

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

**WEST SENECA PLANNING BOARD**  
Minutes #2020-03  
March 12, 2020

Chairman Rathmann called the meeting to order at 7:00 P.M. followed by the Pledge of Allegiance.

**ROLL CALL:** Present - James Rathmann, Chairman  
Margaret Bebak  
James Frick  
Dale J McCabe  
Eric Sailer  
George Clifford  
Jeffrey Schieber, Code Enforcement Officer  
Tina Hawthorne, Town Attorney

Absent - Raymond Nalewajek

Chairman Rathmann read the Fire Prevention Code instructing the public where to exit in case of a fire or other emergency.

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### **APPROVAL OF PROOFS OF PUBLICATION**

Motion by Clifford, seconded by Bebak, to receive and file the proofs of publication and posting of legal notice.

Ayes: All

Noes: None

Motion Carried

### **APPROVAL OF MINUTES**

Motion by McCabe, seconded by Clifford, to approve Minutes #2020-02 of February 13, 2020.

Ayes: All

Noes: None

Motion Carried

### **OLD BUSINESS**

#### **SPR2019-07**

A request from Young Development Inc. for a rezoning & special permit for property located at 945 Center Road, being part of Lot No. 204, changing its classification from R-65A & R-75 to R-60A(S), for construction of 32 attached residential units for lease with attached garages.

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

Ayes: All

Noes: None

Motion Carried

**SPR2019-07** (continued)

Sean Hopkins of Hopkins, Sorgi & McCarthy PLLC and Pat Sheedy, project engineer from Carmina Wood Morris were present to represent the applicant. Mr. Hopkins gave a brief update on the project stating the project originally consisted of 32 units and has been modified to have 3 buildings with 10-units; a total of 30 upscale units with attached garages. A tree survey was submitted along with a wetland donation. The site is approximately 3.83 acres and is split zoned R-65A and R-75. The petitioner is requesting the site to be reclassified R-60A(S). Mr. Hopkins stated that if you look at the R-60A district in the zoning code it does state multi-family dwellings are permitted, subject to the issuance of a special use permit by the Town Board. Mr. Hopkins noted this approval process is a recommendation to the Town Board; if the Town Board does approve the request the applicant will return to the Planning Board with fully engineered plans, engineers report, etc.

An additional change is the original rear yard setback from the adjoining residential neighborhood was at 30' which is the permitted setback per the zoning classification; the setback has now been changed to 53.95' nearly doubling the setback requirement of the zoning code.

The landscaping has been updated with 117 trees of various types including a staggered row of Norway Spruce along the back of 945 and 965 Center Road; the trees will be 6' – 7' tall at the time of planting. Clump Blazed Maples will be installed near the patios along the rear portion of the site; the trees will be 8' – 10' at the time of planting. The applicant is trying to provide some extensive screening in a much larger than required setback at the rear of the property in recognition of the single family homes.

The services of Dr. Douglas Perelli of the UB Department of Anthropology have been retained to prepare a cultural resource survey. Joslynn Ferguson of the NYS Office of Parks, Recreation and Historic Preservation issued a letter confirming the project will not have any adverse impacts on protective cultural or historical resources. A copy of the current landscaping plan has been provided with the extensive modifications. Earth Dimensions conducted a wetland evaluation of the site which revealed the presence of a Federal Wetland with the size of 0.45 acres. The delimitation was submitted to the US Army Corps of Engineers who has jurisdiction of Federal Wetlands; on January 30<sup>th</sup> a wetland permit application was filed. The proposal impacts 1/10<sup>th</sup> of 1 acre of the wetlands on the site. The remaining 0.35 acres of Federal Wetlands will be preserved. A wetland impact of 1/10<sup>th</sup> of an acre requires a nationwide permit from the US Army Corps of Engineers and does not require a consideration of mitigation.

