

**WEST SENECA TOWN OFFICES**  
**1250 Union Road**  
**West Seneca, NY 14224**

**ZONING BOARD OF APPEALS**  
**Minutes #2015-01**  
**January 28, 2015**

The regular meeting of the Zoning Board of Appeals of the Town of West Seneca was called to order by Chairman Tim Elling at 7:00 P.M. followed by the Pledge of Allegiance led by board member Rick Marzullo and 30 seconds of silent prayer.

**ROLL CALL:** Present - Tim Elling, Chairman  
Michael P. Harmon  
Evelyn Hicks  
Michael P. Hughes  
Rick Marzullo  
Jeff Baska - Building and Plumbing  
John Fenz - Town Attorney

Absent - None

Chairman Elling read the Fire Prevention Code instructing the public where to exit in case of a fire or an emergency.

Chairman Elling thanked Sandy Giese Rosenswie and welcomed new board member Rick Marzullo and Town Attorney John Fenz.

#### **OPENING OF PUBLIC HEARING**

Motion by Hughes, seconded by Harmon, to open the public hearing.

**Ayes: All**                      **Noes: None**                      **Motion Carried**

#### **APPROVAL OF PROOFS OF PUBLICATION**

Motion by Harmon, seconded by Hicks that proofs of publication and posting of legal notice be received and filed.

**Ayes: All**                      **Noes: None**                      **Motion Carried**

#### **APPROVAL OF MINUTES**

Motion by Hughes, seconded by Hicks, to approve Minutes #2014-11 of December 10, 2014.

**Ayes: All**                      **Noes: None**                      **Motion Carried**

**OLD BUSINESS**

**2010-063**

Request of John Cordova for a renewal of a variance for property located at 270 Center Road (Rusty Buffalo) to allow live music.

Mr. Cordova explained that he purchased the property in November 2014 and his request is for a live music variance. Mike Hughes explained that the reason variances such as this one are temporary is so that the board is able to monitor the business and make sure that it is "neighborhood friendly". Mr. Hughes pointed out that in the past there was a live music variance that was granted for this location. Chairman Elling received police reports that showed from December 2013 to December 2014 there were eighteen complaints filed with the police department. Two of those complaints were regarding live music after the hours granted in the variance, one was because of an alarm went off and the other 15 were for miscellaneous occurrences. Mr. Cordova explained that the type of live music he would be playing would be four piece, jazz and blues types of bands.

No comments were received from the public.

Motion by Harmon, seconded by Hughes, to close the public hearing and grant a 6 month variance for property located at 270 Center Road to allow live music Friday through Saturdays from 8:00PM until 1:30AM and Sundays through Thursdays until 11:00PM.

**Ayes: All**

**Noes: None**

**Motion Carried**

**2014-045**

Request of H. Dale Kling for a variance for property located at 4760 Clinton Street to erect a garage 1' from front lot line (erect accessory structure without principal building; 40' front setback required)

Mr. Kling submitted a letter asking the board to table this variance until the February 25, 2015 meeting.

No comments were received from the public.

Motion by Hughes, seconded by Hicks, to close the public hearing and table the variance for property located at 4760 Clinton Street.

**Ayes: All**

**Noes: None**

**Motion Carried**

**NEW BUSINESS**

**2015-001**

Request of David Schwalenberg for a variance for property located at 3069 Clinton Street to erect a taller garage than permitted (12' to middle of roof for accessory structures allowed, 16'-8" requested)

Mr. Schwalenberg explained that he would like to build a bigger garage so he can store an RV in it. Mr. Schwalenberg submitted letters of approval to the Zoning Board. After reviewing the letters, the Board noticed that the measurements Mr. Schwalenberg used in his letter did not match up with the actual dimensions of the proposed garage.

No comments were received from the public.

Motion by Hughes ,seconded by Harmon, to close the public hearing and table the variance for property located at 3069 Clinton Street until February 25, 2015 so that Mr. Schwalenberg can get signed letters of consent from his neighbors that state the correct dimensions of the proposed garage.

