

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

**ZONING BOARD OF APPEALS**  
**Minutes #2013-11**  
**December 11, 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 Town Clerk Jacqueline Felser 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.

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**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 Hicks, seconded by Harmon, 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 #2013-10 of October 23, 2013.

Ayes: All                                      Noes: None                                      Motion Carried

**OLD BUSINESS**

**2013-064**

Request of Todd Schmigel for a variance for property located at 53 Gerard Drive to allow a second driveway 1' off property line (3' setback required)

**2013-064** (continued)

Attorney Matthew Feldman represented Todd Schmigel and stated that a second driveway was added in August 2013 and Mr. Schmigel thought the contractor had obtained the proper permits. He stated the driveway has not changed the nature of the neighborhood and it is below grade of the immediate next door neighbor so there is no drainage issue. Mr. Feldman submitted letters of approval from the two property owners that border Mr. Schmigel's property and one directly across the street.

Mr. Hughes questioned if there were complaints from any of the neighbors and Code Enforcement Officer Jeffrey Baksa responded that no complaints were received and his office found the additional driveway had been installed during routine inspections.

Chairman Monopolus questioned what Mr. Schmigel intends to park in the driveway and if there will be any commercial vehicles parked there.

Mr. Feldman responded that the Schmigel's have two daughters of driving age so the additional driveway will enable all family vehicles to be parked in the driveway. He further stated that Mr. Schmigel owns two businesses but they are not run from his home. He does take one of the company vehicles home at times, but it is not there every day and the purpose of the additional driveway was not to park a commercial vehicle.

Mr. Baksa stated that Mr. Schmigel had told him the purpose of the driveway was for family use and that he had installed drain tile along the driveway. Mr. Baksa was unable to verify that drain tile was installed but had informed Mr. Schmigel that vehicles should be parked in the side yard rather than in the front setback.

Mrs. Hicks referred to a google maps picture of Mr. Schmigel's property and noted a commercial vehicle was parked there.

Mr. Feldman responded that the google maps picture is of one particular time and this is not common practice. Mr. Baksa also commented that having a commercial vehicle parked at a residence does not mean a business is being run from the property, but his office will check from time to time.

Chairman Monopolus noted receipt of letters of support from property owners at 46 and 52 Gerard Drive and 70 Queens Drive.

No comments were received from the public.

**2013-064** (continued)

Motion by Monopolus, seconded by Harmon, to close the public hearing and grant a variance for property located at 53 Gerard Drive to allow a second driveway 1' off the property line.

On the question, Mr. Hughes suggested limiting this to a one year variance to ensure it is not used for a commercial vehicle.

Town Attorney Shawn Martin stated there is separate enforcement to address the commercial vehicle.

Ayes: All

Noes: None

Motion Carried

**2013-065**

Request of Martin Glinski for a variance for property located at 2115 Clinton Street to allow outdoor seating

Martin Glinski restated his plan to have outdoor seating on a 10' x 18' area in front of his business at 2115 Clinton Street, noting that he plans to make it safe and will install concrete barriers with a railing.

Mrs. Hicks commented that approval of outdoor seating will eliminate the parking in front of the building and questioned if Mr. Glinski had permission to use parking available at other nearby businesses.

Mr. Glinski stated that Clinton Collision and Stop 'n Gas both allow parking at their business and he may also be buying a small portion of one of their lots to use for parking.

Code Enforcement Officer Jeffrey Baksa stated that if a variance is granted, Mr. Glinski will have to submit a site plan, so parking and safety issues will be addressed through the site plan review process. The Zoning Board just needs to decide on whether to approve a variance for outdoor seating.

Chairman Monopolus noted that no comments were received from NYS with regard to this application.

Town Attorney Shawn Martin stated that a variance could be approved contingent on Mr. Glinski receiving approval from NYS.

No comments were received from the public.

**2013-065** (continued)

Motion by Harmon, seconded by Rosenswie, to close the public hearing and grant a variance for property located at 2115 Clinton Street to allow outdoor seating, subject to obtaining all necessary approvals from NYS and the town.

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2013-068**

Request of Quasar Energy Group for a variance for property located at 2900 North America Drive to allow a 6' fence in front yard (maximum 4' fence allowed)

Randolph Diamond represented Quasar Energy Group and stated the proposed 6' fence with barbed wire has been changed to a 6' gate with accompanying boulders.

Chairman Monopolus read a letter from Quasar Energy Group requesting to change their request for a variance to a 6' gate with boulders.

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 2900 North America Drive to allow a 6' gate with boulders in the front yard.

