

Town of Clarence  
One Town Place, Clarence, NY 14031  
**Planning Board Minutes**  
Wednesday, October 16, 2024

**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**

Connie Fleisher-Weil & David Glian  
Residential Single-Family

Requests relief from a previously issued condition of approval prohibiting a secondary driveway at 5525 Old Goodrich Road.

**Item 2**

Kelton Enterprises, LLC.  
Traditional Neighborhood District

Requests preliminary Conceptual review of a proposed Tim Hortons restaurant as a rehabilitation of the former bank, to include a drive-through facility, at 8503 Main Street.

**Item 3**

Harmoni Towers  
Industrial Business Park

Requests Site Plan review of a proposed 150' tall telecommunication tower at 0 Shisler Road, SBL 72.00-2-16.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Chairman Robert Sackett  
2<sup>nd</sup> Vice-Chair Wendy Salvati  
Jason Geasling

Vice-Chair Richard Bigler  
Gregory Todaro  
Daniel Tytka

Planning Board Members absent: Jason Lahti

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:

Scott Thomas	Brian & Michele Panzer	Donna Bentkowski	Barb Johnson
Joanna Maddock	Paulette Calieri	Peter Calieri	Doug Feyes, PE
John Horvath	Kathy Horvath	Laura Meli	David Meli
Christina Barnes	Tammy Kamman	Charles Brennan	Rene Marcucci
Cindy Scannapieco	Stacey Jafarjian	Al Jafarjian	Wendy Mountain
James Mountain	Wendy Mountain	Carter Mountain	Lynne Nawrot
Dave Nawrot	Bonnie Tarbell	Pam Edel	Kathleen O’Hare
Cheryl Reeb	Ben Plessinger	Marisa Samson	John Samson
Mike Wilson	Henry A. Zomerfeld		

MOTION CARRIED

**Item 1**

Connie Fleisher-Weil & David Glian  
Residential Single-Family

Requests relief from a previously issued condition of approval prohibiting a secondary driveway at 5525 Old Goodrich Road.

**DISCUSSION:**

Mr. Bleuer introduced this project at 5525 Old Goodrich Road, located on the east side of Old Goodrich Road, south of Roll Road.

It is an existing 1-acre parcel located in the Residential Single-Family zone, containing a principal residence and multiple outbuildings.

The parcel was previously split off from 5535 Goodrich Road, after review and approval by the Planning Board on February 1st, 2023. Condition # 1 of the approval states, “No additional curb cuts to Old Goodrich Road allowed for the parent parcel or the newly created lot...”

The applicant is requesting relief from the previously issued condition of approval prohibiting a secondary curb cut (driveway). The secondary driveway is proposed to be located to the south of the existing shared driveway currently used by 5525 and 5535 Old Goodrich Road, allowing for a u-shaped driveway configuration.

The Planning Board has the authority to consider this request.

Matt Dubois with Block & Longo was present to represent the applicant, stating that the applicants have shared with him that it has been difficult utilizing a shared driveway on the subdivided lot. They have a trailer that they use for lawn cutting equipment which is difficult to maneuver in and out of the shared driveway. When there are delivery trucks making deliveries there, it becomes even more difficult.

Mr. Dubois added that the applicant has had to remove a portion of fence to navigate through to their property.

Mr. Dubois stated that adding a driveway will not cause any additional traffic or alter the land use in any way. It would simply make life easier for those who are already using the land.

Mr. Tytka noted that when the lot was split, the applicant agreed to the condition stating no additional curb cuts to the parent parcel or newly created lots were to be made. He assumes that the applicant had trailers and equipment at that time as well, and wonders what has changed since that meeting and agreement.

Mr. Dubois explained that logistically, the applicant and new property owner at 5535 have found it difficult to utilize a shared driveway. It is more of an intensive use for one driveway than they had anticipated.

Mr. Tytka asked about the easement for the existing driveway, and if it would be modified or remain in place.

Mr. Dubois responded that it would remain for the existing driveway.

In regard to Public Participation, no one spoke.

With no one wishing to be heard, Public Participation was closed for this project at this time.

**ACTION:**

Motion by Daniel Tytka, seconded by Richard Bigler to issue **Relief** from a previously issued condition of approval prohibiting a secondary curb cut (driveway), known as condition # 1, made by the Planning Board on February 1<sup>st</sup>, 2023, located at 5525 Old Goodrich Road, subject to the following conditions being met:

1. Subject to Highway Department approval for the proposed curb cut (driveway), to Old Goodrich Road.
2. Apart from the relief of condition # 1 of the Planning Board’s approval on February 1<sup>st</sup>, 2023, all other conditions remain in full force and effect.

Mr. Dubois stated that he has heard, understands, and agrees to these conditions.

**ON THE QUESTION:**

Mrs. Salvati stated that during the Planning Board Executive session, the applicant indicated that if this driveway was approved, they have the intention of planting trees along the driveway, and additional landscaping.

