

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

ZONING BOARD OF APPEALS
Minutes #2016-05
May 25, 2016

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

ROLL CALL: Present - Timothy J. Elling, Chairman
Michael P. Harmon
Evelyn Hicks
Michael P. Hughes
Richard P. Marzullo
Jeffrey Baksa, Code Enforcement Officer
John J. 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.

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 Marzullo, 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 Marzullo, to approve Minutes #2016-04 of April 20, 2016.

Ayes: All Noes: None Motion Carried

NEW BUSINESS

2016-40

Request of Sean Hopkins, Esq. representing Ebenezer Community Landings LLC property located at 4592 Seneca Street for area variances for the proposed residential project consisting of 48 detached single family patio homes and 30 attached two-story townhome units

2016-40 (continued)

Chairman Elling stated he had received an email stating the applicant is revising the project and will be submitting new plans for the next meeting.

Motion by Hughes, seconded by Marzullo, to table this item until the June meeting.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS

2016-28

Request of Joseph B See, R.A. for a variance for property located at 1365 Indian Church Road to reduce required bulk area from 36,000 sf to 14,091 sf

Property owner Michael Masters stated his proposal to convert a store front and additional space within his building at 1365 Indian Church Road for two additional apartments. A variance is needed for the bulk area, but additional parking has been added so the previous variance request for parking has been eliminated.

Code Enforcement Officer Jeffrey Baksa stated the project will not add anything to the footprint of the building and the bulk area is consistent with what has been there. The applicant has made many improvements to the property, obtained the required permits and complied with the town.

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 1365 Indian Church Road to reduce the required bulk area from 36,000 sf to 14,091.

Ayes: All

Noes: None

Motion Carried

2016-30

Request of Amber Sears of Expedite the Diehl for a variance for property located at 1055 Union Road to allow a 19' high, 130 sf ground sign (maximum 5' high, 20 sf per side allowed)

2016-28 (continued)

Pat Rowell of Flexlume Sign submitted signatures of approval from surrounding property owners, noting the neighbor to the immediate left was out-of-town and unavailable, but he was able to obtain a signature from the next neighbor to the left. Mr. Rowell stated the new sign will not project beyond the existing sign and will not infringe on any right-of-way or property line.

Chairman Elling stated he is in receipt of letters of support from property owners at 950A, 1045 & 1079 Union Road.

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 1055 Union Road to allow a 19' high, 130 sf ground sign.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2016-35

Request of Bahgat & Nancy Abdelhaq for a variance for property located at 112 Treehaven Road to allow parking in required 30' front setback

Nancy Abdelhaq stated they bought the house at 112 Treehaven Road eight years ago as it is and did not make any changes to it; they did not realize it was in violation. Mrs. Abdelhaq stated they have two cars and there is plenty of room in the driveway to park.

Code Enforcement Officer Jeffrey Baksa stated a prior owner had converted the garage into living space without a building permit.

Chairman Elling stated he is in receipt of letters of support from property owners at 108, 109, 110 and 114 Treehaven Road.

No comments were received from the public.

2016-35 (continued)

Motion by Hughes, seconded by Marzullo, to close the public hearing and grant a variance for property located at 112 Treehaven Road to allow parking in the required 30' front setback.

Ayes: All

Noes: None

Motion Carried

2016-36

Request of John Kaminski for a variance for property located at 33 Camwood Drive to construct an addition on the rear of the house, reducing setback to 25' (30' rear setback required)

John Kaminski stated his proposal to construct a 30' x 17' addition on the rear of his house to expand a bedroom and add a bathroom.

Chairman Elling stated he is in receipt of letters of support from property owners at 23 & 31 Willow Drive, 34 & 41 Camwood Drive and 36 Smallwood Drive.

No comments were received from the public.

Motion by Harmon, seconded by Hicks, to close the public hearing and grant a variance for property located at 33 Camwood Drive to construct an addition on the rear of the house, reducing the rear setback to 25'.

Ayes: All

Noes: None

Motion Carried

2016-37

Request of Steven Duckworth for a variance for property located at 81 Collins Avenue to construct a 6' fence in the front and side yard of the corner lot (maximum 4' fence permitted)

Steven & Emily Duckworth stated their proposal to enclose their corner lot with a 6' fence due to security and liability concerns. They also intend to have an outdoor patio in the future.

