

The meeting was called to order at 6:00 P.M. followed by the Pledge of Allegiance.

ROLL CALL:	Present	-	Margaret Bebak, Chairperson James Frick Timothy Hayes Christopher Holmes Dale J McCabe Eric Sailer Joe Sherman Jeffrey Schieber, Code Enforcement Officer Chris Trapp, Town Attorney
	Absent	-	None

APPROVAL OF PROOFS OF PUBLICATION

Motion by Bebak, second 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 Bebak, seconded by Frick, to approve minutes 2023-12 of December 14, 2023.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS

SPR2023-8

A request of Young Development, Inc. for site plan approval for property located at 2852 Transit Road for construction of multi-family residential units with all related site improvements.

Mr. McCabe recused himself and left the meeting.

Sean Hopkins, Esq. on behalf of the applicants, along with Joe Young of Young Development and John Barniak of Carmina Wood Design presented the following updated site plans on behalf of Young Development:

- Project originally consisted of 55 units but was reduced to 50 units and increased the greenspace and setback on the back of the property in response to concerns of the owners of 345 Shultz Road
- Three follow up items from the December Planning Board meeting:
 - ✓ Sidewalks have been added along Schultz Road
 - ✓ Comments received from the Engineering Department have been addressed and approval has been given by the Town Engineer
 - ✓ A letter of permission signed by the property owners of both 359 and 353 Schultz Road for temporary access was received for grading work to be performed on one of the properties; a copy of the letter dated January 10, 2024, was provided to the Planning Board.

- At this point, all comments, concerns and questions have been addressed and the applicant is requesting site plan approval

Mr. Frick questioned if a railing was required due to the change in grading. Mr. Barniak stated there is a 10' buffer from the edge of the sidewalk to the top of the grade down into the swale and does not believe a rail is necessary.

Chairperson Bebak questioned if they would be leaving the swale or will the swale be filled with piping. Mr. Barniak advised that the swale is open at the road and will remain as is. The sidewalk is alongside the edge of the pavement on the road.

Mr. Sailer stated he is pleased that the sidewalk was included on Schultz Road, but one concern the Planning Board has is access from the development to the existing sidewalk. It is his understanding that the West Seneca School District's buses will not be entering the development as it is private property and school children will need to access the sidewalk. Mr. Sailer questioned if a crosswalk can be added to the interior sidewalk and extend the sidewalk to the existing sidewalk on Shultz Road to avoid pedestrian traversing issues. Mr. Hopkins questioned if appropriate striping would be acceptable. Mr. Sailer questioned where the striping would be done. Mr. Hopkins referred to the drawing. Chairperson Bebak stated this may require pipe over the culvert. Mr. Hopkins stated the suggestion would be acceptable.

Mr. Sherman stated his concern for students waiting for school buses if the school buses are not able to access private property and inquired about a shelter for students. Mr. Young stated school buses do pull in on other properties, for example, Park Lane Villas, and no structure has been planned. Mr. Sherman inquired if contact has been made with the bus garage to see if they would be willing to enter the property to pick the students up. Mr. Young stated they have not, but based on his experience he believes it would not be a problem. Chairperson Bebak noted that Park Lane Villas has a larger entrance on Union Road and expects school buses will stay on Shultz Road to pick up students. The Planning Board required a shelter for the apartments on Leydecker Road and commented she was unsure that a shelter would fit in the space. Mr. Sherman reiterated his concern for students' safety. Mr. Young stated shelters have not been added at other locations but will consider the suggestion. Mr. Hopkins asked if the Planning Board would consider a site plan condition that the applicant will review adding a shelter. Chairperson Bebak stated she would like the applicant to propose a structure that is aesthetically pleasing. Mr. Young stated he is concerned a shelter will change the look of the project. Mr. Hopkins stated in his experience a designated area with perhaps more pavement is provided rather than a shelter. Mr. Hopkins asked if it would be acceptable to present the ideas to Code Enforcement Officer Schieber. Mr. Sherman was agreeable.