Mr. Dubois stated that he has not had that discussion with his client, but if that is a discussion that they have previously had, he expects that they will hold firm to that.

Daniel Tytka	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

**Item 2**

Kelton Enterprises, LLC.  
Traditional Neighborhood District

Requests preliminary Conceptual review of a proposed Tim Hortons restaurant as a rehabilitation of the former bank, to include a drive-through facility, at 8503 Main Street.

**DISCUSSION:**

Mr. Bleuer introduced this project at 8503 Main Street, located at the southeast corner of Main Street and Harris Hill Road.

It is an existing 0.6-acre parcel located in the Traditional Neighborhood District, containing a vacant former bank building and drive-through facility, with a total of three vehicular access points; two on Harris Hill Road and one on Main Street.

The applicant is requesting preliminary Conceptual review of a proposed Tim Horton's restaurant as a rehabilitation of the former bank, to include a drive-through facility. No outside dining is proposed, and a decorative stone wall is proposed along the Main Street frontage. Vehicular site access is proposed to be reconfigured down to two access points: one on Main Street and one on Harris Hill Road. Each access is configured to right-out only, with Harris Hill Road access also restricted to right-in only. Finally, the applicant has proposed the closure of Nottingham Terrace to vehicular traffic based on Town concern of the proposed drive-through facility design funneling commercial traffic into a residential neighborhood.

The Planning Board has the authority to initiate a coordinated review under the State Environmental Quality Review Act will allow for involved agency and interested party comment.

Present to represent the applicant was Doug Feyes with Carmina Wood Design. Mr. Feyes reviewed the Traffic Study as shown on the slides.

Mr. Feyes reviewed the following points of the traffic study:

- Harris Hill Road is an Erie County highway, and they are proposing right-in and right-out only per input received from Erie County Department of Public Works (EC DPW).
- Main Street is a New York State Highway with full access in and right-out only is proposed, per input from the New York State Department of Transportation (NYSDOT).
- 13 outside stacking spaces, and 16 parking spaces are proposed.

Mr. Feyes reviewed the Traffic Impact Study (TIS) done by Passero Associates dated August 14, 2024:

Projected trips are:

- 114 entering and 114 exiting vehicle trips the site for the a.m. peak hour
- 42 entering and 42 exiting vehicle trips during the midday peak hour
- 19 entering and 19 exiting vehicle trips during the p.m. peak hour

Mr. Feyes noted that not all of the project vehicle trips are new, some of the accounted for trips are passers-by. Of the total projected trips, the following are expected to be existing trips: 34 entering and 34 exiting during the a.m. peak hour; 17 entering and 17 exiting during the midday peak hour; 10 entering and 10 exiting during the p.m. peak hour.

Mr. Feyes stated that in the study, Passero Associates noted that the driveways will be blocked at times during each peak hour.

Per the Traffic Impact Report, the Main Street entry and exit way should prohibit drivers from turning left out of the site, as Mr. Feyes read the slides.

Mr. Feyes noted that per the report, a traffic signal is not warranted for Harris Hill Road at the entrance to Harris Hill Elementary School.

Mr. Todaro acknowledged some of the correspondence received since October 13, 2024:

- Donna McKernan
- Thomas Allan
- Michael Forester
- Nicole F
- Lisa Grabowski
- Mike Rosenberg
- Janelle Maclver
- Cheryl Schultz

Mr. Todaro read a letter from Passero and Associates regarding the proposed closure of Nottingham Terrace into the record.

Mr. Todaro summarized the concerns that have been cited in the correspondence received from residents, which includes:

- location and proximity to two elementary schools and a playground
- only sidewalk is located on the same northeast corner with no other option in the area
- Main Street exit is located 50 ft. from the Harris Hill Gardens
- another proposal has 33 residential units proposed 700 ft. from the intersection of Harris Hill and Main Street
- traffic diverted through Harris Hill Gardens would occur from outbound traffic from this proposed site
- bank previously on this site did not have this amount of traffic

Mr. Todaro stated that all correspondence received is placed in the project file located in the Planning and Zoning Office. Correspondence is considered very seriously while conducting Coordinated Review.

In regard to the traffic study dated August 14, 2024 Mr. Todaro asked Mr. Feyes if school traffic during the school year was taken in to account.

Mr. Feyes responded that he believes so, as most traffic studies take school hours in to account. They will look in to it to confirm that.

Mr. Todaro stated that if the metrics that were cited from the traffic study are not from the school year, the results would be considerably different.

Mr. Todaro asked if the traffic study considers the proposed project across Main Street, and the traffic that may be generated from that.

Attorney Sean Hopkins with the law firm Hopkins Sorgi & McCarthy PLLC arrived to also represent the applicant.

Mr. Hopkins stated that any proposed projects for the area were taken in to consideration when the traffic study was conducted.

Mr. Hopkins added that the traffic study also typically adds a percentage for Sunday church traffic.

