

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

**ZONING BOARD OF APPEALS**  
**Minutes #2012-06**  
**June 27, 2012**

The regular meeting of the Zoning Board of Appeals of the Town of West Seneca was called to order by Chairman David Monopolopolus at 7:00 P.M. followed by the Pledge of Allegiance to the Flag led by Code Enforcement Officer John Gullo and 30 seconds of silent prayer.

**ROLL CALL:** Present - David Monopolopolus, Chairman  
Michael P. Harmon  
Evelyn Hicks  
Michael P. Hughes  
Sandra Giese Rosenswie  
John Gullo, Code Enforcement Officer  
Shawn P. Martin, Town Attorney

Absent - None

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

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### **OPENING OF PUBLIC HEARING**

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

Ayes: All                                      Noes: None                                      Motion Carried

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

Motion by Harmon, seconded by Hughes, 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 Harmon, to approve Minutes #2012-05 of May 23, 2012.

Ayes: All                                      Noes: None                                      Motion Carried

### **OLD BUSINESS**

#### **2011-060**

Review of variance approved in December 2011 for Dennis Sullivan for property located at 1481 Orchard Park Road for raising seven (7) chickens.

**2011-060** (continued)

Dennis Sullivan stated he appreciated the six month variance the Zoning Board granted him in December 2011 and requested that it be extended. He tried to give the six roosters to the SPCA, but they would only accept two and the rest would have had to be euthanized, so he took them to the Springville auction this date. Mr. Sullivan stated he intends to build a permanent coop for the seven chickens if the variance is extended.

Code Enforcement Officer John Gullo noted that his office had received no complaints regarding the chickens at 1481 Orchard Park Road.

Mr. Hughes expressed concerns about the appearance of the yard and Mr. Gullo stated there were property maintenance issues that need to be addressed.

Mrs. Hicks commented that a provisional variance was issued in December 2011 for seven hens and no roosters, but Mr. Sullivan just got rid of the roosters today.

Mr. Sullivan apologized and stated that the time went by quickly and he has had issues but he would like to continue raising the chickens.

Mrs. Rosenswie questioned if the feed is enclosed and Mr. Sullivan responded that it is enclosed.

Chairman Monopolus questioned where the chickens are housed and Mr. Sullivan stated he will be building a permanent coop.

Mr. Harmon questioned who takes care of the chickens and Mr. Sullivan stated that he and his son take care of them, but he is responsible for them.

Marina Heppner, President of St Peter's United Church of Christ Council, stated she did not have a problem with someone raising chickens as long as they are properly cared for, but she had some concerns about the care of Mr. Sullivan's chickens. Ms. Heppner noted there is no chicken coop and no outside pen and she never sees them outside. Mr. Sullivan was keeping the chickens in a trailer covered with a tarp. Ms. Heppner stated that chickens need adequate housing and she did not believe the trailer was providing that. The chickens are now in cage which also did not appear adequate. Ms. Heppner presented pictures of the chickens in a cage covered with a blue tarp and stated that Mr. Sullivan was given six months to improve the housing of the chickens. He did not do that and also did not remove the roosters until today. She thought someone should be keeping track that the chickens are being taking care of.

**2011-060** (continued)

Linda Toy was not in favor of chickens and stated that the town needed rules with regard to the distance for housing chickens from lot lines and room for them to exercise.

Lorraine Basil stated she would like to raise chickens and commented that they should be raised humanely.

Peggy Rose questioned if the town was thinking of adopting an ordinance that addresses raising chickens, noting that other towns have come up with set regulations. She thought it would be nice to be able to raise chickens humanely.

Town Attorney Shawn Martin stated there had been discussions on the possibility of adopting an ordinance regarding raising chickens.

Motion by Rosenswie, seconded by Monopolus, to close the hearing and grant a continuation of the temporary variance until September and ask Town Attorney Shawn Martin to continue to address this issue with the Town Board.

On the question, Mr. Harmon and Mrs. Hicks both stated they were not in favor of the variance because Mr. Sullivan did not live up to what he said he was going to do in December 2011.

