

The regular meeting of the Zoning Board of Appeals of the Town of West Seneca was called to order by Chairperson Evelyn Hicks at 6:00 P.M. followed by the Pledge of Allegiance.

ROLL CALL:

Present	-	Evelyn Hicks, Chairperson Amelia Greenan Raymond Kapuscinski Paul Lang Douglas Busse, Code Enforcement Officer Stephan Stachowski, Deputy Town Attorney
Absent	-	None

Chairperson Hicks noted that Mike Hughes resigned from the Zoning Board due to work obligations. Chairperson Hicks thanked Mr. Hughes for his many years on the Zoning Board and his volunteer work in the community.

OPENING OF PUBLIC HEARING

Motion by Kapuscinski, seconded by Greenan, to open the public hearing.

Ayes: All Noes: None Motion Carried

APPROVAL OF PROOFS OF PUBLICATION

Motion by Greenan, seconded by Kapuscinski, that proofs of publication and posting of legal notice be received and filed.

Ayes: All Noes: None Motion Carried

APPROVAL OF MINUTES

Motion by Kapuscinski, seconded by Greenan, to approve Minutes #2022-09 of September 28, 2022.

Ayes: All Noes: None Motion Carried

OLD BUSINESS

2020-049

Request of New Hope Methodist Church for renewal of a variance for property located at 2846 Seneca Street to construct a LED sign within 500' of residential property (LED signs not permitted within 500' of residential zoning)

The applicant was not present.

Motion by Hicks, seconded by Kapuscinski, to table the item until the end of the meeting.

Ayes: All Noes: None Motion Carried

2020-081

Request of CSEA for renewal of the variance for property located at 7 Willowdale Drive to construct an LED sign located within 500' of residential zoning district (LED signs not permitted within 500' of residential zoning)

The applicant notified the Zoning Board of Appeals they would not be in attendance.

Motion by Kapuscinski, seconded by Greenan, to table the item until the December 7, 2022 meeting.

Ayes: All

Noes: None

Motion Carried

2022-045

Request of Daryl Martin Architect, PC for three variances for property located at 711 Harlem Road: 1) 18,276-sf lot requested (28,000-sf required); 2) 17.84' rear setback requested (30' rear setback required); 3) 8.33' parking setback requested (10' parking setback required)

Mr. Martin stated the project is to construct five 2-bedroom apartments on Harlem Road; the construction would be between two current apartment buildings. The units will include garages and be residential looking. Five units are requested so there would be a payback to the owner due to the increase in construction costs.

Chairperson Hicks noted the NYSDOT inquired if the project could be flipped. Mr. Martin stated this has not been looked at and switching the layout would require another variance; this will be addressed with the Planning Board.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 726 and 738 Harlem Road, and 304, 300, 288, 282, and 294 Dwyer Street.

No comments were received from the public.

Chairperson Hicks referred to the area variance balancing test: 1) Is there an undesirable change to the neighborhood - no, the buildings are consistent with the current use on this section and side of Harlem Road and the neighbors have no objection; 2) Is there an alternative – yes, a smaller footprint could be used with less units; 3) Is the request substantial – yes but the project is worth doing; 4) Does the variance have an impact on the environment – possibly, but this would be determined by the Planning Board; 5) Is this a self-created difficulty – yes, but this is not the determining factor and the project is not sustainable on a smaller scale.

No comments were received from the public.

Motion by Hicks, seconded by Greenan, to close the public hearing and grant a variance for property located at 711 Harlem Road to: 1) 18,276-sf lot requested; 2) 17.84' rear setback requested; 3) 8.33' parking setback requested.

Ayes: All

Noes: None

Motion Carried

2022-047

Request of Amanda Lanyzs for a variance for property located at 88 Lyndale Court to allow raising chickens on property (raising of poultry/farm animals not permitted)

The applicant notified the Zoning Board of Appeals they would not be in attendance.

Motion by Greenan, seconded by Kapuscinski, to table the item until the December 7, 2022 meeting; if the applicant does not appear in December the item will be received and filed.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2022-049

Request of Joseph and Rebecca Holler for a variance for property located at 23 Jaycee Lane to erect a 6' fence in front and side yard with 20' projection past house (maximum 4' height allowed; maximum 10' projection allowed)

Mr. Holler stated he was unaware a variance for the height was needed while placing a fence around the property. Due to the position of the house, the side yard is technically the front yard.

Code Enforcement Officer Doug Busse noted the Code Enforcement Office was on site and halted the contractor from finishing the project. Mr. Busse stated the homeowner immediately applied for the variance.

Mr. Holler stated the project is $\frac{3}{4}$ completed and would like the fence for privacy and security.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 24, 27, 28, and 36 Jaycee Lane.

