

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday, July 19, 2023

Work Session 6:00 pm

Status of SEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm

Approval of Minutes

Item 1

Rane Property Management, LLC.
Restricted Business

Requests Development Plan and Final Architectural approvals of a Conceptually approved mixed-use project, containing commercial space, multiple-family housing, and accessory structures at 7621-7631 Transit Road.

Item 2

Caliber Brokerage
Major Arterial

Requests Conceptual review of the rehabilitation for the former Hector's Hardware building and site, to accommodate restaurant and retail spaces at 5355 Transit Road.

Item 3

Swormville Fire Company
Traditional Neighborhood District

Requests a recommendation of approval for a fire training facility, as a detached accessory structure, at 6971 Transit Road.

Item 4

Buffalo Modular Homes
Agricultural-Floodzone

Requests a recommendation of a Special Exception Use Permit for the construction of a detached secondary living unit at 8500 Northfield Road.

Item 5

All Seasons Outdoor Care, LLC.
Industrial Business Park

Requests a recommendation of a Temporary Conditional Permit for outside storage to operate a landscape, maintenance and snowplow service at 9737 County Road.

Chairman Robert Sackett called the meeting to order at 7:01 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Chairman Robert Sackett	2 nd Vice-Chair Wendy Salvati
Gregory Todaro	Jason Geasling
Patrick Johnson	Jason Lahti
Daniel Tytko	

Planning Board Members absent: Richard Bigler, Vice-Chair

Town Officials Present:

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

Other Interested Parties Present:

Kathy Karaszewski	John Anthony Tirone	Scott Will	Ed Hazard
Craig Holler	Deborah Brent	Dennis Mayer	Michael Brent
Sal Territo			

Motion by Wendy Salvati, seconded by Gregory Todaro, to **approve** the minutes of the meeting held on May 3, 2023, as written.

Daniel Tytko	Abstain	Jason Lahti	Aye	Patrick Johnson	Abstain
Jason Geasling	Abstain	Gregory Todaro	Aye	Wendy Salvati	Aye
Robert Sackett	Aye				

MOTION CARRIED

Motion by Wendy Salvati, seconded by Patrick Johnson to **approve** the minutes of the meeting held on May 31, 2023, as written.

Daniel Tytko	Abstain	Jason Lahti	Aye	Patrick Johnson	Aye
Jason Geasling	Aye	Gregory Todaro	Abstain	Wendy Salvati	Aye
Robert Sackett	Aye				

MOTION CARRIED

Motion by Wendy Salvati, seconded by Jason Geasling to **approve** the minutes of the meeting held on June 21, 2023, as written.

Daniel Tytko	Aye	Jason Lahti	Abstain	Patrick Johnson	Aye
Jason Geasling	Aye	Gregory Todaro	Abstain	Wendy Salvati	Aye
Robert Sackett	Aye				

MOTION CARRIED

Item 1

Rane Property Management, LLC.
Restricted Business

Requests Development Plan and Final Architectural approvals of a Conceptually approved mixed-use project, containing commercial space, multiple-family housing, and accessory structures at 7621-7631 Transit Road.

DISCUSSION:

Mr. Bleuer introduced this project, located at 7621-7631 Transit Road at the southeast corner of Transit Road and Wolcott Road. Existing lots in the Restricted Business zone, they contain the former Bitterman's automotive complex of buildings and two residential structures.

The applicant is requesting Development Plan and Final Architectural approvals for the construction of a Conceptually approved mixed-use project consisting of the following:

- Approximately 5,500 sq. ft. commercial space
- 16 multi-family residential units (5 in mixed-use building, 11 in townhouse buildings)
- 8-car garage building
- 6 storage buildings
- Demolition of all existing structures on the property

The Town Board referred the proposal to the Planning Board in December of 2019. In March of 2020, the Planning Board initiated a coordinated review under the State Environmental Quality Review Act (SEQRA). In April of 2021, the Planning Board issued a Negative Declaration under SEQRA, Concept Plan Approval, and Conceptual Architectural Approval. In December of 2021, the Town Board held public hearings and issued a Special Exception Use Permit for the multiple-family housing component of the mixed-use project, and a Temporary Conditional Permit for the accessory structure storage buildings, all with conditions. In January of 2021, the Landscape Review Committee approved a final Landscape Plan. Finally, in August of 2022, the Engineering Department determined that the Development Plan meets technical requirements.

