

this is the last house on the street. Mr. Goldsmith stated it is the last house on the bend and is also installing a 6' fence.

Chairperson Hicks stated neighbor signatures with no objection to the variance were received from residents at 33 and 17 Smallwood Drive.

Chairperson Hicks asked Mr. Busse if the width of the driveway was acceptable. Mr. Busse confirmed it is acceptable.

Chairperson Hicks stated Erie County Department of Environment and Planning responded to the ZR-1 notification, has no recommendation, and determined the request is a local concern. NYSDOT indicated that the project does not appear to have a significant impact on traffic on the State Highway System and has no opinion.

Chairperson Hicks asked if the request would be a use variance. Mr. Stachowski stated in his opinion this is an area variance. Mr. Busse stated any physical improvements to a property are considered area variances.

Councilmember Kims, 99 Covington Drive, questioned why the fence is not listed on the agenda. Chairperson Hicks stated the fence does not require a variance. Mr. Busse confirmed the building permit for the fence has already been filed with the town, and did not require a variance or neighbor notification.

Chairperson 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 applicant would like direct access to his house due to physical limitations; 3) Is the request substantial – no, the request affects one neighbor; 4) Does the variance have an impact on the environment – yes, required permits will be discussed with the Code Enforcement Office; 5) Is this a self-created difficulty – no, there are no other means to provide access to the house. Mr. Stachowski stated the property is unique to the town and presents a unique situation, two driveways for one property.

Motion by Tronolone, seconded by Bedient, to close the public hearing and grant a variance for property located at 25 Smallwood Drive for a variance to install a second driveway.

Ayes: All

Noes: None

Motion: Carried

NEW BUSINESS:

2025-002

Request of Sheri Courteau for property located at 18 Avenue B for a variance to erect a 6' fence in front/side yard (maximum 4' height allowed in front/side yard).

Sheri Courteau stated she is requesting the 6' fence for privacy reasons noting the side yard is open to Holland Avenue.

Town Clerk Newton stated a ZR-1 was not required.

Chairperson Hicks stated neighbor signatures with no objection to the variance were received from residents at 2, 12, 9, 15, and 19 Holland Avenue. Chairperson Hicks stated there are two variances requested, the 6" fence and 10' projection in the front of the house.

No public comments were received.

Ms. Tronolone questioned the fence material. Ms. Courteau stated the fence will be wood.

Chairperson Hicks referred to the area variance balancing test and asked Mr. Stachowski if the variances could be considered simultaneously. Mr. Stachowski stated that is acceptable if the board is using the same analysis for both. 1) Is there an undesirable change to the neighborhood - no, the 6' fence is permitted for the majority of the parcel and the projection in front of the house will continue the 6' fence and there are neighbor letters in support; 2) Is there an alternative – yes, a 4' fence is permitted along the side of the property, but no projection is permitted; 3) Is the request substantial – no, this is the only house on the street and does not affect the adjacent neighbor; 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. Chairperson Hicks stated the parcel is unique with the Ebenezer Brook tributary along the north side.

Motion by Bedient, seconded by Lang, to close the public hearing and grant a variance for property located at 18 Avenue B for a variance to erect a 6' fence in front/side and a 10' projection in front of the house.

Ayes: All

Noes: None

Motion: Carried

2025-003

Request of Theodore Annas for property located at 67 Colonial Manor to erect an accessory structure of a 20" setback from the property line (accessory structures shall be 3' [36"] from the property line) and of 8.6' from the dwelling (accessory structures shall be 10' from the house).

Motion by Tronolone, seconded by Bedient, to table the request until the March 26, 2025, meeting per the applicant's request.

Ron Friar, parent of property owner of 61 Colonial Manor Court, made the following comments and questions:

- ✓ Shed is 11" from property line
- ✓ Snow falling from the steel roof is damaging the flower bed, shrubs, and fence
- ✓ Concerned about excessive water issues
- ✓ Provided photographs

Chairperson Hicks received the photographs and advised Mr. Friar to return to the March meeting. Mr. Busse stated Mr. Annas contacted the Code Enforcement Office and indicated he was attempting to work with the neighbor to find a solution. Mr. Friar stated in his opinion the solution will be to move the shed further away from the property line and install drain tiles. Mr. Busse stated he will communicate with Mr. Annas about Mr. Friar's concerns.

