

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

ZONING BOARD OF APPEALS
Minutes #2013-01
January 23, 2013

The regular meeting of the Zoning Board of Appeals of the Town of West Seneca was called to order by Chairman David Monopolus at 7:00 P.M. followed by the Pledge of Allegiance led by Evelyn Hicks and 30 seconds of silent prayer.

ROLL CALL: Present - David Monopolus, Chairman
Michael P. Harmon
Evelyn Hicks
Michael P. Hughes
Sandra Giese Rosenswie
Jeffrey Baksa, Code Enforcement Officer
Shawn P. Martin, Town Attorney

Absent - None

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

OPENING OF PUBLIC HEARING

Motion by Hughes, seconded by Rosenswie, 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 Harmon, to approve Minutes #2012-11 of December 12, 2012.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS

2012-060

Request of Nicholas M Calandra (Hearts for the Homeless WNY) for a variance for property located at 395 Center Road for placement of a temporary structure in parking lot (temporary structures not allowed)

2012-060 (continued)

Chairman Monopolus stated the applicant requested this item be tabled until next month.

Motion by Hughes, seconded by Rosenswie, to table this item until the February meeting.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2013-001

Request of Mike Auricchio for a variance for property located at 3800 Seneca Street for placement of an electronic sign within 500' of residential zoning

Mike Yost of Yost Neon Displays stated that Mr. Auricchio would like to have a digital sign in front of his Seneca Street insurance business to promote his business and also advertise community events. Mr. Auricchio owns the building and his office has been at that location since 1985. The sign will be 18 to 20 sf and the actual LED portion of the sign is 2' x 6'. They will comply with the town's requirements for electronic signs.

Mrs. Hicks questioned if the residential property is next door or across the street.

Mr. Auricchio stated the residential zoning is next door and noted that Nutto's is located across the street and they have an electronic sign.

Mr. Harmon questioned if there are brightness controls on the sign and Mr. Yost responded they have automatic dimming to one-tenth of the brightness at night.

Mr. Hughes questioned if the height of the sign will obstruct vision and Code Enforcement Officer Jeffrey Baksa responded that the height as proposed conformed with the town's requirements.

Chairman Monopolus noted receipt of a letter of approval from the property owner at 3790 Seneca Street. A comment was also received from Erie County stating the sign must be installed outside the county highway right-of-way and they will not be responsible for damage to the sign from highway operations.

No comments were received from the public.

2013-001 (continued)

Motion by Hughes, seconded by Hicks, to close the public hearing and grant the variance for property located at 3800 Seneca Street for placement of an electronic sign under 20 sf within 500' of residential zoning.

Ayes: All

Noes: None

Motion Carried

2013-002

Request of Shawn Schweis for a variance for property located at 4348 Seneca Street for a one day outdoor music event for St. Patrick's Day

Shawn Schweis owner of Ebenezer Ale House stated his request for an outdoor music event on March 16th from 1 P.M. until 10 P.M. in celebration of St. Patrick's Day. There will be outdoor cooking and a beer trailer and the property will be fenced in the rear. Mr. Schweis stated that last year they had 800 people attend the event. There were ten certified security officers on site and two off duty police officers and there were no problems. Mr. Schweis had contacted Queen of Heaven Church for permission to use their parking lot.

Town Attorney Shawn Martin commented that this event is similar to a church lawn fete.

Mrs. Hicks questioned if the business in the back had any problem with this event and Mr. Schweis responded that he owns the building in the rear and the tenant is a collection company that is not open on weekends.

Mr. Hughes cautioned Mr. Schweis that there is a noise ordinance he will have to comply with.

Chairman Monopolus noted receipt of a letter from Erie County stating they will not be responsible for any damage to vehicles parked along the road.

No comments were received from the public.

Motion by Hughes, seconded by Rosenswie, to close the public hearing and grant the variance for property located at 4348 Seneca Street for a one day outdoor music event for St. Patrick's Day.

Ayes: All

Noes: None

Motion Carried

2013-003

Request of Christopher Ford for a variance for property located at 165 East Avenue for construction of a 6' fence in yard along with existing hedgerow and interpretation of the Zoning Ordinance with regard to 6' high railings on pool deck

Christopher Ford presented pictures of his pool and deck and requested an interpretation of the Zoning Ordinance with regard to the deck railing.

Code Enforcement Officer Jeffrey Baksa stated that railings are defined as guards and have to be 36" in height but there is no maximum. He further stated that an accessory structure can be 12' high and if it is a garage it can be 16' high.

