

Supervisor Gary Dickson called the meeting to order at 6:00 P.M.

ROLL CALL: Present - Gary Dickson Supervisor
William Bauer Councilman
Joseph Cantafio Councilman
William P. Hanley, Jr. Councilman
Jeff Piekarec Councilman

Absent - None

The meeting was dedicated to victims of the attack on Pearl Harbor.

MINUTES TO BE APPROVED

- Motion by Supervisor Dickson, seconded by Councilman Bauer, to approve Minutes #2020-24 of November 23, 2020.

Ayes: All

Noes: None

Motion Carried

LEGAL NOTICES

1. Proofs of publication and posting of legal notice: "OF A PUBLIC HEARING TO CONSIDER A REQUEST FOR REZONING FOR PROPERTY LOCATED AT 3448 CLINTON STREET, BEING A PART OF LOT NO. 12, CHANGING ITS CLASSIFICATION FROM R-60A TO C-2, TO ALLOW THE STORAGE OF CONSTRUCTION EQUIPMENT " in the Town of West Seneca received and filed.

Motion by Supervisor Dickson, seconded by Councilman Piekarec, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

The applicant, Alexander Miller, purchased the property for the double lot size which was classified as commercial property at the time of sale. The lot's depth is 350', and Mr. Miller would like to park construction equipment on site from his landscaping business. To mitigate neighbors' concerns Mr. Miller added a fence to the back-property line and is cleaning the debris left from the previous owner.

One email was received by a resident expressing concerns and was forwarded to Town Board members.

Code Enforcement Officer Schieber stated the applicant was before the Planning Board twice to address drainage issues, the types and amount of equipment he is looking to store. The applicant must blacktop the parking lot and submit a drainage plan from a civil engineer and is willing to compromise on a dual zoning. R-60A zoning permits a small retail store, office, or shop. Storage of construction equipment requires a C-2 zoning. One proposal was to split the parcel with a zoning line - part of it being C-2 and the remainder of the property R-60A. The Planning Board unanimously recommended denial of the request to the Town Board.

LEGAL NOTICES (continued)

Code Enforcement Officer Schieber further explained the surrounding properties are both R-60A. A discrepancy with the town's zoning map reflected the parcel to the east as C-2 and was discovered upon a thorough examination of property records. In Mr. Schieber's opinion, the Planning Board was not in favor of allowing a C-2 piece in the middle of R-60A zoning.

Supervisor Dickson questioned if spot zoning is automatically denied. Town Attorney Hawthorne explained spot zoning happens when the intended use is in a category different than parcels around it. Some factors to consider: if the rezoning is for the benefit of the general welfare of the area or benefits a single owner and would the zoning be in line or contrary to the comprehensive plan. Ms. Hawthorne stated some members of the Planning Board believed this situation would constitute spot zoning as did Ms. Hawthorne.

Supervisor Dickson questioned if a C-2 zoning would allow for additional uses in the future. Mr. Schieber concurred and listed contractor storage, restaurants, heavier commercial uses, among others. Ms. Hawthorne stated the Town Board can place conditions on the uses.

Mr. Miller stated at the time he purchased the property he observed the area to be industrial in nature and did not foresee the controversy of parking trailers on the property. If the property were split for zoning, the trailers would not be visible to neighbors, further, he would be paying taxes for the full property but utilizing only half of it. Mr. Miller stated the paving and drainage concerns will be addressed; he is heavily invested in the community and would like to find a compromise.

Supervisor Dickson questioned if any code violations have occurred. Mr. Schieber replied the violations have been the installation of a storm line that was tied into a neighboring property's private system, lighting concerns, fencing questions over temporary fencing, and debris and branches; all have been brought to Mr. Miller's attention and he has agreed to rectify them.

A resident stated this situation is representative of spot zoning and is a nonconformity with the comprehensive plan.

Motion by Supervisor Dickson, seconded by Councilman Bauer, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Motion by Supervisor Dickson, seconded by Councilman Hanley, to deny the request for rezoning for property located at 3448 Clinton Street, being a part of Lot No. 12, changing its classification from R-60A to C-2, to allow the storage of construction equipment due to the following: 1) request seeks to rezone the land to a use category different from the surrounding area for the benefit of the applicant; 2) inconsistency with the town's comprehensive plan for that area.

Ayes: All

Noes: None

Motion Carried

LEGAL NOTICES (continued)

2. Proofs of publication and posting of legal notice: "OF A PUBLIC HEARING TO CONSIDER A REQUEST FOR REZONING AND SPECIAL PERMIT FOR PROPERTY LOCATED AT 945 CENTER ROAD, BEING A 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 " in the Town of West Seneca received and filed.

