

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – December 21, 2023**

A meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Sweden Town Offices, 18 State Street, Brockport, New York on December 21, 2023, commencing at 6 p.m.

Members present: Robert Carges, Kevin M. Johnson, Pauline Johnson, Mark Sealy.

Absent: Robert Muesebeck – excused.

Also present: Nat. O. Lester, III, ZBA Counsel; Andrew Spencer, BME Associates; Tim Holland, Stonehaven Companies.

Chairman Carges called the meeting to order at 6 p.m. and asked everyone to say the Pledge of Allegiance.

Chairman Carges waived the reading of the legal notice.

Application of Stonehaven Development LLC, 154 Cobblestone Court, Victor, New York, for a use variance. Applicant is proposing to construct a ±21,400 sq. ft. community mini storage building including a 59-space parking lot for residents' use only at the Stonebriar Glen South proposed development between Bader's Way and Fourth Section Road. The property is in a Multi-Residential Zoning District. Mini-storage units are only permitted in Industrial Zoning Districts, I-1, and I-2.

Town of Sweden Ordinance §175-46 I-2 Light Industrial District use regulations and performance standards, A. In a Light Industrial District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designated to be used, in whole or part, for any purpose except the following: (1) through (8) – (6) Wholesale storage, warehousing and mini storage, provided that such uses shall be operated in fully enclosed structures or within an area enclosed by a solid wall or a solid fence.

Stonebriar Glen South

Andrew Spencer, BME Associates, addressed the Board. He introduced Tim Holland, Stonehaven Companies.

Mr. Spencer explained the original Stonebriar Glen parcel was rezoned to Multi-Family Residential in 2017 for the development of approximately 155 units. Mr. Kartes, President, Stonehaven Companies, had always been interested in the parcel to the south for development of more townhouses. Stonehaven Development purchased the parcel to the south in 2020 and rezoned it to Multi-Family Residential in 2021. The project is currently under review at the Planning Board where it was determined that the proposed community storage building required a use variance.

The proposed community center is approximately 21,400 sq. ft. Part of the community center will have areas inside and outside of the structure to enable storage for residents currently living at Stonebriar north, as well as tenants who will live at Stonebriar south. All of the storage is to be internal to the development itself. There will be no external rental or external individuals utilizing this structure.

Chairman Carges confirmed with Mr. Spencer that there will be an additional rental fee for the use of the storage unit as there will not be enough units for every tenant.

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One of the challenges faced is that all the townhouse units were developed and designed to fit in the space with a single car garage and a single parking space in front of the garage. Because of the limited size of the townhomes, many individuals have been using the garage for storage space. Many individuals living here downsized from a single-family home and brought a lot of things, furniture with them. It has always been Stonehaven's desire to provide some ancillary parking and ancillary storage areas for the residents. The community storage building has been proposed the entire time from the rezoning through the site plan review. Stonehaven will purely operate the building for the residents' use only.

A letter from the developers has been provided explaining some of the criteria that the Board will be looking at tonight. Mr. Spencer reiterated that the structure is a 21,400 sq. ft. building that will contain community rooms, approximately fifty-nine parking spaces outside in the ancillary parking area for residents that have one or more vehicles. This will free up some of the visitor parking areas and driveways.

Mr. Sealy confirmed with Mr. Spencer that the ancillary parking area will be gated with a six-foot privacy fence around the perimeter. Security and lighting will be provided. Mr. Spencer added the inside of the building has not been designed yet, but the outside shown has a barn-like character to fit in with the community. The community building was designed to be hidden so that people are not attracted to it and will be known for the residents' use only.

There have been numerous requests by the residents for areas to store their vehicles and belongings that they do not currently have. Stonehaven sees this as people are questioning the validity of moving into the community because there is no extra storage available. From a financial perspective overall, Stonehaven may end up seeing that people are not moving in because of the lack of storage.

Additionally, Stonehaven could have put garages throughout the entire site which would have complicated the roadways and populated the site too much. The intent was to combine storage needs into one structure.

Mr. Spencer stated it is important to note that the structure is not intended to be a storage facility but rather a community building with an ancillary storage area inside.

