

The Work Session meeting of the Town Board of the Town of Clarence was held on Wednesday August 14, 2024 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Patrick Casilio called the meeting to order at 8:00 a.m.

Members of the Town Board present were Councilmembers Robert Altieri, Daniel Michnik, J. Paul Shear, Peter DiCostanzo, and Supervisor Patrick Casilio. Other Town officials present were Director of Community Development Jonathan Bleuer and Town Attorney Lawrence Meckler.

Others present: Clarence Lion's Club president Bill Weisbeck and member Elaine Diederich.

Councilman Altieri introduced members of the Clarence Lion's Club. Elaine Diederich and President Bill Weisbeck gave a presentation on an inclusive playground the Lion's Club would like to have built in the Town of Clarence. An inclusive playground is one where all kids play together despite any special needs they may have.

Supervisor Casilio commented for the record, that the Town of Clarence does not have an all-inclusive playground. The Town is weak on the handicap side of our existing playgrounds and meeting all those needs. Naturally we are very interested in the progress of this playground.

Director of Community Development - Jonathan Bleuer

PUBLIC HEARINGS:

Town Code Amendment

To Consider a Local Law amending the Town of Clarence Zoning Code Chapter 229, expressly prohibiting Crematoriums in the Town of Clarence.

No negative comments were received during the State Environmental Quality Review Act (SEQRA) period. There are two motions needed. The first has to be a SEQRA action. The second could be the adoption of the law, after the public hearing has been held.

Regan Landscape

The applicant is requesting approval of a Temporary Conditional Permit (TCP) for outside storage to operate a landscape and property maintenance business, in the Agricultural-Floodzone, located at 8490 Wolcott Road, on the north side of Wolcott Road, east of Westphalinger Road.

The applicant seeks to convert the existing accessory structure into a principal structure for a business office.

This project has gone through the review process. The Planning Board has recommended issuance of this TCP with a series of fourteen conditions that would control this operation for the benefit of the neighborhood. The Landscape Review Committee has approved a final landscape plan.

Councilman Shear asked if the easement is in place for the driveway.

Jonathan said it is not in place, but would be subject to being put in place prior to building permits being issued.

Councilman Shear asked about snow storage.

Jonathan said there is no dumping of any kind on site, in terms of snow or grass.

The Town Board has the authority to consider this request after holding a public hearing.

FORMAL AGENDA ITEMS:

Jaqueline Winterhalter

The applicant is requesting a public hearing to consider a Special Exception Use Permit for the construction of a secondary living unit as an expansion to the existing residence located at 5312 Coyote Court, on the northeast corner of Via del Sole and Coyote Court in the Loch Lea subdivision.

The Town Board referred this proposal to the Planning Board in March. Since that time, the applicant has made modifications to the proposal based on comments received. The Planning Board has recommended approval of this request, subject to nine conditions.

The Town Board has the authority to consider this request after setting and holding a public hearing.

Harmoni Towers

The applicant is requesting site plan approval by the Planning Board, and permit authorization by the Town Board for the construction of a 150' tall telecommunication monopole tower wholly located in the Industrial Business Park zone at 0 Shisler Road, SBL 72.00-2-16, on the west side of Shisler Road, south side of the Clarence West Shore Line Recreational Trail.

The tower would be approximately 210' off the rear lot line of 4610 Shisler Road and support an AT&T antenna array, with the ability to support up to three additional carriers.

A referral to the Planning Board would allow for a thorough review of this proposal.

Diogi Daycare

The applicant, as proposed tenant, is requesting consideration of a new dog care facility located at 8345 Lapp Road, on the south side of Lapp Road, east of Transit Road.

The facility would include grooming, daycare, overnight boarding, retail sales, and play areas; all to be located to the rear of the property, in the southern portion of the rearmost outbuilding.

The existing 4-acre parcel is located in the Traditional Neighborhood District, containing an existing single-family residence and multiple accessory structures. In March of this year, the Zoning Board of Appeals approved a lot line adjustment allowing the single-family residence to be split from the property.

Overnight dog boarding operations are not a permitted use in the Traditional Neighborhood District. The applicant is pursuing a Temporary Conditional Permit to allow such a use.

Councilman Shear asked if there are houses close to this property.

Jonathan said there are houses immediately to the east on Lapp Road.

Supervisor Casilio asked if this site is preexisting non-conforming.

Jonathan said no approvals have been located for this site.

