

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – August 20, 2015**

A meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Town Offices, 18 State Street, Brockport, New York on August 20, 2015, commencing at 6 p.m.

Members present: Kevin Johnson, Pauline Johnson, Peter Sharpe, Mary Ann Thorpe.

Absent: Frank Fisher, Nat O. Lester, III, ZBA Counsel.

Also present: Kris Schultz, Schultz Associates, Lou Giardino, Top Capital of New York, LLC, Cheryl Cooley, Sally Cottrell, Michael and Eric Montfort.

Chairperson Thorpe called the meeting to order at 6:20 p.m., and read the notice of public hearing for:

Application of Top Capital of New York, LLC, 400 Andrews Street, Rochester, New York, for an area variance for the proposed Senior's Choice at Heritage Square, located on Redman Road, Brockport, New York. The proposed development, a 90-unit independent and assisted senior residence building, is to be constructed on approximately 7.554 acres. A variance of 6 feet, 10 inches for the proposed building height of 42 feet, 10 inches is requested. Per Town of Sweden Ordinance, Chapter 175-41, E, Lot and area requirements, (1), Maximum height of structures is 36 feet. The property is owned by Tartan Property, LLC, 916 Flanders Road, Flanders, New York, tax account number 068.03-1-18.11 (part of).

Senior's Choice at Heritage Square.

Mr. Kris Schultz addressed the Board. He distributed additional renderings to the Board. The site was originally targeted for Phase II of the Brockport College Suites. The plan was to build a second identical building. The planning was started, but dropped off.

The Senior's Choice development is in the same proximity as the proposed second building of Brockport College Suites, except the wooded area will remain. The size of the parking lot has been reduced as well. Mrs. Pauline Johnson asked for clarification as to the location of the second building. Mr. Schultz confirmed the location.

The existing ponds were designed to handle the proposed Phase II of the College Suites. There are easements to the Town for the ponds and all utilities. All of the infrastructure is in and ready to service the proposed Senior's Choice development.

Mr. Schultz distributed photos demonstrating that even though Senior's Choice has an official height bigger than Brockport College Suites; it actually will be tucked in and farther back with little to no visibility from Redman Road. The Brockport College Suites is a different type of architecture with the height of the building based on the actual living space; the peak was not included in the 36 ft. This makes the overall height of the Brockport College Suites higher than 36 ft.

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – August 20, 2015

The photos presented of Senior's Choice show a mansford style roof. Chairperson Thorpe asked if there were mechanicals on the roof. Mr. Schultz stated if so, they are hidden. Mr. Sharpe asked if the fourth window on the photo was living space. Mr. Schultz stated yes, that is the fourth floor of living space.

Mr. Schultz explained that a good portion of the Senior's Choice will not be visible from Persistence Path due to the drop in elevation. Mrs. Pauline Johnson asked what the difference in the grade is from the Brockport College Suites to the proposed location. The whole site drops to the north, but the proposed site will be leveled.

Mr. Kevin Johnson confirmed that the trees shown will stay. Mr. Schultz stated that is one of the best points of the proposed development is that the wooded area will remain providing a big green wall to the north. It will also be used by the developer for a recreation area.

Mr. Schultz took pictures from W. Canal Road to assure that the building will not be seen from the residents' backyard. Additional photos of the trees were submitted.

Cheryl Cooley, 8023 W. Canal Road – Mrs. Cooley asked if she could comment relative to the discussion at hand. She stated that the holding ponds that were built for a 100-year storm are not as originally proposed. They don't stay clear unless you take care of them. The ponds are fifty percent filled with cattails and weeds, making them fifty percent functional. The holding pond adjacent to the trees has poplar and hardwood trees, which will have to be excavated to make it functional. She had thought with the original proposal, hardwoods were to be saved.

Mr. Schultz stated the original developer granted an easement to the Town for the ponds. Part of this project will be for any concerns to be reviewed and to have the new developer address them.

Chairman Thorpe pointed out that Mrs. Cooley's concerns should be addressed at the Planning Board's public hearing for site plan approval.

Mr. Shultz continued that there are no other four story buildings in the Town. There is the Hampton Inn, three stories with roof detail, Royal Gardens, three stories, and Brockport College Suites, three stories with roof detail. It's important to note that the proposed building will have sprinkler systems installed throughout the building for fire suppression. Also, there will be hydrants looping around the building for good access for emergency apparatus. Mr. Schultz' opinion is the original zoning code was set at 36 ft. because anything higher would be difficult to fight a fire. Realistically, there are many SUNY Brockport buildings higher than that utilizing the same fire department to fight fires. Additionally, there are stricter building codes so that building fires do not get out of control.

Mr. Schultz summarized the following:

1. The variance would not be out of character for the neighborhood, especially with the taller buildings in the Village and at SUNY Brockport.

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – August 20, 2015

2. The building and site is nestled back quite a distance from the road with no visibility to the residents north of W. Canal Road.
3. By considering the option of removing the fourth floor, the building is spread out, and the building footprint increased from 9 percent to 16 percent, which is getting closer to the 20 percent maximum building coverage. Mrs. Pauline Johnson asked how many units are on the fourth floor. Mr. Schultz stated 30 units.
4. The Town has a 30 percent greenspace requirement. The project currently has 55% greenspace. If the building footprint is spread out, the impervious area goes from 45% to 53%, heading the wrong direction. The building will be serviced by elevators. Amenity services are concentrated along the central core so spreading the building footprint would mean additional walking for the residents.
5. Economically, it would cost more to build an additional building than to add one story. It's cheaper to build a colonial house than a ranch.
6. Is this variance request substantial? The maximum is 36 ft. and we are asking for 43 ft., representing a 19% variance request. Mr. Schultz would consider 50% substantial, not 19%.
7. There are no environmental impacts by requesting this variance.
8. Is the variance self-created? Yes, but always with new developments, Town codes get tested and changed. This variance is needed to make the project work.