Counsel Lester asked if the outside parking area is on the west side of the building and will it be screened from the Sweden Clarkson Community Recreation Center. Mr. Spencer stated that is correct and that the building will provide a buffer between the recreation center and the parking area. Also proposed is landscaping around the site to detract from the storage building. Additional plantings can be provided if necessary. Mr. Sealy added a six-foot privacy fence will also be installed. Counsel Lester inquired if the topography or elevations are known from the community building to the recreation center. Mr. Spencer stated there is only a few feet elevational difference. The land does slope down.

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Mr. Sealy confirmed with Mr. Spencer that the proposed parking at the community storage building is only for storage of vehicles and that there are only a few parking spaces in the front for the residents' use. Mr. Spencer stated it depends on the type of event being held, a portion of the gated parking spaces can be opened up for additional use. Parking was discussed.

Mrs. Pauline Johnson asked how many exterior doors there will be. Mr. Spencer cannot say for sure at this time but is anticipating one door at the southern end of the building and maybe five or six along the side. Mrs. Johnson confirmed with Mr. Spencer that the doors will be overhead doors, possibly decorated overhead doors. The goal is to free up space for the residents to park their cars in the garage, freeing up driveway space and a nicer looking development.

Mrs. Pauline Johnson asked what the storage units look like inside, enclosed or cages. Mr. Holland stated the design of the units has not been decided. There will be some smaller storage units outside with smaller doors and some units inside that will be climate controlled behind a closed door. There will be a separate entrance into the community portion of the building for the storage units.

Mr. Sealy asked what the percentage of space for the community center and storage area is. The first floor will mostly be used for storage and the second floor for community rooms and general gathering places.

Mr. Kevin Johnson asked if the ancillary parking spaces will be used for boats and campers. Mr. Spencer stated he does not expect a lot of boats or campers.

Counsel Lester asked Mr. Spencer to address the tests relative to granting a use variance.

1. The property is incapable of earning a reasonable return on the initial investment – reference was made to the letter included from Stonehaven explaining financial difficulties that would be incurred if the use variance was not granted (made part of the record). For example, there have been a number of requests for storage and if not able to provide, will be a loss in income due to a drop in the number of tenants. Also, there is the burden of re-design in order to provide storage on site.
2. Unique or highly uncommon circumstances – in this particular case, the uncommon circumstance is the individuals who are coming to the overall development are downsizing and need storage. The individuals will not be able to bring all their belongings with them or if they do will need storage. Because of the college in Town, there is not a lot of available storage. There were three available units out of the five storage places called today for a five by ten unit. The place closest to the development had zero availability.
3. The requested variance will not alter the essential character of the neighborhood – the proposed aesthetic building design will match the overall character of the Town and be similar to some of the beautiful barns in the area. The outdoor parking area will not be seen from the recreation center or from the neighboring properties. The community structure will not create any change to the character of the neighborhood.
4. Alleged hardship has not been self-created – it is not self-created with the respect that the residents are downsizing and have a need to store their belongings which the developer has not incurred before. The letter submitted dated November 27th expands on the above comments.

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Counsel Lester asked if at the time the application for rezoning was before the Town Board the community storage structure was shown on the plans. Mr. Spencer stated it was for rezoning and planning applications. Did the Planning Board make a recommendation to the Zoning Board of Appeals for the use variance? The Planning Board Clerk stated there were no objections from the Planning Board, only that to move forward with approvals, a use variance is required.

Mrs. Pauline Johnson noted that the Clerk has the original rezoning plan (dated 2019) from the Town Board application at the meeting showing the proposed community storage structure and that the location has not changed. Mr. Spencer stated some other changes were made but did not involve the community storage structure.

Counsel Lester questioned if the Town Board did a SEQR review on the rezoning application. Mr. Spencer stated a SEQR review was completed for the overall application and granted a negative declaration.

Counsel Lester asked if there are any commercial properties near the community storage structure. Mr. Spencer stated there are businesses on Fourth Section Road and on Route 19, across the street and a multi-family development. There are single-family homes farther down Route 19. A Wegmans store, other plazas, and commercial businesses heading east are also in the area.

