

2020-08 (continued)

Mr. Miller stated an updated scale showing the markers to the north of the property was submitted to Planning Board members for review. A scale survey has been completed and submitted that includes overhead images depicting the size of the trailers, tenant parking, gravel driveway and tree foliage line. Blacktop estimates to go over the gravel have been obtained along with a drainage plan. If fencing the property is a condition, Mr. Miller or a company will do the installation.

Mr. Clifford questioned if the machinery seen in the photos are the largest or smallest pieces of equipment that will be on site. Mr. Miller replied the equipment in photo no. 1 is the largest piece.

Mr. Clifford referred to photo no. 4 and the trailer parking label on the wood chip area, questioning what kind of trailer was being referred to. Mr. Miller stated he is referring to various equipment trailers and dump trailers. Photo no. 3 is of two 8' x 12' trailers that would be parked along the tree line and out of view; they are not used in the winter. The dump trailers are not covered, and no materials kept inside.

Mr. McCabe questioned if any equipment sales will be held on the property. Mr. Miller stated no sales will be conducted.

Chairman Rathmann noted email comments were received from a neighboring property behind the site and distributed to Planning Board members.

Chairman Rathmann requested clarification on the zoning. Code Enforcement Officer Jeffrey Schieber stated the adjoining property owner to the east suggested the town zoning map may have been wrong. The files for the surrounding properties were inspected; the resident is correct, and the town zoning map was wrong. The property in question is zoned R-60A, the property to east is also R-60A, the next parcel to the east is where commercial zoning begins. The town zoning map was off by one lot.

Chairman Rathmann questioned the parking requirements. Mr. Schieber replied there are two apartments on the property which require four spaces. Provisions must be made for the storage of equipment and is at the discretion of the Planning Board.

Chairman Rathmann questioned how many parking spots the applicant felt were needed for employees. Mr. Miller referred to photo no. 4 and stated this is a double lot and the photo shows two cars along the house and this still allows 30' of entrance way into the lot. Down the driveway is a 10' x 10' grass area for tenants with more parking along the garage. Additional parking could be placed between the house and back garage area with more towards the rear gravel area.

Mr. McCabe questioned the cost of estimates for the drainage plan, for the driveway and parking area. Mr. Miller stated he has received paving estimates not drainage estimates. Pavement estimates were approximately \$20,000.

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Ms. Bebak questioned how far back on the lot was the pavement plan. Mr. Miller replied he would like to plan the entire way to the gravel; approximately 190'. Ms. Bebak requested clarification of the C-2 zoning and placing equipment of pavement. Mr. Schieber stated the town code requires hard surface pavement. Most often construction companies throughout the town choose not to due to the use of their business; in this case it should be done to prevent dust and noise. This would lock in the area on where equipment can be placed. Ms. Bebak questioned the amount of the estimate; would it be twice as much to go to the 300' line. Mr. Miller stated he could do some of the work and if necessary, he would go back to 300'. Photo no. 4 shows lots butting up to the property that are all parking lots. The reason for the wood chips was to absorb the moisture and allowing U-turns without tearing up the grass.

Ms. Bebak stated she drove to the location and noticed plywood stapled to a tree and questioned if this was a fence or a sign to a neighbor and asked what this was. Mr. Miller stated this was lawn art that was not put away. Mr. McCabe requested better clarification of the term lawn art. Mr. Miller stated it was part of solidarity from the past. Mr. McCabe questioned if this was a sign. Mr. Miller replied this was a sign that was never written on.

Mr. Nalewajek suggested instead of paving the full depth of the site, could the five parking spaces be turned, and the paving line be extended with the back fence moved. Mr. Miller stated there is not a back entrance but could be a possibility.

Mr. Frick stated at the previous meeting, zoning the front commercial and the back portion as residential was discussed. Mr. Frick stated it does not make sense to leave a 50' section zoned residential unless the zone line was moved up closer to Clinton Street. Mr. Miller stated the 190' gravel line is not enough space to park the trailers; 250' could be worked with.

Mr. McCabe questioned if this type of proposal were approved would a fence be required between the commercial and the residential that would remain. Mr. Schieber replied he would agree with that, a zoning line in the middle of a property would still require equipment to be shielded and assures the town nothing would be driven beyond the fence. The residential area would have to be maintained following residential codes. Mr. McCabe stated there would be no dumping. Ms. Bebak referred to the pool on the property and stated Mr. Miller would not be allowed to line up his debris.

A Gardenville on the Green resident stated after looking at the new plans, there is no drainage plan and no discussion of the Town's Comprehensive Plan. This change would constitute spot zoning of a commercial property between two residential. This also is an attractive nuisance; construction equipment does not belong in the middle of where children live.

A Gardenville on the Green resident stated the proposed use does not fit the character of the area. Residential units surround the property, and they are families and children. Granting rezoning is a safety concern. The C-2 zoning is not in line with the Town's Comprehensive Plan and the design area. The proposed use rejects the privacy, peace, and safety of the surrounding neighbors. There is an illegal storm drainage connection on the Gardenville on the Green property

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tied into the Clinton Street drainage. The rear of the property was cleared in the spring and the debris is laying on the west side of the property and is creating a haven for rodents.