Mrs. Pauline Johnson asked if there was a basement. Mr. Schultz stated Mr. Giardino will address the basement later.

Chairperson Thorpe opened discussion to the public.

Sally Cottrell, 8155 W. Canal Road – Ms. Cottrell stated that she had no comments for this part of the project. Chairperson Thorpe stated it is important to note that the Zoning Board should only be addressing questions regarding the area variance for the building height.

Cheryl Cooley, 8023 W. Canal Road – Mrs. Cooley is a neighbor adjacent to the proposed project and is representing herself, husband, and other neighbors. The variance is a change of the structure from 36 ft. to about 43 ft. and requires serious consideration from the Zoning Board. It's a change that sets a precedent for the whole Sweden area and specifically Heritage Square. There might be in the future a reason for another building this high. The Zoning Board originally had good reasons for the existing limit of 36 ft., i.e., related to emergency services, but those reasons still apply now. We, the people in the area, want it to remain at 36 ft. We do not want the variance to be granted, and we do not want the building to go higher. There is another consideration, which is the safety of the senior residents. Assisted seniors or independent seniors have slower reflexes and physical limitations. How many more residents are you gaining by adding another level? Is that number worth it to put the residents' safety on the fourth floor in jeopardy in case of an emergency? All the building plans and codes are met, but the higher the building goes, the greater the risk because of time it takes to get to the residents on the higher levels. This is the Zoning Board's opportunity to consider the safety of the vulnerable seniors, and not necessarily the developer, to keep the present limit of 36 ft. I soon will reach retirement and will have to move, and as a senior I would not want to be on the fourth floor

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – August 20, 2015

of any building, anywhere. As a resident living nearby, I do not want to see the 36 ft. changed and do not clearly see a good reason for it.

Michael Montfort, 8055 W. Canal Road – Mr. Montfort can see the college dorms fine, and can even hear doors shut. He thinks that the property was better zoned residential, but was changed to business zoning for the dorms. What's going to happen next, five stories? There is a point when the Board says the building height is 36 ft. and should stay that way.

There were no more questions from the public.

Mr. Giardino explained that the basement is actually a one story, common area or "Center Link," which will house all the common needs of the residents in the facility, for example, a commercial kitchen, dining room, and offices. In the lower level, there will be many amenities for the residents. For example, an exercise room, spa, sauna, massage, pedicure, and full hair salon services. There are also mechanical rooms. The "Center Link" was designed to have outdoor living space on the second floor roof, allowing the residents in other parts of the living areas to access the common area overlooking the courtyard and other activity space.

Mr. Giardino addressed the concern of the safety of the residents on the fourth floor. The building code that was written limiting many residential communities to height restrictions had a lot to do with fire protection. In that period of time, auto sprinklers were not required and buildings were made of masonry. The exercise of fighting fires was limited to introducing water and rescue from the ground. Now, the requirements are very stringent for multi-family residential and even more stringent for senior projects. The proposed building will comply with NFPA-13 requirements, most stringent in New York State, maybe the world. The notion that the building is unsafe is not accurate; it will be one of the safest buildings in the community. There will be fire and smoke detection in place, so before a fire gets started, emergency personnel will be contacted.

The process of moving people from the upper floors to the common area is very important. Elevators move more quickly and are safer. There are larger corridors in the building with extra stairwells in each section at the ends of the building. All these measures are taken into account for the residents of the community. The real issue is what effect the height of the building will have. What is the actual height of the roof and how is it measured? Realistically, there are probably many buildings in Town that exceed the 36 ft. height requirement depending on how it is figured, i.e., peak roof, height of building and then average of slope. The applicant has changed the architectural style of the proposed building to a European style, which is very efficient and costs less to build. If there were a peak roof on a 3-story building, it's likely that the top of the roof would be higher and you would see more building (roof) as a neighbor. The building proposed is designed tastefully, and is not bad to look at, enticing or iconic. To summarize, Mr. Giardino is not sure if the applicant is even asking for practical relief, it may be compliant. Technically, we have a four-story building, which is above the height requirement.

Mrs. Pauline Johnson asked the clerk how many copies of the legal notice were sent out. The clerk stated out of the 30 notices sent and the publication of the legal notice, the only

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – August 20, 2015

people to express an interest was those at the meeting tonight. Also, both Mr. and Mrs. Cooley stopped in the office earlier today.

Chairperson Thorpe stated the Board has received a lot of information and with no further questions; the Board has 62 days to make a decision. The Board will review the information and inform the applicant as soon as one is made.

The public hearing was closed.

After lengthy discussion, the Board decided to reconvene at a future date after the opinions of the Planning Board and Legal Counsel are obtained.

Moved by Mrs. Pauline Johnson, seconded by Mr. Sharpe, that the minutes of March 12, 2015, be approved.

Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Mary Ann Thorpe - Aye

The meeting was adjourned at 7:20 p.m.

Clerk to Zoning Board of Appeals