

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

ZONING BOARD OF APPEALS
Minutes #2013-05
May 22, 2013

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 led by Town Attorney Shawn Martin and 30 seconds of silent prayer.

ROLL CALL: Present - David Monopolopolus, 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 Monopolopolus 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 Rosenswie, seconded by Hughes, 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 Rosenswie, to approve Minutes #2013-04 of April 24, 2013.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2013-017

Request of Donald & Megan Ball for a variance for property located at 11 Laurelton Drive to construct a 6' fence in front and side yard (4' fence allowed)

2013-017 (continued)

Donald & Megan Ball stated their request to construct a 6' fence in their front and side yard for privacy, noting they anticipate having a pool in the future. The fence will be placed 36" off the sidewalk.

Mr. Hughes questioned if there were any safety concerns with the location of this fence. Code Enforcement Officer Jeffrey Baksa responded that this is the only area the family can use as their backyard and the fence will be setback far enough from the corner.

Mr. Harmon questioned if the fence will be angled on the street side. Mr. Ball responded that the fence will be angled as indicated on the plan.

Chairman Monopolus noted receipt of letters of support from property owners at 2 Marlin Drive; 55 & 61 Cranwood Drive; and 16, 21 and 22 Laurelton Drive.

No comments were received from the public.

Motion by Hughes, seconded by Rosenswie, to close the public hearing and grant a variance for property located at 11 Laurelton Drive to construct a 6' fence in the front and side yard.

Ayes: All

Noes: None

Motion Carried

2013-018

Request of Stuart A Wiesmore & Madonna Scoville for a variance for property located at 315 Emporium Avenue to add a second story to existing detached garage (single story detached structures allowed)

Stuart Wiesmore stated his request to add a second story on his existing single car garage to be used as a workshop to build furniture in his retirement years. The addition will extend 6' past the back of the garage but will be no wider.

Code Enforcement Officer Jeffrey Baksa stated there is currently 22' to the rear lot line and that will be reduced to 17'9" which is still sufficient.

Mr. Hughes questioned if Mr. Wiesmore planned to use the addition for a retail operation. Mr. Wiesmore responded that there will be no retail operation along with no living quarters, bathroom or kitchen.

Chairman Monopolus noted receipt of letters of support from property owners at 309 & 321 Emporium Avenue.

2013-018 (continued)

No comments were received from the public.

Motion by Chairman Monopolus, seconded by Rosenswie, to close the public hearing and grant a variance for property located at 315 Emporium Avenue to add a second story to the existing detached garage.

Ayes: All

Noes: None

Motion Carried

2013-019

Request of David P Shearer for a variance for property located at 1800 Union Road to allow live music

David Shearer stated his request to have live music indoors on Friday and Saturday nights. The hours will be 9 pm – 1 am.

Chairman Monopolus stated that the Zoning Board normally grants a one year variance and has the applicant return for review. He questioned if Mr. Shearer wanted to add any extra holidays to the request. Mr. Shearer responded that he was only requesting two nights per week.

Mr. Hughes questioned if Mr. Shearer had received any letters of support from his neighbors. Mr. Shearer responded that his neighbors are the Highway Department & businesses.

No comments were received from the public.

Motion by Hughes, seconded by Rosenswie, to close the public hearing and grant a one year variance for property located at 1800 Union Road to allow live music indoors on Friday & Saturday nights, 9 pm to 1 am.

Ayes: All

Noes: None

Motion Carried

2013-020

Request of Jesse Kozak for a variance for property located at 127 Caldwell Drive to construct a 6' fence in front & side yard (4' fence allowed)

Jesse Kozak stated he is a contractor representing the property owner at 127 Caldwell Drive. This is a corner lot and the house is setback 50'. The property owner would like to construct a 6' high fence on the left side of the property 75' from the corner. There is a high tension line next door so no one will be building there.

2013-020 (continued)

Chairman Monopolus noted receipt of a letter of support from the property owner at 123 Caldwell Drive.

No comments were received from the public.

Motion by Harmon, seconded by Rosenswie, to close the public hearing and grant a variance for property located at 127 Caldwell Drive to construct a 6' fence in the front & side yard.