Ms. Bebak questioned if requiring paving, fencing and clean-up would add to the enjoyment of the resident's property. The resident stated the proposed use is not consistent and believes the trailers will be rented. The surrounding properties are residential.

Chairman Rathmann stated he originally believed it would be an easy process to expand the commercial zoning over to 190' area. Discovering the neighboring property is residential does make this spot zoning. Spot zoning states a judge can overrule decisions based on non-compliance with Comprehensive Plans, the property being surrounded by residential zoning and if the zoning change brings a financial benefit to a community.

Mr. Miller stated many areas backing up to his property are not residential and asked the Planning Board to keep things in perspective. Mr. Miller stated he does not know how much of the back property is owned by the condominiums and is willing to give up part of his property that he pays taxes on to use in a way he never intended. Clinton Street and Union Road is a busy intersection and not a suburban area. Chairman Rathmann stated the traffic is not the issue, this a heritage area and the oldest part of West Seneca. Trailers and construction equipment are not conducive to that area of town.

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

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by McCabe, to recommend denial of a rezoning for property located at 3448 Clinton Street, being part of Lot No. 12, changing its classification from R-60A to C-2, to allow the storage of construction equipment based on the following: 1) recommending could create spot zoning; 2) detrimental to the quality of life to neighboring properties; 3) non-compliance with the Comprehensive Plan; 4) change from R zoning to C-2 zoning is a higher class of commercial zoning - adjoining a residential property on both sides falls into the concern of spot zoning; 5) the proposal set forth by the petitioner and discussed regarding the property being zoned partially commercial and residential does not change the recommendation.

Ayes: All

Noes: None

Motion Carried

SPR2020-08

A request from JSEK West Seneca for a site plan approval for property located at 1343, 1347 & 1353 Union Road and 0 Freemont Avenue for construction of a car wash facility.

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

Ayes: All

Noes: None

Motion Carried

SPR2020-08 (continued)

Sean Hopkins of Hopkins, Sorgi & McCarthy PLLC presented on behalf of the applicant and stated the project involves four parcels located in the Union Road Design Corridor. The property was formerly a dilapidated nurse and Mr. Spino has worked very closely with the neighbors on the clean up process. This is a stand-alone car wash unlike competing business, there is only a subscription-based car wash. The sit plan was approved for the original layout with the following concerns: 1) driveways onto Union Road; 2) awkward circulation to exit; 3) concerns regarding drainage; 4) diagonal parking spaces. After approval, the NYSDOT advised they would not approve two curb cuts onto Union Road. The applicant revised the plan with Chris Wood from Carmina Wood Morris. The revised plan, along with fully engineered plans, stormwater pollution plans, landscaping, and updated screening was shown to the Planning Board in July. The landscaping plan shows various greenery with the emphasis being on the front due to the project being on the Union Road design corridor. The screening wall has been extended, based on Planning Board recommendations. An updated elevation has been submitted based on Planning Board recommendations that show the vacuum placement. Dave Johnson from Clark Patterson and Lee has performed a technical review and issued an approval letter noting the lighting shown on the plan was going off the site. This has been looked at and may be a condition from the Planning Board of 0' candles illumination along the residential property line. The necessary variances were granted from the Zoning Board of Appeals at the October 28, 2020 meeting.

Mr. Clifford questioned if there was a residence along the north side of the car wash. Code Enforcement Officer Jeffrey Schieber stated the property in question is used for commercial purposes and is not a house.

Mr. Hopkins stated the updated plans note the 19' of property being donated to the property owner on the north as well as the updated stormwater management system. The stormwater management system complies with all DEC regulations and standards.

Mr. Nalewajek questioned if the covered exit car wash area has been refined. Mr. Hopkins replied it is covered and is the option the Planning Board preferred.

Mr. Hopkins stated the areas adjacent to residential and noted the area in blue will consist of a brand-new fence with an emergency gate onto Freemont Avenue as requested. Mr. Schieber stated this was a request of the fire department to provide access gates for their operation.

Ms. Bebak stated she liked the concept plan with the architectural detail.

Mr. Nalewajek questioned the lighting. Mr. Wood stated the lighting proposed on top of the columns is decorative.

Chairman Rathmann questioned the sign. Mr. Schieber stated the Code Enforcement Office will coordinate this with the applicant.

Mr. Clifford requested a rendering of the concept to be kept on file with the Code Enforcement Office.

SPR2020-08 (continued)

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

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by Sailer, to grant site plan approval for property located at 1343, 1347 & 1353 Union Road and 0 Freemont Avenue for construction of a car wash facility with the following condition: 1) the lighting levels be lowered as shown on the lighting plan along the yellow line to 0' candles.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS COMMUNICATIONS

2020-09

A request from Young Development, Inc. for a rezoning and special permit for property located at 945 Center Road, being part of Lot No. 204, changing its classification from R-65A and R-75 to R-60A(S), to allow construction of three (3) single-story buildings consisting of fifteen (15) single-story units with attached garages along with all related site improvements.

