

Chairperson Bebak stated the presentation tonight is just to show the concept plan and is the first of many steps.

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

Ayes: All

Noes: None

Motion Carried

Anthony Pandolfi, of Carmina Wood Design presented the following:

- The concept is for a twenty-three (23) lot, single-family home subdivision located at 1633 Center Road.
- The parcel is properly zoned R-75 and is approximately 9 acres.
- The plan calls for 875' of new public roadway in the form of a cul-de-sac.
- Stormwater management is shown toward the front by Center Road.
- A wetland walkover was done on site and the report has not been received; initial reports indicate any wetlands would be classified as isolated.
- A traffic study has not yet been performed; initial calculations indicate about fifteen cars during peak hours.

Mr. McCabe questioned the approximate dimensions of the lots front and depth. Mr. Pandolfi stated the proposed lots would be 75' x 150' deep; the lots around the cul-de-sac are a little different.

Mr. Sailer questioned if the stormwater management area would be open or closed. Mr. Pandolfi stated there will be a dry detention basin near Center Road that will connect to the storm system.

Maureen Burberry, 24 Ganna Court, had the following questions/comments:

- Referred to the retention plan and noted if there is a large rain or snow melt, water will come out of the bubblers on Ganna Court. The storm sewers already have too much water going through them.
- Between lots 1 – 12 and rear of Ganna Court, there is an easement for a storm sewer. Can an easement be done on the other side to leave a buffer or tree line for the residents.
- The preliminary plan shows a minimum of 1,100-sf; was told the homes would be a minimum of 1,700-sf – 2,700-sf.

A resident (inaudible) of Ganna Court questioned the size of the homes.

Mark Lichtenberger, 32 Ganna Court had the following questions/comments:

- What sewer district will the development tie into; sewer district 13 is at full capacity.
- Will there be a homeowner's association?

Mr. Pandolfi stated the following:

- Fully engineered stormwater plans are required to be submitted to the Town Engineer.
- Rear yard drainage is required by the town; drainage will be along the property, so stormwater does not flow onto neighboring properties.
- An effort is made in the design to preserve as many existing trees as possible; however adequate rear yard drainage is required along the back of the property. Some trees may be removed.

- A downstream sewer capacity analysis is required to monitor the existing sewer along with ensuring the sanitary sewer can handle the project; this would be approved by the Town Engineer.
- The town will establish an I & I mitigation amount to help contribute to the sewer improvements.
- It is not expected that there will be a homeowner's association.
- The homes will not be below what the town code mandates for size.

Code Enforcement Officer Jeffrey Schieber stated the project is in sewer district 13. All engineering reports and sewer studies will be reviewed by the town. This will be a public road with town services. The town code states in an R-75 zoning district, the minimum a residence can be is 1,100-sf of living space. Tree surveys will be performed and will be seen farther down the road.

Mr. Schieber stated this is step one of many meetings. Property owners were notified who were within 300' of the property line. Tonight, is for a concept plan approval, i.e., lot size, roadway. If the applicant wishes to move forward, they would be required to provide engineering documents, tree surveys, sanitary sewer studies for a more in-depth review by the Planning Board. Chairperson Bebak stated residents' specific concerns would be addressed at site plan approval.

Ms. Burberry noted the town code states a new dead-end street should not be any longer than 500'. Mr. Schieber stated he agreed, these are preliminary plans. The fire department will have time to review the plans along with the Planning Board. Variances may also be filed.

Ms. Burberry questioned if residents will be notified of additional meetings. Mr. Schieber stated the town notifies residents as a courtesy; this is not a requirement. Variances are required to have neighbor signatures.

Ms. Burberry questioned who the builder was going to be. Mr. Young stated he was not certain; there is no completed deal. Ms. Burberry stated the Town Supervisor told her the builder was Marrano Homes.

A resident questioned what determines where the water detention pond is located and questioned where the deer will go. Chairperson Bebak stated the resident may talk to the engineer regarding requests.

Mr. Lichtenberger expressed concerns with getting emergency vehicles down the street.

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

Ayes: All

Noes: None

Motion Carried

Mr. Schieber stated there is no official approval required. Concept plans have been sent to the fire department and Mr. Schieber will secure a formal letter.

Mr. McCabe stated if any type of variance is required this would go to the Zoning Board of Appeals. A variance is a change or modification to the ordinance to allow what the plan is. The process would include neighbor signature. Mr. Schieber concurred, and notice would not be sent to adjacent property owner. This would be the responsibility of the applicant to go door to door.

SPR2022-013

A request from The Broadway Group, LLC for site plan approval for property located at 3030 and 3036 Seneca Street for redevelopment as a 10,640-sf, single tenant, free standing retail store with all related site improvements.