A referral to the Planning Board would allow for a thorough review of this proposal, including consideration of the Temporary Conditional Permit.

WORK SESSION ITEMS:

Stately Builders

The applicant is requesting a referral to the Planning Board for consideration of a detached warehouse structure located at 9780 County Road, on the north side of County Road, east of Goodrich Road.

The existing construction company is located on a 3-acre parcel in the Industrial Business Park zone. The proposed warehouse is approximately 5,760 sq ft, and would be located behind the existing business. There are no proposed water or sanitary connections.

A referral to the Planning Board would allow for a thorough review and action of this proposal.

Jens Richter

The applicant is requesting a public hearing to consider a Special Exception Use Permit for a secondary living unit that was constructed as part of a residence construction located at 4775 Boncrest East, on the northeast corner of Boncrest and Boncrest East.

The Building Department has determined that the residence contains a secondary living unit and requires the consideration of a Special Exception Use Permit.

Supervisor Casilio asked if it is a secondary living unit or an apartment.

Jonathan said Airbnb listing have been located for this property for two distinct units.

Supervisor Casilio asked if it is zoned for that.

Jonathan said no it is not.

Supervisor Casilio asked if a Certificate of Occupancy has been issued.

Jonathan said yes. The best thing we can do is get it deed restricted.

The Town Board has the authority to consider this request after setting and holding a public hearing.

Bruster's Ice Cream

The applicant is requesting modification of an existing Temporary Conditional Permit for an expanded outside dining area located at 5205 Transit Road, on the east side of Transit Road, south of Greiner Road.

Modifications include the addition of eight picnic tables to be placed on the grass along the southern property line. Bollards are also proposed between the tables and the front parking lot.

Per the Building Department this may not be feasible under the current configuration due to the lack of restroom facilities. This request should not be considered until the requirements of the Building Department are satisfied.

The Town Board has the authority to consider this request after setting and holding a public hearing.

Rick Switala

The applicant is requesting preliminary conceptual review of a proposed 5-building, 25,000 sq ft, utility storage project located at 9717 County Road, on the south side of County Road, east of Goodrich Road.

The existing 4.3-acre vacant parcel is located in the Industrial Business Park zone. Each building will be 50' x 100', arranged linearly on the site with a single access. The building closest to County Road will contain an 800 sq ft office area.

A referral to the Planning Board would allow for a thorough review of this proposal.

Dynabrade, Inc.

The applicant is requesting preliminary conceptual review of a proposed 90,000 sq ft manufacturing and office building located at 9035 Sheridan Drive, on the south side of Sheridan Drive, west of Main Street.

The existing 21.75-acre property contains a light manufacturing and office facility located in the Commercial zone. This proposal would be a campus addition to the existing business operation at 8989 Sheridan Drive.

Councilman Shear asked if it will be a one- or two-story building.

Jonathan said one-story.

A referral to the Planning Board would allow for a thorough review of this proposal.

TOWN BOARD REPORTS:

Supervisor Patrick Casilio

- Has several ministerial motions.
- It is budget time. Requested any comments be presented in writing.
- There is a joint Town Board/School Board meeting on Monday August 19, 2024 at the Clarence High School at 5 p.m.
- We are in the process of working on a third School Resource Officer with the school.
- The Clubhouse patio project has started.
- We are looking into an issue at the Senior Center with Meals on Wheels. The meals are being staged out on a narrow sidewalk with no cover. So inclement weather has been a problem. We are looking into creating a larger sidewalk area with a permanent structure overhead.
- Also at the Senior Center, we are looking into an issue where the Rural Transit drivers have to pass through the kitchen area to get to their office. Possibly reversing the layout and changing doors so as to walk through a closet rather than the kitchen.

Councilman Peter DiCostanzo

- Has several motions. Most are budget transfers.
- Brought up discussion regarding comments received about equipment seen on poles, it is the NYS Department of Transportation counting cars.

Supervisor Casilio said yes and doesn't think it is right that they can just be put up anywhere on our roads without notifying us.

Councilman Michnik asked where they are located.

Supervisor Casilio said everywhere.

Councilman DiCostanzo added Highway Superintendent James Dussing will now be notified.

Councilman J. Paul Shear

- Has no motions.
- Met with a movie producer that wants to use the Nature Center area to make a movie. He has the proposed schedule. Does not see a problem with approving this. There will be a fee charged.

Councilman Daniel Michnik

- Has a motion regarding student appointments to the Clarence Youth Board.