James Raymond, 81 Cedar Ridge Drive, made the following comments and questions:

- What good are sidewalks if they just end and noted several houses do not have sidewalks
- Concerned there is only one entrance and exit for the development on Shultz Road noting it is a small road and questioned if a full traffic study been conducted - Mr. Schieber stated the original project application included an entrance onto Transit Road; however, NYSDOT will not allow an entrance onto Transit Road.
- No local politicians have been approached by the Town of West Seneca for assistance in seeking approval from NYS for an entrance - Mr. Schieber stated while he cannot address that statement, the Town board is aware of the project and have approved rezoning and a special permit.
- Other Young Development projects have access onto Transit Road

- A recent fatal pedestrian accident occurred on Transit Road close to the location of the proposed project and insisted a full traffic study be conducted - Mr. Schieber stated sidewalks become the responsibility of the property owner and noted there is generally not a clear consensus for adding sidewalks
- Concerned Pine Court will now be used as a cut through to access the traffic signal on Seneca Creek Road

Gary Bensman, 88 Cedar Ridge Drive, made the following comments and questions:

- Concerned about the traffic and lack of driveway for the proposed project on Transit Road
- Concerned about additional run-off from the project into the small tributary where water accumulates near 358 Schultz Road
- Concerned about adding residences to the existing infrastructure and power sources, for example, electricity, gas, and sanitary sewers, and noted there are frequent power outages in this area
- Construction vehicles are extremely heavy and questioned who is responsible for damage to Shultz Road
- Vehicles turning left onto Shultz Road will cause a back up of traffic and questioned if a dedicated left turn lane is being added
- There is standing water along Shultz Road which extends into the street is a consistent problem and is concerned the project will add to this problem
- How much of an impact will there be to the area during construction

Chairperson Bebak stated she is a longtime resident of Shultz Road and understands the concerns brought forth. The applicant has been in front of the Planning Board multiple times and has added sidewalks as requested. While Chairperson Bebak understands the residents' concerns, it is the Town Board, not the Planning Board, that has the authority to enforce the installation of sidewalks.

Mr. Schieber stated the parcel is in an Erie County Sewer District and approval has been granted by Erie County for this development to tie in the sewer system.

Mr. Raymond further insisted a traffic study be completed. Mr. Bensman stated NYS Assemblyman Burke indicated the town can approach Assemblyman Burke's office for support. Mr. Schieber stated the project at 299 Leydecker Road was twice as large and did not warrant a traffic study. Per correspondence regarding the project on Shultz Road dated June 22, 2023, from the NYSDOT: "based on the information provided the proposed project does not appear to have a significant impact on the traffic state highway system." Further, "NYSDOT does not intend to allow the driveway shown on Transit Road. Access management practices say that when access can be routed onto a side road off the state highway system that an alternative should be used as an entrance into the development". The applicant would like to have access onto Transit Road, but NYS will not allow it.

Mr. Hopkins stated NYSDOT has gotten stricter particularly along Transit Road. Mr. Schieber concurred and stated the new Dollar General being constructed at Southwestern Boulevard and Angle Road was not given access onto Transit Road. Mr. Hopkins stated a distinguishing factor of the Shultz Road project is the alternative access to a side street; if the only access was on Transit Road NYSDOT would have to allow it. Further, the Town Board has already conducted an environmental review pursuant to SEGRA and issued a negativity declaration. The threshold for conducting a traffic study is 100 trips at a given intersection at peak hours and the project is not even at 25% of the minimum required threshold. Finally, the applicant has addressed all technical issues including sewer and water capacity among others and requests the Planning Board issue site plan approval.

Mr. Schieber advised that any damage to a road during construction is the responsibility of the developers and is monitored by the Highway Department. Mr. Hopkins advised the construction vehicles are encouraged to be stored onsite and are not coming and going every day.

Chairperson Bebak asked Mr. Schieber to comment on road widening, for example adding a left turn lane on Shultz Road and does not believe the Planning Board has the authority to force private landowners to do. Mr. Schieber stated he cannot answer the question but believes this could be accomplished with the cooperation of all parties.

Motion by Frick, seconded by Sailer, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Motion by Sailer, seconded by Sherman, to table the item in order to request local and state representatives contact NYSDOT.

On the question, Chairperson Bebak stated this is the sixth meeting for the applicant and would prefer to work with politicians to widen Shultz Road to add a turn lane.