Chairman Monopolus read a letter from Code Enforcement Officer John Gullo to Kathleen Ford stating, "your pool deck must be at least 3' away from property line. This is because Town Code does not allow anything, driveways, pools, decks, garages, etc. closer than 3' to the property line. I did not measure the distance, but if it is closer, it must be adjusted accordingly. Secondly, the question was asked of your fencing on the pool deck. Per the residential code for one and two family homes, "guards" or railings are required of at least 36" in height. The section of code does not include a maximum. Therefore, the 6' high fencing/railing is compliant in the eyes of the code."

Mr. Ford further referred to the hedgerow on his property and questioned if it was considered a fence.

Town Attorney Shawn Martin stated that a fence could be a vegetative product and they do not legislate the height.

Mr. Baksa noted there is 8' of grass between the road and the hedgerow so there is no obstruction of vision.

Attorney Frank Jacobson represented surrounding property owners at 173 & 228 Miller Avenue and 227 & 257 Ehinger Drive. He stated there are three different fences in question - the 6' fence in the rear yard, the hedges along the roadway and the pool fence, and all but the rear fence exceed the town requirements as they currently exist. The hedges and pool fence are at issue and can't exceed 4' which is the height requirement for the front and side yard. Mr. Jacobson presented pictures of the hedges in comparison to the house and commented they are well over 12' tall. He further stated this is a corner lot so there are two front yards and the hedgerow along Miller Avenue is in the front yard.

Mr. Baksa noted that the Zoning Board has granted variances in the past for 6' fences on corner lots for privacy issues.

2013-003 (continued)

Mr. Ford stated he had no problem cutting the hedgerow down to 6'.

Town Attorney Shawn Martin understood this was a neighbor dispute and suggested that Mr. Ford meet outside the court room with Mr. Jacobson and the neighbors and try to resolve their issues. The Zoning Board members agreed that it was not the proper forum to resolve a dispute between neighbors.

Motion by Rosenswie, seconded by Harmon, to table this item until next month to give Mr. Ford and the neighbors an opportunity to resolve their dispute.

Ayes: All

Noes: None

Motion Carried

2013-004

Request of Alison Bukata, Esq. for a variance for property located at 4135 Seneca Street for outdoor seating on front and rear of restaurant

Attorney Alison Bukata stated the proposal for Metzger's Pub for café type seating with an awning in the front, noting they will only go to the sidewalk not into the parking lot and they will either have barriers or eliminate the parking. They were also proposing similar seating in the rear.

Mrs. Hicks questioned if there were any plans to eliminate the smoking area and Ms. Bukata stated it may be eliminated.

Mr. Harmon questioned the minimum number of parking spaces for the business and Town Attorney Shawn Martin stated that additional parking may be required if seating area is added.

Ms. Bukata stated they would like to get approval for the variance first and will address the parking issue after if necessary.

Mrs. Hicks questioned if the Firemen's Museum had given their approval for customers to park on their property.

Ms. Bukata responded that she had not received anything from the Firemen's Museum but did have other letters of support from surrounding neighbors.

Chairman Monopolus noted receipt of letters of approval from property owners at 4111, 4114 & 4130 Seneca Street. Comments were also received from Erie County concerning parking in the right-of-way.

2013-005 (continued)

No comments were received from the public.

Motion by Rosenswie, seconded by Monopolus, to close the public hearing and grant a variance for property located at 4135 Seneca Street for outdoor seating on the front and rear of the restaurant.

Ayes: All

Noes: None

Motion Carried

2013-005

Request of James A Boglioli for a variance for property located at 350 Langner Road to reduce front yard setback to 5' (40' required)

Matthew Oakes of Delta Sonic requested a reduction in the front yard setback to 5' at Delta Sonic located at 350 Langner Road for a 14' high prep hut. He indicated on the site plan the location of the prep hut and noted it will make the operation more efficient and uniform. Mr. Oakes presented a letter of support from the abutting property owner, Sovran, who owns Uncle Bob's Storage.

No comments were received from the public.

Motion by Rosenswie, seconded by Hughes, to close the public hearing and grant a variance for property located at 350 Langner Road to reduce front yard setback to 5'.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

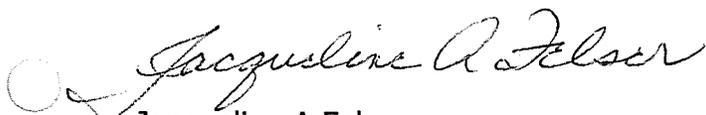
Motion by Chairman Monopolus, seconded by Hicks, to adjourn the meeting at 7:55 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser
Town Clerk/Zoning Board Secretary