

**WEST SENECA COMMUNITY CENTER
1300 Union Road
West Seneca, NY 14224**

**ZONING BOARD OF APPEALS
Minutes #2023-05
May 24, 2023**

Motion by Tronolone, seconded by Lang, to close the public hearing and grant a variance for property located at 555 Center Road to erect a 4' fence projected 38' into front yard.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2023-014

Request of Kevin Chodkowski for a variance for property located at 287 Union Road for construction of an addition 5' 7" from existing garage (10" separation required)

Mr. Chodkowski stated he would like to construct an addition to the house and a variance is required for the separation of the house to the garage.

Code Enforcement Officer Doug Busse explained the architectural reason for the 5' 7" is for the fire rating separation; however, town code states a 10' separation from the detached structure to the primary structure.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 277, 315, and 269 Union Road. Correspondence was received from the Erie County Department of Environment and Planning along with the NYSDOT with no objection to the variance request as this is of local concern.

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, there are neighbor letters in support; 2) Is there an alternative - no, the addition is the length of the house; 3) Is the request substantial - no; 4) Does the variance have an impact on the environment - there is no impact on the environment; 5) Is this a self-created difficulty - yes, but this is not the determining factor.

Motion by Bedient, seconded by Greenan, to close the public hearing and grant a variance for property located at 287 Union Road for construction of an addition 5' 7" from existing garage.

Ayes: All

Noes: None

Motion Carried

2023-015

Request of Louis Mustillo for a variance for property located at 50 Harwood Road to erect a 6' fence in side yard (maximum 4' height allowed in side yard)

Mr. Mustillo stated he would like to replace his existing chain link fence with a 6' stockade fence. The fence comes approximately halfway up the side of the house and there is still 24' from the fence to the front of the house. This is on the neighbors' garage side and will not impact her.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 56, 57, 40, 38, 45, 63, and 51 Harwood Road.

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, there are neighbor letters in support; 2) Is there an alternative - no; 3) Is the request substantial - no; 4) Does the

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variance have an impact on the environment – there is no impact on the environment; 5) Is this a self-created difficulty – yes, but this is not the determining factor.

Motion by Tronolone, seconded by Greenan, to close the public hearing and grant a variance for property located at 50 Harwood Road to erect a 6' fence in side yard.

Ayes: All

Noes: None

Motion Carried

2023-016

Request of Andy Pawelek for a variance for property located at 935 Harlem Road to 1) allow outdoor seating; 2) requesting 25.9' front yard setback (patio); 3) requesting 16.7' and 19' front yard setback (volleyball dome) (outdoor seating not permitted; 40' front yard setback required; 40' front yard setback required)

Mr. Pawelek stated the project is to add 25' onto the dome with outdoor seating in the front.

Chairperson Hicks stated pursuant to town code, there is no outdoor seating allowed in a bar situation. Chairperson Hicks stated this is a long-standing business in town and questioned if there have been complaints. Code Enforcement Officer Doug Busse stated he has no complaints on file.

Chairperson Hicks requested further information on the outdoor seating. Mr. Pawelek stated patrons like to be outside; there is a small patio in the back but is very close to the volleyball area. This would have a covered roof with a fence and landscaping.

Mr. Busse stated if approved, fire code requires vehicle protection (i.e., concrete barriers) and this would be discussed in the office.

Chairperson Hicks stated she is in receipt of a letter in support of the project from the Pastor at Winchester Community Church. Correspondence was also received from the Erie County Department of Environment and Planning with no objection to the variance request as this is of local concern. The NYSDOT provided correspondence stating: NYSDOT has no objection to the town granting a variance for the proposed expansion. It appears that some work may be in the Harlem Road/State Highway right of way. A NYSDOT Highway Work Permit will be required for work located within the right of way. More detailed plans will be required for the Highway Work permit application and an additional site engineering review will be performed as part of the Highway Work Permit process. This correspondence does not constitute approval for the purpose of a Highway Work Permit.

Chairperson Hicks noted the volleyball dome is prohibited from expanding towards the back due to the creek. Mr. Busse stated the applicant is aware the existing parking spots towards the right of way will need to be removed and blacked out. There is still enough parking with the removal of the spots.

No comments were received from the public.

Chairperson Hicks referred to the area variance balancing test in regard to the patio: 1) Is there an undesirable change to the neighborhood - no, the immediate neighbor is in support; 2) Is there an alternative – no, the creek is behind the building; 3) Is the request substantial – no, there is sufficient parking; 4) Does the variance have an impact on the environment – there is no impact on the environment; 5) Is this a self-created difficulty – yes, but this is not the determining factor.

Motion by Tronolone, seconded by Greenan, to close the public hearing and grant a variance for property located at 935 Harlem Road to allow the patio to have 25.9' front yard setback.

Ayes: All

Noes: None

Motion Carried

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2023-018

Request of Jeffrey Kirchmyer for a variance for property located at 33 Lisa Ann Lane to install a patio roof with 5' separation to pool (10' separation required)

Mr. Kirchmyer stated he has an existing 22' x 14' concrete patio off the back of the house that he would like covered; the post for the patio roof would be 5' from the pool. The 5' would still allow access to emergency personnel to the pool if needed.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 39, 27, and 32 Lisa Ann Lane and 52 and 44 Carmelite Drive.

Chairperson Hicks stated it appeared from the photos submitted a person could not jump from the roof into the pool. Mr. Kirchmyer concurred.

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, there are neighbor letters in support and the patio already exists; 2) Is there an alternative - no; 3) Is the request substantial - no; 4) Does the variance have an impact on the environment - there is no impact on the environment; 5) Is this a self-created difficulty - yes, but this is not the determining factor.

Motion by Tronolone, seconded by Greenan, to close the public hearing and grant a variance for property located at 33 Lisa Ann Lane to install a patio roof with 5' separation to pool.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Greenan, seconded by Bedient, to adjourn the meeting at 6:55 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler
Town Clerk/Zoning Board Secretary