



August 31, 2016

Sheila M. Meegan, Supervisor
Town of West Seneca Town Board
1250 Union Road, Room 210
West Seneca, New York 14224

Re: Application for Special Use Permit
Proposed Residential Project – 4592 Seneca Street
Applicant/Project Sponsor: Ebenezer Community Landings LLC
File No. 10035.4

Dear Supervisor Meegan and Councilmembers Hanley and Hart:

Our firm represents Ebenezer Community Landings LLC (“Project Sponsor”) in connection with its proposed residential project at 4592 Seneca Street (“Project Site”).

The proposed residential project requires a Special Use Permit from the Town Board. I spoke to Jackie Felser of the Town Clerk’s Office yesterday and she advised me that the required public hearing on the pending requested Special Use Permit will be held on September 19th at 7:00 p.m.

Over the past 6 months the Project Sponsor and I have met repeatedly with the Planning Board, the Zoning Board of Appeals, and with the neighboring residents. I am pleased to report that those meetings have been very productive and have resulted in the nearly unanimous recommendation of the Planning Board, the unanimous approval of required area variances by the Zoning Board of Appeals, and modifications to the project layout based directly on input from nearby property owners.

I. Project Description and Pending Requested Special Use Permit:

The proposed residential project consists of 31 detached patio homes on the 7.94 acres north of the ditch that the bisects Project Site and fourteen two-family homes on the 3.62 acres south of the ditch [total of 59 residential units].

A full size copy of the current Site Plan for the proposed residential project prepared by Carmina Wood Morris DPC is attached and a reduced size copy of the current Site Plan is also attached as Exhibit “A”. It also important to mention that a residential project for the Project Site was previously approved by the Town’s municipal boards that had building footprints that were 24% larger than currently proposed and also 67% more total building square footage.

The proposed detached patio homes require a special use permit for a subdivision for the construction of multiple single-family patio homes on a private road with an appurtenant association to be approved by the NYS Attorney General Office and the two-family homes require a special use permit for multifamily and dwelling groups per Section 120-16A(2) of the Zoning Code.

II. Planning Board Review and Favorable Recommendation on Special Use Permit:

The Planning Board reviewed the residential project in during its meetings on April 14th, May 12th and June 9th and numerous modifications were made to the project layout based on the input received from the Planning Board as well as input received from interested nearby property owners including input received during an informational meeting held at the West Seneca Library branch on May 7th.

The modifications to the project layout based on the input received from the Planning Board and interested nearby property owners included the following:

- The project density was reduced from 67 units to 59 units;
- The setbacks of the residential units were modified so that no units will be located closer than 30 ft. to an existing contiguous existing residential use
- Location of storm water management facilities has been relocated to the eastern side of the private roadway;
- The setback of the units on the northern portion of the Project Site was increased from a minimum of 30 ft. to a minimum of 190 ft.; and
- A 100 ft. area of Permanent Open Space was added on the northernmost portion of the Project Site and the Permanent Open Space will be subject to a Declaration of Restrictions to be recorded at the Erie County Clerk's Office to ensure it is protected on a permanent basis.

The Planning Board issued a favorable recommendation on the requested special use permit by a six to one vote during its meeting on June 9th subject to two conditions. The first condition was that the Project Sponsor obtain the required area variances from the Zoning Board of Appeals ("ZBA") and the second condition was that a 100 ft. permanent buffer remain on the northernmost portion of the Project Site. An excerpt of the relevant portion of the minutes of the meeting of the Planning Board held on June 9th is attached as Exhibit "B".

III. Review by the Zoning Board of Appeals and Granting of Required Area Variances:

The ZBA held public hearings on the required area variances for the residential project during its meetings on June 22nd and July 27th and during its meeting on August 24th, the ZBA voted unanimously to grant the required area variances for the residential project, thereby satisfying the first condition recommended by the Planning Board in connection with its issuance of a positive

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recommendation on the pending request for a special use permit for the residential project during its meeting on June 9th. A copy of the ZBA Decision Letter dated August 25th confirming the requested area variances were granted subject to four (4) conditions is provided at Exhibit "C".