Chairperson Hicks referred to the area variance balancing test: 1) Is there an undesirable change to the neighborhood - no, similar fences are in the neighborhood; 2) Is there an alternative – a 4' fence is not sufficient to the needs; 3) Is the request substantial – no; 4) Does the variance have an impact on the environment – no; 5) Is this a self-created difficulty – yes, but this is not the determining factor. It is important to note the corner lot creates two front yards.

No comments were received from the public.

Motion by Lang, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 23 Jaycee Lane to erect a 6' fence in front and side yard with 20' projection past house, noting this is on a corner lot with two front yards.

Ayes: All

Noes: None

Motion Carried

2022-050

Request of Paul Pietraszewski for a variance for property located at 210 Lein Road to erect (6' fence 24" off the ground) an 8' fence (6' maximum height allowed)

Mr. Pietraszewski stated the lot goes past the neighbors and the area for the fence is in the back. The owner of the back property paved the area and erected buildings; this is no longer green space but commercial. The previous owner stripped off the topsoil from the area and the adjoining property is lower and the land slopes down; therefore, there is a need for the fence to be 24" off the ground. Mr. Pietraszewski stated he would like to amend the application for a continuous fence. Chairperson Hicks noted the publication does not state the length of the fence and if approved, this can be done.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 238, 234, and 244 Lein Road.

Chairperson Hicks referred to the area variance balancing test: 1) Is there an undesirable change to the neighborhood - no, the parcel extends far back; 2) Is there an alternative – yes, but a shorter fence would not shield the view; 3) Is the request substantial – no; 4) Does the variance have an impact on the environment – no; 5) Is this a self-created difficulty – no, this is due to commercial activity impeding on the applicants enjoyment of his property.

No comments were received from the public.

Motion by Kapuscinski, seconded by Lang, to close the public hearing and grant a variance for property located at 210 Lein Road to erect (6' fence 24" off the ground) an 8' fence.

Ayes: All

Noes: None

Motion Carried

2022-051

Request of Ronald Niedbala for a variance for property located at 2135 Clinton Street to erect a 6' fence in front and side yard of property with 45' projection past building (4' maximum height allowed; 10' projection past building allowed)

Michael Stachowski, attorney for the applicant, presented on behalf of the applicant and stated Clinton Collision would like to erect a 6' safety fence to store cars; this would allow storage of cars along the back on the Boynton Street side.

Chairperson Hicks referred to correspondence received from Clinton Collision which noted there previously was a fence which was removed approximately ten years ago to allow the business next door to have additional parking and there is no longer such an agreement with the business. Mr. Stachowski explained the neighboring business is still using Clinton Collisions parking and this is negatively impacting the Boynton Street residents.

Code Enforcement Officer Doug Busse stated there was previously an agreement with the neighboring establishment and there is no longer an agreement, and the fence allows Clinton Collision to solely use their parking.

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No reply was given to the Town of West Seneca from the NYSDOT and ECDPW regarding the variance request.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 96, 85, and 77 Boynton Street and 2158 Clinton Street.

Chairperson Hicks referred to the area variance balancing test: 1) Is there an undesirable change to the neighborhood - no; 2) Is there an alternative – yes, but a 4’ fence would not achieve the purpose; 3) Is the request substantial – no, the neighbors are in favor; 4) Does the variance have an impact on the environment – no; 5) Is this a self-created difficulty – no.

No comments were received from the public.

Motion by Kapuscinski, seconded by Greenan, to close the public hearing and grant a variance for property located at 2135 Clinton Street to erect a 6’ fence in front and side yard of property with 45’ projection past the building.

Ayes: All

Noes: None

Motion Carried

2022-052

Request of Christian Jordan for a variance for property located at 2400 Berg Road to install 1) an LED sign within 500’ of residential zoning (LED signs not permitted within 500’ of residentially zoned property); 2) 33-sf (maximum 8-sf sign permitted); 3) 6’ – 8’ height (maximum 3’ height permitted)

Mr. Jordan, Assistant Chief with Reserve Hose Fire Company stated the fire company would like to replace the current lighted standalone single sided LED sign in the same location.

Chairperson Hicks stated correspondence was received from the Erie County Division of Environment and Planning stating they have no objection to the variance as this was of local concern. The NYSDOT did not provide correspondence. Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 2380, 2334, 2375, 2370, and 2383 Berg Road.

A resident questioned the need for a sign. Assistant Chief Jordan stated the main reason for the sign was to enhance recruitment as volunteer service was very low; Reserve Hose is the only district without an LED sign. The size allows for clear and safe messaging.

Mr. Kapuscinski noted the sign sits back approximately 50’ – 60’ from Berg Road and is hard to see.

Ms. Greenan questioned if the size could be reduced. Assistant Chief Jordan stated the manufacturer of the sign stated this was the most reasonable size for what the district is trying to accomplish.

