TOWN OF NIAGARA

COUNTY OF NIAGARA, STATE OF NEW YORK

NIAGARA FALLS, N.Y.



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**TOWN OF NIAGARA PLANNING BOARD MEETING MINUTES**

**June 4, 2024**

**6:30 pm**

**Meeting held at the Town Hall**

**BOARD MEMBERS PRESENT: BOARD MEMBERS EXCUSED:**

Robert McDermott/Chairman

Barbara Hathaway

Darlene Sullivan

John Polka

Eugene Pucci

Josephine Brevetti-Runkle (Alternate)

**IN ATTENDANCE:**

Richard Sirianni Joe Smith

Gerald Hathaway Timothy Arlington

Corey Auerbach Diane Baehre

Charles Haseley Russ Petrozzi

The meeting was called to order at 6:30 pm.

1. **PRESENTATIONS:**

**Presentation #1- Diane Baehre of United Cerebral Palsy Associates of Niagara County, DBA Empower**

**Project Location: 7500 Porter Rd. Preliminary Site Plan Review**

**Tax Map# 145.12-2-4.1**

**(Bottle and Can Redemption Center)**

**Town of Niagara**

Diane Baehre of United Cerebral Palsy Associates of Niagara County, DBA Empower

is requesting a Preliminary Site Plan Review for the property on 7500 Porter Rd. She is looking to erect a detached garage at the Empower Bottle and Can Redemption Center. **Tax Map Number: 145.12-2-4.1 and SEQR**

Ms. Baehre explains that they have consulted with Parco building and are looking to have a detached garage erected in the back of the bottle and can redemption center. The purpose of the garage would be to load the truck with cans and bottles to be transported away from this site. She further states that they do not want to store cans and bottles in the existing building and thus the purpose of the garage is to hold the cans and bottles until the truck arrives and they can be carted away.

Mr. Petrozzi adds that the building is located in a commercial and industrial area, with very similar buildings located around it. It used to be the Hutchin’s property. He states that there is a service road behind the building and that the garage would not interfere with it. He says that it would work out great for them and that it would not interfere with the neighbors.

**II. MEETING:**

**#1- Joseph Smith of David Smith Sr. Enterprises represented by Timothy Arlington, P.E. of Apex Consulting**

**Project Location: 10235 Porter Rd. Final Site Plan Review**

**Tax Map# 146.19-2-2**

**(Vehicle Detail Shop)**

**Town of Niagara**

Joseph Smith of David Smith Sr. Enterprises is requesting a Preliminary Site Plan Review for the property on 10235 Porter Rd., which includes a small 380 +/- SF addition for 2 additional vehicle detail shop bays to the existing building. He is also seeking a revised special use permit for the repair garage: permit originally granted November 14, 2017 due to the alteration proposed. **Tax Map Number: 146.19-2-2 and SEQR**

Mr. Arlington of Apex Consulting explains that they are back in front of the planning board this month to present some additional information that was requested.

Mr. Arlington shows that they have mapped out a parking layout for 9 cars including a handicapped spot.

Mr. Arlington points to the site plan and shows where the dumpster enclosure has been added for a single dumpster.

Mr. Arlington clarifies that the zoning code relief being requested is for 3 area variances for setbacks (to be presented to the zoning board next week 6/11/2024). Since the existing building is nonconforming he explains that they need a setback variance as follows: Applicant seeks relief of Town of Niagara Zoning Ordinance §245-16 Appendix A, Part 5. Applicant seeks an area variance for a front setback of 20.72 ft., 39.28 ft. closer than the 60 feet minimum allowed, for a side setback of 1.37 ft., 18.63 ft. closer than the 20 feet minimum allowed, and for a rear setback of 15.45 ft., 4.55 ft. closer than the 20 feet minimum allowed.

Mr. Arlington explains that Mr. Smith is committed to dressing up the building. He shows the elevation of the front exterior, which includes ACM panels that match the existing dealership service department across the street also using the same white paint on the rest of the building. They are hoping to make it look like an annex across the street. He states that they are looking for a preliminary site plan decision and that next week they will move on to the zoning board for the variances.

Mr. Polka asks about some additional information for the water and sewer department. Mr. Arlington states that they tie in to the city water and sewer. Mr. Arlington states that they are not changing any of the water or sewer services and therefore will not need any permits from the water department. Mr. McDermott asks if there is anything that needs addressing with the city itself.  Mr. Haseley explains that because they are not modifying anything there would be no permits needed from the city.

Mr. Arlington explains that they are only taking down a small piece of the existing building and that the addition will be over the perfection. Mrs. Hathaway asks if they are going to paint the building and Mr. Arlington states that yes they will paint it the white diamond color.

Mr. McDermott asks about signage. Mr. Smith states that there is an existing pole sign there and they will be reusing them. Mrs. Hathaway asks if they will be redoing them or making them any larger. Mr. Smith confirms that they will be using them as they are. Mr. McDermott asks if the signs are currently on the building. Mr. Smith says that one sign says “David” and the other sign reads, “Detail Shop”.