Ayes: All

Noes: None

Motion Carried

2013-021

Request of James Boglioli for a variance for property located at 348-350 Langner Road to allow a 36' high, 244.58 sf pedestal sign (25' high, 40 sf allowed) and a 79.33 sf free standing sign (20 sf allowed)

James Boglioli, Attorney for Delta Sonic, stated they are completely remodeling the site and would also like to replace the signs. He indicated the location of the two signs on the plans and stated the 36' height is necessary due to the site being lower than Ridge Road.

Code Enforcement Officer Jeffrey Baksa stated that Town Board approval is required for electronic signs.

No comments were received from the public.

Motion by Hughes, seconded by Hicks, to close the public hearing and grant a variance for property located at 348 – 350 Langner Road to allow a 36' high, 244.58 sf pedestal sign and a 79.33 sf free standing sign.

Ayes: All

Noes: None

Motion Carried

2013-022

Request of Jordan Kamholz for a variance for property located at 5647 Seneca Street to construct an 8' high chain link fence with barb wire top in side yard (4' fence allowed)

Jordan Kamholz stated his request to construct an 8' fence 5' from the Eastern States Sentinel Alarm Systems building to protect the backup systems for alarms. The driveway leads to the property in the back and there will be a locked gate at the rear of the buliding.

2013-022 (continued)

No comments were received from the public.

Motion by Chairman Monopolus, seconded by Hicks, to close the public hearing and grant a variance for property located at 5647 Seneca Street to construct an 8' high chain link fence with barb wire top in the side yard.

Ayes: All

Noes: None

Motion Carried

2013-023

Request of Raymond Vogt for a variance for property located at 153 East & West Road to construct a 15' high garage (12' maximum allowed)

Raymond Vogt stated he collects old cars and would like to construct a new 15' high garage to store them. He planned to demolish the existing garage and construct a new one farther back. The height was necessary due to the size of the building (40' x 24'). There will be no repairs done on the vehicles.

Chairman Monopolus noted receipt of letters of support from property owners at 147 & 159 East & West Road.

No comments were received from the public.

Motion by Rosenswie, seconded by Harmon, to close the public hearing and grant a variance for property located at 153 East & West Road to construct a 15' high garage.

Ayes: All

Noes: None

Motion Carried

2013-024

Request of Mark A Stifter for a variance for property located at 118 Oakhill Drive to construct a 5' high chain link fence in front & side yard (4' high allowed)

Mark Stifter stated his request to extend his 5' fence 15' past the a/c unit on one side and 15' past the chimney on the other side for protection.

Chairman Monopolus noted receipt of letters of support from property owners at 112 & 124 Oakhill Drive.

No comments were received from the public.

2013-024 (continued)

Motion by Hughes, seconded by Chairman Monopolus, to close the public hearing and grant a variance for property located at 118 Oakhill Drive to construct a 5' high chain link fence in the front & side yard.

Ayes: All

Noes: None

Motion Carried

2013-025

Request of Ben & Joelle Forenzo for a variance for property located at 77 Sunnyside Drive to construct a 4' fence extending 16' into front yard (10' into front yard allowed)

Ben Forenzo stated his request to extend his 4' white picket fence 5.5' to 6' past the 10' line. His home is located on a corner lot and he has two small children so he would like the fence for protection. Mr. Forenzo presented pictures indicating the location of the proposed fence and stated that visibility is not an issue.

Chairman Monopolus noted receipt of letters of support from property owners at 282 & 283 Norwood Drive.

No comments were received from the public.

Motion by Hicks, seconded by Harmon, to close the public hearing and grant a variance for property located at 77 Sunnyside Drive to construct a 4' fence extending 16' into the front yard with a minimum 24" off the sidewalk on Norwood Drive.

Ayes: All

Noes: None

Motion Carried

2013-026

Request of Mark Sarick for a variance for property located at 3720 Clinton Street to construct a 4' fence extending 50' into front yard (10' into front yard allowed)

Mark Sarick stated he owns a double lot with the empty lot on the corner of Maplewood Avenue and he would like to fence the entire property and have a gate across the driveway. The fence will be setback 5' off Maplewood Avenue and 40' off Clinton Street.

Chairman Monopolus noted receipt of letters of support from property owners at 3709, 3714 and 3736 Clinton Street.

No comments were received from the public.

