WEST SENECA TOWN OFFICES
1250 Union Road
West Seneca, NY 14224

WEST SENECA PLANNING BOARD
Minutes #2017-05
May 11, 2017

Chairman Robert Niederpruem called the meeting to order at 7:00 P.M. followed by the Pledge of Allegiance to the Flag led by Sergeant-at-Arms Joseph Sherman.

ROLL CALL: Present - Robert Niederpruem Jr., Chairman
Donald Mendola
Jim Rathmann
Joseph Sherman
George Clifford
Margaret Bebak
Dale J McCabe
John Gullo, Senior Code Enforcement Officer
John J Fenz, Town Attorney

Absent - None

Chairman Niederpruem read the Fire Prevention Code instructing the public where to exit in case of a fire or other emergency.

APPROVAL OF PROOFS OF PUBLICATION

Motion by Rathmann, seconded by Sherman, to receive and file the proofs of publication and posting of legal notice.

Ayes: All Noes: None Motion Carried

APPROVAL OF MINUTES

Motion by Mendola, seconded by Rathmann, to approve Minutes #2017-04 of April 13, 2017 and the special meeting held April 26, 2017.

Ayes: All Noes: None Motion Carried

OLD BUSINESS COMMUNICATIONS

2017-04 & SPR2017-01

A request from Oakgrove Construction Inc. for a special permit and site plan approval for property located at 422 Mineral Springs Road, being part of Lot No. 128, changing its classification from M-1 to M-1(S), to allow concrete crushing, storage of crushed and uncrushed concrete, equipment storage and topsoil storage & mixing.

Town Attorney John Fenz advised that Oakgrove Construction officially withdrew their application for a special permit and site plan review at 422 Mineral Springs Road. Mr. Fenz further stated that Oakgrove Construction wanted to ensure the neighborhood is taken care of and alleviate the neighbors' concerns.

2017-04 & SPR2017-01 (continued)

On behalf of the neighbors, Dave Lavango thanked the Planning Board and Town Attorney John Fenz, Senator Tim Kennedy, Bonnie Kane Lockwood of Congressman Higgins' office, Legislator Patrick Burke, South District Council Member Christopher Scanlon, Assemblyman Michael Kearns, Councilman Hart, Councilman Hanley, Lovejoy District Council Member Richard Fontana and community members for their support.

2015-07

A request from Sean Hanley for clarification on the fence requirement for property located at 1290 Center Road.

Town Attorney John Fenz advised that this request has been withdrawn.

SPR2017-02

A request from Tim Kropovitch for site plan approval for property located at 3220 Clinton Street for a 4500 sf pre-engineered metal building for automotive repair and sales.

Motion by Mendola, seconded by Sherman, to open the public hearing.

Ayes: All Noes: None Motion Carried

Architect James Wittman and Robyn Czerniak of Wm. Schutt & Associates appeared on behalf of the applicant, Tim Kropovitch, and stated all concerns have been addressed with Town Engineer David Johnson. Ms. Czerniak further stated NYSDOT wanted the driveway aligned with the driveway across the street and this change was made, so they are now satisfied.

Chairman Niederpruem stated he was in receipt of a letter from Mr. Johnson indicating the project received engineering approval.

No comments were received from the public.

Motion by Mendola, seconded by Rathmann, to close the public hearing.

Ayes: All Noes: None Motion Carried

Motion by Bebak, seconded by Sherman, to adopt the following resolution pursuant to State Environmental Quality Review Act:

SPR2017-02 (continued)

WHEREAS, the Town of West Seneca (the "Town") received an application for site plan review from 3220 Clinton Street, LLC for site plan approval for property located at 3220 Clinton Street to construct a 4500 square foot pre-engineered metal building for use as an automotive repair shop (the "Project"); and

WHEREAS, the Planning Board in compliance with the State Environmental Quality Review Act and Environmental Conservation Law has reviewed this action; and

WHEREAS, the town has reviewed a Short Environmental Assessment Form dated February 25, 2017, prepared and signed by the applicant; now, therefore, be it

RESOLVED, that based upon an examination of the Short Environmental Assessment Form the town determines that the proposed action is not anticipated to result in any significant negative effect on the environment and a Negative Declaration is hereby issued.

Ayes: All Noes: None Motion Carried

Motion by Bebak, seconded by Sherman, to grant site plan approval for property located at 3220 Clinton Street to construct a 4500 sf pre-engineered metal building with parking for automotive repair and sales.