2025-004

Request of Joe Keller for property located at 781 Union Road for a variance to erect a 20' detached garage structure (maximum height of 12' to midspan permitted).

Mr. Keller stated he would like to build a new garage that is 20' in height. Mr. Busse stated the applicant would like to construct a 2-story garage. Chairperson Hicks asked if the applicant is planning to replace the existing

garage in the same footprint or larger. Mr. Keller stated the front of the garage will look the same and the back will 20' high. Mr. Busse stated the current garage measures 18' x 20' and the new one would be 24' x 30' but will be approximately 5' off the property line.

Chairperson Hicks stated neighbor signatures with no objection to the variance were received from residents at 777, 782, 800, 815, 791, and 765 Union Road and questioned which neighbor did not sign the letter. Mr. Keller stated he was unable to contact the owner of 776 Union Road. Mr. Busse noted 777 and 791 Union Road are Mr. Keller's direct neighbors.

Chairperson Hicks stated Erie County responded to the ZR-1 and has no recommendation, the proposed action has been determined to be of local concern. NYSDOT responded that based on the information provided the proposed project does not appear to have a significant impact on the State Highway System, a NYSDOT highway work permit is not needed at this time and has no opinion on the town granting a variance for a garage taller than permitted.

Mr. Busse stated that no business may be run out of the proposed garage. Chairperson Hicks asked if the garage would be heated, have water or electricity. Mr. Keller stated it will not be heated, and it will have water and electricity like the existing garage.

Chairperson Hicks referred to the area variance balancing test: 1) Is there an undesirable change to the neighborhood - no, the existing garage is in poor condition and needs to be replaced and there are neighbor letters in support; 2) Is there an alternative – no, the garage needs to be replaced and the applicant needs the storage space; 3) Is the request substantial – no, the height does not seem to be a problem in his neighborhood; 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 – no, the existing garage is a hazard.

Motion by Tronolone, seconded by Bedient, to close the public hearing and grant a variance for property located at 781 Union Road for a variance to erect a 20' detached garage structure.

Ayes: All

Noes: None

Motion: Carried

2025-006

Request of Ronald Ahrens for property located at 86 Nash Street for a variance to erect a 6' fence in the side yard (maximum 4' height allowed side yard).

Ronald Ahrens provided signatures from his adjacent neighbors at 90 and 80 Nash Street.

Chairperson Hicks stated Erie County Department of Environment and Planning responded to the ZR-1 notification, has no recommendation, and determined the request is a local concern. NYSDOT indicated that the project does not appear to have a significant impact on traffic on the State Highway System and has no opinion. Further, signatures with no objection to the variance were received from residents at 90 and 80 Nash Street.

Mr. Ahrens stated there is no rear entrance to his house and he would like the 6' fence for the safety and convenience of letting his dog outside. The fence will also keep deer out of the yard. The fence will be approximately 40" – 50" from the neighbor's garden.

Chairperson Hicks asked if a gate would be installed. Mr. Ahrens confirmed a gate will be installed.

No public comments were received.

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 4’ fence is allowed in the side lot but the applicant is extending the 6’ fence for the convenience of safely letting his dog outside and eliminate deer in the yard; 3) Is the request substantial – no, it affects only one adjacent neighbor; 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 Bedient, seconded by Lang, to close the public hearing and grant a variance for property located at 86 Nash Street for a variance to erect a 6’ fence in the side yard.

Ayes: All

Noes: None

Motion Carried

2025-005

Request of Slade-Potters, LLC for property located at 0, 104, 110, 116, 126, 140, 144, 154, and 158 Slade Avenue for the following variances:

1. Unit density - requesting 96 units (23 units allowed)
2. Building setback - requesting 31.33’ front yard setback (40’ front yard setback required)
3. Building setback – requesting 13.42’ front yard setback (40’ front yard setback required)
4. Building setback - requesting 3.04’ rear yard setback (10’ rear yard setback required)
5. Building setback - requesting 3.98’ side yard setback (5’ side yard setback required)
6. Building height - requesting 50’ 8-1/4” (40’ maximum height required)
7. Parking spaces – requesting 163 spaces (212 spaces required)

Chairperson Hicks referred to the first variance and noted the number of units allowed is 38 not 23. Mr. Busse confirmed this.

