

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday, March 6, 2024

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 & Elizabeth Hawkins
Agricultural-Rural Residential

Requests a Minor Subdivision of land to create one (1) new lot located at 6150 Strickler Road.

Item 2

Kevin & Heather Waterman
Agricultural-Rural Residential

Requests a recommendation of a Special Exception Use Permit for the construction of an attached secondary living unit as part of a new home construction at 10020 Keller Road.

Vice-Chairman Richard Bigler called the meeting to order at 7:00 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Vice-Chair Richard Bigler
Gregory Todaro
Jason Lahti

2nd Vice-Chair Wendy Salvati
Jason Geasling
Daniel Tytka

Planning Board Members absent: Robert Sackett, Chairman

Town Officials Present:

Junior Planner Andrew Schaefer
Councilman Paul Shear
Councilman Robert Altieri
Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

John Hawkins Elizabeth Hawkins Kevin Waterman Heather Waterman

Motion by Wendy Salvati, seconded by Jason Geasling, to **approve** the minutes of the meeting held on February 21, 2024, as written.

Daniel Tytka	Abstain	Jason Lahti	Aye	Jason Geasling	Aye
Gregory Todaro	Abstain	Wendy Salvati	Aye	Richard Bigler	Aye

MOTION CARRIED

Item 1

John & Elizabeth Hawkins
Agricultural-Rural Residential

Requests a Minor Subdivision of land to create one (1) new lot located at 6150 Strickler Road.

DISCUSSION:

Mr. Schaefer introduced this project at 6150 Strickler Road, located on the west side of Strickler Road, north of Clarence Center Road. It is an existing 6.8-acre vacant parcel in the Agricultural-Rural Residential zone.

The applicant is requesting a Minor Subdivision of land to create one (1) new building lot. Mr. Schaefer added that since the publication of the Planning Board’s agenda, the applicant has submitted an updated request.

The original request dated February 12th had the newly created lot at approximately 2.27-acres with 464’ of frontage on Strickler Road. The remaining parent parcel would be approximately 4.52-acres, with 244’ of frontage on Strickler Road.

Mr. Schaefer stated that the new request dated March 1st has the newly created lot at approximately 2.36-acres with 558’ of frontage on Strickler Road. The remaining parent parcel would be approximately 4.43-acres, with 150’ of frontage on Strickler Road.

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

Mr. Schaefer explained that the applicant previously stated that the irregular shaped lots are proposed due to the cost associated with running water to the property. The applicant has also previously stated that should the newly created lot be sold; a Lot Line Adjustment Application would be submitted to the Town to merge the extra frontage back to the parent parcel.

John Hawkins was present to represent this request, explaining that during this process they learned that there was no public water, and during conversations with the Erie County Water Authority, learned that there is no appeal process. The water line must extend the entire frontage of the property, excluding it as an option.

Adding that they do not have any intent to sell the lot, Mr. Hawkins added that this desired action is simply to mitigate the significant cost.

Mr. Todaro noted that he has no issues with the Environmental Assessment Form.

Referencing the southern parcel, Mr. Todaro asked if that is the lot that they plan to build on.

Mr. Hawkins responded yes; it will be a single-family home with both an attached and detached garage.

Noting that Mr. Hawkins is before the Planning Board for the adaption of the property to the Erie County Water Authority (ECWA) water line, Mr. Todaro asked Mr. Hawkins to explain the distance.

Mr. Hawkins responded that the ECWA advised them that the closest location to the line is at 6100 Strickler Road, which is the lot at the southwest corner of the property. The line would have to travel 100 ft. just to reach their property at the northwest corner. From there, the water line would need to travel the entire eastern line of the property, which is 780 ft. This revised proposal allows them to have it travel 100 ft., from 6100 Strickler Road then the 150 ft. that is required. It would be approximately 250 ft. of frontage as opposed to 800 ft. of frontage.

Mr. Todaro clarified that the original request would have been 750 ft., taking the line across the parcel to the north.

Mr. Hawkins stated that the cost would be approximately \$140,000.00 to travel the 800 ft. distance just to supply water.

