

SPR2021-05 (continued)

Mr. Frick referred to the SEQR process stating this has been an issue on the project due to the nature of the disturbance and public involvement/comment. Mr. Frick provided the following brief synopsis:

- ✓ As required by Title 6 NYCRR part 617, the lead agency must make a SEQR determination for the project in this case the Town of West Seneca is that lead agency.
- ✓ In accordance with Part 617, this project is considered a Type I action due to the disturbance being more than 10-acres.
- ✓ This requires a full EAF be submitted and reviewed. The EAF was submitted in February 2021 and reviewed during the April 2021 Planning Board meeting with all comments addressed.
- ✓ At the same time, it was also sent out to the following agencies for review: NYSDEC, NYSDOT, ECDEP, Erie County Sewer District #1, Army Corp of Engineers, Town of West Seneca Fire District, Town of West Seneca Environmental Commission and Town of West Seneca Engineer.
- ✓ Subsequent to this, it was determined the project needed to be reviewed by SHPO which resulted in extensive field survey and testing. Based on this survey SHPO requested some minor modifications to the site plan.
- ✓ Modifications were received and approved by the Town Engineer.
- ✓ All required agencies have now approved the project, noting that SHPO has ten conditions placed on the approval.
- ✓ Several letters were received throughout this process from Mr. Warren. All the correspondence from Mr. Warren have been reviewed and addressed in the context of the SEQR process. Mr. Frick stated in his opinion, all items have been addressed.
- ✓ Drainage patterns will not be significantly altered.
- ✓ Current design incorporates "flood benching" that increases this site flood storage by 40% and therefore will have no detrimental affect on the down stream flood issues associated with Lexington Green.
- ✓ There have been questions on why the NYSDOT has not commented on the project. Mr. Frick stated this is simply due to the fact the project does not affect anything on the state highway. There is no alteration of the driveway or change in the drainage patterns to Clinton Street.

Mr. Frick stated based on the information provided, there are conditions that must be met by SHPO. ~~The SEQR law requires the Planning Board to issue this as a conditioned negative declaration.~~ This requires the Planning Board to publish the SHPO contingencies and have a minimum 30-day public comment period. This must happen before granting full approval of the project. However, Mr. Fick believes the site plan modifications with the contingencies contained in the SHPO letter can be granted at this time. Mr. Fick deferred to Town Attorney Chris Trapp for clarification. Mr. Trapp stated this was correct.

Mr. McCabe referred to the conditions in the letter from Parks Recreation and Historic Preservation and stated it was his understanding that either the Code Enforcement Office or Engineering would be monitoring during construction to ensure the conditions are complied with. Code Enforcement Officer Jeffrey Baksa stated this was correct. Some of the items on the list would be addressed at a preconstruction meeting.

Mr. McCabe requested clarification on who was the lead agency and believed this to be the Town of West Seneca Planning Board. Mr. Trapp stated this was correct, the Planning Board would have a motion noting they are the lead agency and believed this was already done. There was a March 28, 2022, outline from the Code Enforcement Office that illustrates all the steps taken over time about the project and requested this be included in the record.

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Mr. Frick referred to the document from Code Enforcement specifically 1A and lists that Canisius submitted a short EAF form and in fact, it was the full EAF form.

Motion by Bebak, seconded by McCabe, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

~~Motion by Frick, seconded by Sailer, to issue a conditioned negative declaration for the Canisius project in accordance with Title 6 NYCRR part 617.~~

On the question, Mr. McCabe stated he would like the memo from the Code Enforcement Office incorporated into the approval in terms of this board's review of the process and the decision be based on the various meetings and submissions that have been received by the Planning Board including the correspondence from Mr. Warren.

Mr. Frick stated this was acceptable.

~~Ayes: All~~

~~Noes: None~~

~~Motion Carried~~

~~*APPENDICES*~~

Chairperson Bebak questioned if ~~site plan~~ approval can be granted ~~with a conditioned negative SEQR declaration~~. Mr. Trapp stated since the Planning Board is waiting 30 days for comments, he recommends the site plan approval be taken up at the May meeting.

Chairperson Bebak explained there were conditions on the SHPO letter, and they need to be met, if we can issue a conditional negative declaration without waiting 30 days; once the next meeting is held, a final motion can be made.

Motion by Bebak, seconded by Frick, to table site plan approval ~~and negative SEQR~~ declaration for property located at 2885 Clinton Street for construction of an athletic complex with all related site improvements until the May meeting.

