

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

**WEST SENECA PLANNING BOARD**  
**Minutes #2012-11**  
**December 13, 2012**

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

**ROLL CALL:** Present - Robert Niederpruem Jr., Chairman  
Donald Mendola  
Joseph Ciancio  
Gerald Greenan  
Anthony Nigro  
Jim Rathmann  
Joseph Sherman  
Jeffrey Schieber, Code Enforcement Officer

Absent - Shawn Martin, Town Attorney

Chairman Niederpruem 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 Rathmann, seconded by Mendola, 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 Rathmann, to approve Minutes #2012-10 of November 14, 2012.

Ayes: All                                      Noes: None                                      Motion Carried

### **OLD BUSINESS**

#### **SPR2012-10**

A request from Lowell B Dewey, P.E. for site plan approval for property located at Park Lane off Union Road for a 47-unit senior independent living facility.

Lowell Dewey submitted to the board members a response he had received from Town Engineer Steven Tanner to Code Enforcement Officer John Gullo. Mr. Dewey stated that the stormwater discharge was looked at because Mr. Tanner did not want a point discharge from the pond, so they did a bubbler system instead. This system is much more controlled and the neighbors' property will never see any more water than it gets today. The driveway system was changed to accommodate a ladder truck and it was submitted to Mr. Gullo and Mr. Tanner. Mr. Gullo met with the Fire Chief and he was

**SPR2012-10** (continued)

satisfied with the driveway but requested that the access drive at Union Road be widened. Mr. Dewey will talk to the developer of the adjacent property about having the entrance widened to accommodate the fire truck. He indicated on the plan the new location of the dumpster at the northwest corner of the site and stated the indentation requested by the Fire Chief was added. A 3' wide walkway was also added by widening the pavement and adding a stripe to provide a safe walkway to the plaza and the 6' fence was moved to the property line and extended as requested by the neighboring property owner.

Chairman Niederpruem stated that the neighbor was requesting a dog-ear board fence and asked that all green areas maintained by the neighbor be covered by the fence. He further questioned if a second fire hydrant was added to the project.

Mr. Dewey indicated on the plan the second fire hydrant that was added on the opposite side of the building and also noted that Mr. Gullo had asked that the first fire hydrant be moved 15' closer to the curb.

Chairman Niederpruem referred to the DEC requirement for 4:1 mitigation and questioned if anything was decided on with the Town Engineer.

Mr. Dewey stated that it is noted in Mr. Tanner's letter and his client is fully aware of the requirement. The laterals will be identified by the town and repaired by his client. Mr. Dewey noted there is capacity at this location and at this point they just need to acknowledge the mitigation requirement.

Mr. Mendola questioned what was done to the pavement to accommodate the fire trucks.

Mr. Dewey stated that heavy duty pavement will be used that will support the control arms of a fire truck.

Mr. Rathmann referred to the two lines on the north side of the parking area that look like curbing and questioned what they represented.

Mr. Dewey responded that the lines represent wooden guide rails to assist the elderly. There will be 6" x 6" posts 18" tall with pressure treated boards on each side.

Mr. Rathmann referred to the one dumpster location and thought the original plan had three dumpster locations.

Mr. Dewey stated there was a pad with a double dumpster, but only one is needed for this facility.

Mr. Rathmann did not believe 3' was wide enough for the pedestrian walkway and asked that it be increased to 4'. He further suggested the islands and drop off area be curbed for maintenance purposes.

**SPR2012-10** (continued)

Mr. Dewey stated he will add a foot to the pedestrian walkway. The intent was not to have curbing on the sidewalks, but he agreed to curb the areas mentioned.

Mr. Mendola referred to the lights on the south side and wanted to ensure it doesn't spill onto the neighbors' property. He further questioned if there will be lighting on the building.

Mr. Dewey responded that the only lighting on the building is on the doors and the light shines down.

Mr. Greenan questioned the length of the fence.

Mr. Dewey indicated the length on the plan and stated they can go all the way to the corner but there are no homes there.

Chairman Niederpruem referred to the brush line between #4 & #6 Gervan Drive and stated the intent is to get to that corner. The fence should go from the corner of #4 & #6 Gervan Drive west to the end, no more than 300'.

Mr. Rathmann questioned the height of the retaining wall on the south property line.

Mr. Dewey stated the retaining wall will be 4' to 6' tall. There will be a guide rail, retaining wall, fence, and trees.

Sandra Kelly, 4 Gervan Drive, stated that a 300' dog ear board fence from the easterly corner moving westerly will screen the area nicely. She was also happy with the dumpster being moved.

Arlene Vogt questioned if there was any intent for the 100' of frontage that acted as a buffer. She would like the trees next to her property to remain.

Mr. Dewey indicated on the plan the area that is wetlands and stated there is no intent to build anything there and it will never be touched. They may widen the front area for fire truck access, but the buffer will be left as is.

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

Ayes: All

Noes: None

Motion Carried

Motion by Mendola, seconded by Greenan, to issue a Negative Declaration with regard to SEQR for the 47-unit senior independent living facility project on property located at Park Lane off Union Road.

Ayes: All

Noes: None

Motion Carried

**SPR2012-10** (continued)

Motion by Greenan, seconded by Ciancio, to grant site plan approval for the 47-unit senior independent living facility project on property located at Park Lane off Union Road as presented on site plan dated 12/10/2012 with the following conditions: 1) treed area between Park Lane and Union Road will not be disturbed except to widen the roadway if requested; 2) construction of a dog eared board fence 6' tall along the rear property line from #4 & #6 Gervan Drive extending 300' to the west at the end of the paved parking area; 3) granting a certificate of occupancy is conditioned upon acceptance of final plans with regard to the 4:1 mitigation of increased sewer flow; 4) pedestrian walkway shall be increased from 3' to 4' wide.