Ayes: All

Noes: None

Motion Carried

**2013-069**

Request of Deborah Weiler for a variance for property located at 101 Patricia Drive to allow parking in required 30' setback

Deborah Weiler stated her driveway was expanded 9' x 18' to allow for additional parking. The contractor did not obtain the proper permits and she was unaware that she was required to do so.

Chairman Monopolus noted receipt of letters of support from property owners at 95, 98 & 107 Patricia Drive.

No comments were received from the public.

**2013-069** (continued)

Motion by Monopolus, seconded by Rosenswie, to close the public hearing and grant a variance for property located at 101 Patricia Drive to allow parking in the required 30' setback.

Ayes: All

Noes: None

Motion Carried

**2013-070**

Request of Robert Lorenz for a variance for property located at 81 Elmsford Drive to construct a 6' fence in side yard (4' fence allowed)

Robert Lorenz stated his request to install a 6' vinyl fence in the side yard from the back of the house to the front. He did not have any letters of support from his neighbors because they work shift work and he was unable to connect with them.

Mr. Harmon questioned why Mr. Lorenz wanted the fence and Mr. Lorenz stated he wanted the fence to help keep deer out of his back yard.

No comments were received from the public.

Motion by Hicks, seconded by Harmon, to table this item pending receipt of letters of approval from the neighbors.

On the question, Town Attorney Shawn Martin suggested Mr. Lorenz tape a note to the neighbor's door asking for his approval if he is unable to contact him in person.

Ayes: All

Noes: None

Motion Carried

**2013-071**

Request of Marisa Scroger of Trautman Associates for a variance for property located at 50 North Avenue to construct an addition reducing side yard setback to 18' (30' side yard required)

Marisa Scroger stated the plans for United Church Manor at 50 North Avenue to remove an existing concrete pad to allow for an addition to their community room. The variance is required because a paper street is located 18' from the proposed addition.

Mrs. Hicks questioned if the addition will present any fire concerns and Code Enforcement Officer Jeffrey Baksa stated he did not see any problem but the project will have to go for site plan review and the addition will be required to have a sprinkler system.

**2013-071** (continued)

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 50 North Avenue to construct an addition reducing the side yard setback to 18'.

Ayes: All

Noes: None

Motion Carried

**2013-072**

Request of Courtney Adamo of Benderson Development for a variance for property located at 350 Langner Road to construct two canopies reducing front setback to 5.1' and 20' (25' front setback required)

Matt Oates represented Benderson Development and stated their request for two variances to install decorative canopies at the entrance and exit of the car wash, noting this will not be an undesirable change to the area and will have no adverse effect on the neighborhood. Mr. Oates commented on the investment Benderson Development has made in this location and stated the architectural features of the canopies will integrate with the other changes.

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 construct two canopies reducing the front setback to 5.1' and 20'.

Ayes: All

Noes: None

Motion Carried

**2013-073**

Request of Helen Chemelli for a variance for property located at 183 Lexington Green to allow temporary structure in driveway

Richard Chemelli stated he applied for a permit in 2011 to replace his garage roof, but due to health issues he has been unable to finish the project. A temporary structure was put up so he can build the rafters for the garage over the winter and replace the roof next summer.

Mr. Hughes commented on the unsightly appearance of the temporary structure and questioned when the project will be done. He further questioned how long the Code Enforcement Office has been dealing with this issue.

**2013-073** (continued)

Mr. Chemelli stated the roof should be completed by August 2014 and the temporary structure will then be taken down. He further stated a black tarp was put over the structure to cover it up and all the neighbors in the cul-de-sac signed a letter stating they had no problem with it.

Code Enforcement Officer Jeffrey Baksa stated his office has been dealing with continuing property maintenance issues at this location since 2011. They are currently in court for violations concerning an overweight vehicle, unlicensed vehicles, and belongings/debris under the structure and in the yard.

Chairman Monopolus questioned if the structure is safe and Mr. Baksa responded that no plans were submitted for the structure and it was never inspected by his department.

Mr. Chemelli noted that he used 2' x 6's rather than 2' x 4's and they interlock so he thought the structure is sound.

Chairman Monopolus noted receipt of letters of support from property owners at 174, 180, 190, 195 & 201 Lexington Green.

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 183 Lexington Green to allow a temporary structure in the driveway until August 1, 2014.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

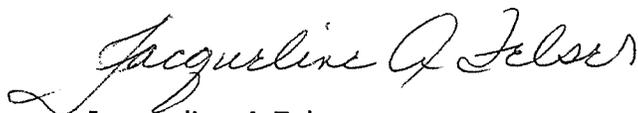
Motion by Harmon, seconded by Hicks, to adjourn the meeting at 7:50 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser  
Town Clerk/Zoning Board Secretary