Code Enforcement Officer Jeffrey Baksa stated he checked on traffic concerns and did not see any issue with the way the plan is presented.

2016-37 (continued)

Chairman Elling stated he is in receipt of letters of support from property owners at 75, 82 and 104 Collins Avenue; however, he questioned lack of signatures from the two houses directly across the street. Mr. Duckworth stated he is able to get those signatures if required.

Mr. Marzullo thought a 6' high fence was too large and would obstruct vision. He favored a 4' high fence with a decorative top that will be more visually appealing.

Mrs. Hicks commented she lives next to a 6' high fence with trees planted around it and it has become part of the landscape.

Mr. Duckworth stated a 6' high fence would be ideal, but he would be satisfied with 4'.

No comments were received from the public.

Motion by Hicks, seconded by Elling, to table this item until the next meeting pending receipt of signatures from property owners at 92 & 96 Collins Avenue.

Ayes: All

Noes: None

Motion Carried

2016-38

Request of Jeff Nawotka for a variance for property located at 40 North America Drive to construct an 8' fence and allow outside storage (maximum 6' fence allowed and no outside storage)

Jeff Nawotka stated he recently signed a contract with Carrier and construction is underway for a 25,000 sf building on 13 acres of property at 40 North America Drive. Carrier is in need of exterior fenced storage for their rooftop units and they are requesting an 8' high fence.

Chairman Elling stated he is in receipt of letters of support from property owners at 1777 Union Road and 3, 50 and 51 North America Drive.

Code Enforcement Officer Jeffrey Baksa noted the M-1 zoning allows for outside storage, so the variance is strictly for the height of the fence.

No comments were received from the public.

2016-38 (continued)

Motion by Elling, seconded by Hughes, to close the public hearing and grant a variance for property located at 40 North America Drive to construct an 8' high fence to enclose outside storage of materials.

Ayes: All

Noes: None

Motion Carried

2016-39

Request of Jennifer Cartonia for a variance for property located at 395 East & West Road to construct a driveway in the front yard setback

Jennifer Cartonia stated her proposal to install a larger driveway in the front yard setback of her home at 395 East & West Road, noting the driveway will be hard surface, either concrete or asphalt.

Mrs. Hicks questioned if there are any drainage issues.

Code Enforcement Officer Jeffrey Baksa advised there are no drainage issues. It is a tight space, but the existing driveway is a considerable distance from the house.

Chairman Elling stated he is in receipt of letters of support from property owners at 7, 8 & 14 Cove Creek and 17 Cove Hollow. Erie County also has no problem with the proposed driveway.

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 395 East & West Road to construct a driveway in the front yard setback, noting this is a unique situation and normally two driveways are not allowed on residential property.

Ayes: All

Noes: None

Motion Carried

2016-41

Request of Daniel & Nicole Mikolajczyk for a variance for property located at 7 Valley Drive to construct a 6' high fence in front yard of corner lot with 14' projection from front of house (maximum 4' high fence allowed with maximum 10' projection)

2016-41 (continued)

Daniel & Nicole Mikolajczyk stated they have three young children and would like to construct a 6' high wooden privacy fence for security and privacy, noting there is a lot of traffic from the VFW Post across the street and on Leydecker Road as it is used as a cut through from Southwestern Blvd. The fence will be setback 40' from Leydecker Road. They have received approval from NYSEG to encroach upon their easement and underground utilities have been marked.

Chairman Elling stated he is in receipt of letters of support from property owners at 230, 243 and 265 Leydecker Road; 4, 10 & 18 Valley Drive and 5 Sunrise Terrace. He questioned lack of a signature from 234 Leydecker Road and Mr. Mikolajczyk stated he is the owner of that parcel.

Matt Nycek lives directly across the street and commented the applicant removed the shrubs on the property and now wants to replace them with a 6' high fence. He thought a 4' high fence was sufficient and stated there are no other fences in the area except for one across from the VFW Post.

Mr. Mikolajczyk stated the shrubs were not well maintained and were eaten by deer. He is trying to clean up the property and make it more visually appealing. Also, they may install a pool in the future and wanted the security of a 6' fence.

