



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.

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, neighbors do not object; 2) Is there an alternative – yes, but it is not practical to move the house back; 3) Is the request substantial – no, there is currently a house on site; 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 77 East & West Road to construct a single-family home with 29' front setback.

Ayes: All

Noes: None

Motion Carried

**2023-032**

Request of Ashlee Kohler for a variance for property located at 940 Orchard Park Road to allow the raising of chickens (raising of poultry/farm animals not permitted)

Ms. Kohler stated she is looking to raise chickens on her property. Ms. Kohler stated she currently has three hens and the hens have been helping to control the insects on the property. Ms. Kohler was not aware at the time she purchased them that a variance was needed.

Ms. Greenan noted the applicants letter stated she was also raising roosters. Ms. Kohler stated the roosters have all been rehomed to a farm.

Ms. Greenan questioned if complaints have been received by the Code Enforcement Office. Code Enforcement Officer Doug Busse stated there was a phone call received and the applicant did apply for the variance as soon as she was aware she was not complying with the town code; no complaints were received regarding the tidiness of the yard.

Mr. Bedient questioned how many hens are being requested. Ms. Kohler stated she would like up to ten hens. Chairperson Hicks noted the property has approximately 94' frontage and 465' of depth. The chicken coop is roughly 250' into the lot.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 918, 906, 933, 950, 960, 962, and 934 Orchard Park Road. Correspondence was received from Erie County Department of Environment and Planning stating they have no recommendation on the variance as this is of local concern. The NYSDOT provided correspondence stating they have no opinion on the variance.

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, neighbors do not object; 2) Is there an alternative – yes, this is being used as an educational

tool and a food source; 3) Is the request substantial – no, the lot has sufficient room; 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 Lang, seconded by Greenan, to close the public hearing and grant a one year variance for property located at 940 Orchard Park Road to allow the raising of up to ten hens, noting the applicant will appear before the Zoning Board of Appeals in August 2024.

Ayes: All

Noes: None

Motion Carried

**2023-033**

Request of Karen and Jeffrey Schieber for a variance for property located at 1900 Center Road to construct a single-family residence on vacant lot with: 1) 20' road frontage; 2) 6,050-sf lot; 3) 30' front setback (75' road frontage required; 10,000-sf lot required; 40' front setback required)

Mr. Schieber stated he resides at the adjoining property and has acquired this property. Mr. Schieber stated he would like to construct a second dwelling for his parents, in-laws, and children. Mr. Schieber looked at other alternatives such as an in-law apartment as well as combining the properties, but this was not conducive due to the utilities. Mr. Schieber would like to construct a 1,200-sf, single story, 2-bedroom house with a garage. The property is across the street from a church and a commercial intersection. A drainage plan will be submitted to the Town Engineer.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 1890, 1904, 1863, 1860, 1901, 1871, and 1909 Center Road, along with 58 Lein Road. Correspondence was received from Erie County Department of Environment and Planning stating they have no recommendation on the variance as this is of local concern. The NYSDOT provided correspondence stating the project does not appear to have an impact on the traffic along the state highway system.

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, this is residential and the neighbors do not object; 2) Is there an alternative – no, several different options were reviewed; 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 1900 Center Road to construct a single-family residence on vacant lot with: 1) 20' road frontage; 2) 6,050-sf lot; 3) 30' front setback.

Ayes: All

Noes: None

Motion Carried

**2023-034**

Request of Young Development, Inc. c/o Sean Hopkins, Esq. for a variance for property located at 391 Schultz Road and 2852 Transit Road to construct a multiple dwelling unit with 50-units (34-units allowed)

Mr. Lang stated he was recusing himself from the variance request and left the meeting room.

Mr. Bedient stated he was recusing himself from the variance request and left the meeting room.

