

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

WEST SENECA PLANNING BOARD
Minutes #2018-12
December 13, 2018

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

ROLL CALL: Present - Robert Niederpruem Jr., Chairman
James Rathmann
George Clifford
Margaret Bebak
Dale J McCabe
Brendon Najm
Jeffrey Schieber, Code Enforcement Officer
John J Fenz, Town Attorney

Absent - Donald Mendola

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 Najm, to receive and file the proofs of publication and posting of legal notice.

Ayes: All

Noes: None

Motion Carried

APPROVAL OF MINUTES

Motion by Rathmann, seconded by McCabe, to approve Minutes #2018-11 of November 1, 2018.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS COMMUNICATIONS

SPR2018-09

A request from Daniele Family Companies for site plan approval for property located at 3400 Transit Road & 5028 Clinton Street for an automated car wash with vacuum stations.

Motion by Clifford, seconded by Najm, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

SPR2018-09 (continued)

Attorney Corey Auerbach of Barclay Damon represented the applicant and stated they added some green space and enhanced landscaping along the east, south of the entrance on Transit Road and along the Clinton Street egress. Drainage was reconfigured on the west side and curbing was instituted to channel water to Clinton Street where it will be picked up on site. Approval was received from NYSDOT in concept for the curb cuts and they received and responded to comments from Erie County Department of Sewerage & Management. Fencing was added on the north to buffer the abutting residential use. Mr. Auerbach stated they met with the neighbor to the north and he is in support of the project with the changes proposed. They also met with the fire department and a mountable curb will be installed to allow for emergency access to the site.

Chairman Niederpruem stated Town Engineer David Johnson had no further comments, but pointed out the disturbance of just less than one acre and the importance of not going over.

Mr. Auerbach stated they are aware that disturbance of more than one acre requires a permit. The entire site is 1.1 acre and the project was designed to stay under at .98 acres of disturbance. It would be problematic to go over and they will be very careful and cautious. Liability is on the developer and they will protect the area with standard construction fence so they do not exceed the .98 acres.

Mrs. Bebak questioned what was worked out with the neighbor. Mr. Auerbach responded the neighbor was concerned about privacy and vehicle lights and they agreed to install fencing that is agreeable to him. Mr. Clifford questioned if there will be a fence facing west and Mr. Auerbach responded the fence will start at the building setback line on the north side and continue around.

Mr. Rathmann questioned the location of the area they are not disturbing. David Cox of Passero Associates referred to the utility plan and grading plan indicating the undisturbed areas. Chairman Niederpruem requested the undisturbed areas be better indicated on the plan.

No comments were received from the public.

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

Ayes: All

Noes: None

Motion Carried

SPR2018-09 (continued)

Motion by Bebak, seconded by Rathmann, to grant site plan approval for property located at 3400 Transit Road and 5028 Clinton Street for an automated car wash with vacuum stations, contingent upon submission of documentation on the undisturbed areas.

Ayes: All

Noes: None

Motion Carried

SPR2018-10

A request from Marrano/Marc Equity Corporation for site plan approval for property located north of 2730 Transit Road to construct 38 townhomes, associated parking, landscaping, storm sewer system and utilities.

Chairman Niederpruem advised the applicant requested this item remain on the table until the next meeting.

NEW BUSINESS COMMUNICATIONS

SPR2018-12

A request from Sutton Architecture for site plan approval for property located at 3887 Seneca Street for a one story addition with handicapped accessible lift and complete façade renovation.

Motion by Clifford, seconded by Najm, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Chairman Niederpruem stated along with the application the Planning Board received a letter from the applicant, a rendering and photographs.

Michael Berger of Sutton Architecture represented West Seneca Smiles and stated their proposal to add a small addition on the front of their building at 3887 Seneca Street with installation of a handicapped accessible lift and enhancement to the façade of the building.

Chairman Niederpruem noted this property is part of the Union Road architectural district and questioned the roof, pavement area, lighting and landscaping. Mr. Berger responded there will be a flat roof to give the building a more commercial look. They have not specified the materials yet, but the façade will have a commercial stone looking appearance. The pavement area will remain the same. They will add a little to the landscaping in front along with some additional signage.

2018-10 (continued)

Chairman Niederpruem questioned Union Concrete's intent for the property one year from now. He agreed the zoning needed to be cleaned up, but stated there is the possibility of something undesirable locating there and the Planning Board needs to know what it will be used for. Mr. Garas stated Union Concrete will be moving out when the new facility is done. He further stated any time a property is rezoned it could end up with an undesirable use at some point.