Ayes: Sailer, Sherman, Holmes

Noes: Bebak, Frick, Hayes

Motion Failed

Town Attorney Trapp advised the motion to tabled failed due to a tie.

Mr. Hopkins proposed the Planning Board could add a condition to the site plan approval whereby if the NYSDOT responded to the town within 30 days, the applicant will add the driveway back onto Transit Road.

Mr. Hayes stated any changes politicians could request of the NYSDOT would take an exorbitant amount of time and the applicant has done everything within the rules set down by the politicians of NYS.

Motion by Bebak, seconded by Hayes, to approve the site plan contingent upon the following conditions: 1) adding the pedestrian connection; 2) commitment of the applicant to work with the town if the road can be widened; 3) repair any damage to Shultz Road.

On the question, Mr. Sherman stated he is opposed to approving the site plan with contingencies. Chairperson Bebak advised that the motion is to approve the site plan as given with the addition of the pedestrian walkway and commented the applicant will cooperate if an entrance onto Transit Road is approved by NYS.

Ayes: Holmes, Hayes, Frick, Bebak

Noes: Sailer, Sherman

Motion Carried

Mr. McCabe rejoined the meeting.

SPR2022-12

A request of Seneca Greenhouse for site plan approval for property located at 2266 Transit Road for construction of a new parking lot.

Jay A. Pohlman, attorney on behalf of the applicant Seneca Greenhouse, presented the following information:

- Seneca Greenhouse is a growing nursery located on two parcels, 2250 and 2266 Transit Road

- Original plans presented in 2010 included expanding the parking lots, construct a fence around the perimeter of the property, and add a building to be used as an educational center
- Noted rezoning of the property was previously granted and the applicant is currently seeking to avoid the detention/retention pond with perimeter fencing and excessive blacktop, and wish to keep the site as natural as possible
- No additional buildings will be constructed
- Add more stone growing areas and move storage space for bulk items away from Transit Road
- A 6' high, 328' long stockade fence was previously erected along the neighboring property to the north
- Noted there were conditions included with the rezoning approval from 2010:
 - ✓ 1) the rezoning will apply only to a depth of 328'
 - ✓ 2) a 6' high stockade fence shall be constructed along the property lines abutting a residential zoning district to the north, west, and south, including the existing greenhouse
- There is an additional 700' to the north and stated the property owner would like to plant shrubs or another natural berm as the use of this area will be to grow plants and stock supplies
- Believe the project will enhance the area which is a gateway to West Seneca

Mr. Sherman stated he understood the area of the proposed plan was originally slated to be developed for deliveries. Mr. Pohlman stated the uses were deliveries, parking, and the detention/retention pond. The current proposal includes a DI to collect water while leaving much of the surface permeable with stone that will absorb the water from plants. Mr. Sherman questioned if the deliveries would remain the same. Mr. Pohlman confirmed the deliveries will and moving the storage of bulk items will provide more space for the deliveries.

Mr. Hayes commented that the existing parking lot is one direction in and one direction out and questioned how this is enforced. Mr. Pohlman confirmed and stated this avoids stacking; off-duty police officers are utilized at times as well as parking lot striping and signage. Mr. Hayes stated the new parking lot includes an entrance from Transit Road and allows for an exit in both directions. Mr. Pohlman confirmed this and explained the entrance is farther from the intersection and will not have a problem with stacking; the goal is to limit this parking area to employees and deliveries.

Chairperson Bebak indicated that NYSDOT has not approved the curb cut yet.

Mr. Frick wanted to confirm that Engineering approval has not yet been received. Mr. Schieber confirmed this is correct; the project previously contained retention ponds and the new engineering documents are still under review for the change of storing water to sheet draining.