Ayes: All

Noes: None

Motion Carried

Mr. Trapp stated there are some conditions that cannot be accomplished, based on their nature, until construction begins and some that can be worked on now. Chairperson Bebak referred to the conditional approval and questioned if they must wait 30 days to finalize the declaration. Mr. Trapp stated this is correct.

Mr. McCabe stated during the 30-day period there is the ability for public comment, and this would be addressed at the next meeting. Mr. Trapp stated this is correct.

NEW BUSINESS

SPR2022-03

A request from New York State Electric and Gas Corporation for site plan approval for property located at Indian Church Road just east of the intersection with Mineral Springs Road (SBL No's. 134.07-3-6 & 134.07-3-7) to upgrade electrical systems on site and replace outdated equipment and buildings.

Motion by McCabe, seconded by Frick, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Justin Cree with Fisher Associates stated the application is for the new Gardenville electric substation for NYSEG. This is an existing property which was developed in the 1950's and is in need equipment upgrades. The project is hoping for conditional site plan approval tonight, pending approval of all environmental permits under review with the DEC and other agencies.

The project is on an existing developed site; there will be no change to the use or coverage of the land as far as stormwater design and permitting. The Town Engineer has reviewed the site plan application and had no comments and recommended conditional approval.

Mr. Cree referred to the site plan and illustrated the existing site, the area not being altered, and the new NYSEG property where the existing electrical equipment will be upgraded to better service the towns needs and growing infrastructure. Approximately 1/3 of the property will be under construction.

There are existing wetlands on the southern end, away from Indian Church Road, along with wetlands to the west in between an asphalt drive. This area will be avoided, the reason for the permits is due to the site being within the 100' buffer area. The request is for conditional site plan approval based on the site plan itself.

Basic construction is scheduled to start in the fall. Larger construction with heavy equipment will begin in 2024. This will be a prolonged process with the upgrades and connections. The biggest concern to the town will be some shutdowns/outages to switch over equipment. Shutdowns should be approximately an hour long during off peak times.

Mr. Frick questioned if this project was a replace in kind upgrade with no expansion to the site. Mr. Cree stated this was correct; this is an existing gravel site with no change to the land.

Chairperson Bebak noted the Planning Board is in receipt of Engineering approval along with OPHPR approval and questioned what approvals are needed. Mr. Cree stated the DEC Wetlands permitting has yet to be received.

Motion by Nalewajek, seconded by McCabe, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

SPR2022-03 (continued)

Motion by McCabe, seconded by Bebak, to table site plan approval for property located at Indian Church Road just east of the intersection with Mineral Springs Road (SBL No's. 134.07-3-6 & 134.07-3-7) to upgrade electrical systems on site and replace outdated equipment and buildings.

Ayes: All

Noes: None

Motion Carried

SPR2022-04

A request of Rachel's Mediterranean Grill for site plan approval for property located at 310 Orchard Park Road (aka 276 Orchard Park Road approximately 300 LF east of Slade Avenue) for redevelopment of subdivided parcel from an insurance agency to an 1800-sf restaurant with 37 seats and 15 parking spaces.

Motion by McCabe, seconded by Sailer, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Robert Blood with Lauer-Manguso & Associates Architects presented the following on behalf of Rachel's Mediterranean Grill:

- ✓ The cross-access connection that the Planning Board requested has been difficult to overcome
- ✓ A utility pole would need to be relocated to provide the access
- ✓ Relocating the pole is not feasible from a cost perspective and the utility pole is the drop line to the entire service for the Wegmans.
- ✓ The initial intention was to make a pavement-to-pavement connection along the back of KeyBank; KeyBank was approached and has refused based on a detriment to their branch operations.
- ✓ Wegmans was willing to work with the project, however the utility pole problems cannot be overcome.
- ✓ To go around the utility brings the cross access to another adjacent property which is owned by the original landowner that this project was purchased from. The landowner was only interested in selling and this became a deal breaker.
- ✓ The problem becomes fire access; there will be discussions with Goodyear to make a direct connection for practical fire access.
- ✓ The cross access to the plaza does not appear to be able to be provided
- ✓ The location of the sanitary sewer service is not yet known
- ✓ The applicant has received a demolition permit and the structures should come down soon; this should set some light on the sanitary sewer service

Mr. Sherman stated it appears there was access from Goodyear onto the property. Mr. Blood stated the plan conceptually shows a cross access conception arrived at. There is no room in the front but access to the back of the site at least satisfy the fire access concerns.