**Ayes: All**

**Noes: None**

**Motion Carried**

**2015-002**

Request of Jill Kowalczewski for an interpretation of whether or not there is a business in operation at the property located at 10 Robin Court (120-13 Permitted uses in R-65 Single family home)

Attorney Ralph Lorigo represents the applicant Jill Kowalczewski. Mr. Lorigo stated that the client grew up in the neighborhood and has been living at 10 Robin Court since 1997. Mr. Lorigo stated that Mrs. Kowalczewski is a seamstress and volunteers time at West Seneca East, making costumes for the schools plays. Ms. Kowalczewski makes alterations on bridal gowns. She meets clients at the bridal salons where she takes measurements. The customers pay the bridal shop for the services and in turn the bridal salons compensate Mrs. Kowalczewski. On occasion the brides will go to Mrs. Kowalczewski's house for their final fitting which is usually a ten to fifteen minute meeting. Mr. Lorigo pointed out that

there is no sign on the property, Mrs. Kowalczewski does not have a business phone and she does not have any employees. Chairman Elling asked if Mrs. Kowalczewski alters dresses for just brides or for brides and the bridal party to which she replied by saying she does both. Mrs. Kowalczewski works for two different salons currently and she does not do any advertising for herself, she does have business cards but they do not have her home address on them. Mike Harmon questioned if Mrs. Kowalczewski ever has more than one bride there at a time trying on dresses and she replied that she only has one bride there at a time who is sometimes accompanied by a relative or friend. Evelyn Hicks asked how many times people are going to Mrs. Kowalczewski's house to which she responded by saying about 40 people per month. Mrs. Kowalczewski also noted that she always asks her clients to park in her driveway. Mike Hughes asked about the financial exchange and Mrs. Kowalczewski stated that all financial exchanges are made at the bridal shop and she does not accept any money at her residence. Mrs. Kowalczewski brought a signed letter of support from the following residents: Michele Macey 115 Robin Lane, Michael Burke 121 Robin Lane, Jen Draves 120 Robin Lane, James May 124 Robin Lane, John Stanly 128 Robin Lane, Joseph Doyle 132 Robin Lane, Theresa Guzdek 108 Robin Lane, Karen Wesolowski 100 Robin Lane, Cathy Fiscus 92 Robin Lane, Kim Szczepanski 103 Robin Lane, Marybeth Mazza 104 Robin Lane and James Krencik of 136 Robin Lane.

Claudine Budzinski of 14 Robin Court spoke and stated that Mrs. Kowalczewski's business brings a lot of traffic into the court and throughout the neighborhood. Mrs. Budzinski stated that cars are constantly speeding down the street and there is always extra traffic due to this business. Mrs. Budzinski stated that she can't let her kids go out front of the house because people are constantly coming and going from Mrs. Kowalczewski's house. Mrs. Budzinski explained that she gave a log of traffic to Jeff Schieber in the Building and Plumbing Department. Mrs. Budzinski brought letters of opposition to Mrs. Kowalczewski's "business" from 14 Robin Court, 9 Robin Court, 116 Robin Lane, 60 Robin Lane, 81 Robin Lane, 14 Robin Court, 9 Robin Court, 13 Robin Court, 38 Lorry Drive, 44 Lorry Drive, 59 Robin Lane, 51 Robin Lane, 33 Lorry Drive, 17 Lorry Drive, and 89 Robin Lane.

Carol Novak of 9 Robin Court also spoke from the public and explained that there are four or five people per hour that got to Mrs. Kowalczewski's house. Mrs. Novak explained that people park in front of her house constantly. There are a continuous number of cars that drive down the street and they often stare at Mrs. Novak's home which she feels is a violation of her privacy.

A resident from 104 Robin Lane and 120 Robin spoke on behalf of Mrs. Kowalczewski and explained that there does not seem to be an increase in traffic due to Mrs. Kowalczewski.

Susan Kims of Covington Drive mentioned the traffic and what it has to do with the zoning board.