The Planning Board has the authority to consider Development Plan and Final Architectural for this project. A Development Plan Approval would constitute the last Board action prior to construction.

Project Engineer Patrick Sheedy with Carmina Wood Design along with David Sutton with Sutton Architecture were present.

Mr. Sheedy noted that they have added a few amenities to the site itself, due in part to conversations with the Planning Board Executive Committee. These include benches for the residents and clientele of the commercial space, as well as a bike rack located on the south end of the mixed-use building.

Mr. Geasling asked for clarification on the number of benches and bike racks that Mr. Sheedy referred to.

Mr. Sheedy stated that the bike rack location has enough room for 2-3 stations that can house 4-6 bicycles.

Mr. Geasling asked Mr. Sheedy if they would consider adding additional benches, due to the size of the project.

Mr. Sheedy responded that they do not have an issue with adding more benches, committing to a total of 4 benches.

Chairman Sackett asked where the benches will be located.

Mr. Sheedy responded, noting that the northeast corner of the building has a proposed gathering space near the pond and proposed patio. Mr. Sheedy added that they could put benches in the open space area, to the northeast of that site. Mr. Sheedy noted that the area is in the floodplain, and not being raised or filled. It is space that will be used by the residents and occupants of the mixed-use building.

Mrs. Salvati stated that she had previously asked for the benches to be located in the southwest corner of the recreation area where it is out of the floodplain, and a bit more separated and secluded. Mrs. Salvati requested that the benches be relocated to that area.

Mr. Geasling asked for an update on the recreation area.

Mr. Sheedy explained that town floodplain regulations dictate that 30% of any floodplain zone that is being filled has to remain untouched within the floodplain. Mr. Sheedy stated that a dedicated walking path within that area would not be code compliant with the Town's standards.

Referring to the air conditioning units, Mr. Geasling noted that they all appear to be located on the south side of the building, at the southeast corner. Mr. Geasling asked if the units would be enclosed.

Mr. Sheedy responded that they typically screen them with landscaping, he doesn't believe there are plans to enclose them but if there is room and they are required to screen them, they can do that.

Mr. Sutton explained that there is a service-type door and although they haven't designed the interior of the space, the condenser units will go adjacent to the door or they will relocate the door, but that is the approximate location. Mr. Sutton noted that using landscaping to buffer the views of the mechanicals is a much more user-friendly screening approach for the condenser on the ground. They will spend time working with the Landscape Committee to assure that it is accurately screened.

Mr. Geasling noted that a majority of the elevations facing the public roadway have LP Smart Siding, upon recommendation of the Town.

Discussion continued regarding the siding visible from the road being LP Smart siding versus non-visible or internal walls will have vinyl siding. Mr. Sutton noted that if there are areas that they missed that are visible from the road, they are happy to adjust them upon the Board's wishes.

Mr. Geasling referred to the townhouse in the southwest corner, noting that the west elevation as well as the north elevation which is visible from Wolcott Road. Mr. Sutton noted that they are heavily

screened with landscaping to buffer any visibility from Transit Road as well as from the adjacent townhouses. Their focus was to put their efforts in to landscaping with siding as a backdrop.

Mr. Sutton stated that the landscape plan is very effective, but if the Board prefers, they will switch the siding in that area to the LP Smart siding, they will do that.

Mrs. Salvati noted that she did review the landscape plan, referring to the Forsythia tree that does not come around to the end of the structure that Mr. Geasling is referring to.

Discussion continued regarding the landscaping and siding in certain areas of the structure, as pointed out on the elevations.

Mr. Geasling stated that he feels very strongly about the view of the 8-car garage from Wolcott Road.

Chairman Sackett asked if it can be stated that all sides facing a roadway will have LP Smart Siding.

Mr. Sutton responded yes.

Mr. Todaro asked if the garage structures have internal spaces separated by fire-rated walls.

