcik, of 8090 Tonawanda Creek Road, is also concerned with the safety of the road. He noted that there was a young girl killed there five (5) years ago. He strongly urges the Planning Board to consider the dangers and increased traffic the access road to Tonawanda Creek Road will pose.

Dave and Nancy Kelsch, of 8056 Tonawanda Creek Road, are both concerned with the safety on Tonawanda Creek Road due to increased traffic from the proposed project. Mr. Kelsch is concerned for the safety of his young children. Mrs. Kelsch said the traffic will increase 10 fold.

Gary Guanflo, owner of Belknap Heating located on the corner of Transit Road and Tonawanda Creek Road, is also concerned with the safety of the intersection. He has tried to get a signal at that corner but the State said with the signal on the other side it would create problems with the traffic flow. It is a dangerous intersection.

Chairman Schultz said Ms. Critelli also voiced concern over the buffer zone, lighting and drainage in her letter.

Chairman Schultz noted that there are two (2) houses on the property that were built prior to 1950, the demolition of these two structures need to be reviewed by the Historic Preservation Commission.

Mr. Metzger said that as a whole the traffic situation is going to be improved.

Mrs. Salvati asked if the applicant considered having the primary entrance to the market moved further south on Transit Road and try to coordinate it with the signal. Mr. Metzger explained that it wouldn't work due to the signalization that is currently there; it is better to move it further away.

Mr. Metzger explained that due to the existing wetland there will be a significant buffer between the proposed building and the neighbor's property.

Robert Sackett wants to see a good study of the intersection. If there is no mitigation he would ask the applicant to look at other alternatives and then detail them as to why they won't work.

Mr. Metzger noted that they are proposing betterment to an existing bad situation. There will be an increase in traffic but there will be an overall improvement to the traffic situation.

ACTION:

Motion by Timothy Pazda, seconded by Wendy Salvati, to **accept** the Part 1 Environmental Assessment Form (EAF) as complete and seek Lead Agency and initiate coordinated review among involved agencies on the proposed new facility as proposed.

Gregory Todaro	Aye	Robert Sackett	Aye
Paul Shear	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 3

Rock Garden Properties/Stephen Development Commercial

Requests Action under the State Environmental Quality Review Act (SEQRA), Concept Review and Recommendation on a Special Exception Use Permit (SEUP) for a Mixed Use Development at 9470 Main Street.

DISCUSSION:

Jim Callahan provided the background on the project. It is located on the northeast corner of Main Street and Goodrich Road. It is an existing motel and vacant land. The applicant is proposing to develop a new mixed-use commercial and residential development.

Noel Dill and Paul Stephen, of Stephen Development, are present. Mike Metzger of Metzger Civil Engineering and Douglas Klotzbach of K2 Architecture, are present as well.

Mr. Dill said the area is properly zoned for the project and it has the capability of handling the sewer flow. The demolition of the hotel would happen first. Then they would build the commercial building proposed for the east side of the property and the residential along the rear, then phase in the building of the center structure as the development continues.

Chairman Schultz noted that the proposal shows some banked parking; that area will remain green until it becomes necessary to use it. Mr. Dill explained there is also a shared parking component between the residential and commercial uses. Mr. Klotzbach said there is 14% greenspace within the setback with all the parking, there is 20% greenspace with the banked parking. The overall greenspace is at 53%.

Chairman Schultz asked if septic wastes will be injected into a well. Mr. Dill said absolutely not. Mr. Metzger also said no and went on to explain the septic waste system would not interrelate with injection wells. Mr. Metzger said that type of injection well is no longer used in Clarence since they stopped using it in Harris Hill Gardens years ago. There will be no injection of septic waste with this project.

Mrs. Salvati asked when the center structure will be built. Mr. Dill said the center structure will be driven by commercial leasing. He anticipates the project build-out will be within a two (2) year period.

Mr. Metzger said there is no reason why the septic system couldn't be built in phases if need be. The plan is to have two (2) separate beds; one could be constructed sooner and the other later.

Chairman Schultz said the applicant needs to address the letter from Erie County which states the County will not approve a septic system until they have a firm statement from Spaulding Lake indicating the applicant cannot use their system. The applicant understands.

Mr. Pazda asked about the shared access and if it will go straight through. Mr. Dill said it will line up with the neighbors access and go straight through when the project is done.

Mrs. Salvati said she would like to see the applicant switch off with the land-banking and the parking suggesting the area along Main Street be land-banked and leave the parking in the back and along Goodrich Road. The applicant agreed.

Mr. Metzger said the sand filter system would be 2-3 feet high and would be masked by the stone wall from Main Street. Chairman Schultz suggested some shallow rooted plantings in that area as well. Mr. Stephen said some cars should show in the front of the building as that is good for business. Chairman Schultz said if the design has a significant change made to it, the applicant is to advise the Planning Board of that change. The applicant agreed.

ACTION:

Motion by Robert Sackett, seconded by Gregory Todaro, pursuant to Article 8 of the Environmental Conservation Law, to **issue** a Negative Declaration on the proposed mixed-use project at 9470 Main Street. This Type I Action involves the development of a mixed commercial and residential project in the commercial zone. After thorough review of the submitted site plan and EAF (Parts 1, 2 and 3) as prepared and filed and including coordinated review with involved agencies, it is determined that the proposed action will not have a significant negative impact upon the environment.