2013-026 (continued)

Motion by Hughes, seconded by Chairman Monopolus, to close the public hearing and grant a variance for property located at 3720 Clinton Street to construct a 4' fence extending 50' into the front yard with a minimum 5' from the right-of-way on Maplewood Avenue.

Ayes: All

Noes: None

Motion Carried

2013-027

Request of Sean M O'Shei for a variance for property located at 16 Elwood Drive to construct a 6' fence in front and side yard (4' fence allowed)

Sean O'Shei stated his request to construct a 6' white vinyl fence on the side of his house to keep his children safe and the wildlife out.

Mr. Harmon questioned why Mr. O'Shei needed to come to the front with the fence. Mr. O'Shei stated there is a retaining wall at the back of his property and the front is more usable.

Chairman Monopolus noted receipt of letters of support from property owners at 8 & 24 Elwood Drive.

No comments were received from the public.

Motion by Rosenswie, seconded by Harmon, to close the public hearing and grant a variance for property located at 16 Elwood Drive to construct a 6' fence in the front and side yard.

Ayes: All

Noes: None

Motion Carried

2013-028

Request of Mitchell J Illig for a variance for property located at 2 Corwin Drive to construct a 6' fence in front yard projecting 60' from house (4' fence and 10' projection allowed)

Mitchell Illig stated his request to construct a 6' fence on his corner lot for privacy, safety and security purposes. He presented an aerial view indicating the fence will not block the driveway.

Mrs. Hicks questioned how far off the sidewalk the fence will be. Mr. Illig responded that the fence will be 2' off the sidewalk on the Chancellor Lane side.

2013-028 (continued)

Code Enforcement Officer Jeffrey Baksa stated there is 50' visibility each way even with the fence.

Chairman Monopolus noted receipt of a letter of support from the property owner at 1 Chambers Road.

No comments were received from the public.

Motion by Hicks, seconded by Rosenswie, to close the public hearing and grant a variance for property located at 2 Corwin Drive to construct a 6' fence in the front yard projecting 60' from the house with a minimum 24" off the sidewalk on Chancellor Lane.

Ayes: All

Noes: None

Motion Carried

2013-029

Request of Michael D Farrell Jr. for a variance for property located at 312 Reserve Road to construct two (2) two-family homes on lots with 75' and 76' frontage (85' frontage required)

Michael Farrell Jr. stated he has an agreement to purchase three lots on Reserve Road and would like to construct a two-family home on each lot. The total square footage is far above the minimum required; however, a width variance is needed for two of the lots. Mr. Farrell stated he is a carpenter by trade and will do most of the construction himself. The homes will be two-family ranch, handicapped accessible and he intends to maintain ownership and rent them out.

Chairman Monopolus noted receipt of letters of support from property owners at 296 & 338 Reserve Road.

No comments were received from the public.

Motion by Harmon, seconded by Rosenswie, to close the public hearing and grant a variance for property located at 312 Reserve Road to construct two (2) two-family homes on lots with 75' and 76' frontage.

Ayes: All

Noes: None

Motion Carried

2013-030

Request of Mark D Wegner for a variance for property located at 4717 Clinton Street to allow live music outdoors

Mark Wegner stated his request to have live music outdoors Wednesday - Sunday on the patio at Nickel Creek Café. He is building a clam shack inside the garage on the patio and the band will be located closer to the creek at the back corner. The hours will be 4 PM - 7 PM or 5 PM - 8 PM.

Chairman Monopolus questioned the parking situation. Mr. Wegner responded that he has two lots for parking and has permission from the house on Borden Road for additional parking.

Code Enforcement Officer Jeffrey Baksa stated that the current parking is designed to fit the current business including the patio.

Dale Kling of Kling Brothers Automotive located at Clinton & Borden stated he also lives on Clinton Street and had previous problems with loud music at Nickel Creek Café, parking issues and loud obnoxious behavior of the patrons. Mr. Kling noted that the prior owner got a variance for the outdoor patio with the stipulation there be no outdoor music and this was acknowledged by the new owner.

Randy Guzza stated he works at Nickel Creek Café and supported his employer's request for outdoor music. He did not see why there would be a problem considering the timeframe.