Mr. Sutton responded that they are separated by walls, but they are not required to be fire-rated. They are more security separation, defining the parameters between the tenant's space. The overall size of the garage does not exceed any fire limits, therefore fire-rated walls are not required.

In regards to Public Participation, the following resident spoke:

1. Steve Dale of 4309 Cameron Drive:

- asked for clarification regarding trees or a stone wall around the pond adjacent to Transit Road

Public Participation for this project is closed.

Mr. Sheedy stated that on the north and west sides of the pond, hugging the property line limit they are proposing a 3 ft. high decorative wooden slit-rail fence as a barrier between Transit Road, Wolcott Road, and the pond. This will compliment the existing split-rail fence across the street on Wolcott Road. Additionally, there are trees located at all four corners of the pond, with approximately 13-14 large deciduous trees that surround the pond itself.

Mrs. Salvati noted that a lot of time has been spent on this project over the past few years. She feels they have reached a place where they are satisfied with the end result.

ACTION:

Motion by Jason Geasling, seconded by Wendy Salvati to **approve** the Rane Property Management Mixed-use **Development Plan**, located at 7621-7631 Transit Road, per the submitted drawing by Carmina Wood Design, dated October 2021, with a final revision date of July 2023, and to **approve** the **Final Architectural** drawings by Sutton Architecture dated July 10th, 2023, all with the following conditions being met:

1. Applicant meeting the requirements of the Town of Clarence Engineering Development Plan Review Letter dated August 4th, 2022.
2. Applicant meeting the requirements of the Town of Clarence Engineering and Building Departments, and any associated conditions, prior to any permits being obtained for construction on the property.
3. Applicant meeting the conditions of the Town Board issued Special Exception Use Permit for multiple family housing, and Temporary Conditional Permit for accessory structure storage units.
4. Subject to New York State Department of Transportation approval for access to Transit Road, and subject to Erie County Department of Public Works approval for access to Wolcott Road.
5. The access road to Wolcott Road shall be marked for no parking. Should the access road become flooded, the applicant shall provide means to temporarily restrict access during that period.
6. Subject to Erie County Health Department and New York State Department of Environmental Conservation approval, if required, on any future on-site sanitary facilities.
7. Applicant meeting the requirements of the Landscape Committee Approval on January 11th, 2022, and associated conditions, including but not limited to, the maintenance of all landscaping and fencing in perpetuity and replacement, in-kind, should there be any deterioration, or death or disease to plantings.
8. Any exposed building mechanicals shall be shielded from view by approved landscaping.
9. Installation of 4 benches and bike rack per the approved development plan. The additional 2 benches are to be located at the southwest corner or in the vicinity of the passive recreation area
10. All site lighting shall be dark sky compliant and shielded to prevent spillage onto adjoining properties. No lighting shall be elevated above the roof ridge lines and all lighting shall be turned off no later than one hour after business hours except for necessary security and residential lighting.
11. Dumpster enclosures and any garbage tote systems shall remain closed at all times when not in use. Dumpster and tote service shall occur in conformance with Town Code. No garbage or debris shall accumulate outside of the dumpsters and totes.
12. Buildings to be constructed per the labelled and approved materials and colors. The west elevation of the southwest townhouse, west elevation of the 5-car garage, north elevation of the 8-car garage shall be LP Smart Siding in lieu of vinyl siding.
13. Building and site shall be maintained as approved, in perpetuity, and any buildings and site deficiencies shall be repaired or replaced as approved.
14. Paved areas to be striped and maintained in perpetuity. No parking of vehicles outside the designated parking areas.
15. For commercial uses, no outside display or storage of any kind on the property, including but not limited to goods, materials, or other items.
16. Any future proposed commercial outside operations shall be subject to a Temporary Conditional Permit as reviewed and approved by the Town of Clarence.
17. Any future commercial uses shall comply with allowable uses per Town Code.
18. Any permanent signage will be subject to review and approval by the Sign Review Committee, and any temporary signage subject to review and approval by the Office of Planning and Zoning.
19. Subject to Open Space, Recreation, and any other applicable fees as required by Town Code.

The applicant has heard, understands, and agrees to the conditions.

