

maple trees and/or Green Gem Boxwood shrubs in the curb area close to Union Road. The drawing has been amended to show a drivable lane behind the display during the season. The shed company has also given the option to make a drive lane between the storage batch of sheds and the main displays. Either option would work for the company.

Chairperson Bebak asked if they plan to stick to the dimensions shown in the drawings. Ms. Dotzler replied they would and during the off season the sheds would be moved to the very back corner of the property and referred to the area on the diagram), so they are not in the way of the plows or take up any parking areas for use of snow storage.

Mr. Sherman inquired if the lot would be blocked off at night to prevent people from driving back to this area. Ms. Dotzler stated the parking lot will be open because CentiMark and Dunn Tire have deliveries that need to come in. Additionally, they also cannot chain off the lot for fire and safety reasons. However, Ms. Dotzler is excited to have the sheds placed on the lot because it will prevent the tractor trailers from parking in their lot overnight.

Mr. Hayes states the drawing shows two (2) Red Maple trees in the curb area closest to Union Road but questions the use of Green Gem Boxwoods as the trees and shrubs are quite different in size. Ms. Dotzler replied they are open to either option. Chairperson Bebak further questioned if they will be in planter boxes. Ms. Dotzler replied they would be planted right in the ground and pointed to the diagram to show where the planter boxes would be placed. Mr. Sherman believes the Maple trees or something a bit hardier would do better in that area rather than the Boxwood shrubs because of all the snow and salt that gets pushed up into that area during the winter. Mr. Frick stated he believes the Town Code requires a 2 ½ inch caliper on trees to which Mr. Schieber responded they do regulate that for streets and subdivisions and believes that would also apply to this situation.

Mr. Hayes wondered if the Board received an answer regarding once the sheds have been placed what the designation of the property will be for tax purposes? Town Attorney Trapp spoke with the Town Assessor Finbar and stated because Heritage Sheds is a temporary business (not fixed), they will not go onto the tax roll, but their revenue will be looked at and that will be the determining factor. There will be sales tax on the sheds, but not necessarily property taxes. The Assessor will look at the sales revenue but will need at least a year's worth of information before making a determination. Mr. Hayes then questioned if it was known what the sales for Heritage Sheds were for 2022. Ms. Dotzler replied that she spoke with her attorney and the revenue would not be what Heritage Sheds is making, it would be based on the rent they are collecting from Heritage Sheds.

Mr. Hayes asked if the sheds are stored some place else or will they be created and placed on the lot. Ms. Dotzler stated the owner has multiple sites (not in this region) but the sheds are kept on the site where they are fabricated. Heritage Sheds is the manufacturer. The ones that will be on display for people to purchase will be on site. These have already been made and are ready for purchase. People will be able to purchase right off the lot or have custom made sheds based off what they see on the lot.

Mr. Hayes asked who will be responsible for property maintenance around all the sheds as there looks to be a lot of potential for weeds coming up through the cracks in the asphalt and around the property. Ms. Dotzler stated they would be responsible for the property maintenance.

No public comments were made.

Motion by Bebak, seconded by Sherman, to approve the request of GBSG Development LLC for site plan approval for property located at 2150-2180 Union Road for placement of custom-made sheds for sale and recommended Red Maple trees be planted instead of the Green Gem Boxwoods.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS:

SPR2024-03

A request of Embury Holdings, LLC for expansion of the existing building with sitework for property located at 287 Center Road.

Matthew Fitzgerald Esq, from Phillips-Lytle, was present on behalf of the applicants, Drs. Caitlin and Carl Embury. Brad Humberstone (Director of Design Build at Mitchell Design Build) also was present. Mr. Fitzgerald presented a sketch plan and asks the Board for as much feedback as possible so they can make any modifications to the plan if needed before they advance to variance approvals from the Zoning Board.

This is a unique site as far as zoning history and is located in a residential district. There has been a dental office in this location for approximately 40 years. In 1983 a use variance was granted from the Zoning Board of Appeals for the use as a dental office. That variance approval was modified in 2006 and the property site continues to operate under the existing variance. Dr. Carl and Dr. Caitlin Embury acquired the property in May of 2021 and are continuing the same use of a dental office.

The site plan was made available to the board via projection. The project consists of using the existing 1,189 square foot building with an expansion of 1,410 square feet at the rear of the building. The expansion will only be made to the rear of the building where there is currently a parking area and garage. The garage will be demolished to make more room for parking spaces. Ten additional parking spaces are planned for the front yard and will connect to the driveway. These spaces would be between the existing business sign, the building, the driveway, and the Evergreen trees.