Mrs. Hathaway asks about greenery around the area. Mr. Smith points out the front of the trapezoid shaped parcel, which is green space that he maintains and takes care of. He also has a conversation started between Sylvia Virtuoso and the mayor of Niagara Falls to try to improve the appearance of the water feature/sign.  He also mentions that he would like to get some of the local businesses to help make the aesthetic look a lot nicer.

Mrs. Hathaway asks who owns it and Mr. Smith explains that it is owned by the city of Niagara Falls. Mr. Smith again states that he would like to make the whole border look a lot nicer. Mrs. Hathaway says that it is an entryway into the town of Niagara and we would appreciate any help making it more beautiful. Mr. Pucci explains that when they widened Niagara Falls Boulevard that changed the shape of the town lines.

Mrs. Hathaway asks about outdoor lighting. Mr. Smith explains that they might replace the existing light that currently points to the sign. He explains that it would be something that points down so not to interfere with either the traffic or the Airport, but he's not adding any additional parking lot lights.

Mrs. Hathaway asked about parking. Mr. Arlington shows the parking lot layout on the plans and additionally, shows how there is plenty of room to navigate through the driveways around the parking spots.

Mr. McDermott asks about the variances for the zoning board and confirms that they are on the agenda for next week in front of the town of Niagara zoning board of appeals.

Mr. Polka makes a motion recommending a negative declaration on the SEQR.

Mrs. Sullivan seconds the motion and motion carried.

Ayes 5, Mr. Polka, Mr. Pucci, Mrs. Sullivan, Mrs. Hathaway, Mr. McDermott

Noes 0,

Absent 0,

Result: Approved

Mr. Polka makes another motion recommending approval of the final project site plan subject to the applicant receiving the requisite zoning variances.

Mr. Pucci seconds the motion and motion carried.

Ayes 5, Mr. Polka, Mr. Pucci, Mrs. Sullivan, Mrs. Hathaway, Mr. McDermott

Noes 0,

Absent 0,

Result: Approved

**#2- Diane Baehre of United Cerebral Palsy Associates of Niagara County, DBA Empower**

**Project Location: 7500 Porter Rd. Preliminary Site Plan Review**

**Tax Map# 145.12-2-4.1**

**(Bottle and Can Redemption Center)**

**Town of Niagara**

Diane Baehre of United Cerebral Palsy Associates of Niagara County, DBA Empower

is requesting a Preliminary Site Plan Review for the property on 7500 Porter Rd. She is looking to erect a detached garage at the Empower Bottle and Can Redemption Center. **Tax Map Number: 145.12-2-4.1 and SEQR**

Mr. McDermott asks if they have received the review and comments from Mr. Haseley and the building department. Ms. Baehre confirms that she did. Mr. McDermott asks if they have made any changes since receiving the concerns from the building department. Ms. Baehre says that they have not. Mr. McDermott explains that there are many problems with the existing application. First being that the site plan shows the structure attached to the existing building and the application states that it is a detached garage. Mr. McDermott continues to explain that the site plan and survey do not give dimensions to the property line.  Mr. Petrozzi says that they are going to make a list so that they can keep track of everything and not waste the board's time.

Mr. McDermott also asks for larger scale wide format plans, as the existing small drawing is difficult to read. Mr. McDermott asks if the garage is going to extend out to the easement. He also asks if the variances have been submitted to the zoning board because many variances are needed.

Mr. Haseley explains that he is unclear precisely what variances are required because sufficient information has not been submitted. He mentions that he needs stamped prints with measurements which are to scale, and that the codes for which relief is being sought need to be referenced exactly. Mr. McDermott suggests scheduling a meeting with Mr. Haseley in order to determine what all is needed.

Mr. Haseley continues to explain that if the code says that you need a 20 ft. setback and you have plans that show that the new building is 10 ft. from the property line then there are options for zoning variance request. You could request a 10 ft. variance, or the entire 20 ft., or some part thereof. Mr. Haseley explains that he cannot make any sort of a determination because the plans are not to scale they are not stamped and they are too difficult to read. Mr. Haseley suggests consulting with a design professional. Ms. Baehre and Mr. Petrozzi agree to do so.

Mr. McDermott also points out that the new structure shown on the plans is attached to the existing building. However, the application is for a detached structure and that we need to know how far the distance is between the buildings. Mr. Petrozzi questions whether they would be better off with an attached structure. Mr. McDermott explains that it would be a more involved construction process that includes heat and electrical.

Mrs. Hathaway states that they need to sit down with a design professional and possibly the building department in order to get their ducks in a row. Ms. Baehre agrees.

Mr. Pucci asks about the proximity of the door to the easement pointing out that there is no way to get to the north-facing door in order to get into his property. He clarifies that it would require going on to someone else's property in order to access the garage. Mr. Petrozzi states that he would use the easement. Mr. McDermott explains that is unacceptable because he does not own the easement.

Mrs. Hathaway asks Mr. Haseley to explain the importance of an easement and what it is and why the board is concerned.