Patrick Neary commented on the traffic on Leydecker Road and stated the fence will be set back far enough so it should not be a problem and a 4' or 6' high fence gives the same visual.

Mr. Harmon suggested a 4' fence on the Leydecker Road side and a 6' fence for the rest of the yard.

Code Enforcement Officer Jeffrey Baksa noted a 4' high fence will still require a variance for the 14' projection into the front yard.

Motion by Harmon, seconded by Elling, to close the public hearing and grant a variance for property located at 7 Valley Drive to construct a 4' high fence projecting 14' from the front of the house and along Leydecker Road and a 6' high fence in the remaining side and rear yard.

Ayes: All

Noes: None

Motion Carried

2016-42

Request of Christopher Ford for a variance for property located at 165 East Avenue to construct a 4' high fence projecting 15' from house to 1' from lot line (zero projection permitted)

The applicant was not present at the meeting.

Motion by Hughes, seconded by Elling, to adjourn this item until the end of the meeting.

Ayes: All

Noes: None

Motion Carried

2016-43

Request of Michael Dobrzenski for a variance for property located at 4638 Seneca Street to allow a 13' x 20' extension to driveway in front setback

Michael Dobrzenski stated his proposal to add a turn around pad on the front of his driveway, noting Seneca Street is a busy street and he would like a safe way to turn a vehicle around so it can be pulled out of the driveway instead of backing out.

Chairman Elling stated he is in receipt of letters of support from property owners at 4636 & 4652 Seneca Street. Erie County also has no objection to the proposal.

Code Enforcement Officer Jeffrey Baksa stated in the past the town has permitted turn around areas in the front setback on busy streets with the stipulation there is no parking in it, but people parked anyway so a variance is now required for parking in the front setback.

Mr. Dobrzenski stated he does not intend to park in the turn around and only wants a safe way to back into the driveway.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to close the public hearing and grant a variance for property located at 4638 Seneca Street to allow a 13' x 20' extension to the driveway in the front setback, with the stipulation there is no parking on the concrete pad.

Ayes: All

Noes: None

Motion Carried

2016-44

Request of Joseph J Gerace for a variance for property located at 184 Pellman Place to construct a 30' x 40' pole barn with a 13' ceiling height (maximum 12' high accessory building allowed)

Joseph Gerace stated his proposal for a 30' x 40' pole barn, noting the existing 20' x 20' garage is in disrepair and will be torn down after the new one is built. Mr. Gerace stated his hobby is working on cars and he would like to install a lift and have attic space for storage.

Mr. Marzullo questioned if he intends to match the exterior siding of the house and Mr. Gerace responded that he did.

Mrs. Hicks questioned if there will be any living space or plumbing in the structure and Mr. Gerace responded there will be electricity, water and radiant heat, but no bathroom.

Chairman Elling stated he is in receipt of letters of support from property owners at 140, 167 & 200 Pellman Place.

Susan Kims questioned how close to the property line the structure will be and Code Enforcement Officer Jeffrey Baksa responded the new structure will be the same distance from the property line as the existing structure.

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a variance for property located at 184 Pellman Place to construct a 30' x 40' pole barn, 18' high at the peak.

Ayes: All

Noes: None

Motion Carried

2016-45

Request of David Schwalenberg for a variance for property located at 85 Klas Avenue to construct a new front porch with overhang extending 25' into front setback (minimum 30' front setback required)

David Schwalenberg stated his proposal to replace the existing deck on his house at 85 Klas Avenue and install an overhang for curb appeal, noting this is rental property and he is doing some restoration work. The new deck will be slightly smaller than the existing one.

Chairman Elling stated he is in receipt of letters of support from property owners at 76, 86, 95 & 98 Klas Avenue.

2016-45 (continued)

No comments were received from the public.

Motion by Hughes, seconded by Marzullo, to close the public hearing and grant a variance for property located at 85 Klas Avenue to construct a new front porch with an overhang extending 25' into the front setback.

Ayes: All

Noes: None

Motion Carried

2016-42

Request of Christopher Ford for a variance for property located at 165 East Avenue to construct a 4' high fence projecting 15' from house to 1' from lot line (zero projection permitted)

The applicant was not present at the meeting.

Motion by Hughes, seconded by Marzullo, to table this item until the June meeting.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Hicks, seconded by Hughes, 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