Attorney Frank Jacobson spoke on behalf of the property owners of 2268 Transit Road, Mr. and Mrs. Zurek:

- Property of 2268 Transit Road is on the north side of Seneca Greenhouse's property with an approximate boundary of 1,000'
- Proposed project is concerning to the Zurek's
- After receiving zoning approval in 2010 Seneca Greenhouse defaulted on and remain in breach of their promises
- Seeking to have Seneca Greenhouse fulfill the requirements of the zoning approval including the stockade fence along the entire property lines
- Questioned if the change of zoning stands if the applicant did not comply with the conditions
- Referred to the stone plant display area and expressed concern that the greenhouse customers will wander into the neighbors' yards

- Town Code requires fencing and screening between commercial and residential properties and requested the Planning Board require the applicant to be compliant or obtain a variance

Chairperson Bebak questioned if only the front 328' of the property is zoned commercial rather than the full depth. Mr. Pohlman stated there was an agreement in 2010 to leave the woods natural until the development moved forward and did not commit to putting up the fence until going forward with the development, parking, and detention pond. The project is for 328' and only this depth is rezoned commercial that require the fencing or some other buffer; fencing exists the full rezoned distance along the Zurek's property. There is no benefit to removing trees on the applicant's property. Mr. Pohlman stated the applicant is not in violation of the zoning, has fulfilled all commitments, and suggested the new plan offers a softer transition from residential to commercial.

Mr. Sherman questioned if a tree survey is required. Mr. Schieber stated a tree survey is available and illustrated the property survey and tree survey.

Mr. Jacobson read the Town Board minutes from 2010: 1) the rezoning will apply only to a depth of 328'; 2) a 6' high stockade fence shall be constructed along the property lines abutting a residential zoning district to the north, west, and south, including the existing greenhouse property. Mr. Jacobson stated the resolution did not limit the fence to 328' and the applicant recently erected the fence 328' to skirt their obligations. In fact, there is another residential property in addition to his clients and concluded the applicant is not in compliance with the rezoning or existing town codes.

Mr. Hayes questioned if Mr. Jacobson was requesting screening or fencing on the west and south side. Mr. Jacobson replied his understanding is that the Town Board required fencing and the town code requires fencing or other screening.

Chairperson Bebak questioned if there is a particular reason Mr. Jacobson's client would want a 6' stockade fence along the entire 1,000' and to have trees cut down. Mr. Jacobson replied his clients want what the Town Board required and are concerned the proposed site will be a public shopping area and customers will wander into their back yard. Mr. Jacobson suggested the fence be turned and extended far enough to keep customers from entering the Zurek's property. Mr. Sailer stated he considers the fence meets the requirements and the growth beyond that is the screening and proposed adding a two rail post fence for an additional 10' to deter people from going through the woods. Chairperson Bebak stated she understands the applicant is in compliance with the town codes. Mr. Jacobson stated the resolution required fencing along the entire property.

Mr. Pohlman stated the proposed plant area will be limited to employees.

Mr. Jacobson stated if two rail fencing is being proposed his clients might support the project but have not been made aware of this.

Chairperson Bebak stated other items are needed before the Planning Board can make a determination.

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

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by Hayes, to reopen the public hearing as a speaker was missed.

Ayes: All

Noes: None

Motion Carried

Mr. Zurek stated he would like the fence they were supposed to have across the north property line towards Seneca Street. Further, Mr. Pohlman has proposed greenery, but in his experience the deer will eat any greenery that is planted.

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

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by Sherman, to table the item pending NYSDOT and Engineering approval.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

SPR 2023-006

A request of Christopher Wood c/o Carmina Wood Design for special use permit for property located at 1425 Orchard Park Road, changing its classification from C-1 and R-75 to C-1(S) for construction of a multi-unit residential development.

Anthony Pandolfi with Carmina Wood Design presented the following information:

- Requesting a rezone and special use permit for construction of two 12-unit apartment buildings and one 6-unit townhouse style building with a single curb cut onto Orchard Park Road
- Property is abutted to the north by an elementary school and the south by a church and gas station
- Performed downstream sewer capacity analysis which has been approved by the town engineer
- Received a trip generation later letter from SRF Associates with the conclusion that a traffic impact study is not warranted for this project noting the peak hourly A.M. is 41 vehicles and the peak hourly P.M. is 42 vehicles, and the threshold is 100 vehicles
- Received SEQRA comment letters from Erie County with typical comments from DSM if the project connects to their sewer and DEP regarding pedestrian access

Mr. Sherman inquired if this parcel connects into Sewer District 13. Mr. Pandolfi confirmed it does. Mr. Sherman questioned if flow tests have been conducted to accommodate the additional usage given the current issues with this district. Mr. Pandolfi confirmed the tests have been done and the applicant has received approval from the town's engineering department. Further, the applicant is required to provide I and I mitigation in the form of a fee that is used for future town sewer improvements. Mr. Sherman questioned the fee amount. Mr. Hayes stated the fee for this project is \$8,448 and \$11,088 for the project at the former Flattery's site for a total of approximately \$20,000. Mr. Pandolfi stated the fee is determined by rate based off the flow generated by the sites.