Mr. McCabe commented the present operation falls under the C-2 zoning. The M-1 zoning is very broad and would be a major change.

A Lyndale Court resident commented on large trucks going in and out of the site from Center Road and questioned if it will be opened up for the Seneca Street side. Chairman Niederpruem responded egress/ingress will still be from Center Road.

A Seneca Street resident questioned if the house owned by Union Concrete will be part of the rezoning. Mr. Garas responded only the eastern 59' of that parcel would be rezoned; the house would remain R-65.

A Seneca Street property owner commented on the mixed zoning classifications in this area.

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

Ayes: All

Noes: None

Motion Carried

Motion by Clifford, seconded by Rathmann, to recommend denial of the request for a rezoning for property located at 101 & 105 Center Road & 3080 Seneca Street, being part of Lot Nos. 126 & 127, changing its classification from R-65 & C-2 to M-1.

Ayes: All

Noes: None

Motion Carried

OTHER BUSINESS

Chairman Niederpruem stated site plan approval was granted in January 2018 for the Ebenezer Community Landings LLC project at 4592 Seneca Street. The developer is still working on third party approvals for the project and has requested a one year extension.

Motion by Niederpruem, seconded by McCabe, to adopt the following resolution approving a one year extension on site plan approval for 4592 Seneca Street:

OTHER BUSINESS (continued)

WHEREAS, Ebenezer Community Landings LLC (the "Applicant") obtained site plan approval for the Ebenezer Landing residential project at the Planning Board meeting of January 11, 2018; and

WHEREAS, pursuant to Town Code the Applicant is required to apply for a building permit within one (1) year following site plan approval; and

WHEREAS, Section 102-13B of Town Code provides that the Applicant may extend the time for application for a building permit if such action is warranted by the particular circumstances for a period not to exceed one (1) year; and

WHEREAS, the town received a letter of request with exhibits attached hereto from the Applicant to extend for one (1) year the time period to obtain a building permit on the basis that it has been working diligently to obtain approvals from the United States Army Corps of Engineers and the County of Erie; and

WHEREAS, it is the opinion of the Planning Board that the Applicant has made diligent efforts to obtain the required third-party approvals to apply for its building permit; now, therefore, be it

RESOLVED, pursuant to Section 102-13B these particular circumstances warrant the one (1) year extension of the Applicant's time period to apply for a building permit.

Ayes: (4) Chairman Niederpruem, Mr. McCabe, Mrs. Bebak, Mr. Najm

Noes: (2) Mr. Rathmann, Mr. Clifford

Motion Carried


ADJOURNMENT

Motion by Najm, seconded by Rathmann, to adjourn the meeting at 7:55 P.M.

Ayes: All

Noes: None

Motion Carried


JACQUELINE A FELSER
TOWN CLERK/PLANNING BOARD
SECRETARY



November 28, 2018

Robert Niederpruem Jr., Chairman
Town of West Seneca Town Clerk's Office
1250 Union Road
West Seneca, New York 14224

Re: Ebenezer Landing Residential Project – 4592 Seneca Street
Site Plan Approval [SPR2017-06] – Town of West Seneca Planning Board
Applicant: Ebenezer Community Landings LLC c/o Sean Hopkins, Esq.
File No. 10035.4

Dear Chairman Niederpruem and Members of the Planning Board:

This letter is being submitted on behalf of Ebenezer Community Landings LLC (“Project Sponsor”) to request that the Planning Board adopt a resolution during its upcoming meeting on December 13th at 7:00 p.m. for the purpose of granting a one year extension of the Site Plan for the above referenced residential project that received Site Plan Approval from the Planning Board during its meeting on January 11, 2018. The Planning Board also issued a negative declaration pursuant to the State Environmental Quality Review Act (“SEQRA”) during its meeting on January 11, 2018. A copy of the relevant portion of the minutes of the meeting of the Planning Board held on January 11th are provided at Exhibit “1”.

Section 102-13 of the Town Code is titled “Application for building permit, expiration and extension of approval” and authorizes allow the Planning Board to grant a one year extension of an approved Site Plan. More specifically, Section 102-13B of the Town Code states as follows:

“Within one year of the date of site approval by the Planning Board, the applicant shall apply for a building permit or the approval of the site plan shall expire. However, the Planning Board may extend the time for application for a building permit if, in its opinion, such action is warranted by the particular circumstances thereof for a period not to exceed one additional year.”