Mr. Fitzgerald advised that the reason for this expansion is because the Emburys are expanding their business and would like to take their five current exam rooms and add an additional five exam rooms with the goal of being able to treat additional patients at this location.

The Emburys are aware that there will be some variances that need to be approved by the Zoning Board. The question of why not just have this area rezoned has been asked. If this were to be

rezoned into a commercial district and one day decide to sell the property, the new owner could then use that property for any commercial use. By keeping the residential zoning, the property owners are keeping the property free of any unwanted commercial use in the future.

Mr. Frick questioned what the zoning of this property is labeled as, to which Mr. Fitzgerald stated the property is R-65A residential district. Mr. Schieber further explained the plaza across the street is C-1 commercial and all the properties across the street from the Wimbledon Plaza are R-65A. This property was previously zoned for a home occupation and that home occupation was granted for a dentist office on the first floor because there was residential use on the second floor. Mr. Fitzgerald advised his clients to go back to the Zoning Board of Appeals to request elimination of the residential use and to expand the dentist office to encompass the entire building. Discussions with Town Attorney Trapp have occurred. The zoning could have been considered spot rezoning. It should be noted that if this property were rezoned as commercial, it would still need variance approval. Town Attorney Trapp commented there is no plan for the Town to change the zoning. This would be more of a decision regarding whether it was a use variance or area variance that would be required, and this would be something the Zoning Board of Appeals would decide. A use variance would be consistent and would not need to continually go back before the Zoning Board, unless there were conditions placed upon that use variance at the time they were granted.

Chairperson Bebak stated typically the Zoning Board does not want parking in front of buildings. Mr. Fitzgerald explains that currently as the site sits it has 27 parking spaces, which is the minimum they decided would be needed. If they only needed 17 spaces the 10 spots in the front would be the first to go. Once the expansion is added on it does create the need for additional spots. They planned to get rid of the garage to create extra spots in the back of the building, but there is not enough room for that many parking spots in the rear of the building. Ultimately after several revisions there simply is not enough room to create additional spots in the back of the building. The dimensions given for the parking area in front of the building are 45 feet by 65 feet.

Mr. Frick asked how many employees there are currently and with the expansion how many more employees would you be adding that would utilize the parking that you have now and are proposing. Dr. Carl Embury stated they have two locations that are .7 miles apart on Center Road and would like to merge the two offices together which is why they are doing the expansion. There would be nine employees plus Drs. Carl and Caitlin Embury so they would need 10-11 spots just for the employees and then the same for patients and possibly a few more for overlaps.

Mr. McCabe inquired of the Town Attorney if the variances being dealt with at the Zoning Board of Appeals would also be dealt with the use variance based on the expansion of the building and the business. Town Attorney Trapp stated in his opinion the first question they will deal with will be is there a need for the use variance. The Zoning Board may not feel it needs to be addressed because it was sufficiently addressed before. It is Mr. McCabe's understanding that under the ordinance, if there is a prior non-conforming use and then there is an expansion beyond a certain percentage, it would not be allowed without a change in zoning. With the addition will this need to be considered by the Zoning Board? Mr. Trapp replied that the Zoning Board will first determine if there is a site plan issue. Mr. Frick is concerned about the neighbors on either side of the

proposal is to build a 130,000 square foot cold storage facility. The purpose of the facility is to provide additional storage capacity to support the operations of Rosina Foods.

There currently is no curb cut into Clinton Street, but they are requesting one curb cut into the site off Empire Drive. This will allow trucks and vehicles to get around in the event of a fire as there is a full circulation route that goes around the entire site and exits onto Empire Drive. Mr. Pidanick referenced the storm drainage systems showing where the sub-surface retention areas are on the drawing. These areas have been submitted and approved by the Town Engineer.

This is a brownfield site and similar to what was done at Rosina Foods (3100 Clinton Street) the same will need to be done with this site. It was once a railroad area and there are metal items and debris of that nature that will need to be cleaned up. In May 2024 the DEC forwarded Code Enforcement Officer Schieber documentation that states the site will be brought up to unrestricted standards, which is the highest level of cleanup standards.

Mr. Frick asked about the lighting for the site. There is no lighting plan with the site plan, however, Mr. Pidanick does believe a lighting plan exists and the lights will not be a nuisance to anyone and further explains he believes the lighting will be primarily on the building as there is not a big need for lighting in the parking lot.

