



Code Enforcement Officer Busse stated the applicant will no longer be required to appear before the Zoning Board of Appeals because Local Law 2024-18 Modification of Section 120-17 was adopted, and the Code Enforcement Officer will now oversee these requests. Mr. Busse asked if all farm animal applicants will need to return to the Zoning Board of Appeals to close their request. Mr. Trapp stated they will not.

Motion by Hicks, seconded by Tronolone, to permanently close 2023-027 Request of Kelly Riordan for a variance for property located at 247 Main Street to allow raising of chickens on property due to the passing of Local Law 2024-18.

Ayes: All

Noes: None

Motion: Carried

**2024-034**

Request of Angelica & Nate Springer for property located at 4348 Seneca Street to allow live music on property (live music not permitted).

Angelica Springer stated they are requesting permission for 3 holiday acts during the month of December. Chairperson Hicks asked if the applicant had any additional dates planned. Ms. Springer stated they have no additional plans for live music until after Memorial Day. The dates for live music in December are the 6<sup>th</sup>, 13<sup>th</sup>, and 20<sup>th</sup> from 8 P.M. – 10:30 P.M.

Ms. Greenan requested confirmation that the Zoning Board has reviewed the financial proof of reasonable return and if that would have sufficed for the current meeting. Chairperson Hicks confirmed the applicant had provided this information at a previous meeting and requested Mr. Trapp's opinion. Mr. Trapp stated if the Zoning Board is satisfied that the financial information is adequate then the information may be used.

Mr. Busse stated he is not aware of any complaints.

Town Clerk Newton stated the applicant was previously approved for live music from 8 P.M. – 10:30 P.M. between August 28 – October 4, 2024.

Chairperson Hicks asked if the applicant would return to the April meeting. Ms. Springer confirmed this was their intention. Mr. Busse stated that he has requested the applicant be prepared to provide the dates and times of live music during the summer months.

Ms. Greenan referred to the use variance balancing test: 1) Can a reasonable return be achieved by another method – no, per previously provided financial information; 2) Is this a unique circumstance – yes, people will be in town for the holidays; 3) Does the variance change the character of the neighborhood – no, there have been no complaints; 4) Is this a self-created hardship - yes, but this is not the determining factor.

No public comments were made.

Motion by Hicks, seconded by Lang to extend the variance for live music for the property located at 4348 Seneca Street from December 4, 2024, through April 23, 2025, with the following condition that the live music will be indoors on December 6, December 13, and December 20, 2024, from 8 P.M. – 10:30 P.M.

Ayes: All

Noes: None

Motion: Carried

**2024-043**

Request of Dave Sutton of Sutton Architecture for property located at 555 Orchard Park Road for a variance to allow live music on the property (live music not permitted).

Motion by Tronolone, seconded by Greenan, to table the item until the end of the meeting.

Ayes: All

Noes: None

Motion: Carried

**NEW BUSINESS:**

**2024-058**

Request of Zach Armstrong for property located at 2852 Seneca Street for a variance to erect a 6' fence in the front/side yard (maximum 4' height allowed in front/side yard).

Zach Armstrong stated he would like to install a 6' fence along the Thorndale Avenue side of his property for privacy and to prevent people from cutting through his property.

Mr. Busse stated the applicant replaced an existing fence with a 6' fence before he became aware of the need for a variance, upon notification Mr. Armstrong immediately applied for the variance.

Chairperson Hicks questioned how far off the sidewalk the 6' fence is and if the 4' fence was in the same place. Mr. Armstrong stated the fence is approximately 2' off the sidewalk and confirmed the 4' fence was in this location.

Jacqueline Balikowski, 62 Highland Avenue, asked if the ZR-1 was submitted to Erie County. Town Clerk Newton confirmed this was submitted and Chairperson Hicks has a copy in her meeting packet. Chairperson Hicks stated the response from Erie County was received November 6, 2024, and the county determined the matter to be of local concern. Town Clerk Newton stated she does not post the forms to the website but provides them to the Chairperson.

Chairperson Hicks stated neighbor signatures with no objection to the variance were received from residents at 2880 Seneca Street, and 16 and 19 Thorndale Avenue. Mr. Armstrong confirmed these are his immediate and across the street neighbors.