Mr. Haseley says that a standard easement is an obstructed thoroughfare for reasons staked out for deed purposes and at this point, everybody knows this was John Hutchins complex.  The complex was subdivided by the town so that all the entities could maintain their exit-ways and so that the parcels would remain compliant with state and local codes.  Therefore, the deed may state that the easement be accessible to be used by all the parcels and Mr. Petrozzi may have access to the easement on the deed, which then needs to be included in the packet for our consideration.  The site plan should show where the building is and the elevation should show where the easement is. The applicant would also provide the documents that show they have use of the easement.

Mr. McDermott asks if the dimensions of the easement would also have to be listed and shown to scale and Mr. Haseley confirms.

Mr. McDermott asks Mr. Haseley about having previously questioned the structure. Mr. Haseley explains his reasoning is that the letter of intent states that it would be a detached structure and the plans state that it is an addition. Mr. Haseley further explains that this is important because of the acceptable uses for each of these structures is different.  He states that if the use of the new build is to store cans and bottles until the truck shows up then that is not a motor vehicle garage that is an S2 storage building (as per the state codes).  Which then comes with a host of things that are necessary in order to get a certificate of occupancy. You would have to provide electric lighting, heat and more. A vehicle garage would be a structure that stores cars and trucks but no cans can ever be stored there and it could be detached and would not require electric or heating.  He explained that these things need to be decided in order for the planning board to make a recommendation.

Mr. McDermott suggests employing a designer in order to get all the parameters squared away. Once that is done then he suggests looking at what variances are needed. Because the variances needs to be done before the planning board can make a determination.

Mr. Petrozzi says  they will get the drawings to Mr. Haseley and will work with Mr. Haseley to determine what variances might be required.

Mrs. Hathaway also requests that the letter of intent should have a statement describing what exactly the building will be used for.  Mr. McDermott explains that if the use of the building determines what is allowable for code standards.

Mrs. Hathaway explains that they did not complete the SEQR Form and it is missing a signature.

Mrs. Hathaway asks for further clarification as to what the building will be used for. Mr. Petrozzi explains that it was going to be used primarily to store the vehicles and that the only time the cans would be stored inside would be in the wintertime, when they would load the cans into the trucks in the garage.

Mrs. Baehre explains that they did not want to store bottles and cans inside the building so they thought since the trucks would already be in the garage they would store the cans in the trucks until they take them to the facility on 30th Street.

Mr. Polka then points out that the building is enclosed and does not have any windows so it would be dark inside which is a safety concern for the employees.  Mrs. Hathaway adds that in the winter it would be dark and cold.

Mr. Petrozzi states that the original plan was to load the trucks outside but concedes that if they are going to do it they might as well do it.

Mr. Haseley asks if they're going to be using the trucks as storage bins: If they're going to sort the cans inside the existing building and then bring them into the garage and put them in the trucks and store them in the truck until the truck is full. Ms. Baehre confirms. Mr. Haseley asks if there are going to be employees will be sorting or loading cans in the garage. Mr. Petrozzi says that they could be. Mr. Haseley explains that that use would not be allowed in a “garage”.

Mr. Haseley explained that that makes the use of the building (S-2) storage and not a garage.

Mrs. Hathaway requests a detailed process description on the next application that includes the who’s, what, where, when, how’s and why’s of the desired operation/ use of the new building.

Mr. Polka suggests that they also consider that the building will be in use 12 months a year. It would be cold and dark in the winter months. Mr. Petrozzi asks if it needs heating and lighting if it is a garage.

Mr. Haseley explains that the state of New York will allow a **private** garage not to have electric installed to the building. There would not be lights and there would not be a garage door opener. But once you put an employee out there working (sorting cans or storing cans) then you need exit lights, emergency lights, heat etc.

Mr. Polka suggests that since they have expressed interest in using the building for working and storage then they need a designer to add the items required by state and local codes.

Mr. Polka makes a motion to table the preliminary site plan review until the applicant brings back the following:

* Provide a wide format (printed 24 inches by 36 inches **or** 30 inches by 42 inches) site plan of the building to scale, including property survey and building location (whether attached or detached), and dimensions and setbacks.
* New letter of intent including details about the use of the building and the operations to be performed inside.
* Documentation of the Easement – both legal use rights, and dimensions.
* Attain variances from the town of Niagara zoning board as needed.

Mrs. Hathaway seconds the motion and motion carried.

Ayes 5, Mr. Polka, Mr. Pucci, Mrs. Sullivan, Mrs. Hathaway, Mr. McDermott

Noes 0,

Absent 0,

Result: Approved

**III. MINUTES:** Approve Planning Board minutes from the April 2, 2024 Planning Board meeting. The next Planning Board meeting is scheduled for July 2, 2024 at 6:30 pm.

Mr. Polka motions to approve the Planning Board minutes from the May 7, 2024 Planning Board Meeting. Mrs. Sullivan seconds and motion carried.

Ayes 5, Mr. Pucci, Mrs. Sullivan, Mrs. Hathaway, Mr. McDermott, Mr. Polka

Noes 0,

Abstain 0,

Absent 0,

Result: Approved

Mr. McDermott made a motion to adjourn the meeting at 7:13 pm

Respectfully submitted,

Jackie Duff