Their landscaping plan is the very last drawing (L-101) that was given to the Board. References were made to areas on the drawings, Mr. Pidanick shows areas that will have plantings along Clinton Street. Specifically, a small berm along the front so they can conceal the trucks along areas that will have internal landscaping.

In conclusion, the applicants are requesting site plan approval be granted along with a DEC negative declaration be issued. This is needed to continue moving through the process with the Erie County Department of Environment Planning Division of Sewage Management. The Health Department will be looking for the Town's position on SEQRA as they move through the process as well.

Don Schoenl, President, and Craig Cardwell of Agile Cold Storage were also present to answer questions that the Planning Board may have.

Mr. Sherman questioned what type of retention pond is being proposed in document C-103. Mr. Schoenl stated it will be a dry (grass) pond with some plantings around it and will only handle peak storm events. Mr. Pidanick referenced to where the sub-surface detention ponds are that will discharge to piping that goes across Clinton Street. Mr. Sherman inquired how many trucks can be stacked at one time and how this will be set up to have them move about. Mr. Pidanick responded there are a dozen truck bays but there will not be a dozen trucks at one time. He believes truck traffic in this area of Clinton Street should be better with the completion of this project. Mr. Sherman asked what the hours of operation will be. Mr. Pidanick responded they work two shifts, roughly twenty hours a day from 7 A.M. to 3 A.M. during the week and only one shift on the weekends.

Chairperson Bebak suggested doing a SEQRA determination before finishing up the site plan review. Mr. Frick is aware this is primarily a commercial zone and noted that there are a few residences in the vicinity on Clinton Street and is concerned about a possible noise issue and questions if it is likely for eight trucks to be idling in the lot at any given time. Mr. Pidanick confirmed that is a possibility. Mr. Frick then questioned where the refrigeration equipment be located on the building; will it be ground mounted or be a split system. The equipment will be located on the dock, which is 36 inches off the ground, and will be enclosed with IMP (Insulated Metal Panels) walls, which will also help minimize the sound coming from them. Chairperson Bebak looked for confirmation that all the systems will not be on the roof and will be sound encapsulated, this was confirmed correct.

Mr. Sherman asked if the plans as well as the building's sprinkler system have been reviewed by the Fire Department. This was confirmed. Mr. Sherman further questioned if there were standpipes on the building and if a water pressure test was done to make sure they are equipped enough for this building. This was also confirmed. Mr. Pidanick stated they had information from the Erie County Water Authority for a 12-inch existing main on Clinton Street that shows good pressure and flow. Mr. Sherman further questioned if there were any additional pumps needed on the sprinkler system to make sure the water would be able to get to all areas of the building. Currently, they are unaware of the need. Dr. Jessie Cam, design builders of the project, advised that the engineering for the full fire system has not yet been awarded. However, there are several fire riser rooms where he pointed to the jet outs on the drawing showing the standpipe rooms. Dr. Cam has sent the preliminary pressure test from the hydrant (referenced to on drawing) to the Engineers and was advised it was adequate for the building.

Chairperson Bebak is aware the Engineer reviewed the report but asked Mr. Schieber if he would expand on any outstanding issues regarding engineering. Mr. Schieber confirmed a letter was received from Town Engineer Dave Johnson. There are five issues noted in his letter. Item one is regarding building and parking lot lighting which the applicant has stated the lights will primarily be located on the building. It is requested that the lights be directed downward and dark sky compliant where no light leaves the site. Items two and three were minor engineering things relative to erosion control and emergency spillways. Mr. Schieber stated he had a direct conversation with Mr. Johnson about these things, which are minor adjustments to the plan. Item four deals with the NYSEG easement. The applicant is working with NYSEG and will provide the Town the documents when they have secured such things. Item five was relative to right of way permits. Since there is no access to Clinton Street the NYSDOT is not involved. Empire Drive is a town road which will be addressed through the Town Highway Department.

Mr. Hayes questioned if power exists for the building as things stand today or will power need to be put in by one of the commercial utilities to provide power to the building. It was confirmed there is existing power to the site and nothing additional is needed. Rosina has made a substantial expansion to their site over the past several years and the electrical facilities have been upgraded to support that development. They are working with Rosina's on a further expansion on another building on their site and everything that is needed has been there as the entire park has been upgraded for electrical use as well as other utilities.