- The Clarence Senior Center annual basket raffle is on Saturday August 17, 2024 at the Senior Center. Doors open at 11 a.m.

Councilman Robert Altieri

- Has one motion regarding changing the HVAC system at the Clarence Library.
- The Conservation Advisory Committee is looking into working on the Town Park pond.
- Met with a resident horse owner at Beeman Creek Park.

Motion by Supervisor Casilio, seconded by Councilman DiCostanzo, to adjourn the work session at 9:23 a.m. and enter into Executive Session pursuant to §105(1) f of the Open Meetings Law to discuss employment history. Upon roll call – Ayes: All; Noes: None. Motion carried.

Gayle M. Brace
Deputy Town Clerk

Motion by Supervisor Casilio, seconded by Councilman DiCostanzo, to adjourn the Executive Session at 9:45 a.m. Upon roll call – Ayes: All; Noes: None. Motion carried. No action taken.

Regular meeting of the Town Board of the Town of Clarence was held on Wednesday, August 14, 2024 at the Clarence Town Hall, One Town Place, Clarence, New York.

Supervisor Patrick Casilio called the meeting to order at 9:52 a.m.

Members of the Town Board present were Councilmembers Bob Altieri, Daniel Michnik, Paul Shear, Peter DiCostanzo and Supervisor Patrick Casilio. Other Town officials present were Director of Community Development Jonathan Bleuer, Town Attorney Lawrence Meckler. Absent was Town Engineer, Timothy Lavocat.

Motion by Councilman DiCostanzo, seconded by Councilman Michnik to approve the minutes of the Work Session and Town Board Meetings for July 24, 2024.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Supervisor Casilio, seconded by Councilman Michnik for the following:

WHEREAS on June 12, 2024 the Clarence Town Board appointed Kenneth W. Pearl, Registered Architect and David Albert, Code Enforcement Officer for the purpose of inspecting the premises located at 6311 Goodrich Road pursuant to the Code of the Town of Clarence, Chapter 75, section 75-7 and further, pursuant to all of the requirements of the Code of the Town of Clarence Chapter 75 being met, the Clarence Town Board further:

1. Authorizes the Town Attorney's Office to proceed with an application to a Special Term of the Supreme Court of Erie County for an order to remove, secure and/or demolish the structure or part or parts of such structure pursuant to 75-7 and 75-8 and further permits the Town Attorney's Office to obtain monetary judgement in favor of the Town to recover the costs and expenses incurred by the Town in connection with the proceedings to remove or secure, including the costs of actually removing said building or structure or part or parts thereof; and
2. Pursuant to section 75-9 that the Town shall assess all costs and expenses incurred by it in connection with the proceedings to remove or secure, including the cost of actually removing said building or structure or part or part thereof, against the land on which the same is or was located.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Supervisor Casilio, seconded by Councilman Altieri to authorize New York State Electric and Gas (NYSEG) to activate two (2) LED streetlights within Northwoods Subdivision, Phase 2B on Briannas Nook per the layout dated July 31, 2024 and upon the complete installation in accordance with all current New York State Electric and Gas and Town of Clarence details and specifications. Streetlights and associated infrastructure are to be owned and maintained by the Town of Clarence and power is to be supplied by NYSEG under the terms and conditions of NYSEG Service Class 4 agreement with The Town of Clarence.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Supervisor Casilio, seconded by Councilman DiCostanzo to authorize New York State Electric and Gas (NYSEG) to activate one (1) LED cobrahead streetlight on existing NYSEG pole 329-60A within Deer Valley Estates Subdivision per the layout dated August 31, 2024 and upon the complete installation in accordance with all current New York State Electric and Gas details and specifications. The standard, fixture, connection and mount to be owned and maintained by New York State Electric and Gas under the terms and conditions of the Service Class 3 street lighting agreement between New York Electric and Gas and the Town of Clarence.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Supervisor Casilio, seconded by Councilman Altieri to Authorize New York State Electric and Gas (NYSEG) to activate two (2) LED streetlights within Cannon Woods Subdivision, Phase 2 on Dorothy Circle per the layout dated July 31, 2024 and upon the complete installation in accordance with all current New York State Electric and Gas and Town of Clarence details and specifications. Streetlights and associated infrastructure are to be owned

and maintained by the Town of Clarence and power is to be supplied by NYSEG under the terms and conditions of NYSEG Service Class 4 agreement with the Town of Clarence.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Michnik to authorize the Supervisor to sign the Planning Maintenance Renewal Agreement with Cummins Inc. for the generator located at the Town Hall for a 3-year period with a term beginning January 1, 2025 to and including December 31, 2027 as per the quote dated July 31, 2024; and

