

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – May 20, 2010**

A regular 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 Thursday, May 20, 2010, commencing at 7 p.m.

Members present: Frank Fisher, Ken Reid, Peter Sharpe, Mary Ann Thorpe

Absent: Pauline Johnson

Also present: James Bell, Esq., Nat. O. Lester, III, Esq., Robert Keiffer, P.E., George Hage, Ron Viele, a White Road resident

Chairman Reid called the meeting to order, introduced the Board members and read the notice of public hearing for:

Application of FRA Engineering and Architecture, PC, 255 East Avenue, Rochester, New York, for four (4) area variances to construct a ±13,600 sq. ft. CVS Pharmacy located at the northeast corner of Routes 31 and 19, Brockport, New York. The following variances are requested for the CVS site:

1. The proposed use of frontal area varies in width from 25 ft. along the majority of the Rte. 31 frontage to 5.94 ft. at its' minimum along the Rte. 19 frontage. Per Town of Sweden Ordinance §175-41, (E), (7), Use of frontal area. Employee and customer parking are permitted on all except a strip of land 25 feet in depth adjacent to the public highway boundary.
2. The proposed open space is 18.1 percent. The required open space is 30 percent.
3. The proposed perimeter side buffer zone is 0 ft. Per Town of Sweden Ordinance §175-40, Section B, Required perimeter buffer zone is 7.5 ft. in width.

The following variance is requested for the Brockport Corners Mall site:

4. The proposed perimeter side buffer zone is 0 ft. Per Town of Sweden Ordinance §175-40, Section B, Required perimeter buffer zone is 7.5 ft. in width.

G. Hage Resubdivision and CVS Pharmacy Site Plan. 083.08-8-22, 083.08-8-1.2, 083.08-8-1.111

Mr. Robert Keiffer addressed the Board. He explained that this application has been before the Planning Board, and the building drawings and site plan have been revised numerous times. Recently, the Planning Board granted SEQRA approval after considerable discussion regarding environmental issues, traffic, drainage, etc. Preliminary approval has been granted for the proposed subdivision, and a recommendation to the ZBA has been submitted for the subject variances to be looked at with favor.

The proposal includes the demolition of Bruegger's Bagels and Enterprise Rent-A-Car. Enterprise has moved into the Brockport Corners Mall. Once the buildings are demolished, the developer will proceed with mitigation of environmental issues associated with the site. The Phase I and Phase II environmental audit identified that there's a tank underground filled with sand used for storage of fuel and oil for the furnace in the Enterprise building. There are a couple of other areas where the quality of the ground water and soil contamination are being monitored and need to be cleaned up. After that, construction will begin of the ±13,600 sq. ft. store. Mr. Keiffer presented an approved architectural rendition/elevation of the store showing where an additional window would be located

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on the south elevation under the logo, “Beauty.” The Planning Board agreed upon this elevation after numerous submissions by CVS. Mr. Keiffer presented a plat map prepared by Schultz Associates showing where the CVS store will be built. Mr. Hage, owner of the properties, will merge two of the three lots into one, including a portion of a third lot for the CVS Subdivision, allowing for a common access and cross access for ingress/egress, utilities between the proposed CVS store and the existing mall, as well as an access off Rte. 31 and Rte. 19 to both facilities. The store will be leased by CVS and the property will be owned by Genesee Regional Development.

The location of the property line down the driveway resulted in the two requested area variances for a zero ft. setback off the side setback. This condition, after the store is built, will be the same as it exists today, and will look no different to anyone except for new paving, landscaping and curbing.

Mr. Keiffer explained the requested area variance for greenspace. He pointed to the greenspace in the buffer area along Rte. 19 and Rte. 31 on the drawing. The light green area is the amount of greenspace that exists today, which shows the areas where existing pavement encroaches into the NYS R.O.W., resulting in a negative buffer. Also, two curb cuts will be eliminated, one on Rte. 19 north of the intersection and one on Rte. 31 east of the intersection removing the pavement associated with each one. The dark green on the drawing is the additional greenspace that can be seen from the intersection of Rte. 31 and Rte.19 after the CVS is constructed. Across the Rte. 31 frontage, the 25 ft. buffer is satisfied but varies at one point to 6 ft. This buffer cannot be changed because of the number of parking spaces required by code for the mall and CVS, as well as the number of parking spaces required by CVS to locate on that site.