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 – yes, however, the 4' fence was inadequate for privacy and safety the applicant requires; 3) Is the request substantial – no, the fence is approximately 50'; 4) Does the variance have an impact on the environment – no, there is no impact on the environment; 5) Is this a self-created difficulty – yes, but this is not the determining factor. Ms. Greenan suggested that people cutting through the property is not self-created. Mr. Trapp stated the issue of privacy is a grey area but imagined people may have been climbing over the lower fence.

Motion by Tronolone, seconded by Bedient, to close the public hearing and grant a variance for property located at 2852 Seneca Street for a variance to erect a 6' fence in the front/side yard.

Ayes: All

Noes: None

Motion Carried

**2024-059**

Request of Mark Goldsmith for property located at 25 Smallwood Drive for a variance to install a second driveway (R-65 permits one (1) driveway per property).

Motion by Greenan, seconded by Lang, to table the item until the January 2025 meeting per the applicant's request.

Ayes: All

Noes: None

Motion: Carried

**2024-060**

Request of Ryan Gilbert for property located at 8 Jaycee Lane for a variance to erect a pool house with a height of 13' 5" (max height of accessory building allowed is 12')

Ryan Gilbert stated he began to construct a pool house in his backyard to store pool equipment and a golf simulator. The height was increased for additional storage and the additional height requires a variance. Chairperson Hicks questioned what will be stored and how the building will be used, for example a workshop or living quarters. Mr. Gilbert stated that pool equipment, toys, decorations, a boiler for heated sidewalks, and a golf simulator will be stored and there will not be living quarters or be used for a commercial enterprise.

Jacqueline Balikowski, 62 Highland Avenue, referred to the discrepancy with the meeting date in the legal notice and on the agenda, December 6th, and the website indicates December 4<sup>th</sup>.

Motion by Hicks, seconded by Lang, to enter into executive session at 6:30 P.M. to consult with legal counsel.

Ayes: All

Noes: None

Motion: Carried

Motion by Greenan, seconded by Lang, to leave executive session and return to the open meeting at 6:41 P.M.

Ayes: All

Noes: None

Motion: Carried

Mr. Trapp stated that while the date printed in the paper appears to be a typographical error, the date on the town's website all indicate the meeting date of December 4<sup>th</sup> and there is sufficient notice to proceed.

Chairperson Hicks stated neighbor signatures with no objection to the variance were received from residents at 7, 11, 12, and 4 Jaycee Lane. Mr. Gilbert confirmed these are his adjacent neighbors and none of his neighbors refused to sign the letter.

No public comments were received.

Ms. Greenan questioned whether there is any impact on the environment. Mr. Busse stated there is not and a drainage plan was not required.

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, based on the use of the structure; 3) Is the request substantial – no, the height variance is not substantial and the neighbors have no objection; 4) Does the variance have an impact on the environment – no, there is no impact on the environment; 5) Is this a self-created difficulty – yes, but this is not the determining factor.

Motion by Greena, seconded by Lang, to close the public hearing and grant a variance for property located at 8 Jaycee Lane for a variance to erect a pool house with a height of 13' 5".

Ayes: All

Noes: None

Motion Carried

**2023-005**

Request of Michael Shaw for property located at 4717 Clinton Street to allow a variance to allow live music on property (live music not permitted).

Chairperson Hicks stated the applicant for 4717 Clinton Street is not present but provided an opportunity for the neighbors in attendance to speak. The neighbors declined.

Motion by Greenan, seconded by Tronolone, to table the item until the January 2025 meeting.

Ayes: All

Noes: None

Motion Carried

Mr. Busse asked if Mr. Bystrak was aware of any indoor music within the last month. Mr. Bystrak stated he is not aware of any and he has had no complaints since the last meeting.

**2024-043**

Request of Dave Sutton of Sutton Architecture for property located at 555 Orchard Park Road for a variance to allow live music on the property (live music not permitted).

Motion by Greenan, seconded by Lang, to table the item until the January 2025 meeting.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Tronolone, seconded by Lang, to close the public hearing and adjourn the meeting at 6:51 P.M.

Ayes: All

Noes: None

Motion Carried