Sean Hopkins with Hopkins, Sorgi, McCarthy presented the following on behalf of his client Young Development, Inc:

- The site is slightly more than 4-acres in size
- Construction would consist of five, 2-story, 10-unit buildings with all related site improvements.
- The entire site is properly zoned at C-1(S) and a negative declaration pursuant to SEQR was issued by the Town Board; the Town Board has already determined this project will not have any potential significant adverse environmental impacts.
- Since the July Town Board meeting the number of units has decreased from 55-units to 50-units
- The adjoining neighbors, Mr. and Mrs. Powers requested the elimination of the 5-story building, a movement in the location of the building with a substantial green space buffer, and a new location for the dumpster.
- The green space buffer from the building to the Powers property is greater than 180'; a dense staggered row of evergreen trees will be along the property line.
- The project is not a traditional multi-family project, and the distinction can be seen in the elevation plan. The plan calls for a series of 2-story, 10-unit buildings with attached garages and residential style architecture with high quality building materials.
- The requested variance pertains to §129-29A – the zoning code allows for 34-units. The zoning code methodology states the first apartment must allow for 8,000-sf and 5,000-sf per additional dwelling unit.
- Town law §267-B3b requires the balance of the benefits received by the applicant weighed against any resulting deterrents against the health safety and welfare of the surrounding community.
- The layout reflects input received from the Planning Board, Town Board, and neighbors.
- Referred to the area variance balancing test: 1) Is there an undesirable change to the neighborhood - neighbor notification forms have been provided to the Zoning Board and input on the project was obtained from neighboring resident. Mr. and Mrs. Powers stated their consent is subject to the changes made along with the plantings; 2) Is there an alternative – no, 2-story, 10-unit buildings with higher price points are more preferable; 3) Is the request substantial – no harm will come from the request; 4) Does the variance have an impact on the environment – the Town Board issued a negative declaration pursuant to SEQR. Fully engineered plans and site plans will be submitted to the Planning Board; 5) Is this a self-created difficulty – yes, but this is not the determining factor.

Chairperson Hicks questioned who requested the evergreen trees between the Powers parcel and the project. Mr. Hopkins stated dense evergreens are around the property with a denser area along their parcel and the back portion of the site.

Chairperson Hicks questioned if there was a plan for other green space. Mr. Hopkins stated there is green space along Schultz Road, Transit Road and illustrated the buffers areas. Chairperson Hicks questioned if there will be a berm or if the plantings will be at grade. Mr. Hopkins stated there is not a plan for a berm; the long-term stability of the evergreen trees is jeopardized by a berm.

Chairperson Hicks questioned the size of the greenspace in the back area. Mr. Hopkins stated the area is 200' x 140' and there is also an area for a dog park specific to the residents of the development. Chairperson Hicks

questioned who will be maintaining the project. Mr. Hopkins stated as with his other projects, Mr. Young provides the maintenance.

Chairperson Hicks read the following the letter from Mr. and Mrs. Powers dated August 21, 2023:

"In order to support the variance sought by Young Development, West Seneca residents Donald and debra Powers, residing at 345 Schultz Road located directly adjacent to the west most portion of the project, request a substantial landscape screen to maximize privacy between their property and the proposed apartments, The Springs at West Seneca. As discussed with building contractors Brian and Joseph Young, this screen will consist of not less than fifteen 6' -7' evergreen trees placed within the proposed green space between the dog park and our shared 140' property line as per the project site plan. Placement of trees will be determined and approved by the Powers and Young Development to provide acceptable substantial screening, which both parties acknowledge may require more than the minimum number of trees stated above."

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 353 and 359 Schultz Road, 2850 Transit Road, 30 and 10 Dyke Road. Mr. Hopkins stated the addresses are contiguous parcels. Prior to starting the project, most of the land was zoned C-1 and could have been much worse than apartments. Katie's Place is across the street and is a higher density on a smaller parcel.

Chairperson Hicks stated Correspondence was received from Erie County Department of Environment and Planning stating:

- The Town and developer should ensure pedestrian connections within the development, as well as to Schultz Road and Transit Road.
- The Town and developer should ensure they "improve overall walkability and aesthetics not only for the benefit of immediate residents, but also to enhance the overall character of the Town" in this Neighborhood Commercial Corridor per the Town of West Seneca Comprehensive Plan Strategic Update (2016).
- The Town and developer should ensure the boundaries of the site abutting residential uses include abundant year-round vegetative screening, including mature trees. This review pertains to the above-referenced action submitted to the Erie County Department of Environment and Planning. This letter should not be considered sufficient for any county approvals. The Town must still obtain any other permits and regulatory approvals applicable to this project.

