

ACPB February 28, 2022 Meeting Minutes

Special Board Meeting – February 28th, 2022

NOTE: Due to issues related to Covid-19, the February 28, 2022 meeting of the ACPB was held remotely via Microsoft Teams. The public was able to call into the meeting to listen and ask questions. There was a designated period of time prior to the meeting for written comments to be submitted.

Board Members Present: Brian Crawford, Gerry Engstrom and Travon Jackson

Albany County Public Works Office: Gopika Muddappa, Senior Planner; Lynn Delaney, Secretary; William Anslow, Civil Engineer; Jim Mearkle, Traffic Engineer; Rob Gunther, Stormwater Program Technician; Sameer Modasra, Ex-Officio; and Ransom Moore, Ex-Officio.

Guests: Dan Hershberg of Hershberg and Hershberg, Andy Brick, attorney representing the Daughters of Charity New Community, Joseph F. Castiglione, Esq. of Young/Sommer LLC representing the Sage Estates Homeowners Association.

Minutes: Lynn Delaney

Call to Order: Gerry Engstrom called the meeting to order at 3:04pm.

Case #:	<u>12-220203899</u>
Project Name:	Daughters of Charity New Community
Applicant:	Daughters of Charities Ministries of St. Vincent DePaul
Project Location:	98 Menand Road (approx. 650 feet east of intersection with Van Rensselaer Blvd)
Municipality:	Village of Menands
Parcel Size:	24.70 acres
Zoning:	R-1 Residential
Tax Map Number:	55.5-3-6
Referring Agency:	Village of Menands Zoning Board of Appeals

Considerations: Area variance and use variance for the proposed multi-phase project, including (1) Village Center Area (2) 76 Independent/ Assisted Living units in a four story structure (3) 28 Assisted Living Units and Assisted Living/Memory Care Units in a two story structure (4) 60 Cottages in duplex and triplex units (5) Structured parking for 58 cars (6) Surface parking and (7) Walking paths.

Action Type: Area Variance, Use Variance

Juris. Determinant: State Road

Potential Impacts: 378 Menand Road, 377 Van Rensselaer, Historic District, NWI Wetlands

Staff Notes: The applicant proposes a multi phased project and proposes to demolish buildings on site in a manner to preserve functions. The completed project will have a 1) Village Center Area 2) 76 Independent/Assisted Living Units in a four (4) story structure with a partial floor for parking and services beneath 3) 28 Assisted Living Units and 36 Assisted Living/Memory Care units in a two story structure 4) 60 Cottages in duplex and triplex units 5) Structured parking for 58 cars 6) Surface Parking and 7) Walking paths. The purpose is to provide for a continuum of care for Daughters of Charity and for members of the community. The need is that the Daughters of Charity are aging and do not have facilities which could provide for their needs. A total of 19 acres of land disturbances are expected during the development. The development is proposed to be constructed in phases. Phase 1 is to include new construction of 4-story Independent Units with lower level parking, 2-story Assisted Living/Memory Care building 12 Cottages and a Club House. It will also include demolition of administration building and storage building. Phase 2 of the development will include new construction of 38 cottages and demolition of DePaul House, St. Louise House and the garage. Phase 3 of the development will include new construction of 10 cottages and demolition of St. Joseph's on the Hill Building. To serve this project, a new 8" Water Main will be run around the project site to provide for potable water and for fire protection. Use variance is required since Chapter 169 Schedule "A" does not in an "R" zone the uses in the proposed development as a "Principal Use Permitted by Right" or a "Use Permitted by Special Permit". An area variance is required since Chapted 169 Attachment 2, Schedule B, Dimensional Table in the "R" zone the allowed maximum building height is 35' and maximum number of stories is 2 1/2. The primary building height is 79' and exceeds the allowed stories.