Motion by Supervisor Dickson, seconded by Councilman Cantafio, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Attorney Sean Hopkins of Hopkins Sorgi and McCarthy spoke on behalf of the petitioner Young Development:

- Requesting Rezoning from R-65A and R-75 to R60A(S) for the approximately 3.83 acres property to allow for multiple family dwellings
- Young Development properties are upscale and well maintained over the long term
- Meeting held October 5, 2020 with interested residents; plan proposed was for 26-units, two 10-unit buildings in front and a single story 6-unit building in the back
- An updated screening plan was presented to the Planning Board with many types of trees and a fence
- The updated plan reduces the number of units to 15 with 3 single story buildings and a greater setback
- Minimize impact to the wetland permit issued earlier this year by the Army Corps of Engineers
- Onsite walking trail and dog park area
- Storm water management system complies with the standards set by NYSDEC; a surplus storm water management system also added which exceeds requirements
- The existing drainage problem on Center Road have nothing to do with this project; the applicant has reached out to Erie County encouraging them to address the issues
- The appearance will match the adjacent property and be upscale living
- Met requirements for Special Permits: location, size, use and density; screening and landscaping; adequacy of parking spaces; and ability to impose reasonable conditions
- The Planning Board did indicate three conditions: 1) multiple family dwellings limited to single story buildings; 2) maximum allowed density limited to 16 units; 3) the only permitted use shall be for multi-family
- Requesting a Negative SEQR Declaration, approve the rezoning and special use permit subject to the three conditions

Mr. Schieber summarized the Planning Board's actions and listed the history of the project:

- Initial submission for two-story buildings was not provided a positive recommendation and the application was withdrawn
- Legal issues surrounding the property were cleared
- Application was resubmitted and process started from the beginning with the current plans
- Concerns including single story buildings, sewer capacity, and flooding were addressed; noting the project adjacent has an oversized storm retention system

LEGAL NOTICES (continued)

Town Attorney Hawthorne explained the litigation involved the clear cutting of numerous trees on the property. Mr. Young agreed to the planting of 70 trees on site and 35 donated to the Environmental Commission and a fine of \$250.

Comments from the public included:

- The Planning Board only approved the project because the developer reduced the number of units
- Not in favor of the project
- Concerned about flooding due to project
- Suspicious of personal interests of Planning Board members

Councilman Hanley questioned how many trees are being planted in total. Mr. Hopkins replied there will be 122 trees.

Councilman Hanley asked for clarification about the retention ponds. Christopher Wood, P.E. for the applicant, replied they will be above ground, will not have standing water and will be maintained by the property owner.

Councilman Hanley questioned if there will be substantial elevation changes. Mr. Wood stated the elevation will be adjusted to provide coverage for utilities and catch basins; plans must be reviewed by the town's engineering consultant.

Supervisor Dickson questioned Highway Superintendent Adams for his opinion on Center Road flooding. Mr. Adams referred to the heavy rains experienced in the summer and explained there will be back up despite the size of the sewers. Mitigation work was performed including pipe replacement and ditch work clean up.

Supervisor Dickson asked Code Enforcement Officer Schieber to explain the impact on the sanitary sewer system. Mr. Schieber explained the Code Enforcement Office provides a sewer capacity analysis to the developer who then designs a sanitary sewer system. The Engineering Department will derive a sewer mitigation fee with the funds placed in that sewer district fund for future repairs and maintenance.

Supervisor Dickson stated all things considered this project represents a good compromise for all parties.

Motion by Supervisor Dickson, seconded by Councilman Hanley, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

LEGAL NOTICES (continued)

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adopt the following resolution approving a rezoning and special permit for property located at 945 Center Road:

WHEREAS, Young Development Inc. made an application for rezoning of 945 Center Road, West Seneca, New York from R-65A and R-75 to R-60A(S) with a special use permit for multiple-family dwellings; and

WHEREAS, the matter was heard before the Planning Board and the Planning Board adopted a resolution during its meeting on November 12, 2020 recommending approval of the requested rezoning and special use permit for multiple-family dwellings subject to three recommended conditions as follows: 1) single story units only; 2) maximum density of 16-units; and, 3) the only permitted use within the requested zoning district be multi-family;

NOW, THEREFORE, BE IT RESOLVED, the West Seneca Town Board does hereby adopt Local Law No. 2020-03 amending the zoning classification of 945 Center Road, West Seneca, New York from R-65A and R-75 to R-60A(S) and grants a special use permit for multiple-family dwelling use, noting that the rezoning and the special use permit are subject to the following conditions consistent with the favorable recommendation issued by the Planning Board on November 12, 2020:

1. The multiple-family dwelling buildings to be constructed on the property shall be limited to single-story buildings.
2. The maximum allowed density of the project shall be limited to sixteen (16) units; and,
3. The only permitted use of the property pursuant to the R-60A(S) zoning classification shall be limited to multifamily use.