Mr. Todaro asked Mr. Hawkins which drawing is preferred.

Mr. Hawkins responded that the drawing dated March 1, 2024 is their preference.

Mr. Hawkins explained that they originally did not think they would be able to cross the “dog leg” with a driveway. They then learned that working with the Town Attorney and the proper documentation, they would be able to do so, allowing them to extend the “dog leg” even further south.

Referring to the property itself, Mr. Todaro noted that it is heavily lined with trees, and asked Mr. Hawkins what the intend is for any tree clearing.

Mr. Hawkins explained that their intent would be to clear a small portion of the heavily treed area, no more than an acre and a half, leaving a buffer of approximately 2 acres of trees on the south side of the south parcel, adjacent to the bike path. They would have a U-shaped buffer, all the way around the property.

Mr. Hawkins stated that he and his wife have no intention to sell the irregular lot, and they would be happy to comply with whatever legal document is required to identify that if they were to sell it they would attach it back to the original parcel, making two true rectangles.

Mr. Todaro asked Mr. Hawkins to explain where he plans to have his driveway placed.

Mr. Hawkins responded, stating that the southern portion of where the house is proposed would be a detached garage. The driveway would have a slight bend to it, and travel out to Strickler Rd. The placement of the proposed driveway is almost dead center in the property, as it exists today.

Mr. Todaro noted that because of the arrangement of the property, an agreement would be needed to have the driveway travel across the access easement.

Referring to the plans for a proposed detached garage, Mr. Todaro noted that it appears to be located close to the house.

Mr. Hawkins explained that there is an attached garage, as well as plans for a detached garage.

In regards to Public Participation, no one spoke.

ACTION:

Motion by Gregory Todaro, seconded by Wendy Salvati, that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Hawkins Minor Subdivision at 6150 Strickler Road. This Unlisted Action involves a lot split to create one (1) additional lot in the Agricultural-Rural Residential zone. After thorough review of the submitted plans and Environmental Assessment Forms, it is determined that the proposed action will not have a significant negative impact on the environment.

Daniel Tytka	Aye	Jason Lahti	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye

MOTION CARRIED

Motion by Gregory Todaro, seconded by Wendy Salvati to **approve the Hawkins Minor Subdivision** at 6150 Strickler Road as per the submitted sketch plan received in the Planning Office on March 1, 2024, with the following conditions being met:

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 lots.
3. Review and approval by the Erie County Water authority for any future public water line extension for the lots.
4. Review and approval by the Town Building and Engineering Departments for any future construction on the lots.
5. Creation of 20’ wide public drainage and access easements as described and shown in the memo from the Engineering Department, dated February 21st, 2024. 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. No Building or other permits shall issue until the approved and filed easement has been provided to the Town Attorney.
6. 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. If additional easements are required, no Building or other permits shall issue until the approved and filed additional easement has been provided to the Town Attorney.

- 7. Should the newly created parcel to the north be sold to a separate ownership from the parent parcel to the south, prior to such sale, the irregular lot frontage shall be lot line adjusted, after review and approval of the Town Planning Department, so both parcels contain the substantially similar amount of lot road frontage as their rear lot width.
- 8. Subject to Open Space, Recreation, and any other applicable fees as required by Town Code.

ON THE QUESTION:

Mr. Bengart informed Mr. Hawkins that any issues or questions he has regarding the easements, to contact the Town Attorney’s Office.

Regarding the easements, Mr. Lahti asked Mr. Bengart if both properties would need recorded easements.

Mr. Bengart stated that the easements issue will be dealt with through the legal office.

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

Daniel Tytka	Aye	Jason Lahti	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye

MOTION CARRIED

Item 2

Kevin & Heather Waterman
Agricultural-Rural Residential

Requests a recommendation of a Special Exception Use Permit for the construction of an attached secondary living unit as part of a new home construction at 10020 Keller Road.

DISCUSSION:

Mr. Schaefer introduced this project at 10020 Keller Road, located on the north side of Keller Road, west of Strickler Road. It is an existing 3-acre vacant parcel in the Agricultural-Rural Residential zone.