Staff Opinion:

Modify local approval to include

1. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared and is being implemented, or submission of a Stormwater Pollution Prevention Plan (SWPPP) that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-15-003, May 1, 2015) for construction activities that disturb more than one acre of land.
2. Review by the Albany County Department of Health for water supply, waste water discharge and other required permits.
3. A demolition review is required to ensure no hazardous materials are present.
4. Review and permits by New York State Department of Transportation for commercial property development plans involving new or modified access to a state highway, or involve any change of use or expansion of an existing development on a state highway.
5. Over 5 acres of land disturbance is expected during the development, therefore a phasing plan required.
6. The Albany County Planning Board recommends that the Village should request the applicant to pass the overall statutory test before granting the area/use variance for self-created alleged difficulty/ any demonstrate "unnecessary hardship" since the mere inconvenience of development in accordance with the permitted use in the R-1 Residential zone does not account for hardship.
7. The Village Zoning Board should consider the precedent setting nature of allowing significant area and use variance to the Village Code in the R-1 Residential Zone.
8. Moving the entrance to the parcel's frontage on Route 377 (Van Rensselaer Blvd) would have operational and safety benefits. It would have to cross a sizeable gully.
9. If the access stays on Route 378 (Menands Rd), NYSDOT prefers for it to stay in the existing driveway location, rather than moving it closer to the traffic signal. The traffic assessment says they will be able to meet (but not exceed) the intersection sight distance, and it does not indicate whether that is dependent on keeping the cut slope clear of vegetation.
10. The Village should refer the project to NYSDOT for review and permitting.
11. There is inconsistency in the SEQR long form (FEAF) and the Albany County Planning Board recommends that it is corrected

for coordinated review of the traffic assessment and the SEQR determination. The ACPB also recommends that the Village insist upon the two documents for further assessment of the impacts of the project.

12. The ACPB considers this as a Type I action and recommends that the local municipalities should either assign or take lead agency status.

Brian Crawford commented that the traffic report was concise and informative.

Travon stated that he would like to hear from the representatives on the call to get their final words/discussion of this project.

Before hearing from others, Gerry Engstrom said that is still concerned about many parts of this project due to its size. He feels that it is overdeveloped and he knows that there is some opposition from residents. It does not meet the R1 zoning criteria and it should be rezoned if the Village wants a project this size.

Travon Jackson agreed that perhaps the zoning should be changed in light of the size of this project.

Dan Hershberg stated that the traffic study shows the impact to be minimal given the volume of traffic on Menand Road and Van Rensselaer Blvd. It does not meet DOT requirements that they study other intersections.

Andy Brick, attorney for DOC, stated that he was recently brought on board so he was not at the original meeting earlier this month. He stated that many of the concerns he is hearing from the Board members are actually issues that the local boards will be addressing. In addition, the ACPB Senior Planner recommendations already address the concerns regarding the size of the project. He also said that it is very likely that the final project will be smaller and different than what is currently proposed, but that is up to the Village to make that determination.

Joseph F. Castiglione, Esq of Young Sommer LLC, attorney representing the Sage Estates Homeowners association, stated that Mr. Brick's statement of "it may change in the future" is irrelevant as this is the project before us today. He went on to say that the traffic report differs from the EAF and there isn't a SWPPP in place. To date he has not seen SEQR started yet nor has he seen a lead agency notification or coordination. He also stated that this project is not in line with the Village Comprehensive Plan. He has attempted to meet with the Daughters of Charity, but to date they have declined to do so.

Dan Hershberg said that a SWPPP isn't typically submitted at this stage. Brian Crawford confirmed that the ACPB would expect to see the SWPPP at the site plan review not the area and use variance review.

Travon Jackson stated that it seems like they are in agreement that ultimately the Village of Menands is the decider on this.

Gerry Engstrom suggested the addition of 2 Modifications in addition to the ones provided by the Senior Planner (noted as number 11 & 12 above).

Travon asked Brian Crawford and Gerry Engstrom whether they believe we are better off disapproving this project or making it a Modify with numerous requirements. The Board determined they should make the recommendation of Modify Local approval with the 12 requirements discussed (noted above).

The Village of Menands is holding a public hearing for this project on Wednesday, 3/3/22.

Brian Crawford mentioned that when/if we see this for Site Plan review, we will have much more information to review.

With the additional modifications, Travon Jackson made a motion to accept the Staff Opinion for Case #12-220203899. The motion was seconded by Brian Crawford and was unanimously approved by the Board.

Adjourn: Travon Jackson made a motion to adjourn at 3:46pm.