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**SPR2012-11**

A request from Gerard Jakubczak for site plan approval for property located at 865 Center Road for addition of drive-thru and drive-thru pick up window.

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

Ayes: All

Noes: None

Motion Carried

Chairman Niederpruem stated that along with the application the Planning Board had received an architectural drawing of the proposed layout. A letter was also received from the County of Erie with their comments on the project.

Gerard Jakubczak owner of Kone King and Jim Bammel of Jim Bammel Architects stated their proposal for a drive-thru and pick up window for the Kone King location at 865 Center Road.

Chairman Niederpruem noted that a variance was granted for a reduction in parking to 20 spaces and the board members had commented on the size of the parking spaces relative to the accepted codes. It was also noted that some of the parking is in the public right-of-way and the county had concerns about those parking spaces.

Mr. Jakubczak stated that the three parking spaces in the front of the building were removed.

Mr. Greenan questioned if a variance was granted for green space.

**SPR2012-11** (continued)

Code Enforcement Officer Jeffrey Schieber responded that the only variance was for number of parking spaces. The entire facility is paved and this is a pre-existing condition.

Mr. Bammel noted that the proposed site plan actually adds 300 sf of green space to the site.

Mr. Ciancio questioned how the parking spaces on the east side will be negotiated.

Mr. Bammel responded that parking space #1 – #5 will be designated for employees so they will be more controlled and not in and out as much.

Mr. Rathmann noted that parallel parking spaces should be 23' not 18' and it will be difficult to parallel park in only 18' of space.

Mr. Jakubczak stated he owns property behind the store on Warren Avenue and could negotiate with the tenant for use of some additional property to allow those spaces to be angled.

Chairman Niederpruem expressed a concern for public safety with the possibility of vehicles stacking on the road, noting that NYSDOT rewrote the law because of the problem with stacking at Tim Horton's. He thought the drive-thru will cause stacking on Warren Avenue in both directions and parking spaces #16 – #19 will not be able to back out. Also, vehicles on Warren Avenue turning right on Center Road will be less than 100' from the drive-thru exit where vehicles will be making left hand turns in front of them.

Mr. Jakubczak stated there have been no incidents in front of the building and they do not have the volume of business that Tim Horton's has, so he did not think stacking was a problem. The busiest time at Kone King is 7 PM and later, not during rush hour traffic. The business is also seasonal so there are no snow issues. Mr. Jakubczak stated he owns the Dairy Queen on French Road which has twice the volume of Kone King and only one car stacks at that location.

Mr. Sherman questioned if any measures will be put in place to control the public and prevent kids from running into the drive-thru lane.

Mr. Bammel responded that there may be picnic tables set up or railings and there will be signage for motorists in the drive-thru lane.

**SPR2012-11** (continued)

Mr. Mendola was also concerned about stacking on Warren Avenue and noted the walkway will be between the 3<sup>rd</sup> and 4<sup>th</sup> car stacked. He did not believe there was enough room for the drive-thru and there were safety issues with kids running around. Mr. Mendola thought this presented a dangerous situation.

Mr. Bammel stated this is an existing facility that currently has cars moving in every direction. He thought the drive-thru will actually improve safety because cars will move slower.

Mr. Nigro questioned if there are any safety barriers in front of the building.

Mr. Jakubczak stated there are parking bumpers to prevent driving into the building and they will be moved back.

Mr. Rathmann commented on the width of the walk aisle and further noted that the handicapped access aisle needs to be 8' wide by state code.

Bob Letina commented on the high traffic in this area and thought that cars lining up on Warren Avenue will create a dangerous situation. He further noted there is parking on both sides of Warren Avenue and the stacking vehicles will limit the ability of emergency vehicles to get through and create a problem for residents trying to get out of their driveways. Mr. Letina stated that Kone King opens in March and there is heavy snow sometimes, so that could also become an issue.

Paul Briggs did not believe a drive-thru was appropriate for this property and expressed safety concerns, noting he has three small daughters. Mr. Briggs further noted that the house next door is zoned residential and he did not believe parking for this business would be allowed there.

Mr. Jakubczak stated his business is busy at sometimes, but it is weather driven. They have been at this location for 37 years, have employed hundreds of West Seneca residents and have minimized the impact on the community. This is a busy corner and he thought the drive-thru will improve the business and make it better.

Mr. Bammel commented that the drive-thru will control traffic better than it has been.

Motion by Mr. Greenan to grant site plan approval for the addition of a drive-thru and drive-thru pickup window for property located at 865 Center Road.

Motion failed due to lack of a second.

**SPR2012-11** (continued)

Mr. Greenan commented that Mr. Jakubczak already has all the necessary variances to comply with the ordinance and he felt he had a legal right to have the site plan approved.

Chairman Niederpruem commented that the drive-thru will create a public safety hazard because there is insufficient area for cars to be stacked and this will cause a public nuisance.

Motion by Mendola, seconded by Sherman, to deny the site plan for addition of a drive-thru and drive-thru pickup window on property located at 865 Center Road due to concerns about traffic flow and stacking cars in the public right-of-way that will create a public safety hazard on an already congested site.

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

Noes: (1) Mr. Greenan

Motion Carried


**ADJOURNMENT**

Motion by Greenan, seconded by Mendola, to adjourn the meeting at 8:00 P.M.

Ayes: All

Noes: None

Motion Carried

  
**JACQUELINE A FELSER**  
**TOWN CLERK/PLANNING BOARD**  
**SECRETARY**