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

Ayes: All

Noes: None

Motion Carried

Sean Hopkins of Hopkins, Sorgi & McCarthy PLLC presented on behalf of the applicant and stated this project was presented in March and the project consisted of 3, 2-story buildings with 10-units in each for a total of 30-units. In October an informational meeting was held with interested property owners and the plan presented reflects the plan presented to residents which includes 26-units; 2, 2-story, 10-unit buildings along Center Road and a 6-unit single story building along the back for a total of 26-units. As a result of meeting with neighbors, the plan reflects some modifications including one building with 6-units, single story attached garages, and 2, 5-unit buildings for a total of 16-units. The single-story building along the rear of the property has increased the required setback from 30' to 130'. Residents also requested an updated landscaping plan; included is a 6' fence along the rear of 945 and 965 Center Road. Additional landscaping has been added to 945 and 965 Center Road, with 122 new trees being added. An internal walking area and a small dog park have been included. Parking includes 48 parking spaces for 16 units, 14 spaces more than the code requires.

Mr. Hopkins stated the applicant is requesting a favorable recommendation to the Town Board. The Town Board would then hold a public hearing, issue a SEQR determination and decision on the rezoning and special use permit. If this is granted the project would go back to the Planning Board with fully engineered plans and engineers report for site plan approval.

2020-09 (continued)

Mr. Clifford questioned if it was possible to put a 4' cement walkway throughout the buildings to create a walkable community going to the dog park. Concrete would also provide more safety. Mr. Wood from Carmina Wood Morris stated the idea was to have a more natural look and this was an amenity to the residents but would investigate this during site plan approval.

Mr. McCabe questioned if the board were to make a recommendation for approval would the applicant be agreeable to the condition of single-story units and no more than 16-units. Mr. Young replied that would be agreeable. Town Attorney Tina Hawthorne stated this is allowable.

Ms. Bebak questioned if this was a concept plan and purely just a recommendation to the Town Board on the zoning. Mr. Hopkins replied you can recommend the rezoning and the project can be changed.

Chairman Rathmann stated he has concerns of the last building. Subdivision guidelines state a cul-de-sac should be no more than 500' – 600' in length. Although this is not a subdivision, this project to the end is 820' with the additional building it is over 1,000'. Chairman Rathmann suggested an alternate access into the site for emergency vehicles. Mr. Hopkins stated the NYS Fire Code is very specific in terms of emergency access and the required turn-around has been provided as well as extra hydrants. This will all comply and be worked out with site plan. Code Enforcement Officer Jeffrey Schieber suggested meeting with the Fire Chief of the District for input.

A Sherwood Court resident stated although he appreciates the willingness to downsize and add amenities to the project, the area has been known to have issues. Though they will not add to the problems they will not be fixing the problem; there will be continued flooding and sewage problems. Another development and extra traffic into this area is not a good idea. If this does go forward a limit should be put on the number of apartments. Most residents are not in favor of this project, it is not necessary.

A Center Road resident stated there is an issue with the flooding and the sewers and the backup. This project will be a burden and add to the problem. Mr. Young has not been a good neighbor with the trees, and this should be considered when changing the designation of the site.

A Center Road resident stated his concern with the water problem in the area. The sewer systems are not working, and something must be done. The county needs to fix the issue. The development is beautiful, but this is bigger than the development.

Mr. Hopkins acknowledged there is an existing issue with Erie County. The pipe along the frontage has a 36" storm sewer that take a 90-degree bend into a 12" storm sewer. In connection with the project the plans are reviewed by Erie County and they will relay the concerns. However, this project will not make the matter worse. The project will be required to implement a stormwater management system that is designed to handle a 100-year storm event on the site. Two stormwater ponds have been added with one specifically placed along Center Road to exceed requirements. Tonight's recommendation is relative to land use, the special use and zoning.

2020-09 (continued)

Chairman Rathmann stated the project was denied last year as it did not comply with the Comprehensive Plan. The special use permit was allowed as the VFW Post was zoned to allow this. The project is at the limit line of the Town Center and Union Road Corridor and believes this would be spot zoning.

Chairman Rathmann questioned the tree settlement. Town Attorney Tina Hawthorne stated 105 trees are to be replanted: 35 in designated locations and 70 onsite. Mr. Young is planting an additional 50 trees.

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

Ayes: All

Noes: None

Motion Carried

Motion by McCabe, seconded by Bebak, to recommend approval for a rezoning and special permit for property located at 945 Center Road, being part of Lot No. 204, changing its classification from R-65A and R-75 to R-60A(S), to allow construction of three (3) single-story buildings consisting of fifteen (15) single-story units with attached garages along with all related site improvements with the following stipulations: 1) single story units only; 2) maximum density of 16-units.

Motion by Frick seconded by McCabe to amend the motion to include the following stipulation: 3) the only permitted use within the requested zoning district be multi-family.

Ayes: McCabe

Bebak

Frick

Sailer

Nalewajek

Noes: Clifford

Rathmann

Motion Carried

ADJOURNMENT

Motion by Bebak, seconded by Frick to adjourn the meeting at 8:33 P.M.

Ayes: All

Noes: None

Motion Carried

**AMY M KOBLER
Town Clerk**