Town Attorney John Fenz would like to gather more information such as police records etc regarding this variance. Mr. Fenz also stated that when the board is considering this they should keep in mind the facts and to keep the scope narrow. Evelyn Hicks asked if Mr. Lorigo is just asking for an interpretation or if they are also asking for a variance. There is no motion necessary and the record will be kept open. Mr. Lorigo has the opportunity to amend the application.

**Ayes: All**

**Noes: None**

**Motion Carried**

**2015-003**

Request of Jordan Kamholz for a variance for property located at 5641 Seneca Street to demo old garage and build a new one which will be taller and closer than the old one with partial paved lot. (max building height 12', +/- 21' requested; sideyard setback shall be building height, 5'-0" requested; non paved lot partial)

Mr. Kamholz explained that they are looking to demo the existing building in the back and replace it with a new structure. Jeff Baska stated that Mr. Kamholz has been in the Building and Plumbing office several times going over plans and is asking for variances to fit into the site plan. Mr. Kamholtz brought signed letters of support from The Falkners at 5627 Seneca Street and the resident located at 5647 Seneca Street. Hicks asked about the drainage issue and Jeff explained that its and issue for the planning board but not the zoning board. Jeff Baska explained that generally in a residential setting a person is required to have a 10' sideyard setback, from a commercial setback the sideyard setback is supposed to be at least the heigth of the building. The non paved lot will be permanent and the size of it is approximately 75 by 200 feet. The surface of the lot will be aggregate stone and the main entrance and exit will be paved. Mr. Kamholz will be going through the rezone process after the zoning board meeting, should the variances be passed. The maximum building height is 9' and the sideyard setback is a 16 foot variance.

No comments were received from the public.

Motion by Hughes, seconded by Harmon, to close the public hearing and grant the variances as requested for property located at 5641 Seneca Street.

**Ayes: All**

**Noes: None**

**Motion Carried**

2015-004

Request of James Lauricella for a variance for property located at 30 Marilyn Drive to erect a covered porch to extend into front yard setback (30' setback required, 23' setback requested)

Mr. Lauricella explained that he would like to replace his existing porch with a new porch that will be the same size which is four feet by eight feet and it will have a roof. Letters of consent were signed by Frank MacPherson of 34 Marilyn Drive, Joe Agate of 26 Marilyn Drive, Ron Cicero of 43 Marilyn Drive, Herbert Parker of 40 Marilyn Drive and Nicole Croglia of 31 Marilyn Drive. Jeff Baska explained that the required setback is 30 feet and town code states that a person is allowed to put an uncovered porch 25 percent of the front yard setback.

No comments were received from the public.

Motion by Harmon, seconded by Hicks, to close the public hearing and grant the variance as requested for property located at 30 Marilyn Drive.

**Ayes: All**                      **Noes: None**                      **Motion Carried**

2015-005

Request of Gene Staychock for a variance for property located at 789 Center Road (Schwabl's) to use electric specialty sign (temporary). (closer than 1,000' to residential zoning and 500' from residential property.)

Mr. Staychock sent a letter requesting that this item be tabled until the February 25, 2015 meeting.

No comments were received from the public.

Motion by Hughes, seconded by Hicks, to close the public hearing and table the variance for property located at 789 Center Road until the February 25, 2015 zoning board meeting.

**Ayes: All**                      **Noes: None**                      **Motion Carried**

**Tim Elling gave Rick Marzullo and John Fenz a copy of the West Seneca Code of Ethics.**

**Adjournment**

Motion by Harmon, seconded by Hicks, to adjourn the meeting at 8:16 P.M.

**WEST SENECA TOWN OFFICES**  
**1250 Union Road**  
**West Seneca, NY 14224**  
**Page 7**

**ZONING BOARD OF APPEALS**  
**Minutes #2015-01**  
**January 28, 2015**

**Ayes: All**

**Noes: None**

**Motion Carried**

Respectfully Submitted,

Marleah Martinez  
Town Attorney's Office/  
Zoning Board Secretary