To authorize the Supervisor to sign the Planning Maintenance Renewal Agreement with Cummins Inc. for the generator located at the Senior Center for a 3-year period with a term beginning January 1, 2025 to and including December 31, 2027 as per the quote dated July 31, 2024.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Shear to approve the following transfer of funds in the 2024 Budget:

\$5,500.00 from account #001.1990.4023 – Contingent to account #001.7140.4385.1004 – Sanitary Facilities.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Michnik to approve the following transfer of funds in the 2024 Budget:

\$433.97 from account #001.1930.4012-Judgements and Claims to account #001.9540.4014 – Taxes on Town Owned Properties.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Altieri to approve the following transfer of funds in the 2024 Justice Budget:

\$6,500.00 from account #001.110.102 - Personal Serviced Part Time to account #001.1110.4500- Repair & Maintenance Building & Grounds.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Shear to approve the transfer of funds in the 2024 Budget:

\$4,395.00 from account #001.1990.4023 - Contingent to account #001.8730.4350 - Special Programs.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Michnik to appoint Jason Holden to Superintendent – Permanent in the Parks Department effective immediately at the annual salary of \$89,000.00.

On the question, Jason was put in the position when James Burkard retired on a temporary basis where he has been doing a fantastic job so we are going to make him permanent.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Councilman Shear mentioned that we have a group coming back for a second time to shoot a portion of a movie at the Clarence Nature Center during the month of October for about three weeks. Some of the area will be off limits however they stated if you come in and make no noise you will be able to watch them. If you are interested in specifics, I have that information for you.

Motion by Councilman Michnik, seconded by Councilman Altieri that upon the recommendation of the Clarence Youth Board, the following are re-appointed as student members of the Clarence Youth Board for a 1-year term commencing July 1, 2024 through and including June 30, 2025:

David Brophy
Gemma Hacker

Zoe Burget
Addison O'Laughlin

Reed Giangrasso

The Youth Board also recommends the appointment of the following to fill the 2 vacant Student Board Member seats:

Anna Moon Schwartz	July 1, 2024 – June 30, 2025
Samantha Engler	July 1, 2024 – June 30, 2025

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman Michnik, seconded by Councilman Shear that upon the recommendation of the Clarence Youth Board, the following Adult Members are being appointed to the Clarence Youth Board as follows:

Michelle Braun-Burget is being appointed to fill the term that expires December 31, 2024 due to the resignation of Wendy Lennert and is being appointed to a 3-year term commencing on January 1, 2025 through and including December 31, 2027; and

Michela Hacker is being appointed to fill the term that expires December 31, 2024 due to the resignation of Sharon Travis and is being appointed to 3-year term commencing on January 1, 2025 through and including December 31, 2027; and

Robert Coniglio is being appointed to fill the term that expires December 31, 2024 due to the resignation of Jason Lehmbeck and is being appointed to 3-year term commencing on January 1, 2025 through and including December 31, 2027

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Councilman Michnik mentioned the Senior Center will be open this Saturday August 17, 2024 from 11:00 a.m. – 1:00 p.m. for their annual basket raffle.

Motion by Councilman Altieri, seconded by Councilman Michnik for the following:

WHEREAS, the Clarence Library is preparing an application for grant funding through the New York State Library Construction Aid Program; and

WHEREAS, such requested funding is allocated for replacement of the Stage 1 Air Conditioning System Compressor and the Central Heating Boiler within the Clarence Library; and

WHEREAS, such compressor and boiler replacements shall be procured in accordance with the Town of Clarence Procurement Policy.

WHEREAS, the Town of Clarence owns the Library Building and agrees that the Library Building and agrees that the Library Building at Three Town Place will be available to be used as a Library for a minimum of 10 years from the completion date of the project.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board does hereby support the Clarence Library grant application; and be it further

RESOLVED, that the Town Board does hereby commit funds in the amount of 50% for the total project cost estimated at \$100,000.00, to successfully complete the compressor and boiler replacements at the Clarence Library.