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

Ayes: All

Noes: None

Motion Carried

Tara Bennet presented the following on behalf of the Broadway Group, LLC:

- The proposal is to combine the two lots known as 3030 and 3036 Seneca Street to one lot that is just over an acre in size.
- On the single parcel would be the retail store, onsite parking, connection to utilities, landscaping, and stormwater management.
- Sketches have been provided to the Planning Board along with an alternate layout.
- The parcel is surrounded by mostly commercial properties.
- The proposal is to face the building on a corner entrance; the entrance is the corner of the building.
- The parking is on two sides of the building
- The building will improve the look of the lot; the building takes into consideration the design features as requested in the last development.
- The side facing Center Road will have a similar appearance with architectural upgrades, i.e., stepped roof line, shutter, and awnings.
- Landscaping includes trees along Seneca Street and along the rear of the building; foundational landscaping would be placed along the front of the building and landscaping on parking lot islands.
- The applicant will be before the Zoning Board of Appeals to discuss the parking stall requirements. This is an odd, shaped lot and the town code requires more spaces than necessary. A variance is needed for the setback from the paved parking area to the property line. The setback to Center Road is 9' from the property line to the building and would require a variance.

Mr. Sherman questioned why the building is situated on the parcel with the back along Center Road as opposed to a quarter turn which would increase parking spots. Ms. Bennet stated the alternate plan allowed for one more parking spot. The tradeoff is more pavement area to soften the appearance with the islands. The building is pushed back to the eastern property line approximately 10'. The property that is on the southern side is a residentially zoned property and would require a 30' setback. This layout has the least impact on a residential property and allows for landscaping requirements that the Town of West Seneca likes incorporated. Mr. Sherman stated the alternate plan seemed more aesthetically pleasing.

Mr. Frick questioned the truck access with the two layouts. Ms. Bennet stated the initial layout the truck enters from Seneca Street and exits at an alternate egress point; the alternate plan requires the truck to pull in and then back in.

Mr. Sherman questioned if deliveries are during normal business hours. Ms. Bennet stated deliveries are during normal business hours when a manager is present.

Mr. Hayes questioned if either plan allows access via Center Road. Ms. Bennet stated ECDOT was not favorable to an entrance on Center Road.

Chairperson Bebak questioned if curbing will be added. Ms. Bennet stated the area inside the lot lines will have sod.

Mr. Hayes questioned how many Dollar Generals are in West Seneca and the locations. Ms. Bennet stated the newest is at the other end of Seneca Street.

Mr. McCabe questioned if there were drawings of the rear of the building. Ms. Bennet stated there were none yet, but the building would have brick at the bottom and hardy plank. The property line would have a fence and evergreen trees.

Mr. McCabe stated based on the drawing the minimum rear setback is 10'; this would require a variance of 1'. Code Enforcement Officer Jeffrey Schieber referred to the first plan; the Center Road side is considered a front yard and requires a 40' building setback. The variances are for parking quantity, building setback along Center Road, and 10' of grass along several locations. If the building were rotated, it would be closer to a residential property and would require an additional variance.

Mr. Frick stated the alternate plan places a dumpster next to a residence and he preferred the first plan. Chairperson Bebak stated she also preferred the first plan.

Judy Ball, 21 Muriel Drive, stated there are five Dollar Generals in town and provided the locations.

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

Ayes: All

Noes: None

Motion Carried

Ms. Bennet requested direction on which plan was preferred. Chairperson Bebak stated she favored the original plan. Mr. Frick and Mr. Sailer concurred.

Mr. Lorigo stated the first plan allows substantially more landscaping and the Center Road side will also have the architectural elements.

Mr. McCabe stated the original allows two points of access through Seneca Street along with better tractor trailer access.

Mr. Sherman questioned snow removal and storage. Ms. Bennet stated in the event there is not enough space on site snow would be relocated.

Mr. Sherman stated the original plan makes more sense and thanked Ms. Bennet for the clarification. Mr. Hayes concurred.

SPR2022-014

A request from Barclay Damon, LLP on behalf of Levy Grid, LLC for site plan approval for property located at 799 Indian Church Road for construction of a standalone battery storage facility with all related site improvements.

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

Ayes: All

Noes: None

Motion Carried

Ari Goldberg from Barclay Damon LLP presented the following on behalf of Levy Grid, LLC:

- In October 2020 the Planning Board issued a negative SEQR declaration and site plan approval for the project.
- A year later, the Planning Board granted an extension of the approval.
- Tonight, instead of seeking an extension, the applicant is requesting a full set of approvals; the town code only allows for a one, yearlong extension.