Based on input received from the ZBA during the two public hearings, the Site Plan was modified as follows:

- Landscaping was added in the vicinity of the storm water detention basin to be located behind the two-family homes labelled as Buildings No. 2 to 7 on the Site Plan;
- Landscaping was added within the northernmost portion of the 100 ft. of Permanent Open Space; and
- The attached garages for the two family homes were moved back from the proposed location parallel with the front side of the homes in order increase the length of the driveways for the two-family homes.

IV. Proposed Conditions:

Based on the discussion during the meetings of the Planning Board held on April 14th, May 12th and June 9th and the meetings of the ZBA held on June 22nd, July 27th, and August 24th, the following are four (4) conditions for the consideration of the Town Board in connection with the pending request for a special use permit for the residential project¹:

1. The northernmost 100 feet of the Project Site shall consist of permanently protected open space and shall be subject to a Declaration of Restrictions to be recorded at the Erie County Clerk's Office to ensure the permanent open space remains undeveloped and is protected on a permanent basis.
2. Parking in the private Right-of-Way as depicted on the Site Plan shall be limited to one side of the roadway and signage satisfactory to the Town's Building Department shall be installed prohibiting parking on one side of the roadway.
3. The stormwater management facilities shall be privately owned and maintained by an association to be formed and approved by the NYS Attorney General's Office. Landscaping shall be provided in the vicinity of the storm water management areas and the 100 feet of required permanent open space on the northernmost portion of the Project Site. A Landscaping Plan for the residential project will be submitted for review and approval by the Town's Planning Board as part of the site plan review process.
4. The fully engineered plans to be submitted to the Planning Board as part of the site plan review process shall comply with the conditions listed above as imposed.

¹ The four proposed conditions are consistent with the review of the proposed residential project by both the Planning Board and the Zoning Board of Appeals.

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V. Conclusion:

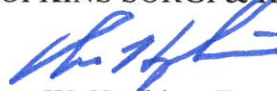
Based on the positive recommendation of the Planning Board, the ZBA's granting of the required area variances and the modifications to the project layout based on nearby property owners who have actively participated in the lengthy project review process, the Project Sponsor is requesting that the Town Board issue a negative declaration pursuant to the State Environmental Quality Review Act ("SEQRA") and issue the requested special use for the proposed residential project subject to the four (4) conditions as described in Part IV of this letter.

If there are any questions regarding the proposed residential project, the layout of the residential project as depicted on the attached full size Site Plan or the pending request for a Special Use Permit, please feel free to contact me at 510-4338 or via e-mail at shopkins@hsr-legal.com.

We look forward to presenting the residential project to the Town Board during the upcoming public hearing.

Sincerely,

HOPKINS SORGI & ROMANOWSKI PLLC



Sean W. Hopkins, Esq.

Enc.

cc: William P. Hanley, Jr., Councilmember
Eugene Hart, Councilmember
Jacqueline A. Felser, Town Clerk
John J. Fenz, Esq., Town Attorney
Jeffrey Schieber, Code Enforcement Officer
Kevin Curry, Ebenezer Community Landings LLC
Christopher Wood, P.E., Carmina Wood Morris DPC

**Exhibit A: Reduced Copy of Current Site
Plan Prepared by Carmina Wood Morris
DPC [Note: Full Size Copy of Site Plan
also attached]**

**Exhibit B: Minutes of Meeting of the
Planning Board held on June 9, 2016**

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

WEST SENECA PLANNING BOARD
Minutes #2016-06
June 9, 2016

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

ROLL CALL: Present - Robert Niederpruem Jr., Chairman
Donald Mendola
Joseph Ciancio
James Rathmann
Joseph Sherman
George Clifford
Margaret Greenan Bebak
John Gullo, Senior Code Enforcement Officer
John J Fenz, Town Attorney

Absent - None

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

Ayes: All

Noes: None

Motion Carried

APPROVAL OF MINUTES

Motion by Ciancio, seconded by Mendola, to approve Minutes #2016-05 of May 12, 2016.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS COMMUNICATIONS

2016-04

A request from Ebenezer Community Landings LLC for a special permit for property located at 4592 Seneca Street, being part of Lot No. 223, changing its classification from R-50 to R-50(S), for 31 detached single family patio homes with attached garages and 14 two-unit townhomes (28 dwelling units).