Chairperson Bebak questioned if the cross access is required as part of the building permit. Code Enforcement Officer Jeff Baksa stated this would have to be reviewed to see if the permit would be following the NYS Fire Code. If this did not comply with the NYS Fire Code, the only other avenue to take is to petition the state for a variance to the code. Mr. Blood stated they would like access from the back of the site to the back of the Goodyear site and this is still in negotiations. Mr. Baksa stated it was his belief that access to Goodyear for fire

SPR2022-04 (continued)

access purposes would be satisfactory to the town; however only one ingress and egress for traffic would have to be approved by the NYSDOT.

Mr. Nalewajek questioned if the site plan was now null and void. Mr. Blood stated the site plan was submitted and the NYSEG field engineer has since informed them of the pole problem. The plans indicated underground detention beneath the driveway; if something connects to the back of Goodyear and the site remains green, a detention basin will be placed.

Mr. Sherman questioned why the building was placed crooked on the parcel with no setback at the corner rather than squared up on the parcel. Mr. Blood stated several placements were looked at. The current one is awkwardly situated in relationship to the road but fit the required parking spaces. The 0' setback and pavement setbacks of the property line were approved in the fall. Mr. Baksa explained the direction of the building is because of the 0' setback at the corner, a variance was sought for that instead of the entire building being a 0' setback. This did not provide for extra parking but allows for a lane and parking. This also makes the building placement 90° with the road and allows for better visibility.

Mr. Nalewajek questioned the schematic level of site development. Mr. Blood stated approximately 75% of the site plan is valid. There are a lot of questions to be answered.

Mr. McCabe requested clarification on the parking variances. Mr. Blood stated variances were granted for parking setback, sign location and building setbacks.

Mr. Sherman questioned if Goodyear grants access would there be an access point for egress from the building to drive around the back and out, using the Goodyear driveway. Mr. Blood stated that is the intent and is not sure if this would be a big benefit. Mr. Sherman stated he believed this would be a large benefit particularly for fire access.

Mr. Sherman questioned if this project could be contingent upon access from Goodyear. Mr. Blood stated this is correct unless they appeal to the fire code.

Motion by Sherman, seconded by Nalewajek, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by Sherman, to table site plan approval for property located at 310 Orchard Park Road (aka 276 Orchard Park Road approximately 300 LF east of Slade Avenue) for redevelopment of subdivided parcel from an insurance agency to an 1800-sf restaurant with 37 seats and 15 parking spaces pending further examination on site plan and access easements.

Ayes: All

Noes: None

Motion Carried

SPR2022-05

A request of Todd Huber of Building Solutions for site plan approval for property located at 1303 Union Road for construction of an addition and an ADA compliant rest room.

Motion by Frick, seconded by McCabe, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Todd Huber of Building Solutions stated Graeber Jewelers has been in business for many years and at the Union Road location since 1976. The existing lot on Union Road is 60' x 160'. The business received correspondence from their insurance company requesting an updated safe on the premises along with an ADA compliant restroom. The structure is small and in need of an addition for a safe, storage, and restroom. The front of the building is geared towards the visual need of the customers. The proposal is to place the addition close to Union Road to abide by the code. The placement of the addition would hinder the daily operations of the business during construction and would not satisfy the needs of the addition. There is not a way to stay viable during construction. Another proposal would be to place the addition off the back and incorporate some of the visual concerns along Union Road, such as placing parking towards the back, additional plantings, and detention along the back with greenery. The request tonight is for approval of a rear addition to the existing structure.

Chairperson Bebak referred to Mr. Huber's statement and questioned if rear access could be in place, the addition onto the front and keep the showroom in the back; flip the business. There will be down time while changing the area; the area is a square. One of the problems with the building is the small parking. The second plan is a vast improvement on the business by having the parking and access in the rear with the addition on the front.

Mr. Huber stated if the addition was built onto the front, the business would need to be shut down to move the contents to the front. This is to accommodate what is requested, a new safe, storage area, and ADA compliant restroom. These are the needs and from a construction view, duplicating a showroom is a greater cost. Chairperson Bebak stated this is short term compared to the long-term benefits of the plan that complies with the code and ensures more parking. Mr. Huber stated from a construction standpoint, this is a sustained investment that would snuff out the viability of a business being able to overcome such a renovation.