Code Enforcement Officer Doug Busse stated the fire halls frequently advertise on the LED signs for their own events; not for renting out the fire hall. Deputy Town Attorney Stephan Stachowski stated normal town ordinances would still need to be followed as far as off-site advertising.

Mr. Lang stated when looking at the details of the sign, the LED portion is a more standard 3’ x 6’; there is a 2’ tall section capping the sign which identified the fire hall which is not LED.

2022-052 (continued)

Motion by Kapuscinski, seconded by Greenan, to close the public hearing and grant a variance for property located at 2400 Berg Road to install 1) an LED sign within 500' of residential zoning; 2) 33-sf; 3) 6' – 8' height.

Ayes: All

Noes: None

Motion Carried

2022-053

Request of Christian Jordan for a variance for property located at 807 East & West Road to install 1) an LED sign within 500' of residential zoning (LED signs not permitted within 500' of residentially zoned property); 2) 33-sf (maximum 8-sf sign permitted); 3) 6' – 8' height (maximum 3' height permitted)

Mr. Jordan, Assistant Chief with Reserve Hose Fire Company stated this location is a substation located in the middle of the district and will gain the most attention from residents. This sign is double sided; off the road and will not shine into residences. The sign is automatically dimmable based on the sunlight; the plan would be to shut off after 10:00 PM and just show the time and temperature.

Chairperson referred to the town code regarding the sign ordinance. Assistant Chief Jordan stated this will not be an issue and the fire company will comply with all ordinances and regulations.

Chairperson Hicks stated she was in receipt of an email from Kate Newton stating the following:

"I live at 48 West Bihrwood Drive which is very close in proximity to the fire station. I was just made aware (last night via Facebook) of an application for an electronic/digital sign variance for Reserve Hose Company that is on the agenda for tonight's meeting. I am unable to make the meeting tonight but have several questions/concerns/comments.

1. The construction of this sign request has already begun. Construction started yesterday early morning. Has the approval already been made prior to the meeting?
2. What is the need for the sign? Events are rarely (summer picnic for volunteers and their families) held in the building other than voting. Clearly, by the number of political signs residents can see the polling place on election day. What else is planned for this large sign?
3. Why not a non-electric/digital sign? There are residential houses right next to and right across the street that would be impacted by the light display, especially LED lights. Let alone the surrounding families that clearly will be affected by this large sign. As I mentioned, events rarely are held here so a sign indicating Reserve Hose Company non digital clearly would serve the purpose.
4. If the approval is granted or already has been granted - what is the reason(s) for allowing a sign that will be almost four times larger and twice as big as what is allowed and almost triple in height, not even considering the town ordinance of no LED signs within 500 feet within residential areas? Very concerning that construction has already begun prior to your meeting. Was a building permit already issued without the committee's approval?
5. Is there an option for reduce visibility at night after certain hours? This request seems redundant since it is light sign is for the night use, but what about use and enjoyment of the established residents in the vicinity.

The most pressing concern is that construction for this sign has already occurred."

2022-053 (continued)

Chairperson Hicks stated correspondence was received from the Erie County Division of Environment and Planning stating they have no objection to the variance as this was of local concern. The NYSDOT did not provide correspondence.

Mike Kluck, with Reserve Fire Company noted all the other fire districts have signs; thought was done to ensure the company would remain good neighbors. The sign is dimmable and programable and will be turned off between 10:00 PM – 8:00 AM. The adjoining neighbors stated they did not have an issue with the sign and provided their signature. This is the only district in the town with two stations. This is being used for the fire company and not for elections or politics. There are events at the station but take place at the Berg Road location. The residents/neighbors who would be directly affected were contacted.

Code Enforcement Officer Doug Busse stated the Code Enforcement Office did give approval to start the foundation of the sign and the applicant was made aware that a different sign would possibly need to be designed pending the outcome of tonight's meeting.

Keith Saklowski, 800 East & West Road, stated it is comforting to live adjacent to the Fire Department and expressed concerns with car accidents due to people trying to read the sign with the alternating messages. Mr. Saklowski used Union Fire Companies sign as an example. Chairperson Hicks stated they are not in compliance.

Mr. Saklowski also expressed concerns with the size of the sign and a motorist not being able to see children along East & West Road. Mr. Saklowski stated he owns a business and believes if he requested the same, he would be denied. Mr. Saklowski expressed concerns with the construction of the sign beginning before the variance was granted. Mr. Busse stated a sign that complies with the regulations is allowed in the location.

Assistant Chief Jordan stated as a fire department, the last thing they want is someone getting hurt. Much thought was put into this location and the length of the road along with the speed of the changing sign.

Mr. Kluck stated he can not speak for another fire department and their compliance issues and noted Mr. Saklowski signed he had no objection to granting the variance. Mr. Kluck reiterated all ordinances will be followed and they plan to continue being good neighbors.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 817, 800, 784, 777 and 783 East & West Road, noting 800 East & West Road has reconsidered and provided commentary to the Zoning Board members.