Motion by Mendola, seconded by Ciancio, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

2016-04 (continued)

Attorney Sean Hopkins distributed revised plans for the proposed project and a comparison of the current project to previous plans submitted. The revised plan showed 31 detached patio homes on the north and 28 attached residential units (14 buildings with two units each) on the south. The comparison indicated the current project has five more units than the plan approved in 2014, but 24 percent less overall building footprint and 67 percent less building square footage. The roadway and infrastructure was scaled back from the plan that was submitted last month and the number of residential units was decreased from 67 to 59. Setback from the homes on Muriel Drive was increased to a minimum setback of 190 feet. The front setback was increased to allow for each unit to have a 30' driveway which is enough room for four parking spaces. Mr. Hopkins stated no variances are required for attached units, but the detached patio homes are preferred by empty nesters and seniors.

Mrs. Bebak stated the plan still does not conform to the R-50 zoning and there are setback violations. She referred to the less than 6' rear setback for building #26 which would not be large enough for a back yard patio.

Chris Wood of Carmina Wood Morris stated there is sufficient room on the side yard of building #26 for a patio.

Raymond Ball expressed concern with the setback on the far north and asked that deed restrictions be put on that parcel to prevent any future building. He was also concerned with the possibility of absentee landlords with the 14 two-family homes. Mr. Ball had concerns with the affect of the proposed project on Ebenezer Brook and also asked that the Highway Department perform maintenance work on the drainage ditch along Muriel Drive. He further suggested the sanitary sewer be videoed.

Senior Code Enforcement Officer John Gullo stated the special permit can be granted with a stipulation that no building is permitted on the northern property.

James Smith was concerned with the sewer system and surface water, noting Sewer District 13 has had problems with leakage. He suggested the sewer line under Sky Hi Drive be videoed.

Mr. Gullo responded the town has lined numerous sewer lines in Sewer District 13. The engineering department will also ensure it can handle the capacity and mitigation will be required.

James Bukaty understood that drainage from the project cannot run to the Muriel Drive properties, but questioned if this also applies during the construction phase.

2016-04 (continued)

Chairman Niederpruem responded that drainage is addressed before construction begins.

Brenda Frey was concerned the detention pond will hold water and attract geese, ducks, etc.

Mr. Wood explained the NYSDEC requires detention basins to be designed for a 100 year storm event and that is when it will be filled to the maximum. During smaller storm events it will not be filled to the maximum. It will be dry in between storm events and only have water for a couple days when there is a storm.

Mr. Hopkins stated the developer will agree to a 100' permanent buffer on the north property line and is also willing to work with the neighbors to try to improve their existing drainage issue.

Mr. Rathmann questioned the response to question #20 on the environmental assessment form concerning remediation of hazardous waste on the site and stated he would like to have a long environmental assessment form completed to have some questions answered.

Mr. Hopkins responded that question #20 was answered automatically by the computer program and there is no known information concerning the location but it was somewhere within one-half to one mile of the site. They will submit a long environmental assessment form at site plan if requested.

Mr. Rathmann commented on the lack of guest parking spaces and questioned if there will be a homeowner's association.

Mr. Hopkins stated they thought four spaces per unit was adequate and there will be a homeowner's association that will exclude parking of boats, rv's, etc. and maintain the landscape.

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

Ayes: All

Noes: None

Motion Carried

Motion by Rathmann, seconded by Mendola, that the Planning Board offers no recommendation on SEQR for the proposed project at 4592 Seneca Street.

Ayes: All

Noes: None

Motion Carried

2016-04 (continued)

Motion by Sherman, seconded by Ciancio, to recommend approval of the request for a special permit for property located at 4592 Seneca Street, being part of Lot No. 223, changing its classification from R-50 to R-50(S), for 31 detached single family patio homes with attached garages and 14 two-unit townhomes (28 dwelling units), conditioned upon: 1) obtaining the required variances, and 2) maintenance of a 100' permanent buffer on the north border of the property.

Ayes: (6) Mr. Sherman, Mr. Ciancio, Mr. Mendola, Mr. Rathmann, Mr. Clifford, Chairman Niederpruem

Noes: (1) Mrs. Bebak

Motion Carried

SPR2016-04

A request from Frank Wailand for site plan approval for property located at 3254 Clinton Street for construction of a 50,240 sf production facility with attendant site improvements.