Mr. Nalewajek stated it appears to be an either-or situation instead of looking at the possibility of placing some addition on the front to bring the building closer in compliance with additional space needed at the back of the building. The design presented does not show anything in terms of what the addition would look like or what is the impact to the street and neighbors.

Code Enforcement Officer Jeff Baksa stated it was his understanding the addition that the business would like to add would have a new safe and storage space. By placing the addition on the front of the building, the safe and storage would be at the front of the building, or they would have the additional expense of rebuilding the entire showroom in the front new addition. This is where it may not be financially feasible.

Mr. Frick questioned if this project would require NYSDOT review as the building is on Union Road. Mr. Baksa stated this would need to be sent to the NYSDOT and SEQR review. The applicant is here tonight for input from the Planning Board.

SPR2022-06 (continued)

The project has changed slightly; the curve in street has been straightened. This is beneficial to the lot lines making them rectangular and provides room for the sewer. By the time this happened, and all signed off, the approval timed out. The Zoning Board of Appeals also must reapprove the required variances. The request tonight is for a contingent approval.

Chairman Bebak questioned if this was approved, and condo status was not granted a year from now what would happen? Mr. Tyne stated the code allows for one extension and expects this to be granted mid-summer.

Mr. Sherman questioned the lot size of each parcel. Mr. Tyne stated they is 8,000-sf minimum, 50' wide, 30' building height and minimum dwelling size is 900-sf.

Mr. Sherman questioned if the minimum lot size is supposed to be 10,000-sf. Code Enforcement Officer Jeff Baksa stated in previous approvals with the current site plan and lots, this was approved. Mr. Baksa would have to investigate the code as the numbers can be moved to fit the county subdivision map.

Mr. Sherman stated he recalled the lot size was a concern of the petitioner, that the number of homes would not be able to fit the number of homes needed at 10,000-sf and questioned if this was compliant at 8,000-sf. Mr. Tyne stated this was previously approved.

Mr. Sherman questioned when the project was last approved. Mr. Baksa stated this was in 2019 with a one-year extension.

Mr. McCabe questioned if the Code Enforcement Office has verified the plan is the same. Mr. Tyne stated the layout and sewer is the only change. The Town Engineer has approved the changed.

Mr. Sherman questioned the radius of the cul-de-sac in the back; there was previously a concern surrounding fire apparatus and school busses making the turn around. Mr. Tyne stated the radius is 55' and was previously approved.

Mr. Sherman referred to the parking and noted the driveway has a one car availability and questioned the width of the road. Mr. Tyne stated the width is 24'. Mr. Sherman expressed concerns with parking on the street and the road availability for emergency vehicles to reach the rear of the property. Mr. Tyne stated the width has not changed.

Mr. Sherman referred to the slope at the rear of the property; how will the water be contained and not flow to the neighbors at the rear of the property. Mr. Tyne stated there was drainage along the property line. Mr. Tyne did not bring the drainage plan with him. Mr. Sherman questioned where the water flows to. Mr. Sailer stated there is an existing area. Mr. Tyne stated there is a small undeveloped area. The development pattern of what is being built is all draining to the street and controlled.

Motion by Sherman, seconded by McCabe, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

WEST SENECA COMMUNITY ROOM
1300 Union Road
West Seneca, NY 14224

WEST SENECA PLANNING BOARD
Minutes #2022-04
April 14, 2022

SPR2022-06 (continued)

Motion by Bebak, seconded by McCabe, to grant site plan approval for property located at 4592 Seneca Street for construction of 31 patio homes, 5 attached villas, and all related site improvements contingent upon the approval of the following variances: 1) 6.82' front yard setback; 2) 8,000-sf lot size for building nos. 6 - 17 and 22-36; 3) 5.55' rear yard setback for building nos. 6 – 18, 22, 23, and 34 – 36; 4) 37.11' lot width for buildings 17 – 22.

Ayes: (5) Bebak
McCabe
Frick
Sailer
Nalewajek

Noes: (1) Sherman

Motion Carried

ADJOURNMENT

Motion by Frick, seconded by Bebak, to adjourn the meeting at 8:27 P.M.

Ayes: All

Noes: None

Motion Carried

AMY M. KOBLER
TOWN CLERK/PLANNING BOARD SECRETARY