Ayes: All Noes: None Motion Carried

V. NEW BUSINESS COMMUNICATIONS

SPR2017-04

A request from Slade Potters, LLC for site plan approval for property located at 162 Slade Avenue for a three story mixed use building (commercial, office & multi-family residential).

Chairman Niederpruem stated along with the application the Planning Board received a survey, site plan and demolition plan.

Motion by Mendola, seconded by Rathmann, to open the public hearing.

Ayes: All Noes: None Motion Carried

SPR2017-04 (continued)

William Paladino of Ellicott Development Company stated their proposal to develop the 1.5 acre site at 162 Slade Avenue in front of the Country Inn and Staybridge hotels. The proposal for a 28,000 sf three story mixed use building will include first floor retail/office, second floor offices and the third floor for apartments. The four houses on site were demolished and the two adjacent homes will remain for now. The site has 74 parking spaces and a variance is required, but they would like to have a shared parking arrangement with the hotels. Additional land is available if parking becomes an issue. Mr. Paladino indicated the landscaping with islands and shrubbery throughout the site and stated they want to limit the number of curb cuts and access points on Slade Avenue and one will be eliminated.

Andy Marino of Tredo Engineers commented on the drainage plan and stated there will be a drainage pond at the rear of the property to the right of the building.

Chairman Niederpruem stated the project has not received engineering approval at this point and referred to an email from Town Engineer David Johnson with the following comments:

1. The short environmental assessment form provided states the project exists within an archaeological sensitive area. A determination from NYSHPO must be provided.
2. The town usually requires detention facilities for stormwater and not dry detention basins.
3. The sequence of construction is to include a preconstruction meeting with the stormwater management officer and the qualified professional present.
4. Watershed delineations correlating with the stormwater pollution prevention plan must be provided in order to perform an adequate review.
5. The applicant has been requested to do a downstream sewer analysis and will be working with the Engineering Department to do so. Once performed, the DEC will make a determination as to whether downstream capacity exists.

Mr. Mendola referred to the parking situation and suggested there be a formal agreement with the hotels. Mr. Paladino stated an agreement is drafted and there will be an easement.

Mr. Sherman questioned the maximum seating capacity for the proposed restaurant. Mr. Paladino responded they do not yet have a tenant for the restaurant, but it will be 4000 sf with an estimated 60 seats.

Chairman Niederpruem expressed concern about the parking, noting he counted 200 spaces at the hotels when he visited the site recently and they were full. He requested further information on the number of parking spaces required. Mr. Paladino stated he will supply information on the number of units in the hotels. Mr. Marino stated they do not want to pave green space that will not be used.

SPR2017-04 (continued)

Mr. Mendola questioned what type of retail business is planned for the building. Mr. Paladino responded they do not have tenants at this point and there may or may not be a restaurant.

Senior Code Enforcement Officer John Gullo stated the parking will have to be calculated and it is based on occupancy. He further noted if there is a restaurant, a special permit will be required to sell alcoholic beverages.

Mr. Clifford referred to the new design standards recently adopted by the town and stated they are looking to move buildings closer to the road. He questioned if there was any consideration given to doing that. Mr. Paladino responded the design standards were not in place when the project initially began and they had not considered that, but will take a look at it.

Mr. Rathmann suggested locating the parking behind the building and perpendicular rather than parallel to the building. He further asked that consideration be given to saving several large, old trees on the site and specifically referred to an oak tree where the entrance drive comes in that is 5' diameter and probably 100 years old, noting its replacement value is $50,000 to $100,000. Mr. Rathmann also suggested keeping the willow trees where the detention pond will be located and possibly creating an island for them.

Mr. Marino questioned if there is a preference on the type of detention. Chairman Niederpruem stated he preferred a dry pond and suggested one detention basin located next to the NYS Thruway for the entire area. Mr. Gullo also stated he prefers a dry detention pond due to maintenance issues.

Mr. McCabe questioned if the 26' access lane to the rear of the building is wide enough. Mr. Marino responded that 26' is the national standard and will accommodate a firetruck. Mr. Mendola confirmed the fire company is satisfied with the current plan, but would like to be involved if anything is altered.

Motion by Mendola, seconded by Rathmann, to close the public hearing.

Ayes: All Noes: None Motion Carried

Motion by Mendola, seconded by Rathmann, to table this item until the June meeting.

Ayes: All Noes: None Motion Carried

2017-07

A request from Rusty Nickel Brewing Company for a special permit for property located at 4350 Seneca Street, being part of Lot No. 59, changing its classification from C-2 to C-2(S), for service of alcoholic beverages.