Mr. Schaefer added that the applicant is requesting the recommendation of a Special Exception Use Permit for an attached secondary living unit as part of a new home construction. The new home construction is proposed to be a 2-story home with a total of 2,932 sq. ft. of first floor space, and a total of 3,575 sq. ft. for the overall home. The secondary living unit is proposed on the eastern portion of the first floor and is approximately 986 sq. ft. in size. The secondary living unit is proposed to contain a bedroom, living/dining area, kitchen, and 1.5 bathrooms.

Mr. Schaefer stated that the Town Board referred this proposal to the Planning Board at their February 14th meeting. Since that time, the applicant has made modifications to the proposal based on comments being received. Specifically, the applicant has moved the secondary living unit entry so that it no longer faces Keller Road and instead is on the side elevation of the home.

The Planning Board is a recommending body for this proposal.

Mr. Schaefer noted that the proposal is subject to an Area Variance by the Zoning Board of Appeals as the home is proposed to have a 175' front yard setback and the established setback is approximately 60' for this lot.

Heather and Kevin Waterman were present and represented their request.

Mr. Tytka asked what the purpose of the secondary unit is.

Mrs. Waterman explained that since her father passed, her mom lives alone and has health concerns that require the need for supervision. The benefits of having her live with them far outweigh her living in an assisted living residence.

Mr. Tytka explained that this secondary living unit will not be allowed to be rented out either short term or long term.

Mrs. Waterman confirmed that they do understand that, and their future purposes would include their children and grandchildren, no renters at all.

Mrs. Salvati asked what future plans for the secondary living unit are if Mrs. Waterman's mom is not using it.

Mrs. Waterman reiterated that between their children and hopefully grandchildren, they will have plenty of opportunity to put it to use.

Mrs. Waterman added that she is also an avid crafter, and will be using the space for storing and crafting as well.

Mr. Waterman also noted that the secondary living unit may also be utilized by his mom in the future, if it was necessary.

Mrs. Salvati reiterated that the property will not be allowed to ever become a rental property.

Mrs. Waterman assured the Board that they have no desire to ever rent it in any capacity.

Mrs. Salvati asked Mr. Schaefer what the term "temporary guests" describes.

Mr. Bengart responded that it is how the law reads.

Mrs. Salvati asked if the law defines what temporary means.

Mr. Bengart stated that for the purposes of tonight's meeting, we are using the term "temporary guests".

ACTION:

Motion by Daniel Tytka, seconded by Gregory Todaro to **recommend issuance of a Special Exception Use Permit to the Town Board** for a secondary living unit as part of new home construction located at 10020 Keller Road per the submitted plans by DRF Design, with a final revision date of January 23rd, 2024, 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 residence and attached secondary living unit.
3. Secondary Living Unit shall be secondary to the principal dwelling and cannot be converted to a rental unit.
4. Occupancy shall be limited to family members, paid employees, temporary guests or principal homeowner.
5. 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.
6. 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 to and approved by the Town Attorney's Office prior to filing of the Deed in the Erie County Clerk's office.
7. 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 to and approved by the Town Attorney's Office, prior to filing.
8. 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.
9. Subject to any applicable fees as required by Town Code.

ON THE QUESTION:

Mr. Tytka stated that upon approval by the Town Board, the applicant should contact the Town Attorney's Office for guidance on necessary legal requirements.

Mrs. Salvati added that an example for the term "temporary guest" is an exchange student. The focus of the law is that you can never accept money from anyone living there. Once payment is accepted for

use of the unit, it will then be considered a two-family home, and a violation of the Special Exception Use Permit.

The applicants have heard, understand, and agree to the conditions.

Daniel Tytka	Aye	Jason Lahti	Aye	Jason Geasling	Aye
Gregory Todaro	Aye	Wendy Salvati	Aye	Richard Bigler	Aye

MOTION CARRIED

Meeting **adjourned** at 7:29 p.m. with a motion by Gregory Todaro.

MOTION CARRIED

Amy Major
Senior Clerk Typist