Mr. McCabe noted the applicant will need a variance for the number of units and questioned the legal number of units for this parcel. Mr. Schieber stated the parcel is 3.1 acres, they are permitted 28-units and the proposed project is for 30-units; there are also building set back variances needed.

Mr. Holmes stated there are existing pedestrian access points from North Windmill Road, Heritage Farm Road, and Sunset Creek Drive to the adjacent school and requested the applicant also include a pedestrian walkway. Mr. Pandolfi stated this request can be considered but can only provide access up to their property line. Mr. Sailer suggested the applicant contact the school to discuss it, also.

Mr. Frick questioned if the cemetery close to their building has been reviewed for potential impact during construction. Mr. Pandolfi stated the grading and land disturbance will only occur on the applicant's parcel. Chairperson Bebak questioned if an archeological study is required because of the proximity of the cemetery. Mr. Schieber stated SHPO was notified and provided a comment letter. Disturbance will only occur within the applicant's property lines and the applicant is currently conducting a Phase 1 Archaeology Study and the documents will be presented at a future Town Board meeting for SEQRA.

Chairperson Bebak stated the applicant is seeking a recommendation from the Planning Board to the Town Board for a change of zoning. Mr. McCabe stated the request is for a change in zoning and a special permit and questioned if the Planning Board is also approving the number of units. Mr. Schieber stated the number of units will be determined by the Zoning Board of Appeals at a future meeting if the change in zoning and special permit is approved by the Town Board.

Mr. Hayes referred to the sewer study which was approved by the Engineering Department and noted the failures in the 12" and 15" pipes when the site at Flattery's was before the Planning Board. What is the mitigation for the sewer problem. Mr. Pandolfi stated the applicant charged a mitigation fee and is not responsible for solving the sewer issues. As part of the project at Flattery's the owners are fixing the old sewer connection which will solve the I and I problems at the site. Mr. Hayes questioned which project would happen first and questioned if the sewage from the project at 1425 Orchard Park Road will flow through the same system as the Flattery's location. Mr. Pandolfi stated he is not certain and confirmed the sewage will use the same lines. Mr. Schieber stated there are two different owners for the projects. The Hanley's will start the project at Flattery's in the spring and will coincide with the roundabout construction. The town is currently slip lining the 36" trunk line and is not certain of the timing of this project. Mr. McCabe questioned if the town engineer could provide the timeline of the slip lining project. Mr. Schieber stated this information could be obtained. Mr. Hayes questioned what is being done with the smaller pipes and the current back-up problems. Mr. Schieber referred to a letter from Town Engineer Foote that all Planning Board members were copied with: "the surcharging that occurred on September 5, 2022, can likely be attributed to ground saturation from prior rain events, the surcharging was not likely caused by the sanitary sewer mains located along Orchard Park Road but rather downstream 36" trunk main lines that run Cazenovia Creek to Wegmans." Mr. Hayes stated it seems that excuses are being given on why overflows happen rather than planning for the worst case event to protect residents, particularly those downstream from the project, and the sewer study is being taken too lightly.

Mr. Sherman stated the issue of capacity extends beyond Flattery's and the smaller piping seems to be more of an issue than the 36" repairs.

No public comments were received.

Motion by Bebak, 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 #2024-01
January 11, 2024

Motion by Sailer, seconded by Bebak, to recommend the approval of class change from C-1 and R-75 to C-1(S) with a special use permit for construction of a multi-unit residential development.

Ayes: Bebak, Frick, Holmes, McCabe, Sailer, Sherman Noes: Hayes Motion Carried

ADJOURNMENT

Motion by Bebak, seconded by McCabe, to adjourn the meeting at 7:23 P.M.

Ayes: All Noes: None Motion Carried

Kate Newton

Town Clerk/Planning Board Secretary