Mr. Todaro asked if the possibility of churches closing and additional traffic added to the churches in the vicinity of this proposed site is also considered in the traffic study.

Mr. Hopkins responded no, those are speculative, there is no way to consider that at this time.

Mr. Todaro asked Mr. Hopkins or Mr. Feyes to describe what the traffic pattern would look like on a normal operating day on the site.

Reiterating that Harris Hill Road is a county road, subject to the jurisdiction of the County Department of Public Works, Mr. Hopkins stated the road is shown as right-in and right-out only. Main Street, subject to the jurisdiction of the NYS DOT, is full access in, and right-out only.

Mr. Todaro asked what would happen if the 13-car queue became larger than 13 cars.

Mr. Hopkins explained that he personally has not seen a Tim Hortons that has exceeded a 13-car queue, but in the case that it became an issue, there is additional space to the south in the parking lot. A comprehensive queuing analysis has shown that this will likely not occur.

Mr. Todaro asked Mr. Hopkins to explain the west ingress / egress, and what would prevent cars exiting the site from going south (left).

Mr. Hopkins responded that the design of the driveway would direct cars to exit north (right), but ultimately it depends on driver behavior.

Mr. Todaro asked what potential safety features would be added for pedestrians going to and from the schools or churches.

Mr. Hopkins stated that there are sidewalks, but that they would add any appropriate signage based on input from either the Town of Clarence, NYS DOT, or Erie County DPW.

Mr. Geasling stated that based on the configuration of the pork chop on the Harris Hill side, it does not appear to be very restrictive. He would like to see both the Harris Hill Road and the Main Street pork chops much more restrictive, but more importantly the one located on the Harris Hill Road and side.

Mr. Geasling asked what the current Level of Service (LOS) is for the Main Street and Harris Hill Road intersection is.

Mr. Hopkins explained that the LOS for that intersection, taking into account the various turning movements is either a C or a D. Based on the traffic study, that LOS should not change with the addition of the proposed project.

Mr. Hopkins clarified that it does not mean there will not be any increase in traffic, it is only in terms of the actual level of service that is not predicted to change. The previous business that was on this site generated traffic, but probably not as much during peak hours.

Mr. Geasling noted that the traffic study seems to imply that approximately 2/3 of the traffic will be that which is passing by.

Mr. Hopkins stated that with a use like this, most people will stop at the one that is on their way and most convenient, rather than making a special trip to go to one that is not on their way.

Referring to the traffic study and the projected 114 vehicle trips entering and exiting, Mr. Geasling asked what the actual processing time in the drive-through is.

Mr. Hopkins stated that the applicant's goal is to have the processing time of less than a minute per vehicle.

Mr. Geasling stated that he does not understand how at even under a minute they are able to move 114 vehicles through.

Mr. Hopkins stated that is at peak capacity, meaning 60 vehicles could process through the drive-through in that average time.

Discussion continued regarding the projected vehicles and processing time.

Mrs. Salvati followed up on the question regarding the right-in and right-out on Harris Hill Road, stating that she had asked Mr. Sheedy from Carmina Wood Design why the porkchop could not be more of a T-bone. Mrs. Salvati stated that Mr. Sheedy's response was that it was due to site constraints. Mrs. Salvati asked Mr. Hopkins what the site constraints are.

Stating that he would need to talk with Mr. Sheedy to understand fully, Mr. Hopkins stated that from his observation, looking at the right-out, he does not see why that cannot be angled further.

Mrs. Salvati added the right-in also, it can all be adjusted.

Mr. Hopkins stated that he will follow up on that and agreed that the site should be designed to discourage drivers from entering and exiting inappropriately as much as possible.

Mrs. Salvati clarified with Mr. Feyes from his opening narrative when he addressed the openings on both Harris Hill Road and Main Street and asked if he misspoke.

Mr. Hopkins noted that Mr. Feyes covered for him until he was able to get to this meeting from another hearing. Project Engineer Pat Sheedy with Carmina Wood Design was supposed to be here but is sick, and the traffic engineer was not able to attend tonight.

Mr. Hopkins clarified that the proposal is for both Main Street and Harris Hill Road to be full-access in, and right-out only.

Mr. Geasling asked if this has been discussed with DOT.

Mr. Hopkins stated that yes; it has been discussed with DOT, but to keep in mind that permits would be necessary from both Erie County DPW and NYS DOT for both of the driveways.

Mrs. Salvati questioned the ability to make a left-hand turn on Harris Hill Road, which would inevitably hold up traffic heading south on Harris Hill Road.

Mr. Hopkins noted that formal comments have not been received from each of these agencies yet, that is what the Coordinated Review is for.

In terms of stacking and the plan to allow one more car than is required, Mrs. Salvati confirmed that they feel confident based on traffic numbers to date, that there would not be a potential congestion situation.