On the question, Councilman Piekarec stated he will be voting against this project for the following reasons: a higher standard exists for zoning changes, incompatible with surrounding neighborhood, could be interpreted as spot zoning, and concerns over flooding.

Ayes: (4) Supervisor Dickson
Councilman Bauer
Councilman Cantafio
Councilman Hanley

Noes: (1) Councilman Piekarec

Motion Carried

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adopt the following resolution issuing a negative declaration with regard to the environmental review of the proposed project pursuant to the State Environmental Quality Review Act and the implementing regulations promulgated by the New York State Department of Environmental Conservation (collectively "*SEQR*"):

WHEREAS, the Town Board of the Town of West Seneca, as lead agency acting pursuant to the State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, has reviewed Part I of the Short Environmental Assessment Form ("*EAF*") dated October 26, 2020 as prepared

LEGAL NOTICES (continued)

by the Applicant for the proposed residential project located on the approximately 3.4 acre parcel at 965 Center Road ("*Project Site*") consisting of fifteen (15) single-story attached residential units with attached garages, associated parking and access aisles, landscaping and screening, an on-site storm water system and utilities (collectively the "*Project*") and reviewed the draft completed Part II of the EAF analyzing the potential for the Project to result in any significant adverse environmental impacts and has otherwise taken a hard look at the identified potential environmental impacts utilizing the criteria specified in 6 NYCRR 617.7(c); and

WHEREAS, the documentation addressing identified potential adverse environmental impacts that has been submitted by the Applicant includes a Nationwide No. 29 Permit issued by the United States Army Corps of Engineers dated April 24, 2020 authorizing an impact of 0.10 acres of impacts to the on-site jurisdictional federal wetlands and a No Impact Determination letter issued by the New York State Office of Parks, Recreation and Historic Preservation dated January 30, 2020 confirming the Project will not result in any impacts to protected cultural or historic resources; and

WHEREAS, upon review of Parts I and II of the EAF and the documentation, reports and plans submitted by the Applicant in connection with the review of the Project, the Town Board has not identified any potentially significant adverse environmental impacts associated with the proposed use of the Project Site, has determined that preparation of an Environmental Impact Statement is not necessary, and that the issuance of a Negative Declaration is therefore appropriate;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to 6 NYCRR 617.7(a) the Town Board does hereby adopt a Negative Declaration with respect to the Project based on its determination that the Project will not result in any potentially significant adverse environmental impacts.

Ayes: (4) Supervisor Dickson
Councilman Bauer
Councilman Cantafio
Councilman Hanley

Noes: (1) Councilman Piekarec

Motion Carried

PUBLIC COMMENTS ON COMMUNICATIONS

NEW BUSINESS

23-A COMMUNICATIONS

1. Supervisor Dickson re West Seneca Police Reform and Reinvention Task Force

Supervisor Dickson, listed the following to the West Seneca Police Reform and Reinvention Task Force:
Concerned Residents: Carol Quinnan, Dianne Woch, Nancy Aguglia
Religious Organization: Gary Gossel
Social Work: Alyssa Mazurkiewicz, Elise Franco, Aimee Smart, Stefanie Matta
Education: Ray Ball, Patrick Braunscheidel
Healthcare: Tina Donovan, Michael Hughes
Police: PBA representative Business: Richard Schunke

6. Recreation Supervisor re Membership Card Policy

Motion by Supervisor Dickson, seconded by Councilman Hanley, to approve the policies and fees updated and submitted November 30, 2020.

On the question Recreation Director Masset stated the Membership Cards are replacing Resident ID Cards. New software for online registration was purchased with through a grant from the Cares Act.