Mr. Hughes stated he would not support a permanent variance because Mr. Sullivan did not follow what he was supposed to do. He thought 90 days was fair and would give Mr. Sullivan another chance.

Mr. Martin noted that the application should be put on the Zoning Board agenda for review at the October meeting.

Ayes: (3) Mrs. Rosenswie, Mr. Hughes, Chairman Monopolus

Noes: (2) Mr. Harmon, Mrs. Hicks

Motion Carried

**NEW BUSINESS**

**2012-023**

Request of Dennis & Carol Lang for a variance for property located at 290 Seneca Creek Road to reduce the width of frontage on a flag lot to 30' (40' required)

**2012-023** (continued)

Dennis Lang stated he owns six acres on Seneca Creek Road and would like to develop a flag lot to build a one-story single family home, noting his son will occupy his current home. The lot could not be widened due to the culvert on the property.

Mr. Hughes questioned if the variance would be needed if the culvert wasn't there and Code Enforcement Officer John Gullo stated that 40' is required for a flag lot so the frontage would still be short.

Mrs. Hicks stated she is the adjoining neighbor and will be recusing herself from the vote on this variance, but she was in favor of Mr. Lang's proposal.

Mr. Harmon questioned if a variance was needed for both properties and Mr. Gullo stated that a variance was required for the frontage on both properties.

Chairman Monopolus noted receipt of letters of approval from neighbors at 260, 276 and 300 Seneca Creek Road.

No comments were received from the public.

Motion by Harmon, seconded by Hughes, to close the hearing and grant a variance for property located at 290 Seneca Creek Road to reduce width of frontage on a flag lot to 30'.

Ayes: All

Noes: None

Motion Carried

**2012-024**

Request of Kevin & Maria Balys for a variance for property located at 24 Hillview Terrace to construct a deck from house to pool (10' separation required)

Kevin Balys stated he would like to add a deck to the back of his house. There are sliding glass doors to the back yard and the pool is 10' away. The deck will be two-level with 42 inch rails separating the levels, a self-closing, self-latching gate and a pool alarm. Mr. Balys presented contractor's drawings of the project.

No comments were received from the public.

Motion by Hughes, seconded by Harmon, to close the public hearing and grant a variance for property located at 24 Hillview Terrace to construct a deck from the house to the pool.

Ayes: All

Noes: None

Motion Carried

**2012-025**

Request of Online Auto Connection, Inc. for a variance for property located at 250 Lein Road to construct a 4' fence in front yard projecting 37' from building (10' projection allowed)

Mike Bevilacqua of Bevilacqua Homes and Mark Subjeck of Online Auto Connection stated their request to construct a decorative aluminum fence 37' in front of the building at 250 Lein Road to prevent people from driving cars directly off the lot, noting there is 26' of green space from the parking lot to the street. The purpose of the fence is for security and aesthetics.

Chairman Monopolus noted receipt of letters of support from 199, 237, 248, 335, 356 and 359 Lein Road.

No comments were received from the public.

Motion by Harmon, seconded by Rosenswie, to close the hearing and grant a variance for property located at 250 Lein Road to construct a 4' fence in front yard projecting 37' from the building.

Ayes: All

Noes: None

Motion Carried

**2012-026**

Request of Charles & Sally SanGeorge for a variance for property located at 171 Royal Coach Road to extend driveway 8" from lot line (3' setback required)

Charles SanGeorge stated his driveway is in bad shape and needs to be replaced. He would also like to widen it to within 8 inches of the lot line to accommodate a travel trailer and multiple vehicles.

Chairman Monopolus questioned what will happen with the fire hydrant and Mr. SanGeorge stated he will keep the approach the same and widen the driveway after the sidewalk.

Mrs. Hicks questioned what will happen to the tree and Mr. SanGeorge stated he will be cutting it down.