Gregory Todaro	Aye	Robert Sackett	Aye
Paul Shear	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

ACTION:

Motion by Robert Sackett, seconded by Paul Shear, to **approve** the Concept Plan on the proposed mixed use commercial and residential project located at 9470 Main Street. This recommendation is subject to the following conditions:

1. Per the final concept design as developed by K2 Architects and dated November 4, 2011.
2. Subject to restrictions, limitations and concerns as identified by the Erie County Health Department related to on-site sanitary sewerage facilities on the project.
3. Subject to appropriate fees, including open space and recreations fees.
4. Subject to final landscape plan approval by the Landscape Committee on Development Plans.
5. Development Plans to include the required checklist for commercial projects and must not deviate from Concept Plans in terms of density and greenspace.

ON THE QUESTION:

The multi-family portion of the project will require a Special Exception Use Permit as issued by the Town Board.

The potential land banking can be determined at Development Plan approval.

Gregory Todaro	Aye	Robert Sackett	Aye
Paul Shear	Aye	Timothy Pazda	Aye
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Item 5

Northwoods Open Space Design Development
Residential Single Family

Requests Recommendation under the State Environmental Quality Review Act (SEQRA) for a Major Open Space Design Subdivision west of 8990 Greiner Road.

DISCUSSION:

Jim Callahan provided the history on the project. The property is located on the north side of Greiner Road between Shimerville Road and Thompson Road. It is vacant land located in the Residential Single Family zone. The applicant is proposing to develop an Open Space Design (OSD) Subdivision. The applicant is present seeking a recommendation on the State Environmental Quality Review Act (SEQRA). Actions on an OSD are purviews of the Town Board.

Timothy Pazda recuses himself from participating in the discussion and vote for this agenda item.

Chairman Schultz explained that the Planning Board will be a recommending body only on this agenda item.

Jeff Palumbo, of the Damon Morey Law Firm, is representing the applicant. John Caruso of Passero Associates and Fred Cimato are present. Mr. Palumbo explained that he would like to firm up the density number for the project. He has submitted a plan that shows 148 single-family homes. Once the number is agreed upon the applicant can complete the reports needed to move the project forward.

Chairman Schultz thinks 148 homes is a reasonable number. He referred to a letter from the DEC in which they stated they want to agree to the wetland delineation. This could change the density number. Mr. Palumbo understands.

Mr. Caruso explained that once the density is determined they would like to compile the supplemental information for the long EAF. They are studying the sewer capacity and traffic.

Chairman Schultz explained that the project could be sent out for coordinated review and at the same time Concept Plan approval can be discussed.

Mr. Bigler, Mr. Todaro and Mr. Shear are comfortable with the density at 148.

Mr. Sackett is not comfortable with the density because wetlands have not been delineated. He thinks the Board needs to have a more thorough discussion on this issue.

Chairman Schultz explained that SEQRA is based on maximum potential build-out. The SEQRA review was based on 157 lots.

Mr. Shear clarified that he is comfortable with the number only if there are no problems with an archeological study, no problems with the water volume and pressure and no problems with the wetlands delineation. The number cannot be put in concrete at this point.

Mrs. Salvati said the 148 is a good number to start with for the SEQRA review.

Chairman Schultz said a Positive Declaration will provide definition, dimensions, boundaries and timelines in order to obtain information on the project and move forward.

Mr. Palumbo is not concerned with the impact statement because he believes the issues are going to be determined to be insignificant based on the information presented to the Board. The timelines in the SEQRA regulations are vague. He would like to respond to the comments that came in from the SEQRA review process, be allowed to submit the reports and then have the Planning Board make the determination.

Mrs. Salvati supports the Positive Declaration.

Mr. Palumbo's objection to the Positive Declaration is that it takes too long and the applicant is going to provide the same information to the Board that would have been developed through a Positive Declaration anyway. They would not have to go through the formal process of a scoping session, that process can take months to complete.

Mr. Caruso suggested holding a meeting were an informal scoping session would take place.

It is clarified that the Planning Board will handle the scoping session.

Mr. Palumbo reiterated the issues: wetlands, sewers, water, archeological and traffic.

Don Schulz, of 8902 Greiner Road, noted this is the third plan and it is different every time, is it going to be different again? Mr. Palumbo hopes not. Chairman Schultz pointed out that every change in the project has been a result of the Planning Board's comments.

ACTION:

Motion by Wendy Salvati, seconded by Robert Sackett, to **recommend** to the Clarence Town Board that a Positive Declaration be issued, identifying that the proposed action may result in one or more significant environmental impacts and will require the preparation of an Environmental Impact Statement to further evaluate potential impacts before agency decisions may be made regarding the action. The Planning Board, in conjunction with the Lead Agency (the Town Board), and in its evaluation of potential significant adverse impacts has taken a hard look at the relevant significant impacts outlined in the Part 2 and Part 3 Environmental Assessment Form, as adopted, relating to those environmental impacts.

ON THE QUESTION:

Mr. Shear said if a Positive Declaration was not issued on the project he would be concerned that information would come in as a piecemeal and would be inadequate. The Draft Statement will specifically indicate the information that is needed to move forward.

Deputy Town Attorney David Donohue reiterated what the applicant's position is on the Positive Declaration. The applicant is not opposed to a Positive Declaration in the future in the event the information they present is inadequate.

Chairman Schultz said the Planning Board should immediately set up a Scoping Session, if this motion passes.

Mr. Callahan said the project can be put on next week's Town Board agenda.

Gregory Todaro	Aye	Robert Sackett	Aye
Paul Shear	Aye	Timothy Pazda	Recuse
Richard Bigler	Aye	Wendy Salvati	Aye
Al Schultz	Aye		

MOTION CARRIED.

Meeting adjourned at 9:14 p.m.

Carolyn Delgato
Senior Clerk Typist