# WEST SENECA PLANNING BOARD Minutes #2022-011 December 8, 2022

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

ROLL CALL:	Present	-	Margaret Bebak, Chairperson James Frick Timothy Hayes Dale J McCabe Eric Sailer Joseph Sherman Jeffrey Schieber, Code Enforcement Officer Chris Trapp, Town Attorney
	Absent	-	None

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

Motion by Sherman, second by Frick, to receive and file the proofs of publication and posting of legal notice.

Ayes: All	Noes: None	Motion Carried

### **APPROVAL OF MINUTES**

Motion by Frick, seconded by Hayes, to approve minutes 2022-10 of November 10, 2022.

Ayes: All

Noes: None

Motion Carried

#### **OLD BUSINESS**

#### 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.

Chairperson Bebak stated correspondence was received from the project attorney stating the application has been withdrawn and will be resubmitted later.

Mr. McCabe thanked resident Dan Warren for the paperwork he recently submitted which included transcripts from experts that had testified in a different proceeding which gave a good overview of the risk and problems associated with lithium batteries and how to mitigate any associated problems.

Chairperson Bebak suggested residents put concerns in writing to the Code Enforcement Office.

An inaudible comment/question was received from the public.

Code Enforcement Officer Jeffrey Schieber read the following correspondence:

Barclay Damon LLP represents Levy Grid, LLC ("Levy Grid"). We appeared in the above-captioned Site Plan Application, SPR2022-014, at your November 10, 2022, meeting. Soon after that initial appearance, Levy Grid received a substantial update with respect to its interconnection status with the neighboring utility that may

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impact its site plan. Consequently, Levy Grid is withdrawing its current site plan application, SPR2022-014, and will resubmit its site plan application at a later date. We appreciate your continued patience and look forward to bringing this project to the Town.

An inaudible comment/question was received from the public.

Chairperson Bebak stated the process is to submit a site plan with specifications on what is to be built; this is being changed and will be resubmitted.

Mr. Schieber stated notification to neighbors within 300' of the property is provide for a special permit and/or rezoning; this project requires neither. The Planning Board agenda is published on the town website and in the newspaper.

An inaudible comment/question was received from the public.

Mr. Sherman requested residents to address the board from the podium so comments may be part of the minutes.

A resident expressed concerns with the proximity of the project to residential homes; there is a potential for an explosion and noted this is very close to the electrical grid.

Mr. McCabe stated the application is no longer pending and there is nothing at the present time for this board to deal with.

A resident questioned if taxpayers may vote on the project. Town Attorney Chris Trapp stated this is not an option and therefore this board exists.

A resident questioned why there was no notification and referred to another project that received notification. Chairperson Bebak stated this does not fall into the parameters that Mr. Schieber explained and noted, the public is welcome to participate.

Mr. McCabe stated previous proceeding the resident referred to was a rezoning in the town and the town code requires notification. This project fits into the zoning code and requires no notification. The project was here for site plan review which determines the layout and any safety factors required.

The resident stated the project is zoned residential and manufacturing. Mr. McCabe explained the parcel is zoned manufacturing. Mr. Schieber stated the north side of Indian Church Road is all residential, the south side is all manufacturing.

The resident questioned the liability. Mr. McCabe sated at this point the application has been withdrawn.

Chairperson Bebak stated once the project is resubmitted the Planning Board would be happy to hear comments.

# SPR2021-009

A request of Lauer - Manguso & Associates Architects and Engineers for site plan approval for property located at 310 Orchard Park Road for construction of a new 1,749-sf restaurant all related site improvements.

James Manguso with Lauer – Manguso & Associates Architects and Engineers present the following:

- The site plan is for a 1,700-sf restaurant (Rachel's Mediterranean Grill)
- The location is in front of the Wegmans Plaza between Goodyear and KeyBank.

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Code Enforcement Officer Jeffrey Schieber stated on March 7, 2022, the project plans were submitted to the following agencies: Erie County Department of Planning, ECDOT, NYSDOT, local fire department, ECWA, and the West Seneca Environmental Commission. The Erie County 239M form has been signed; the ECDOT provided correspondence with no concerns. There were some concerns raised by the fire department and can be discussed. The Town Engineer provided additional comments.

Mr. McCabe stated it was his understanding the project went before the Zoning Board of Appeals to obtain variances and is now in compliance. Mr. Schieber stated this is correct.

Mr. McCabe questioned if there would be any foreseen difficulties with the issues raised by the Town Engineer. Mr. Manguso stated there have been ongoing discoveries with the sewer systems and have been working with Wegmans engineers to ensure the system is acceptable. The connection will happen on Rachel's property and will prove to Wegmans that there is no negative impact. Mr. Manguso stated all parties will be satisfied.

Mr. Schieber stated there were fire department concerns with access; an agreement was made for a second way out for emergency vehicles and noted, the fire department is satisfied.

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

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by McCabe, to have the Town of West Seneca act as the lead agency regarding the project.

Ayes: All

Noes: None

Noes: None

Motion Carried

Motion Carried

Motion by Frick, seconded by Sailer, to issue a negative SEQR declaration for property located at 310 Orchard Park Road for construction of a new 1,749-sf restaurant all related site improvements, noting in accordance with 6 NYCRR Part 617, the proposed development of Rachel's Mediterranean Restaurant at 310 Orchard Park Road was reviewed. In accordance with Section 617.5 (c) (9) which reads: "Construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4000 sf of gross floor area and not involving a change in zoning or a use variance and is consistent with local land use controls, but not radio communication or microwave transmission facilities.", this project is a Type 2 Action under 6 NYCRR Part 617 and is not subject to review under this Part. Therefore, no further action by this Board is required.