Motion by Mendola, seconded by Rathmann, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Frank Wailand of FJ Wailand Associates represented the Monaco's, owners of Shell Fab, and stated he received a review from the Town Engineer. All items listed can be mitigated and the dumpster will be located inside the building, so no enclosure is necessary. Information on the pavers was provided as requested. Mr. Wailand noted Shell Fab has been in business in West Seneca for 28 years. There are 42 full-time employees working one shift (6 am to 5 pm) and everything is enclosed in the building, so there is no noise issue and no emissions into the atmosphere.

Mr. Mendola commented on the location of the pavers 20' from the building and did not believe that was enough room for a fire truck.

Senior Code Enforcement Officer John Gullo stated the pavers have been used on other projects and suggested they be moved away from the building a little more.

Mr. Rathmann commented that the engineering and architectural site plan drawings contradict each other and need to be coordinated. He referred to the three garage doors and one man door and the land inventory for additional parking in the detention basin. Mr. Rathmann further referred to the planting along the front of the building in the storm water detention area and the bioretention basin on the west side, noting the grading goes beyond the property line.

**Exhibit C: Decision Letter of Zoning
Board of Appeals issued by the Town
Clerk's Office dated August 25, 2016**

TOWN OF WEST SENECA



JACQUELINE A. FELSER
TOWN CLERK

RECEIVER OF TAXES
REGISTRAR OF VITAL STATISTICS
NOTARY PUBLIC
RECORDS MANAGEMENT OFFICER

TOWN SUPERVISOR
SHEILA M. MEEGAN

TOWN COUNCIL
EUGENE P. HART
WILLIAM P. HANLEY JR.

August 25, 2016

Sean Hopkins, Esq.
Hopkins, Sorgi & Romanowski PLLC
5500 Main Street, Suite 343
Williamsville NY 14221

Re: **Board of Appeals Application #2016-40**
Property located at 4592 Seneca Street

Dear Applicant:

At the 8/24/2016 Zoning Board of Appeals meeting, area variances were granted for the proposed residential project consisting of 31 detached patio homes and 14 two-family homes. See attached for a list of specific variances and conditions set forth by the Zoning Board.

This letter is not a building permit. You must apply to the Code Enforcement Officer of the Town of West Seneca within the next six (6) months from the date of the meeting for a permit based on your application and in conformity with all other requirements of the Town Code.

Sincerely,

A handwritten signature in cursive script that reads "Jacqueline A. Felser".

Jacqueline A Felser
Town Clerk/Zoning Board Secretary
cc: Code Enforcement Officer
File

APPROVED VARIANCES FOR PROJECT AT 4592 SENECA STREET

1. 9' front yard setback for detached patio homes
2. Minimum 5021 sf lot size for detached patio homes labeled as Building Nos. 15 - 25 and 31 - 45
3. Minimum rear yard setback of 5.55' for detached patio homes labeled as Buildings No. 25, 26 & 27
4. Minimum lot width of 47' for detached patio homes labeled as Buildings No. 28 & 29
5. 1.74' front yard setback for the group dwellings and multi-family buildings
6. Minimum 11' combined side yard setback for the two-family homes
7. One parking space for each residential unit for the 14 two-family homes.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The northernmost 100 feet of the project site shall consist of permanently protected open space and shall be subject to a Declaration of Restrictions to be recorded at the Erie County Clerk's Office to ensure the permanent open space remains undeveloped and is protected on a permanent basis.
2. Parking in the private right-of-way as depicted on the site plan shall be limited to one side of the roadway and signage satisfactory to the Code Enforcement Office shall be installed prohibiting parking on one side of the roadway.
3. The stormwater management facility shall be owned and maintained by the homeowners association. Landscaping shall be provided in the vicinity of the stormwater management areas and the 100 feet of required permanent open space on the northernmost portion of the project site in a manner consistent with the site plan presented to the Zoning Board of Appeals during the public hearing held on July 27th. A landscape plan for the residential project will need to be submitted for review and approval by the town's Planning Board as part of the site plan review process.
4. The fully engineered plans to be submitted to the Planning Board as part of the site plan review process shall comply with the conditions listed above as imposed by the Zoning Board of Appeals.