Mr. Hopkins stated the comments will be addressed during the site plan review process.

Chairperson Hicks stated the NYSDOT provided correspondence stating the NYSDOT has no opinion on the town granting a variance for the parcel in question. However, a NYSDOT Highway Work Permit will be required for work located within the right of way.

Chairperson Hicks referred to the density on the site; 34-units are allowed, and the site is 4.08-acres. Mr. Hopkins stated the cheaper and easiest way to complete the project is one large building and this is not the best use of the site.

Ms. Greenan referred to Katie's Place and requested a comparison. Mr. Hopkins stated Katie's Place is 51-units on 3.7-acres and the current proposal is for 50-units on 4.08-acres.

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Harvey Strassburg, 353 Schultz Road, stated he is the current owner of the property. Mr. Strausberg has had previous offers for gas stations and car dealerships; an apartment was the best idea for the neighbors. Mr. Strassburg will be living next to the property.

Deborah Powers, Schultz Road, stated she is in support of what is being discussed on the condition that the screening is put in and the green space stays as presented. Mrs. Powers illustrated where her residence is compared to the proposal.

Ms. Greenan questioned if Mr. Hopkins could reference any complexes that match this model. Joe Young stated this is the same complex that is located at 4800 Transit Road, Cheektowaga.

Ms. Greenan questioned if there was an estimate on the number of trees being removed and the number being planted. Mr. Young stated they are trying to keep as many trees as possible. The goal is to keep trees around the buffer of the property. The current trees by the Powers will remain and the plan is to replace a tree for every tree removed. Mr. Hopkins stated the landscaping plan will be part of the site plan approval.

Chairperson Hicks questioned access to the site and buildings from an emergency standpoint. Mr. Hopkins stated there are two access points onto Schultz Road and this follows the NYS Fire Code and accommodates larger emergency vehicles.

Chairperson Hicks expressed concerns with the stormwater management plan for the northwest building. Mr. Hopkins stated this is a dry pond to temporarily hold water on site per the DEC requirements in a 100-year storm event.

Ms. Greenan questioned if this project may impact traffic. Mr. Hopkins stated there is a trip prediction for 50-units during peak hours of .6 - .7 trips per unit equaling 35-vehicles. Post covid allows people to work from home and a decrease in traffic. Ms. Greenan questioned the estimated number of cars per unit. Mr. Hopkins stated the units are 1 – 3 bedrooms and the prediction is 1.4 – 1.6 residents per unit.

Ms. Greenan referred to the area variance balancing test and stated she was in agreement with what Mr. Hopkins described in Exhibit 3 and further stated: 1) Is there an undesirable change to the neighborhood - no, neighbor comments have been taken into consideration as well as assurance on the traffic patterns; 2) Is there an alternative – there is no other option; 3) Is the request substantial – the apartment complex across the street is comparable in regard to density; 4) Does the variance have an impact on the environment – there is no impact on the environment and the board is satisfied with the tree replacement and the neighbors request for a buffer of dense vegetation; 5) Is this a self-created difficulty – yes, but this is not the determining factor.

Chairperson Hicks noted no. 3 of the balancing test: Mr. Hopkins stated the requested area variance will not result in any significant adverse impacts.

Motion by Hicks, seconded by Tronolone, to close the public hearing and grant a variance for property located at 391 Schultz Road and 2852 Transit Road to construct a multiple dwelling unit with 50-units according to the plans that have been submitted.

Ayes: All

Noes: None

Motion Carried

Mr. Lang and Mr. Bedient returned to the meeting.

**2023-035**

Request of Jenna Borowski for a variance for property located 17 Gerard Drive to erect a 6' fence in front and side yard with 32' projection (maximum 4' height allowed in front/side yard; maximum 10' projection)

Ms. Borowski stated she would like to erect a 6' fence along the side of the house and have the fence 3' off the sidewalk for privacy.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 14, 23, and 6 Gerard Drive and 53 Donald Drive. Chairperson Hicks noted this is a corner lot and the property is considered to have two front yards.