Daniel Tytko	Aye	Jason Lahti	Aye	Patrick Johnson	Aye
Jason Geasling	Aye	Gregory Todaro	Aye	Wendy Salvati	Aye
Robert Sackett	Aye				

MOTION CARRIED

Chairman Sackett explained that the Planning Board works hard, and often applies multiple conditions to mitigate the projects in order to make them better. The process is to mitigate new development to blend with existing development.

Mr. Geasling noted that in addition to all of the changes and conditions that an applicant agrees to, there is often a multi-year process to get to that point.

Item 2

Caliber Brokerage
Major Arterial

Requests Conceptual review of the rehabilitation for the former Hector’s Hardware building and site, to accommodate restaurant and retail spaces at 5355 Transit Road.

DISCUSSION:

Mr. Bleuer introduced this project, located at 5355 Transit Road on the east side of Transit Road, north of Greiner Road. It is an existing 0.8-acre parcel located in the Major Arterial zone, formerly home to Hector’s Hardware.

The applicant is requesting preliminary conceptual review of the rehabilitation for the former Hector’s Hardware building to be converted into a restaurant and retail store. The northern portion of the building is proposed to be demolished to accommodate additional parking. The remaining building interior will be split into two units with the restaurant measuring 2,587 sq. ft. and the retail store measuring 4,093 sq. ft. Upgrades to the existing parking lot, associated facilities, and building façade are also proposed.

Any outside dining proposed on the northeast side of the building, will be subject to a separate review and issuance of a Temporary Conditional Permit, as issued by the Town Board.

The Town Board referred this proposal to the Planning Board at their June meeting.

The initiation of a coordinated review under the State Environmental Quality Review Act will allow for involved agency and interested party comment.

Jeffrey Palumbo, attorney for the applicant was present.

Mr. Palumbo noted that they have submitted a landscaping plan in accordance with the requests and requirements made by the Landscape Committee. This property will look substantially different than it does now, due in large part to the current lack of landscaping on the site.

Mr. Palumbo explained that the two tenants will consist of a Mattress Firm store and a Dave's Hot Chicken restaurant.

Mr. Palumbo reviewed the current plans, noting that they will complete the necessary signage and requirements when they get to that point of the process. Additionally, once they reach the point of identifying where the mechanicals will be located, they will be sure to have them properly screened and buffered from view.

Mr. Lahti noted that they are in a preliminary stage at this point, reviewing the necessary plans and drawings that need to be submitted. Mr. Lahti specified the southerly curb-cut should be removed from the drawings. The additional landscaping will enhance the visual aspect of the property.

Mr. Lahti requested the applicant consider cross-access with adjoining businesses when planning their parking lot modifications. This is encouraged with the Transit Road Corridor Study that was previously completed, and will require coordination with the neighboring businesses.

In regards to Public Participation, the following residents spoke:

1. Deborah Brent of 5354 Greenhurst Dr:
 - concerns with lighting
 - concerns with signage, prefers it low so that it is out of sight from her home
 - concerns with dumpsters
 - drive-through concerns
2. Sal Territo of 8064 Red Clover Ave.
 - questions regarding Dave's Chicken
 - concerns with dumpster
3. Kathy Karaszewski of 5362 Greenhurst Rd.
 - concerns with traffic
 - questions about landscaping and fencing
 - echoes the concerns previously stated
4. Michael Brent of 5354 Greenhurst Dr.
 - questioned the square footage of the building in relation to the two new tenants proposed, as well as proposed parking
 - concerns with the lighting

Public Participation was closed for this item for this meeting.

Mr. Palumbo returned to address the questions and concerns, explaining that the building is currently 8,000 sq. ft., and they are currently reducing the size of the building to 6,700 sq. ft. Noting that lighting concerns are always an issue, Mr. Palumbo stated that they will have shielded, dark sky compliant lighting that will not shine on to adjacent properties.

Mr. Palumbo stated that they are happy to meet with any of the neighbors any time to go over their concerns and work on resolving them together.

Noting that they are not to the point of signage yet, Mr. Palumbo stated that they will work any issues out that there may be.

Mr. Palumbo stated that dumpsters are generally placed near the rear of the property, and are placed there so that they are kept away from cars and customers. This is also something they are happy to discuss with the Planning Board and the neighbors.