- The project has not changed; this is a 150-megawatt battery energy storage facility, 56-rows of batteries, landscaping, drainage improvements, and a substation will be added to the site.
- The permit has not been applied for due to ongoing talks with the adjacent utility on where to connect with their substation to get electricity to fill the batteries. The ECDPW has been added to the discussions.
- Tonight's request is for reaffirmation of the prior negative SEQR declaration; no environmental impacts have changed. The Town Engineer has stated there are no significant changes to the site plan; the ask is also for site plan approval.

Mr. Sherman questioned the composition of the batteries. Mr. Goldberg stated the batteries are lithium-ion phosphate.

Mr. Sherman stated he researched the batteries and noted there are temperature fluctuations in WNY and questioned how this would adversely affect the longevity and safety of the batteries. Justin Adams from Levy Grid, LLC stated there are racks of batteries in a container that are temperature controlled and continuously monitored for fluctuations in temperature. Auxiliary power is pulled from the grid to perform this function. The batteries are monitored 24/7 and if there is a condition noticed beyond the normal operating conditions, there is the ability to isolate the malfunction and shut down the battery from exporting power. There is an extensive amount of testing and certification that prevents the batteries from propagating. What is critical in the design is spacing and isolation to keep an event to one container.

Mr. Sherman questioned if the storage has an automatic extinguishing system in the building. Mr. Adams stated there is an initial aerosol system to suppress a thermal event. If the initial suppression was overcome, fire service would be needed.

Mr. Sherman questioned the location of the person monitoring. Mr. Adams stated this would be off site, possibly as far away as California.

Mr. Sherman questioned if there was a potential for cybercrime. Mr. Adams stated this is always a concern as with any utility and is addressed. There is a battery management system within the battery for protection.

Chairperson Bebak noted the area is fenced for extra security around the perimeter. Mr. Goldberg noted the fencing has been discussed as well as barbed wire. Previously it was discussed to include a gate with a Knox Box for fire department access.

Code Enforcement Officer Jeffrey Schieber stated the project was originally presented in 2020 and deferred to all other agencies including wetland coordination, fire department, ECDPW, and archaeological studies. The parcel currently is used for heavy equipment storage. Much of the area has been disturbed. A negative SEQR declaration was granted, and the project found favorable through site plan review.

Town Attorney Chris Trapp stated he was concerned if there was a SEQR or an environmental change. It is his opinion based on tonight's presentation, there have not been any changes. Mr. Trapp requested to speak with the applicant's council.

Chairperson Bebak noted correspondence was received from a resident questioning the proper jurisdiction and filing of paperwork. Mr. McCabe stated the correspondence states, by letter dated September 23, 2020, revised plans were submitted to the Planning Board and again by letter dated October 1, 2020, revised plans were submitted to the Planning Board. The resident further indicates he checked with the Erie County Department of Environmental Planning and was unable to locate the plans. It is Mr. McCabe's understanding when the

revised plans come in, they are sent to the various agencies who are initially notified so they are aware of the plans. Mr. Schieber stated in some instances, this is correct. The changes that were made were relative to the Town Engineer. Revised drawings are not submitted to all the agencies unless there was specific issue that the agency requested a correction on. Previously the Erie County Sewer Department had no issues. The NYSDEC had feedback as far as wetlands and those issues were sorted out. The revised plans were specifically relative to SWPPP as indicated by the Town Engineer.

Chairperson Bebak stated it was her understanding that revisions or issues were not the determination of the significance pursuant to the SEQR review. Mr. Schieber stated the Town Engineer would not have approved if there were issues with the wetlands.

Mr. Frick noted a minor revision was snow storage on the site.

Mr. McCabe stated the letter indicates that significant changes to the plans and stormwater prevention pollution were made after the referral and questioned if this was an issue the Town Engineer would have dealt with. Mr. Schieber stated this is correct and is unfamiliar with the exact details of the change.

Mr. Frick stated a SWPPP is generally a construction issue relative to protecting the environment during construction; not a long-term issue to be used in SEQR determination.

Mr. Schieber noted a letter from October 21st from the applicants engineer that stated the two changes were the added SWPPP and updated the sequence of construction notes with an additional note, relative to site construction process.

Chairperson Bebak stated this was not significant to the Planning Boards SEQR determination. Mr. Frick stated the determination is based on the permanent alteration the project would make.

Mr. McCabe stated the submission of the stormwater pollution plan would have been a positive improvement to the original plan. Mr. Schieber stated he would defer to the engineers but typically this is required to ensure erosion control, sediment spill over. Mr. Sailer stated this is correct.

Council returned to the meeting room.

Mr. Goldberg stated he would like to proceed tonight with the Planning Board providing guidance on the concept plan. Afterwards, they would like to return in December to discuss the SEQR aspect and make the required Erie County Department of Planning referral. Mr. Goldberg is requesting a three-meeting process: 1) concept plan; 2) SEQR; 3) site plan.