In summary, the applicant is asking for relief in some areas along the 25 ft. buffer, the 7.5 ft. buffer from the CVS to the mall property line and vice versa, and relief from the 30% greenspace requirement, which the site is at approximately 18% including the island areas.

Mr. Sharpe asked where the main entrance of the store would be located. Mr. Keiffer pointed to the location of the front entrance on the drawing. Also, Mr. Sharpe wanted to know if the side area variance is where parking would be. Mr. Keiffer explained that there is a cross-access agreement between the owner of the mall and the owner of CVS for 25 parking spaces on the CVS site plan dedicated for use by the mall. Mr. Keiffer pointed to the 25 spaces, which leaves 60 plus parking spaces around the front entrance for use by CVS.

Additional site improvements include improving the driveway that goes out to the north, extensive landscaping, relocating the mall entrance, repairing the sanitary and water as needed, and per the recommendations of the NYSDOT, the entrance off Rte. 31 will be as far away from the intersection as possible while not interfering with the vehicles exiting from McDonalds.

Mrs. Thorpe confirmed that the location of the ingress/egress on Rte. 31 was proposed by the State. She asked about the entrance off Rte. 19. Mr. Keiffer explained how one of the driveways would be eliminated.

Mr. Keiffer added that the greenspace percentage is essentially the same, but the location of the greenspace has been optimized to substantially improve the appearance of the site. Mr. Schultz stated the mature trees on the property would stay and continue to be maintained. The darker

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circles on the plan represent proposed trees. The building has been made to be attractive from all sides.

Mrs. Thorpe asked if the dumpster enclosure would be on the north side. Mr. Keiffer stated yes and that the dumpster is a masonry enclosure, the same material as the building.

Chairman Reid asked if anyone had any questions.

A White Road resident was concerned with the mature trees on the corner and wanted to make sure they would stay. Mr. Keiffer explained that this Board spent a considerable amount of time trying to optimize the appearance of this project. The location of the project has been referred to as the gateway into the Town, and thus, the Planning Board wanted it to be recognizable as a particularly good project, and well known as a point of direction.

Mr. Sharpe stated he didn't have any questions; he feels CVS is improving the site. Mr. Fisher and Mrs. Thorpe are also good.

Attorney Bell stated the Planning Board adopted a negative declaration on this project on May 3, 2010, which means this Board does not need to address the issue. Assuming the requested area variances are granted, this project is due back before the Planning Board for final approval on May 24, 2010.

Mr. Keiffer explained once final approval is granted, then paperwork can be finalized for funding the project, and around the middle of next month, the closing of the property could occur. Demolition and construction would start in early July. The building would be occupied in October.

Attorney Nat O. Lester, III, commented on behalf of Mr. George Hage that in regards to this project being an undesirable change in the character of the neighborhood or an adverse impact on the physical or environmental condition, this project is clearly an improvement to the area even to the adjoining mall parcel with enhancements to the mall parking lot.

Mr. Keiffer stated because the Planning Board was adamant about bringing forward the least number of variances, a considerable amount of time minimizing the magnitude of the variances was made by shifting the building several times.

Chairman Reid closed the public hearing.

Moved by Mrs. Thorpe, seconded by Mr. Sharpe, that the application of FRA Engineering and Architecture, PC, for four (4) area variances to construct a ±13, 600 sq. ft. CVS Pharmacy located at the northeast corner of Routes 31 and 19 be **approved** for the following reasons:

1. The request does not create an undesirable change in the character of the neighborhood but a change for the better in the whole area.
2. Benefit cannot be achieved by another means feasible to the applicant other than obtaining the requested variances.
3. The requested variance will not have adverse physical or environmental effects.
4. The alleged difficulty is not self-created.

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Mr. Sharpe agreed with Mrs. Thorpe's comment that this project will better the neighborhood. The applicant has done a nice job and put a lot of hard work and thought into the design, and it is appreciated.

Attorney Bell added that he believes the entire criterion that Mrs. Thorpe just went through are all factors that the Board did consider under both 267 of the Town Law and 175 of the Sweden Town Code, and that he believes it would be appropriate for this Board to consider granting the proposed variances.

Mr. Fisher - Aye
Mr. Sharpe – Aye
Mrs. Thorpe - Aye
Chairman Reid - Aye

The meeting was adjourned by motion at 7:35 p.m.

Clerk to Zoning Board of Appeals