Mr. Hopkins responded yes, he feels comfortable based on the analysis and the traffic impact study that vehicles would not be backed up on the adjacent roadway network, or the driveway which would result in blocked parking spaces.

Noting that it is premature in the process, Mrs. Salvati stated that deliveries will be made at the south end of the parking lot, and asked how many deliveries are typically made in a week.

Mr. Hopkins stated that he is unsure, as it is early on in the process, and that information has not been discussed yet. What also needs to be looked into is the size of the trucks, and the time of day that deliveries are made.

Mrs. Salvati stated that they would also want the same information for the dumpster.

Mrs. Salvati noted that the Harris Hill driveway will have two signs posted, one facing north indicating that there is no left-turn, and the other facing east also indicating there are no left-turns.

Mr. Hopkins responded yes.

Referring to the intersection of Main Street and Harris Hill Road, Mrs. Salvati noted that Harris Hill northbound has cars going straight, turning left, and turning right. Those turning right will drive around the cars going straight and basically drive up on to the sidewalk to make the right-hand turn, heading east on Main Street. The Planning Board Executive Committee has requested that the applicant installs a 6-inch raised curb to protect the existing sidewalk.

Referring to the site plan, Mrs. Salvati stated that she is not sure if dimensions show that it would only be a thru-lane and a left-turn lane. She is hoping that vehicles will not go up over the curb, and that



there will be further details on the actual dimensions. She is interested to see any County comment that may come in during Coordinated Review specifically regarding this intersection.

Mr. Hopkins noted that Mrs. Salvati would like them to determine whether they can do a design that proactively avoids the situation in which vehicles head off to the edge of the right-of-way to avoid the stacking, and then make a right-hand turn on to Main Street.

Mrs. Salvati responded yes.

Mr. Hopkins stated that they will take a look at that.

Mrs. Salvati continued to explain why they would like the raised curb at that location and requested that any future plans show a better configuration of what is planned for that intersection.

Mr. Geasling added that they would like to see a 6-inch vertical curb.

Mr. Hopkins responded that they would follow up on that, and he does not see any problem with adding that.

Mr. Todaro asked where the intercom for ordering will be located.

Mr. Hopkins pointed out where the intercom will be located and added that the intercom is a digital-based system that will automatically adjust based on background noise. This means it will adjust the volume based on the level of sounds and noise around it.

In regard to Public Participation, the following residents spoke:

1. Scott Thomas of Oakwood Drive:
  - when the traffic study was done, did it take in to consideration all of the children and the special needs children
  - closing Nottingham Terrace will send traffic further down to Circle Court or Connection Drive
  - saying that there will be no increase in traffic with this proposed project is untrue
  - there are multiple other Tim Horton's in close vicinity that do not have schools, churches and a neighborhood in close proximity
  - to make a left turn off of Main Street into the site is asking for trouble
  - is the potential for someone to get injured worth a cup of coffee
  - would like the Board to consider the safety of the residents
2. Steven Dale of 4309 Cameron Dr.
  - it appears that the proposed blockage of Nottingham Terrace may also block one of the two driveways in to the Reads Dry Cleaners
3. Stacy Jafarjian of 4251 Oakwood Drive:
  - on paper the numbers all sound reasonable in terms of traffic but she personally experiences it each day and it is already insane, without adding a proposed Tim Hortons at the corner
  - the area is heavily congested with cars and buses exiting and entering Harris Hill School

- pedestrians, parents with stroller and people on bikes frequent the area and although there is a crossing guard, it is already a dangerous intersection
4. Al Jafarjian of 4251 Oakwood Drive:
    - regarding the car study, 114 cars at peak hour seems like a lot
    - the comfort level of the applicants seemed to come in to play often, which makes him uncomfortable
    - the peak hours will occur while the children are going to school, which in and of itself defies logic
    - to do a traffic study near a school in August is crazy
    - churches closing and more parishioners possibly attending Nativity Church makes the traffic numbers speculative
    - feels that the traffic study seems speculative, he is uncomfortable with that
    - in regard to queuing, he guarantees there will be cars backed up on to Harris Hill Road which will cause issues in the morning, that makes him uncomfortable
    - Bob Altieri worked hard to rehabilitate the Morlando sign that goes right over the Nottingham Extension that is being proposed to be closed. It will fundamentally alter the way people traverse the neighborhood, that makes him uncomfortable
    - he hopes Town Board will think of the people they represent, and deny this project
  5. David Meli of 4139 Vinewood Drive:
    - this project is nothing but sprawl and ruins the neighborhood
    - there is a Tim Hortons down Main Street and another down Harris Hill at Genesee Street and this one is completely unneeded
    - referring to a diagram on the screen regarding the 13 cars that were referenced, please notice the cars, people do not actually drive as depicted on the diagram
    - it is a joke; the cars will be lined up down Harris Hill Road during peak hours every day
    - nobody drives like the cars shown in the diagram
    - it is not speculative, you're talking about humans in need of caffeine, they will behave irrationally
    - this is not a good idea
    - time perfectly coincides with when there are young people out in the area
    - the board is asking for something that they will regret
    - please do not ruin their Gardens
  6. Lynette Wesolowski lives in Harris Hill Gardens:
    - children walked to Harris Hill Elementary every day
    - sidewalk is not wide enough as it is
    - traffic will back up
    - uses Nottingham Terrace every day
    - feels the proposed project is not good for the neighborhood
    - safety should come before profit
  7. Brian Panzer of 8545 Nottingham Terrace:
    - seems the proposed Tim Horton's traffic and stacking analysis is opinion based
    - disagrees with the opinions stated regarding traffic and stacking