Mr. Frick stated the concept is still good.

Dan Warren, 836 Indian Church Road was present with his spouse and noted his mother and brother reside next door to him. Since the prior SEQR determination the entire SEQR law changed as of January 1, 2022, with the passage of the Environmental Rights Amendment which imposes the obligation of Planning Board to take a deeper look into the environmental issues. The 2020 proceedings were at the height of the pandemic with very little public participation. Mr. Warren spoke about the following concerns:

- Construction impacts
 - ✓ Waste management impacts during construction
 - ✓ Loss of vegetation and habitat due to construction

- ✓ Loss of Species of Special Concern during construction
- ✓ Spread of invasive alien species
- ✓ Wetland degradation due to decreased water quality during construction
- ✓ Increased sedimentation of wetlands and watercourses during construction
- Operational impacts
 - ✓ Safety impacts due to the risk of explosion/fire during operation
 - ✓ Loss of vegetation due to fire
 - ✓ Wetland degradation due to fire
 - ✓ Surface and groundwater contamination
- Decommissioning impacts
- Cumulative impacts

The town has not been proactive in updating codes; NYSEDA has a model code for this type of facility. The Planning Board may impose conditions the developer must meet. Mr. Warren encouraged the Planning Board to impose conditions to protect the residents in nearby properties. Mr. Warren submitted two documents for the Planning Boards review: 1) Battery Energy Storage System Model Law; 2) Siting and Safety Best Practices for Battery Energy Storage Systems. The West Seneca Town Code is outdated for new technologies. This project calls for the Planning Board to impose conditions to protect the community. A 115-megawatt battery energy storage system is a first in the county and Mr. Warren is not aware of any environmental studies. All future development will look at what this Planning Board does.

Susan Kims, Covington Drive, spoke as a resident and stated a full environmental impact statement needs to be completed on this project and believed the item should be tabled.

Mr. McCabe questioned if Mrs. Kims had any concerns with what she has heard regarding the project that should be addressed. Mrs. Kims stated not with the project but with the use of lithium batteries. Mrs. Kims stated her son works with this type of batteries for a company that has had problems with them.

Chairperson Bebak stated previously discussed was the decommissioning of the battery and requested a follow up. Mr. Adams stated the battery degrades over time; the battery is monitored for performance. There are racks of batteries in each container, one battery is pulled out and sent to an out of town, off site, licensed facility for refurbishment or recycling. The site plan shows a day one install and augmentation which is the addition of batteries over time. There is no storage facility on site for decommissioned batteries, they are off site and regulated.

Mr. Goldberg noted the Planning Board cannot legally base decisions on generalized community opposition. Generalized community opposition is defined by NYS courts as testimony in opposition to projects without any direct knowledge of the project and what is going on. Certain comments do fall into that category and the Planning Board should feel it is within their duty to sift through the comments and decide which is generalized community opposition and which is a public comment that helps the discourse and makes for a better project. This project appeared before the Planning Board in October 2020, and this was an in person public meeting attended by Mrs. Kims who did have questions that Mr. Warren echoed today. Mr. Goldberg is unaware of any changes to SEQR since amendments made directly to Environmental Conservation Law, Article 8, in 2019. The Planning Boards SEQR determination is governed by the "hard look" standard, the Planning Board did this in 2020 and Mr. Goldberg welcomes this again.

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

WEST SENECA PLANNING BOARD
Minutes #2022-010
November 10, 2022

Mr. Goldberg stated regarding wetlands, there was a 2012 map amendment by the DEC expanding wetland B13 and this was identified before coming to the Planning Board in 2020. The DEC stated because this site has been impacted for over 50-years the boundary of B13 is not on this site. The online mapping software is not updated with the actual ground conditions. There is a wetland in the southern boundary of the property, but this is not the conditions on the ground. The DEC was contacted the first time during SEQR and Mr. Goldberg welcomes additional feedback from them if necessary.

Regarding the loss of vegetation, the entire site is currently impacted and used as a contractor storage yard. This project would add vegetation to the site and would be an improvement. Stormwater would be added and an old drainage pipe along the west would be replaced. A more thorough look regarding SEQR regulations will be investigated and will supplement SEQR submissions accordingly. Nothing has changed on the site plan except the engineer stamp and Mr. Goldberg requested a copy of Mr. Warrens letter.

Mr. Schieber stated the company has agreed to meet with first responders to train accordingly.

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

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Bebak, seconded by Frick, to adjourn the meeting at 8:30 P.M.

Ayes: All

Noes: None

Motion Carried

AMY M. KOBLER
TOWN CLERK/PLANNING BOARD SECRETARY