Paul Kloc of Kloc's Blossom Chapels at Clinton & Borden stated he had no problem with a one time event but did not want to be woken up in the middle of the night constantly from music and noise every night or weekend. He noted that there is no parking on the north side of Clinton Street and he did not want to be liable for people parking in his lot. He further noted that the owner was previously cited for too many people and not enough bathroom facilities. Mr. Kloc stated he has operated his business at this location for 43 years and it is a quiet corner.

Mr. Wegner stated his request was originally for the fundraiser that is scheduled for June 22nd, but when he went to the town to pay for the variance he was told it would be for the year so he changed the request.

Brian Doster stated he lives next to a patio bar in another part of town and would not want to see live outdoor music there as it would affect the quality of life of the neighbors.

2013-030 (continued)

Motion by Rosenswie, seconded by Chairman Monopolus, to table this item until the end of the meeting.

Ayes: All

Noes: None

Motion Carried

2013-031

Request of Andrew Pawelek Jr. for a variance for property located at 935 Harlem Road to allow live music outdoors

Andrew Pawelek stated he owns Holidays located at 935 Harlem Road and would like to have a live outdoor music event on Saturday, August 3rd.

Chairman Monopolus noted receipt of letters of support from the Pastor at Winchester Community Church.

Mrs. Hicks referred to the apartment buildings nearby that she thought will be affected by the sound.

No comments were received from the public.

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

Ayes: All

Noes: None

Motion Carried

2013-032

Request of Patrick J Krempholtz for a variance for property located at 2570 Seneca Street to construct an addition on existing building reducing rear setback to 8' (30' rear setback required)

Patrick Krempholtz stated his request to construct a 16' x 30' storage room on the back of his business at 2570 Seneca Street. He planned to construct a new 6' cedar fence along the rear lot line and landscape that area.

Chairman Monopolus noted receipt of a letter of support from the property owner at 18 Kirkwood Drive.

No comments were received from the public.

2013-032 (continued)

Motion by Rosenswie, seconded by Hughes, to close the public hearing and grant a variance for property located at 2570 Seneca Street to construct an addition on the existing building reducing the rear setback to 8’.

Ayes: All

Noes: None

Motion Carried

EXECUTIVE SESSION

Motion by Hughes, seconded by Harmon, to recess to Executive Session at 8:15 P.M.

Ayes: All

Noes: None

Motion Carried

The board members returned from Executive Session at 8:30 P.M.

2013-030

Request of Mark D Wegner for a variance for property located at 4717 Clinton Street to allow live music outdoors

Motion by Chairman Monopolus, seconded by Hughes, to close the public hearing and grant a variance for property located at 4717 Clinton Street to allow live music outdoors June 22, 2013 between the hours of 3 pm - 7 pm, noting that an additional Saturday in July will be considered at no cost to Mr. Wegner if he returns to the June meeting with his request.

On the question, the Zoning Board members asked that Mr. Wegner be respectful of the neighborhood and be responsible for parking, security, etc. for the event.

Ayes: All

Noes: None

Motion Carried

2013-031

Request of Andrew Pawelek Jr. for a variance for property located at 935 Harlem Road to allow live music outdoors

Motion by Hicks, seconded by Hughes, to close the public hearing and grant a variance for property located at 935 Harlem Road to allow live music outdoors on Saturday, August 3, 2013 between the hours of 4 PM – 8 PM, noting that an additional date will be considered at no cost to Mr. Pawelek if he returns with his request a month in advance.

Ayes: All

Noes: None

Motion Carried

WEST SENECA TOWN OFFICES
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Minutes #2013-05
May 22, 2013
Page twelve . . .

ADJOURNMENT

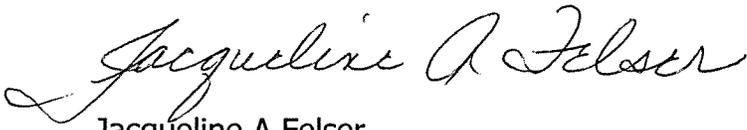
Motion by Hughes, seconded by Hicks, to adjourn the meeting at 8:35 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

A handwritten signature in cursive script that reads "Jacqueline A Felser". The signature is written in black ink and is positioned above the printed name and title.

Jacqueline A Felser
Town Clerk/Zoning Board Secretary