

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

**WEST SENECA PLANNING BOARD
Minutes #2017-08
August 10, 2017**

Chairman Robert Niederpruem called the meeting to order at 7:00 P.M. followed by the Pledge of Allegiance led by Sergeant-at-Arms Joseph Sherman.

ROLL CALL: Present - Robert Niederpruem Jr., Chairman
Donald Mendola
James Rathmann
Joseph Sherman
George Clifford
Margaret Bebak
John Gullo, Senior Code Enforcement Officer
John J Fenz, Town Attorney
Absent - Dale J McCabe

Chairman Niederpruem read the Fire Prevention Code instructing the public where to exit in case of a fire or other emergency.

APPROVAL OF PROOFS OF PUBLICATION

Motion by Rathmann, seconded by Mendola, to receive and file the proofs of publication and posting of legal notice.

Ayes: All

Noes: None

Motion Carried

APPROVAL OF MINUTES

Motion by Clifford, seconded by Rathmann, to approve Minutes #2017-07 of July 13, 2017.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS COMMUNICATIONS

SPR2017-04

A request from Slade Potters, LLC for site plan approval for property located at 162 Slade Avenue for a three story mixed use building (commercial, office & multi-family residential).

Chairman Niederpruem stated the petitioner is not present at the meeting and the Planning Board is still awaiting four items that were requested.

Motion by Rathmann, seconded by Mendola, to table this item pending receipt of the items requested.

Ayes: All

Noes: None

Motion Carried

2017-08

A request from Robert Jemiolo for a rezoning & special permit for property located at 3369 - 3385 Clinton Street, being part of Lot Nos. 28 & 29, changing its classification from R-50 to C-2(S), for a restaurant with service of alcoholic beverages.

Motion by Mendola, seconded by Sherman, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

Attorney Ryan Mills of Schnitter, Ciccarelli, Mills PLLC stated he and Attorney Albert Burruano purchased 3369 – 3385 Clinton Street in a foreclosure sale and they are the current owners. Robert Jemiolo is under contract to purchase the property contingent upon approval of a rezoning & special permit to allow a portion to be used for a restaurant with service of alcoholic beverages as it was for many years prior. Mr. Mills outlined their proposal to rezone Parcel A to C-2 and split the other parcel into two parcels. The center portion, Parcel C, will be rezoned to C-2(S) for the restaurant and Parcel B that has the duplex will be rezoned to C-2. This will bring the property into compliance with Town Code.

Chairman Niederpruem questioned the parking situation and buffer.

Mr. Mills submitted a parking plan and stated Mr. Jemiolo will comply with the board's request for additional parking if he is allowed one year to provide the additional spaces. The duplex on one side serves as a buffer to that neighbor and there is a 40' driveway, a side porch and a tree line on the other side of the property.

Chairman Niederpruem commented there were issues in the past with noise from bands/entertainment on the patio.

Mr. Mills responded that Mr. Jemiolo plans to use the patio for dining, but has no plans for bands or music on the patio.

Senior Code Enforcement Officer John Gullo advised a variance from the Zoning Board is required for service of alcohol & food outside. Music outside on the patio would also require a variance.

Mr. Mendola commented on lights from cars shining on neighboring properties and suggested a 6' fence, especially on the west side. He further suggested designating the driveway on the west as a one-way entrance and on the east a one-way exit from the property.

Mr. Sherman suggested a solid 6' fence on the east side 75' from the right-of-way and extending to the end of the parking lot.

2017-08 (continued)

Brian Doster lives to the west of the property and stated there are other properties in town that are zoned properly for a restaurant and rezoning these parcels to C-2 in the middle of a residential zoning will set a precedence. Mr. Doster further commented on the noise produced by the bar and patio and stated the patio is elevated 3' so a 6' fence will not work. He also commented on the parking situation and the area he believes is flood plain.

Mr. Mills stated the restaurant will be operated in a different manner than it was in the past and Mr. Jemiolo does not plan for it to be a late night bar establishment. There is also more than enough land to split and have a reasonable buffer on each side.

Chairman Niederpruem questioned if 66 parking spaces is sufficient. Mr. Gullo responded the parking plan complies with Town Code.

Mr. Clifford questioned how much of the parking lot is paved. Mr. Mills stated 38 spaces are currently paved. Mr. Gullo advised the entire parking area must be paved or a variance is required to postpone paving until a designated date.

Mr. Sherman questioned if there are any plantings suitable for live screening that would give a better option than a fence. Mr. Rathmann did not believe plantings could be used in the immediate area of the patio because of the narrowness, but pines, fir trees or spruce trees could be used toward the back.

Motion by Mendola, seconded by Sherman, to close the public hearing.

Ayes: All

Noes: None

Motion Carried

Motion by Bebak, seconded by Clifford, to recommend approval of a rezoning & special permit for property located at 3369 – 3385 Clinton Street, being part of Lot Nos. 28 & 29, for a restaurant with service of alcoholic beverages, in accordance with the Manguso survey dated 06/06/2017 as follows: Parcel A rezoned to C-2; easterly parcel split into two parcels as indicated with Parcel C rezoned to C-2(S) and Parcel B rezoned to C-2; and further, conditioned upon the following: 1) limit west driveway to one way entrance and east driveway to one way exit; 2) live music is prohibited on the patio; 3) construction of a 6' fence on the west from the rear of the building and continuing to the rear 100'; 4) construction of a 6' fence on the east side of parcel B two feet off the property line to screen the full length of the house to the east.

On the question, Mr. Gullo stated the survey shows a 6' fence on the west side of the property, and if that fence does not exist they will need to construct one as indicated.

Ayes: All

Noes: None

Motion Carried

2017-11

A request from Patricia Szaras for a rezoning for property located at 172 Westminster Road, being part of Lot No. 206, changing its classification from M-2 to C-1, for a residential home.

Motion by Mendola, seconded by Rathmann, to open the public hearing.

Ayes: All Noes: None Motion Carried

Patricia Szaras stated her request to rezone her property located at 172 Westminster Road from M-2 to C-1, noting she is attempting to obtain a mortgage and the bank will not approve it because the house is located in a manufacturing district.

Senior Code Enforcement Officer John Gullo stated the house pre-dates the zoning ordinance and rezoning the property to C-1 allows for the house without creating a hardship to neighboring properties because no screening is required.

No comments were received from the public.

Motion by Mendola, seconded by Rathmann, to close the public hearing.

Ayes: All Noes: None Motion Carried

Motion by Bebak, seconded by Rathmann, to recommend approval of a rezoning for property located at 172 Westminster Road, being part of Lot No. 206, changing its classification from M-2 to C-1, for a residential home.


On the question, Mr. Mendola suggested this be referred to the Traffic Committee to check the parking situation on Westminster Road.

Ayes: All Noes: None Motion Carried

ADJOURNMENT

Motion by Mendola, seconded by Sherman, to adjourn the meeting at 7:45 P.M.

Ayes: All Noes: None Motion Carried


JACQUELINE A FELSER
TOWN CLERK/PLANNING BOARD
SECRETARY