Chairman Niederpruem stated along with the application the Planning Board received a list of current operations and annual events, a legal description and excerpts of a survey from 1990.

Motion by Mendola, seconded by Rathmann, to open the public hearing.

Ayes: All Noes: None Motion Carried

Doug Phillips represented David Johnson and Jason Havens, owners of Rusty Nickel Brewing Company, and stated they were not aware a special permit was needed for their business and they would like to continue operating at this location.

Chairman Niederpruem commented on a parking problem on site, drainage issues and the appearance of the site. He counted 83 parking spaces for both the Rusty Nickel and Ebenezer Ale House and thought additional parking is needed.

Mr. Phillips stated there are 108 parking spaces and 58 of them are for the Rusty Nickel. The business opened as a farm brewery with tasting room and turned into a successful business. Under NYS laws they are permitted to brew and serve beer, cider and liquors manufactured in NYS. Mr. Phillips stated the owners have cleaned up the property and an approved fire pit was installed. There are large wire reels on site that were recently delivered and will be used for tables as part of the ambience. They understand that noise is a concern of the neighbors and any music approved to be played is cut off at 11 P.M. Mr. Phillips commented this is not a party type bar and is more for adults. The owners have offered their phone numbers to work with neighbors on any complaints they may have.

Mr. McCabe questioned if the variance for live outdoor music on the patio was approved by the Zoning Board.

Town Attorney John Fenz advised the only issue before the Planning Board at this time is the special permit for service of alcoholic beverages. He further commented on the legal description submitted with the application, noting the last two paragraphs are for the Ebenezer Ale House, and questioned if the Rusty Nickel's lease is for the building only or the parcel described in the legal description. Mr. Phillips did not have any information on how much of the parcel is included in the lease and Mr. Fenz advised that more specific information is needed on the parking rights.

<u>2017-07</u> (continued)

Mr. Mendola commented the survey is 27 years old and should be updated with the area described and parking indicated. He further commented that parking on both sides of Seneca Street is a dangerous situation and additional parking is needed which would also enhance the business.

Chairman Niederpruem stated the Code Enforcement Office will need to figure out how many parking spaces are required by Town Code for both the Rusty Nickel and Ebenezer Ale House.

Brian Cosgrove referred to statements made by the owners when the business originally opened that they have not complied with. He further stated the business has been enhanced and the patio was added. They do things and then apply for a permit after someone complains. There is live music every Sunday, and although the noise may not violate the noise ordinance, it is a nuisance to the neighbors. Mr. Cosgrove commented the tasting room is really a bar and he was concerned about the business growing and attracting a younger crowd with longer hours. He was also concerned they may attempt to buy additional property to the west of the site to solve the parking problem and that will be even closer to his property.

Teena Wachowiak agreed with Mr. Cosgrove's comments and stated smoke from the fire pit infiltrates her home and she can here noise and vulgarity from the patio.

Mr. McCabe questioned the hours of operation. Mr. Phillips responded the stated hours Monday – Friday are 5 PM to midnight, but they often close early Monday – Thursday. On Saturday they are open noon to 12:30 AM and on Sunday noon to 9 P.M. There is music every Sunday inside, but not on the patio. Mr. Phillips did not believe that rowdiness is normal for the business. There is background noise, but the owners have tried to make it more acceptable and installed trellises with shrubbery to disseminate some of the noise.

Chairman Niederpruem questioned if the applicant can continue to operate while the Planning Board is reviewing the application and requesting more information. Code Enforcement Officer John Gullo responded they can continue to operate until a decision is made.

Mr. McCabe requested copies of any variance applications and minutes from those meetings along with original permits for the building and patio and any other permits issued.

Chairman Niederpruem requested clarification on the required parking for the Ebenezer Ale House and the Rusty Nickel.

2017-07 (continued)

Mr. Sherman questioned if any food is served. Mr. Phillips responded that a NYS Farm Brewery has to have a certain amount of food available for sale, but it is quick serve bar type food.

Mr. Rathmann requested an updated survey with a parking plan.

Motion by Mendola, seconded by Rathmann, to close the public hearing.

Ayes: All Noes: None Motion Carried

Motion by Bebak, seconded by McCabe, to table the public hearing pending further information and review on the parking, noise matters and hours of operation and an updated survey and site plan indicating the parking plan.

Ayes: All Noes: None Motion Carried

ADJOURNMENT

Motion by Bebak, seconded by Mendola, to adjourn the meeting at 8:25 P.M.

Ayes: All Noes: None Motion Carried

JACQUELINE A FELSER
TOWN CLERK/PLANNING BOARD
SECRETARY