Mr. Palumbo noted that there is not a drive-through associated with Dave’s Hot Chicken.

Chairman Sackett reiterated that the applicant is willing to work with the neighbors, and any interested neighbor should reach out to Mr. Palumbo with their contact information.

Mr. Palumbo responded yes, and that he will give his business card to each of the residents that spoke.

Mr. Geasling noted that one of the conditions that they typically place on a project is that all lighting is to be turned off no more than one hour after the close of business hours, except for security lighting. Most of the businesses on Transit Road are existing, and do not conform to the current code. As new businesses and tenants go in, the shielding and lighting standards are improved significantly.

Mrs. Salvati reviewed the additional questions that will be discussed as the project moves forward.

ACTION:

Motion by Jason Lahti, seconded by Gregory Todaro that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and to seek Lead Agency status and **commence a coordinated review** among involved and interested agencies on the proposed Caliber Brokerage commercial project at 5355 Transit Road in the Major Arterial zone. This Unlisted Action involves the rehabilitation of the former Hector’s Hardware building and site, to accommodate restaurant and retail spaces within one commercial building, along with associated facilities.

Daniel Tytka	Aye	Jason Lahti	Aye	Patrick Johnson	Aye
Jason Geasling	Aye	Gregory Todaro	Aye	Wendy Salvati	Aye
Robert Sackett	Aye				

MOTION CARRIED

Item 3

Swormville Fire Company
Traditional Neighborhood District

Requests a recommendation of approval for a fire training facility, as a detached accessory structure, at 6971 Transit Road.

DISCUSSION:

Mr. Bleuer introduced this project located at 6971 Transit Road, the east side of Transit Road, north side of Stahley Road it is an existing 5.3-acre parcel located in the Traditional Neighborhood District, containing an existing fire hall complex.

The applicant is requesting a recommendation of Approval for a fire training facility, as a detached accessory structure behind the existing pole barn. The structure is proposed to be constructed out of shipping containers, with a total size of approximately 40' by 16', and painted to match the existing pole barn.

The Planning Board is a recommending body to the Town Board.

Chief Scott Will from the Swormville Fire Company was present to represent this request.

Mr. Todaro asked Chief Will to define the location of the structure on the property for the record.

Chief Will explained that it would be behind the barn, out of view of Transit Road.

Mr. Todaro asked if anything would occur with the trees currently on site, based on the location that Chief Will identified.

Chief Will responded that the existing trees will stay, and they plan to add more to the back / east side of the property

Mr. Todaro asked what is planned for buffering.

Chief Will explained that there is currently a small berm on site that they would add to. They hope to meet with an arborist to determine what their best choice of plantings would be, with consideration given to the wind and deer that frequent the area.

Mr. Todaro inquired about the safety that will occur around the building as far as climbing, entry, or anything that could transpire around it by anyone in the area that are not permitted to be on site.

Chief Will responded that the proposed facility that they are looking to purchase has locks on all of the doors. Entry to the top must be made via the inside of the structure. The staircase is behind a locked door, and is not accessible to laypeople.

Mr. Todaro asked what type of noise may occur when utilizing the facility for training.

Chief Will stated that the only sound they would have would be from one truck on location which would not be all the way at the back of the site but would be closer to the barn. Generally, they remain in an idle state during training.

Mr. Todaro asked about the lighting both while in use and not in use.

Chief Will explained that there is no lighting in the area when it is not in use. While in use, there is lighting at the back of the barn that faces down, and whatever lighting from the vehicle.

Mr. Todaro asked about the hours the facility will be used.

Chief Will noted that their drills are done at 9:00 p.m., and they do not train on Sundays.

Noting that the proposed facility would be used for both smoke and fire training, Mr. Todaro asked Chief Will to describe what would occur environmentally in both situations.

Chief Will explained that any burns in a container would be on the west side, the only material they are permitted to burn is hay, pallets, or other type of similar wood. This is not the primary reason for the facility. They can also use an artificial smoke machine similar to those used for Halloween displays, which is non-toxic.

Referring to the wood pallets that Chief Will mentioned, Mr. Todaro asked if they would be a treated wood.

Chief Will responded no.