Mrs. Pauline Johnson checked with the Clerk to see if anyone had contacted her with questions, comments, or concerns. There were none. It was noted there were no public comments made at the planning board's public hearing.

Mr. Kevin Johnson inquired if the NYSDOT would consider adding a traffic light at the entrance of the development on Fourth Section Road since many more units are being added. Mr. Spencer explained a traffic study was already completed and indicated that there is not a need for a traffic signal. During the rezoning process, a number of avenues were looked at to provide access. Bader's Way is a dedicated road and from a traffic standpoint, the intersection will work very well.

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

Chairman Carges closed the public hearing.

Mrs. Pauline Johnson is prepared to make a motion. She offered first the following background. On April 23, 2019, the Town Board designated itself as the Lead Agency for the coordinated review and determination of significance under the SEQR Regulations for the application to rezone portions of two parcels south of Fourth Section Road between Lake Road and Redman Road.

Mrs. Pauline Johnson offers the following motion and moves for its adoption:
Having reviewed the application and Short Environmental Assessment Form of Stonehaven Development LLC, Victor, New York, for a use variance to construct a community storage building will not have a significant adverse impact on the environment which constitutes a negative declaration.

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Seconded By Mr. Sealy and duly put to a vote, which resulted as follows:

Vote: Chairman Carges – Aye
Mr. Kevin M. Johnson – Aye
Mrs. Pauline Johnson – Aye
Mr. Robert Muesebeck – Absent
Mr. Mark Sealy – Aye

Motion carried.

Mrs. Pauline Johnson offers the following motion to approve the application of Stonehaven Development LLC, for a use variance to construct a ±21,400 sq. ft. community storage building at tax account number 083.04-1-1.212, be approved for the following reasons:

1. At the April 23, 2019, Town Board Public Hearing – the applicant requested rezoning from R1-2S Single Family Residence to MR-1 Multiple Residence to allow for 159 residential homes – 48 apartments in 8 two-story buildings, 57 one-story townhomes, 54 one-story duplexes – **along with a community storage building to accommodate the residents.** On November 19, 2021, the Town Board voted unanimously (4-0) to approve the proposal to re-zone approximately 50 acres of portions of two tax parcels, 083.040-0001-001.21 and 083.040-0001-005.111, from R1-2S Single Family Residence to MR-1 Multiple Residence.
2. The Planning Board recommends the Zoning Board grant a use variance.
3. **Financial hardship** –in order to include additional storage for each individual unit, the floorplans would need to be redesigned for the four different unit types. There would also potentially be less units, as the footprint would be increased. The additional cost per unit would outweigh the cost of adding a community center building.
4. **Alleged hardship is unique** – residents of leased townhomes may require separate storage outside their unit. They may also need additional parking for guests and seasonal vehicles.
5. **Alter the essential character of the neighborhood** – the surrounding area of the community storage building includes a grocery store, recreation center, hotel, and another apartment complex. The community storage building will blend in with the neighborhood and not change the character.
6. **Hardship is not self-created** – tenants may be downsizing from houses to townhouses and may require additional storage and parking.
7. This use variance is granted under the following conditions:
 - The storage space is to be used only by residents and not the public at large, and
 - Such use shall be operated in fully enclosed structures or within an area enclosed by a solid wall or a solid fence, and
 - Lastly, this use variance is subject only to the Stonebriar Glen South project.

Seconded By Mr. Kevin M. Johnson and duly put to a vote, which resulted as follows:

Vote: Chairman Carges – Aye
Mr. Kevin M. Johnson – Aye
Mrs. Pauline Johnson – Aye
Mr. Robert Muesebeck – Absent
Mr. Mark Sealy – Aye

Motion carried.

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Moved by Mrs. Pauline Johnson, seconded by Mr. Mark Sealy, that the minutes of July 13, 2023, be approved.

Chairman Carges – Aye
Mr. Kevin M. Johnson – Aye
Mrs. Pauline Johnson – Aye
Mr. Robert Muesebeck – Absent
Mr. Mark Sealy – Aye

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

Respectfully submitted,
Phyllis Brudz
Zoning Board of Appeals Clerk