Code Enforcement Officer John Gullo noted he will be requesting drain tile at the lot line. Mr. SanGeorge responded that he was getting a lot of water in his basement and a french drain was installed to resolve the problem.

**2012-026** (continued)

Chairman Monopolus noted receipt of letters of approval from 167 and 177 Royal Coach Road.

No comments were received from the public.

Motion by Monopolus, seconded by Rosenswie, to close the hearing and grant a variance for property located at 171 Royal Coach Road to extend the driveway 8 inches from the lot line.

Ayes: All

Noes: None

Motion Carried

**2012-027**

Request of Samuel & Ellen Jeffree for a variance for property located at 19 Ashley Drive to construct a 6' fence projecting 21' into front yard (4' fence and 10' projection allowed)

Samuel & Ellen Jeffree stated they recently bought the house at 19 Ashley Drive but haven't moved in yet. There is a fence on the driveway side and they would like to extend it around the back and other side. There is only one neighbor that will be affected and they were unable to contact her.

Chairman Monopolus questioned how far off the sidewalk the fence will be. Mr. Jeffree stated it will probably be one foot off the sidewalk. The fence will be white vinyl with one gate. Chairman Monopolus suggested the fence be put in line with the bushes so it does not affect sight distance.

No comments were received from the public.

Motion by Hughes, seconded by Rosenswie, to close the hearing and grant a variance for property located at 19 Ashley Drive to construct a 6' fence projecting 21' into front yard.

Ayes: All

Noes: None

Motion Carried

**2012-028**

Request of Robert & Jennifer Daunce for a variance for property located at 159 Bradwood Road to construct a 6' fence in the side yard (4' allowed)

**2012-028** (continued)

Robert & Jennifer Daunce stated there is some fencing on one side of the property and a chain link fence along the back that belongs to the neighbor. They would like to replace the existing fence and attach it closer to the front of the house.

Chairman Monopolus noted receipt of letters of support from 118 and 131 Bradwood Road and 96, 102 and 107 Tobey Hill Drive.

No comments were received from the public.

Motion by Hughes, seconded by Rosenswie, to close the hearing and grant a variance for property located at 159 Bradwood Road to construct a 6' fence in the side yard.

Ayes: All

Noes: None

Motion Carried

**2012-029**

Request of Michael & Renee Barrett for a variance for property located at 35 East Avenue to construct a 6' fence in the side yard (4' allowed)

Michael Barrett stated his request to construct a 6' fence from the garage to the front corner of his house where it will then drop to 4'.

Chairman Monopolus noted receipt of letters of support from 39 and 40 East Avenue.

Mrs. Hicks questioned if the neighbor on the fence side is one of the letter writers and Mr. Barrett responded it is not due to a miscommunication between them.

No comments were received from the public.

Motion by Monopolus, secondd by Hicks, to close the hearing and grant a variance for property located at 35 East Avenue to construct a 6' fence in the side yard.

Ayes: All

Noes: None

Motion Carried

**2012-030**

Request of Craig T Baumgart for a variance for property located at 1820 Center Road to construct a 14' high garage (12" high allowed)

**2012-030** (continued)

Craig Baumgart stated he would like to park his camper in his garage to comply with the town ordinance, but he needs a 12' door. He plans to demolish the existing garage and build the new garage 12' to 14' behind it. This will also allow him access to his back yard.

Chairman Monopolus questioned the need for a 45' long garage.

Mr. Baumgart stated his camper is 29' long. The structure will be split into two sections with the section on the right being used as a workshop. There will be no commercial use.

Mrs. Hicks questioned if Mr. Baumgart intended to rent space in the garage to anyone and Mr. Baumgart responded that he did not.

Chairman Monopolus noted receipt of letters of support from 117 East Center Road and 1812 & 1840 Center Road.

No comments were received from the public.

Motion by Harmon, seconded by Monopolus, to close the hearing and grant a variance for property located at 1820 Center Road to construct a 14' high garage.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Harmon, seconded by Hicks, to adjourn the meeting at 8:00 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser  
Town Clerk/Zoning Board Secretary