Mr. Todaro asked if any and all lighting used will be shielded for dark sky compliancy.

Chief Will stated that they limit the light shining off of their property to the back of the property.

Mr. Todaro asked about parking during training times, and if there would be any issues with the number of firefighters coming to the property.

Chief Will responded no, there would not be any issues, they have plenty of parking.

Mr. Johnson asked if they work with oil related fires in this proposed facility.

Chief Will responded no, nothing like that.

Mrs. Salvati asked if there will be any noise in terms of sirens or horns.

Chief Will responded no.

Mr. Geasling asked if when simulating a fire, will it produce a lot of smoke.

Chief Will explained that it will be contained within the container, and while it may seep out through the openings, it dissipates quickly.

Mrs. Salvati asked how many people can go inside the container at one time.

Chief Will stated that it depends on the scenario, but generally approximately 8. Typically, there are 2 teams of 4 firefighters inside the container at a time.

In regards to Public Participation, the following residents spoke:

1. Malcolm Newton of Stahley Road:
 - concerned with the smoke issue
 - concerns with the landscaping around the container
 - the large trees on the property have been cut and trimmed so they do not actually provide any coverage along the top, providing no buffer or mitigation

Mr. Todaro asked if they were to require the fire company to erect a fence in order to block the view for Mr. Newton, would that be acceptable.

Mr. Newton responded no, fences fall in to disarray and are not great looking. A natural, spread-out buffer would suffice.

Public Participation was closed for this item.

Chief Will returned to address the neighbor’s concerns, noting that they don’t plan to move the training on vehicles that they currently do, so that won’t change.

In regards to adding a natural buffer along that side facing Mr. Newton, Chief Will agreed that they can look in to doing that along the tree line to help with the buffer.

Chairman Sackett asked Chief Will if he would consider involving the neighbor with the planning of the tree line and buffering on that side, and to exchange contact information.

ACTION:

Motion by Gregory Todaro, seconded by Wendy Salvati to **recommend approval to the Town Board**, of the Swormville Fire Company Fire Training **Accessory Structure**, located at 6971 Transit Road, per the submitted drawing received in the Planning Office on May 10th, 2023, with the following conditions:

1. Subject to any permits, as required by the Building and Engineering Departments.
2. Apart from normal operations, structure and site shall be maintained in perpetuity, and any deficiencies shall be repaired or replaced.
3. Any future proposed structure and site modifications are subject to Town review.
4. Use of structure shall not occur on Sunday, nor after 9:00pm.
5. Any lighting used during structure training shall not shed beyond the property line and lighting on the rear of the existing accessory structure must be shielded for dark sky compliant.
6. No sirens shall be used in association with structure training.
7. Applicant shall install landscaping along the east property line per the assurance letter received in the Planning Office on July 11th, 2023. Such landscaping shall be maintained in perpetuity, and replaced, in-kind, should there be any deterioration, or death or disease to plantings.

The applicant has heard, understands, and agrees to the conditions.

Chairman Sackett reiterated that in regards to landscaping, the applicant will include conversations with the neighbor as well.

Chief Will responded yes.

Daniel Tytka	Aye	Jason Lahti	Aye	Patrick Johnson	Aye
Jason Geasling	Aye	Gregory Todaro	Aye	Wendy Salvati	Aye
Robert Sackett	Aye				

MOTION CARRIED

Item 4

Buffalo Modular Homes
Agricultural-Floodzone

Requests a recommendation of a Special Exception Use Permit for the construction of a detached secondary living unit at 8500 Northfield Road.

DISCUSSION:

Mr. Bleuer introduced this project at 8500 Northfield Road, located on the west side of Northfield Road, south of Tonawanda Creek Road it is an existing 8.7-acre property located in the Agricultural-Floodzone, containing an existing residence and detached accessory structure.

The applicant is requesting the recommendation of a Special Exemption Use Permit for a detached Secondary Living Unit. The Secondary Living Unit is proposed to the north of the existing residence, containing a first-floor garage, and a second-floor Secondary Living Unit.

The proposal is subject to an Area Variance by the Zoning Board of Appeals as the structure is partially located within the established front yard setback.