The requested one (1) year extension of the approved Site Plan is warranted given that the Project Sponsor has made a concerted effort since the Planning Board approved the Site Plan on January 11, 2018 to obtain the additional required approvals and permits for the residential project including the pending requested Nationwide Permit needed from the United States Army Corps of Engineers (“USACE”) and the required Erie County utility approvals, which cannot be finalized until the pending requested Nationwide Permit has been issued by the USACE.

A Nationwide Permit Application and supporting documentation was filed by Erik Krull of Wetlands Investigation Co. with the USACE on May 21, 2018 for the proposed minor impact to

Correspondence to Robert Niederpruem Jr., Chairman, Planning Board
November 27, 2018
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the intermittent stream that bisects the Project Site resulting from the roadway crossing. As the Planning Board was previously advised, an effort was made to minimize the amount of disturbance to the intermittent stream based on consultations between Erik Kull of Wetlands Investigation Co. and Christopher Wood, P.E., of Carmina Wood Morris DPC, the project engineering firm.

The Project Sponsor is hopeful that the USACE will approve the pending requested Nationwide Permit in the near future since this is a prerequisite for Christopher Wood, P.E. of Carmina Wood Morris DCP being able to finalize the other pending project approvals and permits including those for sanitary sewer and water.

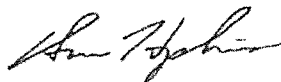
The Project Sponsor also retained Dr. Douglas Perrelli of the UB Department of Anthropology to conduct the necessary Phase 2 evaluation of portion of the Project Site to evaluate potential impacts on possible cultural resources. Based on its review of the additional testing conducted on the relevant portion of the Project Site by the UB Department of as required by the New York State Office of Parks, Recreation and Historic Preservation ("SHPO"), Josalyn Ferguson of SHPO issued a No Impact determination letter on October 16th. A copy of the No Impact determination letter issued by SHPO on October 16th is provided at Exhibit "2".

If there are any questions regarding the requested one (1) year extension of the approved Site Plan or the status of the project, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

Thank you for your continued cooperation.

Sincerely,

HOPKINS SORGI & ROMANOWSKI PLLC



Sean W. Hopkins, Esq.

cc: Donald Mendola, Planning Board
George Clifford, Planning Board
James F. Rathmann, Planning Board
Margaret Bebak, Planning Board
Dale J. McCabe, Planning Board
Brendon Najm, Planning Board
Jacqueline A Felser, Town Clerk
John Fenz, Esq., Town Attorney
Jeffrey Schieber, Code Enforcement Officer [Via e-mail]
David Stapleton, Ebenezer Community Landings LLC [Via e-mail]
Christopher Wood, P.E., Carmina Wood Morris DPC [Via e-mail]
Erik J. Krull, Wetlands Investigation Co. [via e-mail]

Exhibit 1 – Minutes of the
Meeting of the Town of West
Seneca Planning Board held on
January 11, 2018

Exhibit 2 – No Impact
Determination Letter issued by
Joselyn Ferguson of the New York
State Office of Parks, Recreation
and Historic Preservation dated
October 16, 2018



Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

October 16, 2018

Mr. Charles Vandrei
DEC
625 Broadway
Albany, NY 12233

Re: DEC
Ebenezer Woods Development
4592 Seneca Street, West Seneca, Erie County, NY
17PR04633

Dear Mr. Vandrei:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the report prepared by the University at Buffalo Archaeological Survey entitled "Phase 2 Site Examination of the Ebenezer Woods Site (02925.000445, UB 1814), Town of West Seneca, Erie County, New York" (Hartner & Whalen September 2018), in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

Based upon this review, the OPRHP concurs that the Ebenezer Woods Site (02925.000445) is **not** eligible for the State or National Registers of Historic Places. Thus, no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project. This recommendation pertains only to the Project Area examined during the above-referenced investigation. It is not applicable to any other portion of the project property. Should the project design be changed OPRHP recommends further consultation with this office.

If further correspondence is required regarding this project, please refer to the project number (PR) noted above. If you have any questions, I can be reached at 518-268-2218 or via email at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson (B.A., M.A.)
Historic Preservation Specialist/Archaeology

via e-mail only

c.c. David Denk & David Witt, DEC
c.c. David Stapleton, David Homes

c.c. Doug Perrelli, UBuffalo Archaeological Survey
c.c. Sean Hopkins, Hopkins Sorgi & Romanowski

Division for Historic Preservation

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