On the question, the Town of Clarence will be notified and consulted before any changes, modification or amendments to the Children's Reading Garden can be made and receive Town Board approval.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman Michnik, seconded by Councilman DiCostanzo to approve the request of the applicant, Clarence Hollow Association, for a Special event Permit for the "HollowFest Fall Festival," to be held on Saturday, October 5, 2024 from 11:00 a.m. to 11:00 p.m. at the Clarence Town Park, 10405 Main Street, subject to meeting all conditions of Special Event Permit, the Memorandum of Agreement requirements, the Building Department Operating Permit including the requirements allowing food trucks to operate in the Town of Clarence as per the Building Department, Emergency Management conditions, a list of all vendors who must

submit a Certificate of Insurance naming the Town as an additional insured and the Clarence Hollow Association submitting the required insurance certificate(s) naming the Town as an additional insured which must include liquor liability to be reviewed and approved by the Town Attorney's Office.

Supervisor Casilio asked if a fee was worked out for the event that is one day.

Karen Hawes stated yes, they are paying for the usage.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Town Code Amendment to Consider a Local Law amending the Town of Clarence Zoning Code Chapter 229, expressly prohibiting Crematoriums in the Town of Clarence. The purpose and intent of this Local Law is to amend Chapter 229 (Zoning) to make certain clarifying amendments and updates related to development provisions within enumerated zoning districts. Specifically, the Town Board has determined that crematoriums constitute public nuisances and their operation can have negative impacts on air quality, including emissions of particulate matter and noxious odors. As a result, the Town Board determined that crematoriums should be prohibited in all zoning districts in the Town. The Town Board commenced a Coordinated Review under the State Environmental Quality Review Act (SEQRA) and sought Lead Agency status in June of this year. The Town Board may hold a Public Hearing to consider adopting this Local Law. Prior to adoption, an action must be taken under SEQRA.

Motion by Councilman DiCostanzo, seconded by Councilman Shear to close the public hearing.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman Shear, seconded by Councilman Altieri that Pursuant to Article 8 of the Environmental Conservation Law, to accept the Part 1 Environmental Assessment Form as prepared and approve the Part 2 & 3 Environmental Assessment Forms as prepared and to issue a Negative Declaration on the proposed Local Law amending the Town of Clarence Zoning Code Chapter 229. This Type 1 Action will expressly prohibit Crematoriums in the Town of Clarence. After thorough review of the code language, documents, meeting minutes, letters, and Environmental Assessment Forms, it is determined that the proposed action will not have a significant negative impact on the environment.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman Shear, seconded by Councilman DiCostanzo for the following:

WHEREAS, a public hearing was held at a duly convened meeting of the Clarence Town Board on Wednesday, August 14, 2024 to consider a Local Law amending the Code of the Town of Clarence Chapter 229: Zoning.

THEREFORE, BE IT

RESOLVED, after the duly conducted public hearing and after all interested parties having been heard, the town Board of the Town of Clarence hereby adopts Local Law No. 1 of the year 2024, amending the Code of the Town of Clarence Chapter 229 – Zoning; and be it further

RESOLVED, that this Local Law shall be in the form as attached hereto and made a part of hereof; and be it further

RESOLVED, that this local law shall be effective immediately upon filing in the Office of the New York State Secretary of State.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Supervisor Casilio thanked Jonathan Bleuer for all of his hard work on this and glad we were able to get this done.

Regan Landscape, Kevin Regan, owner, at 8490 Wolcott Road. North side of Wolcott Road, east of Westphalinger Road. An existing unapproved +/- 10.75-acre property containing a detached accessory structure located in the Agricultural-Floodzone. The applicant is requesting approval of a Temporary Conditional Permit (TCP) for outside storage to operate an existing

landscape business, Regan Landscape. The applicant seeks to convert the existing accessory structure into a principal structure for the business office.

The lot previously existed as a 1-acre vacant lot, and increased in size after an unapproved lot line adjustment with the adjacent lot at 8500 Wolcott Road, containing Woodstream Nurseries. The Town Board referred the proposal to the Planning Board in February. Since that time the applicant has worked to address comments received, including defining access easements, outlining material / vehicle storage areas, and drive lanes. The Planning Board recommended issuance of this TCP with a series of 14 conditions on June 19th. On July 9th, the Landscape Review Committee approved a Final Landscape Plan. The Town Board has the authority to consider this request after holding a Public Hearing.

Kevin Regan, owner, and legal council were present for questions.

Supervisor Casilio stated that we have worked out a number of things on this application.