Ayes: All

Noes: None

Motion Carried

7. Town Attorney re Recreation Fees

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adopt the following resolution:

WHEREAS, the Town of West Seneca (hereinafter referred to as "Town") recognizes that it collects a Recreation Fee from all residential builders at the time a new dwelling is built in the Town; and

WHEREAS, the Recreation Fees are collected for the purpose of contributing toward the increased maintenance needs and expanded recreational opportunities resulting from new residents; and

WHEREAS, Recreation Fees have not been increased since 1992 despite the increased recreation costs to the Town, and the Town Board has determined increasing the cost of the Recreation Fees are for the benefit of the taxpayers; and

NOW THEREFORE, be it resolved that the Town of West Seneca hereby declares that any and all residential builders shall pay a Recreation Fee to the Town of West Seneca pursuant to the following schedule:

1. Single-Family Home - \$375.00
2. Duplex - \$540.00
3. Multi-Family Dwellings - \$165.00 per unit

Ayes: All

Noes: None

Motion Carried

8. Councilman Bauer re Burchfield SEQR

Motion by Councilman Bauer, seconded by Councilman Hanley, to adopt the following resolution:

WHEREAS, the Town of West Seneca Town Board (the "Board") has considered the impact to the environment of following Scope of Work to be completed:

1. Rehabilitation of the Burchfield Nature and Art Facility
 - Replacement of wood framing studs, drywall, two windows, acoustical ceiling tiles and exterior siding system.
 - Installation of a new footing detail to replace the existing to repel water infiltration
 - Replacement of interior carpeting and repairs to the main concourse interior ceiling
 - The scope of this work will be executed in the main concourse and the west and east concourse wings only.

WHEREAS, the Board has reviewed the Scope of Work set forth above as one Proposed Action, and has further consulted with its Engineer and legal counsel with respect to the potential for environmental impacts resulting from the Proposed Action,

WHEREAS, the Board has reviewed the Proposed Action with respect to the Type II criteria set forth in 6 NYCRR. Part 617 of the Environmental Conservation Law, Article 8 ("SEQRA") and concluded that the project involves:

- Improvements to the structure and site that would result in replacement, rehabilitation or reconstruction of infrastructure or facility, in kind, on the same site,

THEREFORE, BE IT RESOLVED, by the Board as follows:

1. The Proposed Action, individually and cumulatively, does not constitute substantial changes to the existing facilities or infrastructure and involves routine activities required for proper operation and maintenance of the Burchfield Nature and Art Facility in the Town of West Seneca, and, therefore, does not exceed the thresholds for a Type II Action established under 6 N.Y.C.R.R. Part 617.
2. The Board hereby determines the Proposed Action is a Type II action in accordance with SEQRA regulations.
3. No further review of the Proposed Action is required under SEQRA.
4. This resolution shall be effective immediately.

Ayes: All

Noes: None

Motion Carried

23-B APPROVAL OF WARRANT

Motion by Supervisor Dickson, seconded by Councilman Piekarec, to approve the vouchers submitted for audit, chargeable to the respective funds as follows: General Fund - \$185,033.91; Highway Fund - \$175,930.97; Capital Fund - \$540,587.02; Gas Lighting - \$540.67 (vouchers 15080 -15620)

Ayes: All

Noes: None

Motion Carried

23-C REPORTS FOR FILING

- Amy M. Kobler, Town Clerk's report for November 2020 received and filed.
- Jeffrey Schieber, Code Enforcement Officer, building & plumbing reports for November 2020 received and filed.

23-D DEPARTMENT REPORTS

- Code Enforcement Department
- Senior Center
- Recreation Department

ISSUES OF THE PUBLIC

No comments were received.

COMMUNICATIONS BY BOARD MEMBERS AND DEPARTMENT HEADS

Chief Denz

- The promotion process of a Captain follows civil service rules; there is an exam and then an interview with a panel of senior officers; a recommendation from the panel is then made to himself and he forwards the selection to the Town Board
- The parking ban is in effect
- Thanked the public for their compliance with COVID-19 restrictions

Councilman Cantafio

- Thanked the volunteers on the Police Reform and Reinvention Task Force
- Reminded residents to shop locally for Christmas
- Be considerate of healthcare providers and first responders and wear masks and social distance

Councilman Piekarec

- Invited all to contribute donations to the Surprise a Senior event being held on December 16th

Highway Superintendent Adams

- Leaf pickup is coming to an end
- Thanked all that donated to the toy drive for foster children

Town Attorney Hawthorne

- Confirmed that the Councilmen on the Internal Audit Committee will not have a conflict of interest in approving the warrant; should an item have a direct personal connection they may abstain

Code Enforcement Officer Schieber

- Planning Board meeting will be virtual
- Projects around town include the Ebenezer Rail Car Building, Rosina Foods, Queens Landing, proposed subdivision off John Alex Drive, proposal for a retail building at the former site of Perry's Nursery, Ebenezer Wood project is starting

ADJOURNMENT

Motion by Supervisor Dickson, seconded by Councilman Hanley, to adjourn the meeting at 7:46 P.M.

Ayes: All

Noes: None

Motion Carried

Amy M. Kobler

AMY M. KOBLER, TOWN CLERK