- mention of a proposed project east of this location, that seems like a better location for a Tim Hortons
  - CAD drawing does not consider the snow season, and what this would look like with feet of snow, even a 6in. curb would have limited functionality
8. Michele Panzer of 8545 Nottingham Terrace:
- proposed building across Main Street and east of this proposed project has a proposed drive-thru, that seems like a better fit for this Tim Hortons
  - very concerned about the re-shaping of their neighborhood for a Tim Hortons
  - Bob Altieri has worked hard to maintain and revive the character of the Nottingham Terrace entrance to shut it down for a Tim Hortons
  - the traffic will go to Circle Court or Connection Drive and find a way to get back to Wehrle drive or wherever they need to go
  - online and pick-up orders will be an issue if the traffic is all backed up
  - the traffic study actually specified that there will be blockages of the intersection, and questioned how that is acceptable to the Town
  - hopes this proposed project does not move forward
9. Donna Bentkowski of 4135 Trailing Drive:
- mostly concerned about the safety and the Main Street intersection
  - people trying to make turns into the proposed site from both Harris Hill and Main Street
  - does not understand how they think 13 cars will fit on the site
  - no benefit to her community
  - beautiful entryway that they will have to give up because of Tim Hortons
  - even when it is not the school year, there are children out and about all through the neighborhood
  - beautiful area that she does not want to see destroyed for a coffee place that wants to shut down her entrance way to her neighborhood so that other people can drive-thru to get their doughnuts and bagels
  - no need to destroy a community for a Tim Hortons, there are enough options out there
10. Ben Plessinger of 4300 Wildwood Drive:
- addressed a comment regarding a different Tim Hortons location and the traffic there
  - concerns with sidewalks that are at street-level, he walks his child to Nativity school each day
  - the traffic study was not done when school is in session, because school is not in session in August
  - Nativity has an 8:00 a.m. mass every morning Monday-Friday, he's not sure if the traffic study accounted for that, but it has increased traffic
  - he is a volunteer firefighter with Harris Hill VFC, and knows how dangerous that intersection of Main Street and Harris Hill Road is
  - increasing the traffic in this location will impact emergency services and first responders
  - concerns with traffic driving through the nearby neighborhood even with Nottingham Terrace closed off
  - less than 100 ft. to a neighborhood, concerns with pollution into the neighborhood
11. Sherry Reeb of 4200 Harris Hill Road:

- the area has gone downhill over the past 20 years with the number of cars and the traffic
- nobody has an answer for it, always saying that it is an Erie County Road. They complained for years about the tractor-trailers, and they ended up removing the weight limit signs on the trucks
- it looks good on paper, but it is not and the number of people from the neighborhood here tonight that are upset about their area shows that
- there is a huge school close by, and nobody puts their child on a bus anymore
- she cannot get out of her driveway
- this is a terrible area until they figure out traffic, safety, sidewalks
- go somewhere else, they will go to your place somewhere else if it is not in this area

With no one else wishing to be heard, Public Participation was closed for this project at this time.

Mr. Hopkins returned to address the questions and concerns, beginning with when the Traffic Study was prepared.

Explaining that although the traffic study is dated August 2024 the baseline counts used for that traffic study were prepared in January, 2024 while school was in session. They were updated on April 21, 2024, in order to account for traffic associated with the churches at the request of the Planning Board Executive Committee.

Mr. Hopkins clarified that he did not say there will not be any additional traffic as a result of this proposed project, but rather that it will not have any potential or significant adverse traffic impacts.

In regard to enhancing the safety of both of the driveways on Harris Hill Road and Main Street, Mr. Hopkins stated that they will take a look at that. This will be done by the engineering team.

Chairman Sackett reminded Mr. Hopkins that at a recent Planning Board Executive Committee meeting, it was noted that the whole sidewalk will be raised 6 in., and asked Mr. Hopkins to confirm that.

Mr. Hopkins stated that he believes that is correct.

Chairman Sackett asked Mr. Hopkins if they have had any conversations with the owners of the cleaners located next to the site regarding blocking off one of their driveways.

Mr. Hopkins responded no; they will follow up on that.

Chairman Sackett stated that there is a lot of concern for children in the area, and while you can count cars, how does the traffic study relate to pedestrian traffic, specifically children.