Councilman Shear stated that to his understanding an easement has been put into place to share the driveway but this has not been signed as of yet.

Jonathan Bleuer stated yes it has been agreed to but not enacted as of.

Supervisor Casilio stated that you are not Woodstream at this point.

Kevin Reagan replied no we are not.

Jonathan Bleuer commented to Councilman Shears concern and that it is addressed in condition number ten.

Robert Geiger, the resident next door to this project was present and has lived on Wolcott Road for 45 years. I don't like that they have a put a building right next to my property and the other neighbor isn't happy about it either. My house is to the left of the property and now I have to look at this. This is right next to my property line, I went back and measured and it is not ten feet away. Now they want to store things on the property as well, I should ask them where they live so I can store my stuff on there's. This is not right.

Supervisor Casilio asked if this was a new or existing building.

Jonathan Bleuer stated that the building that Mr. Geiger is speaking of is in the south west corner of the lot and is an existing building.

Robert Geiger stated they could have placed this building back further.

Supervisor Casilio asked who built the building.

Robert Geiger stated the applicant built the building not the previous owner, Woodstream.

Supervisor Casilio asked if this building has a building permit with the Town of Clarence.

Jonathan Bleuer stated the site plan does show appropriate set back for that building however that can be verified by our Building Department if this is approved to verify that all structures do meet town code. I am not familiar with the building it is some sort of salt barn that the applicant can speak to.

Councilman DiCostanzo asked if there were any correspondence through mail or email that we need to read.

Jonathan Bleuer stated no we have not received anything up to this point.

Supervisor Casilio asked if the planning board is aware of this or is this the first time it is being brought to our attention.

Jonathan Bleuer replied this is the first time we are made aware of this.

Supervisor Casilio requested the applicant to come forward and tell us about the building before we vote to close the public hearing.

Kevin Reagan stated the building that is being referenced we store top soil in.

Supervisor Casilio asked if they have a building permit from the town for that structure.

Kevin Reagan responded I don't believe so.

Supervisor Casilio stated I don't know if permit is required for a top soil storage but it is a building.

Jonathan Bleuer stated yes this should be reviewed by the building department.

Supervisor Casilio asked if the board should be approving this if it has an illegal building on it.

Jonathan Bleuer stated the building department has refrained from doing anything on this site until this matter is addressed. The use needs to be approved before the building department will even look at any building permits and having them involved. There is no approved use here so they don't have the ability to approve a building without approved use.

Supervisor Casilio stated we now have a building built with no permit and foundations that were not inspected.

Jonathan Bleuer stated this would be addressed in the conditions number two of the motion.

Lawrence Meckler, attorney, stated the approval is for a Temporary Conditional Permit and in order for the investigation to take place you would have to approve the item based on the listed conditions to allow the use. If generally you are ok with the use, I would be ok to move forward.

Supervisor Casilio stated I don't know if I am ok with it because of what Mr. Geier said.

Jonathan Bleuer suggested to offer to reduce the time frame, it was recommended for one year to shorten that to six months. Then this would come back with the rest of the Temporary Conditional Permits in the spring allowing them to proceed to the building department and see if they can meet all the standards of the town code. If they, can they just come back and if they can't it has been modified to not last for a year.

Supervisor Casilio stated to the applicant that he should be nervous because he really has a problem with this whole concept of building buildings without a building permit.

Kevin Reagan stated that the building is not on a fixed structure.

Motion by Councilman DiCostanzo, seconded by Councilman Shear to close the public hearing.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Councilman DiCostanzo stated we should not rush for two weeks keep it at the six months.

Councilman Michnik stated that the applicant should work with the neighbor as well as that will be very important.

Motion by Councilman Shear, seconded by Councilman Altieri for the following:

RESOLVED, after a public hearing held at the duly convened Town Board meeting on Wednesday, August 14, 2024, to consider the request of the applicant, Regan Landscaping, for a Temporary Conditional Permit to allow for outside operation and storage to operate a landscape and property maintenance business at 8490 Wolcott Road in the Agricultural Floodzone, the Town Board, herby, approves the request of the applicant subject to the following conditions:

1. Initial permit shall be for a term no greater than 6 months.
2. Applicant meeting any additional requirements of the Town of Clarence Engineering, building, and Fire reviews, and any associated conditions, prior to any permits being obtained and/or construction on the property including the building discussed.
3. Apart from the existing building conversion, no building expansion or new construction shall occur without proper application made by the applicant, and review and approval by the Town.
4. Applicant meeting the requirements of the Landscape Committee Approval on July 9th, 2024, and associated conditions, including but not limited to, the management of all landscaping in perpetuity and replacement, in-kind, should there be any deterioration, or death, or disease to plantings; and the maintenance of any fencing, and replacement in kind, should there be any deterioration or damage.
5. Applicant shall install any required landscaping within the first year of permit issuance, and prior to consideration of permit renewal
6. Structure and site shall be maintained, in perpetuity, and any deficiencies shall be repaired or replaced in kind.
7. Drive lanes and yard areas to be kept in a maintained condition, that prevents excessive dust.
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 in their respective locations as depicted on the approved plan. No dumping of grass clippings or off – site snow be permitted on the property.
10. The applicant shall provide, for review and approval by the Town Attorney's Office, such documentation as shall establish the right to utilize those areas depicted on the Functional Use Area Lease sketch by BG Innovations, LLC. dated May 10, 2024.

11. No additional future business operations or operators without proper application made by the applicant and review and approval by the Town.
12. 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.
13. Subject to Open Space, and any other applicable fees as required by Town Code.

Supervisor Casilio stated with the six month modification, there may be additional conflicts that we will address then. In addition, there will be no type of screening application either. You are not making any kind of top soil are you.

Kevin Reagan replied no.

Jonathan Bleuer asked the applicant if he was willing to meet with the Planning Office and the Building Department on site to look at the structures and determine their requirements.

Kevin Reagan replied yes.

On the question, Councilman Shear asked the applicant if he heard, understands and agrees with the conditions.

Kevin Reagan stated yes.

Councilman Shear stated that if you have any questions copies of this will be in the Planning Office.

Supervisor Casilio thanked Mr. Geiger for coming in and understanding that something is going in the back yard and we will do everything we can to come up with something you are satisfied with.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Jaqueline Winterhalter, owner, represented by Mike Tucker, Sharp General Contracting Inc. at 5312 Coyote Court. Northeast corner of Via del Sole and Coyote Court in the Loch Lea subdivision. Existing residence on a 0.48-acre parcel in the Planned Unit Residential Development zone. The applicant is requesting a Public Hearing to consider a Special Exception Use Permit for the construction of a secondary living unit as an expansion to the existing residence. The Town Board referred this proposal to the Planning Board in March. Since that time, the applicant has made modifications to the proposal based on comments being received. Modifications include the removal of a secondary front door, addition of windows and brickwork, and an increase to the roof ridgeline height where the addition meets the existing residence. In July, the Planning Board recommended approval of this request, subject to a series of nine conditions. The Town Board has the authority to consider this request after setting and holding a Public Hearing.

Mike Tucker, Sharp General Contracting Inc, was available on behalf of the applicant for questions.

Councilman Shear stated that they have been very accommodating to our requirements and think this is a fine project.

Motion by Councilman Altieri, seconded by Councilman Shear to set a public hearing for September 11, 2024 at 9:45 a.m. to consider the request of the applicant, Jacqueline Winterhalter, for a Special Exception Use Permit for a secondary living unit as part of a home addition as 5312 Coyote Court in the Planned unit Residential Development zone.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

0 Shisler Road, SBL 72.00-2-16. West side of Shisler Road, south side of the Clarence West Shore Line Recreational Trail. An existing 76.6-acre vacant parcel located Residential Single-Family and Industrial Business Park zones. The applicant is requesting Site Plan approval by the Planning Board, and Permit authorization by the Town Board for the construction of a 150' tall telecommunication monopole tower wholly located in the Industrial Business Park zone, approximately 210' off the rear lot line of 4610 Shisler Road. The tower will support an AT&T antenna array, with the ability to support up to three additional carriers in the future. A referral to the Planning Board would allow for a thorough review of this proposal.

Henry Zomerfeld of Hodgson Russ LLP and Michael Russin from Harmoni Towers were present to answer any questions.

Supervisor Casilio asked how many phone calls can one provider handle at one time through that tower.

Michael Russin replied he is from Harmoni Towers and that is a question he is unable to answer. Being the owner of the tower what we do is lease space out to cell phone providers including fire departments as well.

Supervisor Casilio stated that they could provide him with the contact information to get to Amherst Fire control as well as the companies for better reception.

Michael Russin stated that the lines will be fiber lines and if they are not already there, they will bring them in. T-Mobile and Verizon have already said they would like to be on the tower as the coverage is low on the area.