Mr. Hayes states it appears there are roughly 300 trees on site and wondered if they will be removed per the Timber survey that was done. Mr. Pidanic explained that the landscaping detail shows they will plant approximately 100 other trees and shrubs. Mr. Hayes then questioned if they plan to replace the 200 other trees somewhere else in the community. Mr. Pidanic stated he was not aware of a plan to replace the remaining trees and further explains the trees that are currently there have grown over the past 50-60 years on the railroad embankment. He is unaware if there are any contributions that can be made to other trees in the community but does not have an answer at this time. This is not in their proposal but advised this is currently a brownfield site where they are spending 4-5 million dollars to clean it up to the highest standards, so in essence they are contributing by making the site cleaner. Mr. Schieber confirmed there is nothing in the Town Code that required a tree to be matched 1-to-1 for removing and replacing a tree.

Mr. Frick advised that regarding the SEQRA, this would be considered a type one action because they are developing a facility that is greater than 100,000 square feet in a town that has a population of less than 150,000. The review of the preparation of the EF part 2 came up with a few major impacts. 1.) Impacts on the land – the proposed action may involve the excavation and removal of more than 1,000 tons of natural material. Yes, this is correct, but it is primarily for brownfield remediation and does not see a significant impact with that. 2.) The proposed action might result in increased erosion whether from physical disturbance or vegetation removal. That is correct, but this is going to be handled with a swift permit and all erosion will be addressed again. This is not deemed as a significant impact. 2a.) This was previously classified as a brownfield cleanup area. 3.) Impact on Energy – the proposed action will utilize more than 250 mwh of electricity. This is true, but it is the nature of the facility. The power is already there to support it and causes no significant impact. 4.) The proposed building will require heating and cooling of more than 100,000 square feet. This is anticipated as this is what the facility is, and all of the utilities are already there to support this. There is no significant impact. 5.) The proposed action may result in lighting creating the sky to glow brighter than the existing area conditions. This will not be a concern because the lighting will be faced downward keeping all lighting on site. This is not considered a significant impact. 6.) The site of the proposed action is currently undergoing remediation and there is a completed emergency spill remediation or completed environmental site remediation on or adjacent to the site. This has already been discussed and part of the project is the remediation of the railroad site. He feels that it should be recommended to the Board that this be issued as a negative declaration with no significant impact.

Motion by Bebak, seconded by Frick, that the Town of West Seneca Planning Board be the lead agency regarding SEQRA.

Ayes: All
Noes: None
Motion Carried

Motion by Sailer, seconded by Bebak, to adopt the attached resolution.

Ayes: All
Noes: None
Motion Carried

No public comments were made.

WHEREAS, the Planning Board of the Town of West Seneca, as lead agency acting pursuant to the State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, has reviewed Part I of the Full Environmental Assessment Form ("EAF") prepared by the applicant for property located at 160 Empire Drive ("Subject Property"), for construction of an addition to a current building and associated site work and parking (the "Project"), and reviewed the draft completed Part II and Part III of the EAF analyzing the potential for the Project to result in any significant adverse environmental impacts and has otherwise taken a hard look at the identified potential environmental impacts utilizing the criteria specified in 6 NYCRR 617.7(c); and

WHEREAS, the Erie County Division of Planning, after carefully and fully reviewing a description of the proposed project, along with the application and other documents as submitted to the Town of West Seneca, replied in writing that the project was to be of local concern; and

WHEREAS, the Town Planning Board held a public hearing which was properly noticed to the public wherein the project was discussed; and

WHEREAS, the Town Planning Board hereby moves to declare itself as lead agency for this project after giving due notice to all other interested parties; and

WHEREAS, the Town Planning Board, carefully and fully reviewed the application including the following documents submitted by the applicant and other interested entities: Response from DEC, Erie County Water Authority, NYSDOT, SHPO, Forest Management Services, Inc. and the Town of West Seneca Engineering Department; and

WHEREAS, the Town Planning Board, upon taking an independent hard look and reasoned evaluation of all of the above-referenced information, comments and written documentation with regard to the project;

WHEREAS, upon review of Parts I, II, and III of the Full EAF and documentation and plans submitted by the applicant in connection with the review of the Project, the Town Planning Board has not identified any potentially significant adverse environmental impacts associated with the proposed use of the Subject Property, has determined that this is Type 1 action and preparation of a Full Environmental Impact Statement is not necessary and that the issuance of a Negative Declaration is therefore appropriate; now, therefore, be it

RESOLVED that pursuant to 6 NYCRR 617.7(a) the Town Planning Board does hereby adopt a Negative Declaration with respect to the Project based on its determination that the Project will not result in any potentially significant adverse environmental impacts.