Mr. Hopkins responded that all they can do is enhance pedestrian safety on their site. In terms of off-site locations, that is a broader macro-issue, out of their realm. They do need to make sure that it is safe not only for vehicles on their site, but also pedestrians.

Regarding the traffic study, Mr. Todaro referred to the newly proposed development on the north side of Main Street to the east and asked if the traffic study included that potential traffic.

Mr. Hopkins stated that he is unsure if that was included, he will look in to it.

Mr. Hopkins stated that tonight’s meeting is the beginning of the process, they are not requesting any approval tonight. If a Coordinated Review is commenced, a wide assortment of agencies including NYS DOT and Erie County DPW will have the forum to provide written comments, all of which become public record.

Mr. Geasling asked about driveways being blocked during peak times.

Mr. Hopkins stated that as per the Traffic Impact Report, there are times during the peak hour when it does get blocked. Those are existing conditions.

Mr. Geasling referred to the traffic study where it states 114 vehicles entering and exiting during peak hour and asked how that happens if the driveway is blocked.

Discussion continued regarding the traffic study and SEQRA and providing the worst case for a conservative analysis.

**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 to seek Lead Agency status and **commence a coordinated review** among involved and interested agencies on the Kelton Enterprises, LLC. proposed Tim Horton’s restaurant and drive-through facility at 8503 Main Street. This Unlisted action involves the rehabilitation of a former bank into a quick service restaurant in the Traditional Neighborhood District.

Daniel Tytka	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

**MOTION CARRIED.**

Mr. Hopkins stated that they will submit written responses to all of the questions and comments from tonight’s meeting to the Planning Department.

**Item 3**

Harmoni Towers  
Industrial Business Park

Requests Site Plan review of a proposed 150’ tall telecommunication tower at 0 Shisler Road, SBL 72.00-2-16.

**DISCUSSION:**

Mr. Bleuer introduced this project at 0 Shisler Road, SBL 72.00-2-16, located on the west side of Shisler Road, south side of the West Shore Line Recreational Trail.

It is an existing 76.6-acre vacant parcel located in the Residential Single-Family and Industrial Business Park zones.

The applicant is requesting Site Plan review by the Planning 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 a Verizon antenna array, with the ability to support additional carriers in the future, and the potential for emergency services utilization through future proposed improvements to the facility.

This would also include a subdivision proposal for the creation of two sublots to accommodate this tower.

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

Henry Zomerfield with Hodgson Russ, and Michael Wilson with Harmoni Towers were present to represent the applicant.

Noting that Verizon is the only carrier currently shown, Mr. Geasling asked what the proposed maximum number of carriers is for the tower.

Mr. Zomerfield explained that they are currently designing the tower for three commercial carriers as well as the emergency services equipment proposed by the fire department.

Mr. Geasling asked about the RF Coverage maps, asking if the proposed tower on Strickler Road just north of Greiner is included in the map.

Mr. Bleuer stated that the Town of Clarence had received a prior proposal for a cell tower at that location, but the project file has been sitting dormant for some time and is not through this applicant.

Mr. Geasling asked about the potential for other carriers.

Mr. Zomerfield stated that they expect Verizon to occupy the top spot, and they are in negotiations with T-Mobile who they expect to take the next spot on the tower. They have proposed the third spot to AT&T, who have responded that they are not ready yet but hope to add them when it is appropriate.

Mr. Geasling asked if this proposed tower is more for spatial or capacity coverage.

Mr. Zomerfield explained that there is a significant coverage gap that this tower is proposed to alleviate the coverage gap.

Mr. Geasling asked if all carriers are able to be supported on a single platform or building within the fenced in area on the ground.

Mr. Zomerfield responded that the typical trend that they have seen lately is outdoor cabinets rather than individual buildings or shelters. They have been able to shrink the size down to outdoor cabinets that are similar in size to a refrigerator on a platform.

Mr. Geasling asked if this was a full build-out with the emergency and 3 carriers, could that all be supported by 1 backup generator and fuel source.

Mr. Wilson stated that he is not able to answer that question, and that each carrier has very specific needs in terms of how much electricity is required to operate their radio equipment. They would need to know in advance exactly how many tenants are on the tower, and what their monthly usage is. This would need to be known in advance to plan for a singular backup. Some carriers do not deploy generators on some of their sites. As the tower company, this is tough to enforce to the tenants.

Mr. Geasling noted that it is something that needs to be investigated as to which companies will need generators and fuel sources.

Mr. Zomerfield responded that they all have different power uses based on different equipment

Mr. Geasling stated that to his knowledge, it is not typical to have backup power sources for each company on a tower.

Mr. Zomerfield responded that it is his understanding each tenant has their own.

Discussion continued regarding fuel sources and generators for each tenant on the tower.

Mr. Zomerfield stated that his company has agreements with all the major phone companies across the country. They do not have any agreements on any of their 4,000 towers with any of the phone companies regarding backup power solutions, or shared generators. That is not addressed in any of their agreements with their tenants, and they would not be able to force them to comply with anything that as it is not part of their arrangement.