The Town Board referred this proposal to the Planning Board at their May meeting.

The Planning Board is a recommending body to the Town Board.

Jeremy Bates with Buffalo Modular, and property owner Dennis Mayer were present to represent this request.

Mr. Johnson noted that this proposed secondary living unit will be for Mr. Mayer to reside in, while his daughter and her family will live in his current principal structure. He will live on the second floor of the proposed structure.

Pointing out that as he ages, Mr. Mayer may need a chair lift to assist him with the stairs, Mr. Johnson asked what the plan is with the stairway. Primarily, if the width of the stairway is able to support an electric chair lift.

Mr. Bates responded that the width of the stairwell is 42 in., which is ADA compliant and able to support a chair lift.

Mr. Johnson asked what the consequence would be if the variance was not approved by the Zoning Board of Appeals.

Mr. Mayer jokingly responded that his daughter would probably push him out to the barn.

Mr. Johnson noted that Mr. Mayer has indicated it would be a financial hardship to move it back.

Mr. Bates explained that there are a couple of issues, starting with the distance from the barn as well as the inability to push the accessory structure further north and lastly, the land dips down and creates a bit of a wetland area, though it is not classified as such.

Mrs. Salvati thanked the applicant for adding more detail to the site plan, helping them to understand the request and layout more efficiently.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Patrick Johnson, seconded by Jason Geasling to **recommend issuance of a Special Exception Use Permit to the Town Board** for a secondary living unit located at 8500 Northfield Road per the submitted plans received in the Planning Office on April 17th, 2022, subject to the following conditions:

1. Subject to permits and conditions of the Town Building Department.
2. Subject to the issuance of an Area Variance by the Zoning Board of Appeals for the front yard setback of the secondary living unit.
3. Review and approval by the Erie County Health Department for any modifications to the existing on-site septic system, if required.
4. Unit shall be secondary to the principle dwelling and not converted to a rental unit.
5. Occupancy shall be limited to family members, paid employees, temporary guests or principal homeowner.
6. The property owner, or any future property owner, shall provide certification to the Town on an annual basis that the unit is being used in conformance with the conditions of approval. Failure to submit the annual certification may result in the termination of the Special Exception Use Permit, and may result in a Zoning Violation subject to enforcement and penalties as outlined within Town Code Zoning Law Chapter 229-160 and 161 or any changes made to the Code of the Town of Clarence in the future.
7. A Deed Restriction shall be placed into the deed for the property, restricting its use and occupancy so as to limit same to family members, paid employees, temporary guests or principal homeowner so as not to allow the unit to be utilized or converted into a rental unit. The Deed Restriction language shall be submitted and approved by the Town Attorney's Office prior to filing of the Deed in the Erie County Clerk's office.
8. An Agreement shall, simultaneously, be entered into between the property owner/Applicant and the Town of Clarence. This Agreement shall require that the property owner/Applicant prepare and record the Deed Restriction incorporating the conditions of approval and requiring those restrictions be placed into the property deed. Both the Agreement and Deed Restriction shall continue in perpetuity. A copy of the Agreement shall be filed as an attachment to the Deed to be filed in the Erie County Clerk's office. All required documentation shall be submitted and approved by the Town Attorney's Office, prior to filing.
9. The property Owner/Applicant shall provide proof of filing of both the Deed and Agreement by providing stamped "FILED" copies to the Town Attorney's Office prior to the issuance of a Certificate of Occupancy by the Building Department.

The applicant has heard, understands, and agrees to the conditions.

ON THE QUESTION:

Upon approval by the Town Board, the applicant should contact the Town Attorney's Office for guidance on necessary legal requirements.

Daniel Tytka	Aye	Jason Lahti	Aye	Patrick Johnson	Aye
Jason Geasling	Aye	Gregory Todaro	Aye	Wendy Salvati	Aye
Robert Sackett	Aye				

MOTION CARRIED

Item 5

All Seasons Outdoor Care, LLC.
Industrial Business Park

Requests a recommendation of a Temporary Conditional Permit for outside storage to operate a landscape, maintenance and snowplow service at 9737 County Road.