Chairperson Hicks asked the Deputy Town Attorney if it is permissible to place contingencies on the variance such as the shut off time. Mr. Stachowski stated he advised against this, and the Zoning Board should defer to the ordinance; this would also make enforcement difficult for the Code Enforcement Office.

Chairperson Hicks noted the size of the sign is larger than permitted. Mr. Busse stated the maximum area is 8-sf per side and maximum height is 3'; the setback is met. Mr. Kapuscinski stated a smaller sign is harder to read; residence would be looking longer.

Ms. Greenan referred to the balancing test and noted there are more residents surrounding the fire hall and had concerns with the undesirable change to the neighborhood.

2022-053 (continued)

Mr. Kapuscinski stated he did not believe there would be an undesirable change. If the sign were on the other side, there may be an issue. Mr. Busse noted the applicant would be required to follow all ordinances and rules, i.e., dimmable features, times for message changes. Assistant Chief Jordan reiterated all rules will be adhered to.

Mr. Lang referred to the continuity of the neighborhood and stated the fire hall breaks the residential aesthetics; the sign follows with the style and believes this will not have a negative impact.

Chairperson Hicks stated there is a 38' setback for the sign and not right on the road; this is sufficient for site lines.

Sue Webster from W. Bihwood messaged her concerns with the lighting to Mr. Saklowski.

Chairperson Hicks referred to the area variance balancing test: 1) Is there an undesirable change to the neighborhood - no, based on Mr. Lang's explanation; 2) Is there an alternative – yes, a fixed or temporary sign; 3) Is the request substantial – no, considering the size of the lot, location and purpose of the sign; 4) Does the variance have an impact on the environment – no; 5) Is this a self-created difficulty – no, to exist on a volunteer basis they need to recruit members.

Motion by Hicks, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 807 East & West Road to install 1) an LED sign within 500' of residential zoning; 2) 33-sf; 3) 6' – 8' height.

Ayes: All

Noes: None

Motion Carried

2022-054

Request of Timothy Barr for a variance for property located at 130 Onondaga Avenue to erect a 6' fence in front and side yard with 13' projection past house (4' maximum height allowed; no projection permitted)

Mr. Barr stated the request is for a 6' surrounding the yard for privacy and for the family dog; there is a 4' fence and the dog may be able to go over the fence. The fence is 5' solid vinyl with 1' decorative top. The house is on an easement, and nothing would be on the front of Onondaga; the easement is a paper street (Downing).

Chairperson Hicks noted this section of Downing Street is not an active roadway and is a paper street that has never been developed.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 136 Onondaga Avenue, 171 Brookside Drive, and 606 Downing Street.

No comments were received from the public.

Motion by Greenan, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 130 Onondaga Avenue to erect a 6' fence in front and side yard with 13' projection past house.

Ayes: All

Noes: None

Motion Carried

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2022-056

Request of Dante Izzo for a variance for property located at 457 Leydecker Road to erect a 6' fence in front and side yard (maximum 4' height allowed)

Mr. Izzo stated he is looking for a 6' fence for privacy and to shield him from visuals from the neighbor. Chairperson Hicks noted there have been neighbor disputes documented with the police department.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 435, 424, and 481 Leydecker Road.

Chairperson Hicks referred to the area variance balancing test: 1) Is there an undesirable change to the neighborhood – no, fences are typical in the neighborhood; 2) Is there an alternative – yes, but not with the same desired result; 3) Is the request substantial – no; 4) Does the variance have an impact on the environment – no; 5) Is this a self-created difficulty – no, there has been difficulty with the neighbor and this will allow enjoyment of the property.

No comments were received from the public.

Motion by Kapuscinski, seconded by Lang, to close the public hearing and grant a variance for property located at 457 Leydecker Road to erect a 6' fence in front and side yard.

Ayes: All

Noes: None

Motion Carried

2022-057

Request of Miladul Islam for a variance for property located at 53 Marann Terrace to erect a 6' fence in front and side yard (maximum 4' height allowed)

The applicant was not present.

Motion by Kapuscinski, seconded by Hicks, to table the item until the December 7, 2022 meeting.

Ayes: All

Noes: None

Motion Carried

TABLED ITEMS

2020-049

Request of New Hope Methodist Church for renewal of a variance for property located at 2846 Seneca Street to construct a LED sign within 500' of residential property (LED signs not permitted within 500' of residential zoning)

The applicant was not present.

Motion by Greenan, seconded by Kapuscinski, to table the item until the December 7, 2022 meeting.

Ayes: All

Noes: None

Motion Carried

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ADJOURNMENT

Motion by Greenan, seconded by Kapuscinski, to adjourn the meeting at 8:59 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler
Town Clerk/Zoning Board Secretary