Acknowledging that it is not their standard procedure, Mr. Geasling noted that the companies are tenants, leasing the space on the tower.

Mr. Zomerfield responded yes; they are leasing it in the same sense a shopping plaza owner owns the shopping plaza. They do not operate the stores, tell the tenants what they can have in their stores, or what backup power services they need to provide.

Mr. Bengart stated that just to be clear, this will be part of the State Environmental Quality Review Act (SEQRA) process, and that information will be required. We believe it is within our purview as to the site itself to restrict how many of these units we will allow.

Mr. Zomerfield stated that he understands the point, but he wanted to address the question as far as where they stand at this point. Not all the tenants have been determined, and he is unsure if there are signed lease agreements with any of them yet.

Mrs. Salvati stated that to clarify, the drawing that was shown indicates the path that is proposed for Verizon. If AT&T and T-Mobile also come into the tower, those delineated rectangles would be the paths for each of them.

Mr. Zomerfield responded yes. Their equipment along with any backup power source would be inside their individual area.

Mrs. Salvati asked Mr. Wilson if he is the RF Engineer.

Mr. Zomerfield responded no.

Referring to the map, Mrs. Salvati noted that the area indicating the coverage area that would be provided by the Verizon tower, which to her does not seem like it is providing a large amount of coverage. There appear to be gaps, specifically as you head east on Main Street towards Clarence Hollow which is where the coverage is primarily needed.

Mrs. Salvati asked if one of the other providers come to the proposed tower, will the coverage area expand, or will it remain as is shown. Will their coverage area be less than Verizon's because they are lower on the proposed tower?

Mr. Wilson stated that each phone company will have a different set of maps with different coverage levels based on their individual height on the adjacent towers, how far apart they are, which tower they are actually on, and other variables. It will depend on each individual phone company that comes on to the proposed tower.

Mr. Wilson noted they can confirm with Verizon and T-Mobile that the heights that have been provided to them on the 150' tower is acceptable coverage for them.

Mrs. Salvati reiterated her concern of the proposed coverage sufficiently addressing the dead area in Clarence Hollow.

Mr. Zomerfield identified the map that identifies only Verizon coverage, and they anticipate that will expand with more carriers.

Mr. Bigler stated that when this was addressed in Planning Board Executive Session, they indicated that the rays on the tower are directional. The Planning Board requested that an RF Engineer attend this meeting, they need to have those rays directed more towards the Clarence Hollow to provide better coverage for that area.

Mr. Zomerfield stated that the RF Engineer for Verizon specified the rays are directional in that they are on a tripod. They are going in 360 degrees based on each antenna.

Discussion continued regarding the rays and antenna directions.

Mr. Bigler confirmed that although Mr. Zomerfield is not an RF Engineer, he is stating that the way it is set up is as far east as it will reach.

Mr. Zomerfield responded yes.

Mr. Bigler stated that in regard to the ground area, what we want to see is to have 3 separate generators and 3 different 500-gallon tanks of whatever kind of fuel they will be using. That needs to be addressed more clearly.

Discussion continued regarding the possibilities for fuel. Mr. Bigler reiterated that the Board needs to know what will be going on.

Mrs. Salvati asked about the seamless coverage that the applicant claims they will achieve, does that mean that as she is driving the coverage bounces from tower to tower.

Mr. Zomerfield responded yes.



In regard to Public Participation, the following residents spoke:

1. Bonnie Tarbell of 4590 Shisler Road:
  - lives within 500' from the proposed tower
  - concerned about noise from the generators
  - large trailer park close by
  - previously lived in Hamburg in front of a broadcasting company radio tower that caused cancers or disorders
  - can get any radio station off of her garage door, toilet, or other areas of her home
  - concerned about potential radiation from the proposed tower
  - concerned with the unknowns of the proposed project
  - very unhappy with this proposed project
  
2. Tammy Kamman of 4610 Shisler Road:
  - not comfortable with this proposed project in any way
  - when she moved in, the property behind her were wetlands and Agricultural, but is now Industrial
  - industrial Zone will open the possibilities to more than just a cell tower
  - does the company already lease the land and is there a proposed date
  - towers are currently by Research Parkway and the Pumpkin Farm. If the issue is with the Clarence Hollow, there is a better place than behind residences
  - property values will drop, and assessments just went up she should not have to have that behind her property
  - she matters more than the tower
  
3. Sue Setteducati of 4515 Timberlakes Drive:
  - what problem is being solved, she has Verizon and has great coverage until she goes to the Clarence Hollow
  - concerned about radiation emitting from the proposed tower
  - mobile home park, preschool and high school are all nearby
  - will decrease property values, and wonders how residents will be compensated for that
  - how will people access the tower, will there be additional access roads or the bike path
  - is it possible to disguise the proposed tower as a Christmas tree
  