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, neighbors do not object; 2) Is there an alternative – no, this is needed for safety and privacy; 3) Is the request substantial – no, this is a corner lot; 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 Lang, to close the public hearing and grant a variance for property located at 17 Gerard Drive to erect a 6' fence in front and side yard with 32' projection.

Ayes: All

Noes: None

Motion Carried

**2023-036**

Request of Flexlume Signs for a variance for property located at 425 Meyer Road to erect a wall sign with an 8' height (5' maximum height allowed for wall signs)

Randy DiNatali was present on behalf of Flexlume Signs and The Rock and stated the variance is for signage on a commercial building located on a dead-end street. This is a commercial area, and they would like to make the building more child friendly. The sign will not be illuminated but will have a flood light.

Chairperson Hicks stated business signatures with no objection to the variance were obtained from the following: Union Concrete, WNY Fitness and Rehab Institute, Niagara Frontier Volleyball, and Herman's Supply Company.

Mr. Hill with Union Concrete stated the Niagara Frontier and Sports was gifted to The Rock, a non-profit, who works closely with numerous youth organizations and sports.

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, neighbors do not object and is mostly commercial; 2) Is there an alternative – no, the bigger sign will stand out; 3) Is the request substantial – no; 4) Does the variance have an impact on the environment

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

Motion by Lang, seconded by Greenan, to close the public hearing and grant a variance for property located at 425 Meyer Road to erect a wall sign with an 8' height.

Ayes: All

Noes: None

Motion Carried

**2023-037**

Request of Shannon Fern for a variance for property located at 66 Summit Avenue to erect a 6' fence in front yard with a 7' projection (maximum 4' height allowed in front yard; 0' projection allowed)

Ms. Fern stated she would like a 6' fence for privacy and safety; the house is on a corner lot.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 56, 71, 68, 53, and 65 Summit Avenue along with 222 and 215 Fremont Avenue. The NYSDOT provided correspondence stating they have no opinion on the variance request as the proposal does not have an impact on the state highway system.

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, neighbors do not object; 2) Is there an alternative –no, this is needed for safety and privacy; 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 Lang, to close the public hearing and grant a variance for property located at 66 Summit Avenue to erect a 6' fence in front yard with a 7' projection.

Ayes: All

Noes: None

Motion Carried

**2023-038**

Request of Stanislaw Sajecki for a variance for property located at 1589 Center Road to construct a 2-family home 1) on a 14,100-sf lot 2) with a 26' rear yard (15,000-sf lot required; 30' rear yard required)

Mr. Sajecki stated he would like to construct a side-by-side 2-family home with a garage on each side; this is currently a vacant lot, and the driveway will be on Oakridge Drive.

Ms. Greenan noted the request did not seem substantial.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 1607, 1590, and 1586 Center Road.



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Correspondence was received from Erie County Department of Environment and Planning stating they have no recommendation on the variance as this is of local concern. The NYSDOT provided correspondence stating they have no objection to the variance request as the proposal does not have an impact on the state highway system.

No comments were received from the public.

Motion by Greenan, seconded by Lang, to close the public hearing and grant a variance for property located at 1589 Center Road to construct a 2-family home 1) on a 14,100-sf lot 2) with a 26' rear yard.

Ayes: All

Noes: None

Motion Carried

**2023-039**

Request of William Baron for a variance for property located at 790 Reserve Road to construct a detached garage with a 5' front yard setback (40' front yard setback required)

Mr. Baron stated he would like to construct a detached garage; other location options were looked at but were not conducive.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 7013, 7014, 810, 738, and 800 Reserve Road. Correspondence was received from Erie County Department of Environment and Planning stating they have no recommendation on the variance 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, neighbors do not object; 2) Is there an alternative – no, the driveway will exit onto Reserve Road; 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 790 Reserve Road to construct a detached garage with a 5' front yard setback.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Hicks, seconded by Greenan, to adjourn the meeting at 8:05 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler  
Town Clerk/Zoning Board Secretary