Motion by Councilman Michnik, seconded by Councilman DiCostanzo to refer the request of the applicant, Harmoni Towers, for Site Plan review to the Planning Board to consider a proposed 150' telecommunication tower at Shisler Road SBL 72.00-2-16 in the Industrial Business Park zone.

On the question, Supervisor Casilio thanked them for working with the Fire Departments as well as being well off of the road this should go back fairly quickly. This is also why we ask are if you provide diesel generator storage tank or are you taking natural gas off the road that far.

Michael Russin stated that they do not provide a generator but if the companies decide it is a site that needs that in the event of power outages but do have a certain number of batterie back up hours. If you want to put in a condition if they choose a generator, we can work with that.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Diogi Daycare, owner, James Tarantino, at 8345 Lapp Road. South side of Lapp Road, east of Transit Road. An existing 4-acre parcel located in the Traditional Neighborhood District, containing an existing single-family residence and multiple accessory structures. In March of this year, the Zoning Board of Appeals approved a lot line adjustment allowing the single-family residence to be split from the property. The applicant, as proposed tenant, is requesting consideration of new dog care facility, including grooming, daycare, overnight boarding, retail sales, and play areas; all to be located to the rear of the property, in the southern portion of the rearmost outbuilding. The applicant was previously approved to operate this business at 6995 Transit Road, but no longer has the ability to operate at that location. A referral to the Planning Board would allow for a thorough review of this proposal, including consideration of a Temporary Conditional Permit for overnight boarding. Overnight dog boarding operations are not a permitted use in the Traditional Neighborhood District. The applicant is pursuing a Temporary Conditional Permit to allow such a use.

James Tarantino, part owner of Diogi Daycare was present for any questions on seeking approval to operate this facility in the back of Mark Spoth's property. From what I know without speaking for Mr. Spoth, he is putting his house up for sale and closing the commercial business. The current building is about 5000 square feet steel structure used for storage at this time. The building is approximately 206 yards from the road and another 58 yards to the rear of the building that will be fenced in. I know noise was a concern from previous meetings, fencing, signage, lighting and dog waste/feces will all be addressed.

Supervisor Casilio stated we were wondering what would happen with that site, this will move along to the Planning Board, I didn't realize he would be cashing out of everything.

Councilman Shear asked if the building currently has a floor.

James Tarantino stated no, right now how the building is it has insulation, heat and is ready for plumbing. This isn't an overnight project, it would be two to three month build out.

Supervisor Casilio asked if the doors might go away or are you keeping them.

James Tarantino stated initially they will not go away due to cost.

Councilman Altieri asked if Mark was selling the house as well as the plumbing business.

James Tarantino stated I am just stating what Mark told me which is he is selling the house and close the plumbing business, but I think he is keeping the building.

Councilman Altieri asked if he will own the building.

James Tarantino stated no just renting.

Councilman Michnik asked how long the lease is for.

James Tarantino stated we aren't even to that point yet.

Motion by Councilman DiCostanzo, seconded by Councilman Michnik to refer the request of the applicant, Diogi Daycare, for a Temporary Conditional Permit, to the Planning Board to allow for a thorough review of a proposed new pet care facility, including grooming, daycare, overnight boarding and play area at 8345 Lapp Road the Traditional Neighborhood District.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Michnik to approve the following applications as follows, Clubhouse: Erie County Board of Elections September 9th, 10th and 12th; Eagles Wings December 6, 2024. Legion Hall: Kristen Wangler August 18, 2024; Giovanni and Melissa Petruzzo September 15, 2024; Sandy Hoestermann November 16, 2024.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Motion by Councilman DiCostanzo, seconded by Councilman Shear for the bill pay of August 1, 2024 as follows: General Funds: \$123,160.62; Highway Funds: \$271,279.77; Water Funds: 846.00; Drainage Funds: \$179,470.59; Sewer Funds: 684.01; Capital Funds: \$587,206.43 for a total bill pay of \$1,162,647.42.

Upon roll call – Ayes: All; Noes: None; Absent: None: Motion carried.

Councilman DiCostanzo briefly mention that we have two Lions Club member here who presented to us in the Work Session Meeting the All-Inclusive Playground. I think this is fantastic and wanted to make mention of it and thank you for pursuing it.

Supervisor Casilio closed the meeting with no further business at 10:48 a.m.

Karen Hawes
Town Clerk