4. Charles Brennan of 4610 Shisler Road:
  - claims he was told to not bring up potential health effects and is “not allowed” to speak of those things according to the FCC
  - he looked up the FCC to see what they do and they have nothing to do with health
  - concerns with the safety of radiation and his insulation pump
  - asked if there is any type of funding by the Town of Clarence for residents to receive legal counsel
  
5. Christina Barnes of 4595 Shisler Road:
  - very concerned with health complications
  - was an environmental study completed and when were wetlands lifted off the property
  - cell phone towers look hideous
  - are there multiple towers at 150' or just one tower

- although it would move it closer to the mobile home park, she suggested possibly moving the proposed tower further away from their homes and closer to the Clarence Hollow
6. Dave Nawrot of 4586 Shisler Road:
- his property has been in the family since approximately 1940
  - concerns with health based on European studies that indicate there are problems with having cell towers in close proximity to homes
  - believes there will be more mobile homes built on the nearby vacant land which will put more people inside the area of concern
  - high school children will be within close proximity
  - does not appear to be taking care of cell service in the Clarence Hollow, and the residents of Shisler Road do not have issues with cell service
  - suggested using repeaters to help with the cell service, it is very low-profile

With no one else wishing to be heard, Public Participation was closed for this project at this time.

Mr. Bleuer stated that the Telecommunication Act of 1996 contains a provision related to the federal jurisdiction to regulate human exposure to RF emissions from cell towers. In particular, section 704 of the act states: No state or local government may regulate the placement, construction, or modification of a personal wireless service facility on the basis of environmental effects of radio frequency emission.

Mr. Bleuer noted that he also mentioned that he does not tell residents what they can or cannot say.

Mr. Zomerfield pointed out that there are additional regulations within the Town of Clarence Zoning Code that deals with regulations as far as those types of deployment.

Mr. Zomerfield stated that placement of the proposed tower is completely within Town Code, no variances are needed. This is the best location, and the best if not only location the proposed tower can go to cover the coverage aspects without needing to seek a variance.

Mr. Zomerfield noted that one of the RF targets is the mobile home park.

Mr. Zomerfield added that with any type of development, property values can fluctuate.

Mr. Wilson stated that they currently have an agreement to purchase a sub-divided parcel from the parent parcel that Stephen Development owns.

In regard of access and construction, Mr. Wilson stated that they will stay within their access easement with a staging area around the proposed tower. Everything is contained within the parcel that they are subdividing.

Regarding the suggestion of making the proposed tower resemble a 150' Christmas tree, Chairman Sackett asked if there are ways to mask or diminish the visual impact of the tower.

Mr. Zomerfield noted that screening a 150' tower is an aesthetic subjective determination.

Referring to the comments made regarding the Town of Clarence providing legal counsel, Chairman Sackett noted that the Planning Board consults with Mr. Bengart regarding the limits of their authority.

Mr. Bengart added that there is no fund under the law in any town or municipality that can act on behalf of the residents to bring forward any kind of litigation.

Understanding that it is a process, Chairman Sackett asked if there is a projected date of installation.

Mr. Zomerfield stated that ideally, they would like to have construction begin sometime around the first quarter of 2025.

Chairman Sackett asked the applicant if they have any further comments on wetlands or location.

Mr. Zomerfield stated that as all telecommunication projects are required to do under the FCC, they have performed an environmental review. The review determined that there are no wetlands in that area of potential development.

Chairman Sackett stated that as part of Coordinated Review, this proposed project will be sent to both the Department of Environmental Conservation (DEC) and the Army Corp of Engineers.

Chairman Sackett noted that there are often a lot of concerns regarding cell towers and potential health related issues. Neither planning boards or town boards are the the place to bring those concerns, they do not have the authority to discuss that issue.

Referring to backup generators, Mr. Todaro clarified that they would only be used during outages and maintenance cycles, not on a regular basis.

Mr. Zomerfield responded yes; it is his understanding that the generators will run a maintenance cycle on a semi-regular basis. He has seen in the past that conditions are placed stating that sound attenuated generators be used on projects, to help mitigate sound in relation to residential properties.

Chairman Sackett asked about the maintenance schedule and when they will be conducted.

Mr. Bigler added that they will also be looking for the property to be a gated entrance, crumple antenna, among other things that will be addressed as they move through the process.

Mr. Zomerfield stated that they will get all of that information to the Board.

**ACTION:**

Motion by Jason Geasling, 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 Harmoni Towers proposed telecommunication tower at 0 Shisler Road, SBL 72.00-2-16. This Unlisted Action involves the construction of an approximately 150' tall cellular tower in the Industrial Business Park zone.

Daniel Tytka	Aye	Jason Geasling	Aye	Gregory Todaro	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting **adjourned** at 8:56 p.m. with a motion by Gregory Todaro.

MOTION CARRIED

Amy Major  
Senior Clerk Typist