**SPR2019-07** (continued)

In connection with a special use permit for multi-family dwellings the zoning code contains four criteria that the Town Board based on Planning Board recommendation needs to consider:

- 1.) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site in respect to streets giving access thereto shall be such that such use will be in harmony with the orderly development of the district in which it is located. Mr. Hopkins indicated the design is in recognition of the fact single families homes are behind the project and includes a greater than required rear yard setback with staggered row of Norway Spruce to meet the first criteria.
- 2.) Screening or other protective measures shall be adequate to protect any adjacent properties in any R district from objectionable aspects of any such special use. The second criteria is met with the landscape plan.
- 3.) Off-street parking areas shall be of adequate size for the particular use and access drives shall be laid out so as to achieve maximum safety. Mr. Hopkins noted 30-units require 60 parking spaces per the zoning code and the petitioner is showing 75 parking spaces on site; 15 more than required by code to accommodate visitors etc.
- 4.) The Town Board may prescribe any conditions that it deems to be necessary or desirable and shall require a site plan of the proposed development showing pertinent information to aid it in making a determination on the application. Mr. Hopkins requested the Planning Board make a recommendation to the Town Board in support of the requested special use permit and reclassification of the land to R-60A.

Chairman Rathmann stated the wetland delitiation shows three areas of wetland. Mr. Hopkins responded Earth Dimensions on a preliminary basis thought there should be consideration of 3-wetland areas but the US Army Corps of Engineers only confirmed the existence of 1-wetland on the site of 0.45 acres.

Chairman Rathmann stated he would consider this spot zoning since the surrounding neighborhood is zoned R-75. Mr. Hopkins noted this is Phase 2 of the adjacent project; spot zoning is generally thought of as a zoning classification that is not consistent with the surrounding area.

Mr. McCabe noted the prior project which was proposed and is under construction had 2 6-unit buildings along with 4 4-unit buildings and requested an estimate of the square footage of the building along with the square footage of the proposed 2-story buildings. Mr. Sheedy responded the proposed 10-unit buildings are smaller footprint wise; the 2-story square footage would be more.

**SPR2019-07** (continued)

Mr. Frick stated there are 10-units in a smaller footprint compared to 6-units. The new units are smaller than the current 6-unit development. Mr. Hopkins replied they are not necessarily smaller as they are 2-stories; on the 6-units everything is on one floor.

Jerry Miller of 12 Sherwood Court stated he is representing a coalition of neighbors and previously submitted a petition against the project because of many concerns including additional traffic, increased sewage and storm water along with destruction of the clear cutting on a property that Mr. Young does not yet own. Adding additional strain on the infrastructure and additional traffic is unfair to the residents. The neighbors are against adding more apartments in this primarily residential area.

Pat Brady of 930 Center Road showed pictures of the flooding that occurs along Center Road directly across from the Phase 1 development. During Phase 1, discussion was held in regards to controlling the water on the property but did not address the amount of water that used to collect on the front of the VFW property which no longer happens. If allowed to proceed the area will be forced to absorb more water. The community does not need more apartments; it needs more homes to be built. The community is single family homes and should stay residential.

Jeff Osinski from 20 Sherwood Court stated Phase 2 of the development began on a Saturday morning when Young Development illegally clear cut the 4 acre site; for the next three weeks residents were bombarded by the heavy equipment and grinding of tree stumps. A stop work order was issued after the site had been graded and seeded by Young Development. This was an illegal operation by the developer. The town has a development plan with the input of town officials and residents; the town hired a consultant to participate. A few points of the consultant were the strong small town feel with the weakness being no town center; the town center was envisioned to be developed along this area. Another weakness was disappearing green space; more was lost with an illegal act by the developer. An additional 100 cars will be put into a residential area with congestion issues getting to the thruway. Additional sewage and flooding issues will be a burden to residents.

Donna Marinaccio of 34 Sherwood Court stated her sump pump runs constantly with the Phase 1 development and is against the project.

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

Ayes: All

Noes: None

Motion Carried

**SPR2019-07** (continued)

Motion by Bebak, seconded by Sailer, to not recommend the request from Young Development Inc. for a rezoning & special permit for property located at 945 Center Road, being part of Lot No. 204, changing its classification from R-65A & R-75 to R-60A(S), for construction of 32 attached residential units for lease with attached garages due to the neighborhood being predominately single family residential, the property is not properly zoned, although the lot next door was properly zoned which allowed the special permit; Phase 1 of the project had 6 buildings with 28-units yet this proposal has 3 buildings with 30-units making it compact and not in conformity with the single family homes in the neighborhood; the project is not in compliance with the Comprehensive Plan

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Bebak, seconded by Sailer, to adjourn the meeting at 7:34 P.M.

Ayes: All

Noes: None

Motion Carried

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**AMY M. KOBLER  
TOWN CLERK/PLANNING BOARD  
SECRETARY**