

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – October 7, 2015**

A reconvened 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 October 7, 2015, commencing at 6 p.m.

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

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

Also present: Kris Schultz, Schultz Associates

Chairperson Thorpe called the meeting to order at 6 p.m.

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

Chairperson Thorpe stated the public hearing was closed at the August 20, 2015, meeting; however, the Board may discuss any questions or comments amongst each other in order to reach a decision.

Mr. Fisher, who was not at the first meeting, is here today and has listened to the recording of the first meeting and reviewed the minutes. Per ZBA Counsel, Mr. Fisher is able to vote tonight.

The Board has received information from the Fire Marshal regarding the building height requirement, two letters from the applicant regarding the importance of this variance request and how Comida will be used for this project. Also, the architect submitted elevation drawings to the ZBA for review, which were presented at the Planning Board's public hearing.

Mrs. Johnson asked for clarification regarding the statement by the ECB that they had the same comments as with the original project. The Clerk explained that the ECB's comments were the same as those made for the Heritage Square – Phase I project.

The Fire Marshal had no concerns regarding fire apparatus.

Mrs. Johnson referred to Mr. Kris Schultz regarding the elevation drawings. He explained that the Brockport College Suites has been superimposed on the proposed drawing. The

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east and west elevation is pretty much the same, but north and south elevation drops considerably. Discussion followed.

It was noted that Mr. Cooley was the only resident who spoke out against the project at the Planning Board public hearing. Mrs. Cooley attended the August 20, 2015, ZBA meeting, to voice concerns regarding the application.

Mrs. Johnson asked for clarification regarding Mr. Hale's, Planning Board Member, comment regarding this project. The Clerk stated Mr. Hale is in favor of the project and could possibly be a resident there someday, but feels the variance request isn't justified.

Mrs. Johnson asked for more information regarding Start-up New York as far as tax implications. ZBA Counsel Lester explained that employees don't have to pay state income tax for a certain number of years. Mr. Schultz stated as far as he knew, it doesn't affect property taxes. Comida funding provides savings on taxes for material costs, and phasing of reduced property taxes.

Mr. Schultz explained that the Planning Board granted final approval to the resubdivision and site plan contingent upon the ZBA approving the area variance for building height.

Mr. Sharpe confirmed with Mr. Schultz that the existing woods, Parcel B, would remain. Mr. Schultz added the wooded area is an asset to the developer in that it will serve as a recreation area for the residents. The developer will be speaking with the Boy Scouts to propose an Eagle project to create trails. The only reason to remove the woods is if additional parking were required at some point or if the developer was not granted this variance and had to build a three story building, expanding the footprint of the building.

Mr. Sharpe stated while visiting the site, he noticed that the stormwater pond hasn't been maintained. Mr. Schultz explained that the pond was originally designed for the whole buildout of the Heritage Square – Phase I development and is oversized. The owners of Brockport College Suites and the developers of Senior's Choice signed a stormwater maintenance agreement to share maintenance of the pond.

Mr. Sharpe asked about future development of Heritage Square. Mr. Schultz stated the developers of Senior's Choice are considering patio homes to the west, possibly 24 units, for more independent residents.

Chairman Thorpe asked if there were any other questions, comments or concerns. There were none.

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Moved by Mrs. Pauline Johnson, seconded by Chairperson Thorpe, that having reviewed the application of Top Capital of New York, LLC, for an area variance of 6 feet, 10 inches, for a building height of 42 feet, 10 inches, instead of the required 36 feet, for the proposed Senior's Choice at Heritage Square, located off Redman Road, at 100 Isla Way, Brockport, New York, and the Short Environmental Assessment Form, that the application will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Frank Fisher – Aye
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Chairperson Mary Ann Thorpe – Aye

Moved by Mrs. Pauline Johnson, seconded by Mr. Fisher, that the application of Top Capital of New York, LLC, 400 Andrews Street, Rochester, New York, for an area variance of 6 feet, 10 inches, for the proposed Senior's Choice at Heritage Square, located off Redman Road, at 100 Isla Way, Brockport, New York, with a building height of 42 feet, 10 inches, instead of the maximum height of structures allowed, 36 feet, *be **approved*** for the following reasons:

1. The application is unique in the actual grading of the land. There is a difference of 25 ft. from the south to the north, with the south being higher. To the east of the proposed project there is an existing apartment complex. The existing height, including the cupola, is 45 ft., 10 3/8 in. The actual building height of the roofline is 42 ft., 5 1/8 in. The proposed building height for Senior's Choice is 42 ft., 10 in.
2. Communication from the Town's Fire Marshal and Building Inspector confirm that the current fire apparatus would be able to handle a fire at a four story building. Plus, there will be a sprinkler system in each unit for additional fire, life and safety protection.
3. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood because of the unique grading of the land and the similar height of the existing adjacent apartment buildings.
4. An undesirable change will not be produced in the character of the neighborhood and will not be a detriment to nearby properties because of the similar adjacent apartment building heights.
5. The variance cannot be achieved by another reasonable method. If the building height variance is denied, the developers would construct a larger three story building, thereby enlarging the footprint of the building, resulting in a loss of greenspace and the existing wooded area.

Frank Fisher – Aye
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Nay
Chairperson Mary Ann Thorpe - Aye

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Moved by Mrs. Pauline Johnson, seconded by Chairperson Mary Ann Thorpe, that the minutes of August 20, 2015, be approved.

Frank Fisher - Abstain
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Chairperson Mary Ann Thorpe – Aye

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

Clerk to Zoning Board of Appeals