DISCUSSION:

Mr. Bleuer introduced this project at 9737 County Road, located on the south side of County Road, east of Goodrich Road. An existing 2-acre parcel located in the Industrial Business Park zone, containing a pole barn principal structure, parking lot and associated facilities.

The applicant is requesting a recommendation of a Temporary Conditional Permit for outside storage to operate a landscape, maintenance and snowplow service. The outside storage area is located behind the front façade of the existing building, and salt storage building.

The Town Board referred this proposal to the Planning Board at their January meeting. Since that time, the applicant has installed a fence, berm and landscaping to buffer the proposal.

The Planning Board is a recommending body to the Town Board.

John Tirone was present to represent his request.

Mr. Johnson stated that the reason for the request is because the applicant has two seasonal businesses put together as one; outdoor care and snow plowing.

Mr. Johnson asked Mr. Tirone if there are any other businesses aside from those two.

Mr. Tirone responded no.

Mr. Tirone confirmed that the hours of operation for the outdoor care are 7:00 a.m. to 7:00 p.m., and the snowplowing is 24 hours weather dependent.

Mr. Johnson asked Mr. Tirone to explain the storage and dumping of materials.

Mr. Tirone explained that as far as dumping material in the back, they leave it for 48 hours then take it all to the dump on Friday. For the most part it doesn't leave the truck.

Mr. Johnson asked if they bring any snow back to their site.

Mr. Tirone responded no; this will only be materials used during the summer for the outdoor care.

Mr. Johnson confirmed that currently there is mulch stored for the seasonal / outdoor care aspect, and salt stored for the snowplowing portion of the business.

Mr. Tirone confirmed yes, the same structure is used for storage, based on the season.

Mr. Johnson noted that the lights do not appear to be dark sky compliant, and are quite bright even from a distance.

Regarding vehicles, Mr. Johnson noted that there are 7 trucks, 7 trailers, and several other pieces of equipment on the site.

Mr. Tirone responded that is correct.

Mr. Johnson asked Mr. Tirone if they will consider planting some trees along County Road.

Mr. Tirone responded yes, their intention is to plant between 2-4 trees this fall or early spring of 2024.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Patrick Johnson, seconded by Wendy Salvati to **recommend issuance of a Temporary Conditional Permit to the Town Board** for All Seasons Outdoor Care, LLC., located at 9737 County Road, per the plans received in the Planning Office on November 29th, 2022, subject to the following conditions being met:

1. Initial permit shall be for a term no greater than one year.
2. Any future proposed site or structure modifications subject to Town review.
3. Subject to Town Building and Engineering Department approval prior to any permit being obtained for the salt bay accessory structure.
4. Structures, site, and screening shall be maintained, in perpetuity, and any deficiencies shall be repaired or replaced.
5. No business operation parking, storage, refuse or display in front of the front yard fence.
6. Dumpster to be screened from view and located behind the fence. Dumpster service shall occur in conformance with Town Code. No garbage or debris shall accumulate outside of the dumpster.
7. Drive lane and yard to be kept in a maintained condition, that prevents excessive dust that may cause a nuisance to the surrounding neighborhood.
8. All site lighting shall be dark sky compliant and shielded to prevent spillage onto adjoining properties. No lighting shall be elevated above the roof ridge lines and all lighting shall be turned off no later than one hour after business hours except for necessary security lighting.
9. Any temporary stockpile of job materials, such as wood and stone, shall be located behind the fence, and not visible from County Road. No dumping of grass clippings or off-site snow.
10. No additional future business operations or operators unless reviewed and approved by the Town.
11. Any future permanent signage will be subject to review and approval by the Sign Review Committee, and any temporary signage subject to review and approval by the Office of Planning and Zoning.

The applicant has heard, understands, and agrees to the conditions.

Mrs. Salvati confirmed with the applicant that he understands the lighting conditions with no spillage.

Daniel Tytko	Aye	Jason Lahti	Aye	Patrick Johnson	Aye
Jason Geasling	Aye	Gregory Todaro	Aye	Wendy Salvati	Aye
Robert Sackett	Aye				

MOTION CARRIED

Meeting **adjourned** at 8:27 p.m. with a motion by Wendy Salvati.

Amy Major
Senior Clerk Typist