Ayes: All

**NEW BUSINESS** 

# <u>2022-006</u>

A request of Royal Wash Development for a special use permit for property located at 5700 Seneca Street, being part of Lot No. 227, changing its classification from C-2 to C-2(S) for construction of a 4,096-sf car wash and all related site improvements.

Patrick Sheedy with Carmina Wood Design presented the following:

- The proposal is for a 4,96-sf car wash
- 25 vacuums spaces are shown along with 6 parking stalls for employees

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• A new proposed curb cut is shown along Seneca Street and the existing access along Transit Road will remain.

Mr. Hayes referred to the entrance/exits and questioned if any will be directional only. Mr. Sheedy stated the proposal is for full access. Mr. Hayes expressed safety concerns with making a left hand turn across a three-lane highway so close to a traffic signal. Mr. Sheedy stated this is an existing curb cut and if the NYSDOT deems a safety hazard they will take this under review.

Mr. Frick stated both right in and right out should be considered due to the location. Mr. Frick questioned if the survey was completed as there is a large grade drop off along the lower rear parking lot that may need to be filled in. Mr. Sheedy stated the survey is being worked on and he will provide a better answer afterwards.

Mr. Frick questioned if a traffic study will be completed as this project would produce a steady stream of traffic. Mr. Sheedy stated if the NYSDOT requires one, a traffic study will be completed.

Mr. Frick questioned the archaeological site and what it pertains to. Mr. Sheedy stated this is not known, this has been a suggested site. The site has previously been developed and they do not feel there will be any issues.

Mr. Sherman would like to mandate a NYSDOT traffic study due to the amount of traffic from surrounding businesses. Mr. Sailer concurred. Mr. Sheedy stated if the Planning Board mandates a study, it will be performed.

Mr. Hayes referred to a neighboring project and questioned if the two need to be reviewed in tandem. Code Enforcement Officer Jeffrey Schieber stated the two projects would be treated independently as they are separate parcels.

Mr. Schieber stated on November 16, 2022, this project was submitted to the following agencies: Erie County Department of Planning, ECDOT, local fire department, ECWA, NYSDEC, Army Corp of Engineers, West Seneca Environmental Commission, NYSDOT, SHPPO, and the Town of Elma. Acknowledgment was received from ECWA for connections. A response was received from SHPPO and stated the archeological sensitive area should be evaluated unless it can be verified by appropriate documentation that the site has been significantly disturbed in a way that would destroy potential artifacts. As the applicant stated, this parcel has previously been disturbed.

Mr. Sailer stated engineering should be done to ensure there is no stacking onto Transit Road.

Mr. Hayes questioned if there is an issue with the turning radius for emergency vehicles. Mr. Schieber stated he has not yet received input from the fire department.

Mr. Hayes questioned the width of the entrance from Transit Road. Mr. Sheedy stated the width is 24'.

Mr. Schieber stated this site plan may have been generated from tax maps, the northwest corner appears to have a portion of neighboring garage on the car wash property. This is currently being sort out with the survey.

Mr. Sherman questioned what sewer mitigation would have to done. Mr. Schieber stated the documents are reviewed by the Town Engineer who imposes a sewer mitigation fee.

Michael and Deborah Wing , 5627 Seneca Street had the following comments/questions:

 Expressed safety concerns for pedestrians walking along Seneca Street; there are no sidewalks; busy intersection.

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- Expressed concerns with turning north onto Transit Road, no left green arrow, and cars back up.
- Major route for emergency vehicles
- Would like a traffic study
- Fire Chief lives across the street and frequently leaves for calls
- Will create more volume of cars
- Seneca Street has an extra lane when turning, semi-trucks park in the extra lane
- Lein Road has a car company with hauler trucks obstructing and slowing down traffic
- Car haulers come from Transit Road car dealerships that will block the entrance/exit due to the project being so close to the traffic signal.

Chairperson Bebak questioned the process for a turn signal. Mr. Schieber stated this would be a combination of the NYSDOT and ECDOT.

Danielle Bagley questioned how many car washes West Seneca needs (and inaudible). Mr. Schieber stated developers meet with the town, and this parcel is zoned C-2 which permits the previous bar and a car wash. The piece tonight is for the automotive use.

Chairperson Bebak stated the Planning Board reacts to plans presented from private landowners and decides what can be done to make the project safe.

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

Ayes: All

Motion by Bebak, seconded by Sailer, to recommend approval of a special use permit for property located at 5700 Seneca Street, being part of Lot No. 227, changing its classification from C-2 to C-2(S) for construction of a 4,096-sf car wash and all related site improvements.

Ayes: All

Noes: None

Noes: None

Motion Carried

Motion Carried

#### **SUBDIVISION REQUEST**

A request from Nusbaumer & Clarke for a 14-lot subdivision of land in the Queens Landing Subdivision. This request is for Queens Landing Phase 4 Townhomes.

Motion by Bebak, seconded by Frick, to table the item at the request of the applicant.

Ayes: All	Noes: None	Motion Carried
ADJOURNMENT		
Motion by Bebak, seconded by Frick, to	adjourn the meeting at 7:47 P.M	
Ayes: All	Noes: None	Motion Carried

AMY M. KOBLER TOWN CLERK/PLANNING BOARD SECRETARY