Mr. Lang recused himself due to a professional interest in the project and left the room.

Tom Fox, Director of Development, Ellicott Development Company, made the following comments with a PowerPoint presentation:

- ✓ Slade Potters LLC is an ownership entity of Ellicott Development Company
- ✓ Acknowledged the development of the Old Seneca Mall site may impact the Slade Potters LLC proposed project including infrastructure
- ✓ Seeking feedback from the Zoning Board on the proposed development project but requesting the requests to be tabled

Chairperson Hicks requested a copy of the PowerPoint presentation from Mr. Fox to post on the town’s website and dismissed any students that did not wish to stay and encouraged Mr. Fox to continue with the presentation.

Mr. Fox resumed his attached presentation:

- ✓ The existing hotels were developed by Ellicott
- ✓ The proposed project aligns with the town’s 2016 Comprehensive Plan recommendations – Chairperson Hicks requested more details regarding the SWOT (strengths, weaknesses, opportunities, and threats) and the surrounding roads. Mr. Fox stated the location of the development is on Slade Avenue, Potters

Road and Orchard Park Road are to the north, Ridge Road to the south, and the NYS Thruway to the east.

- ✓ Project paused in 2023 due to market conditions and interest rates
- ✓ Rezoning granted to C-2(S) to allow multi-family construction – Chairperson Hicks questioned the size of the outdoor amenity space. Mr. Fox stated the dimensions are not indicated but approximated them to be 50' x 50'.
- ✓ The building will have traditional styling with multiple colors and textures; using Silvestri Architects
- ✓ The requested setback of the building will align with the existing homes on Slade Avenue
- ✓ Fencing or the garage structure will offer screening
- ✓ Parking count variance – 60% of the proposed units are 1-bedroom and the remainder are 2-bedrooms
 - Calculation of parking spaces: 1 for 1-bedroom units and for 2 for 2 or more-bedroom units which equates to 134 spaces for the 98 units, with the addition of 20 spaces for visitors the total would be 154
 - Alternately: 1.5 spaces per dwelling unit equates to 144 spaces plus 20 visitor spaces = 164
- ✓ Regarding the height variance:
 - Comprehensive Plan calls for 4 – 5 floors at 50' - 60'
 - Comparison to the existing hotels adjacent to site: Country Inn and Suites is 5-stories at 57'; Staybridge Suites is 6-stories at 69'; Hampton Inn is 5-stories at 59'
- ✓ Summarized the balancing test criteria noting a traffic impact study was completed and presented in 2023 with the rezoning application

Chairperson Hicks asked if the Planning Board would be the lead agency. Mr. Busse confirmed this. Chairperson Hicks questioned the best way to handle the situation, for example, table the item or leave the public hearing open. Mr. Stachowski stated the application may be amended and the applicant should present the project when they return. Mr. Busse stated the development at the Seneca Mall site may impact the proposal and Mr. Fox understands any changes will be presented to the Zoning Board. Mr. Fox stated he can make a presentation at the future meeting.

Ms. Tronolone questioned if a fence will be installed behind Building No. 1 as it looks out on Route 219. Mr. Fox stated there is a plan to install a fence to screen the first floor noting there is a buffer and using landscaping as a buffer might be preferable.

Chairperson Hicks requested the applicant provide additional details as to how the project dovetails with the Comprehensive Plan by including specific references to the section and page. Additionally, provide details about the SEQR / environmental assessment performed. Mr. Fox stated a short-form EAF was produced and the SEQR was not done, noting the Planning Board would exercise the process as the lead agency. Chairperson Hicks asked if there is ingress and egress throughout the property. Mr. Fox referred to the 3rd page of the PowerPoint presentation and pointed out curb cuts and the fire truck turn around. Chairperson Hicks asked if a traffic study was being conducted. Mr. Fox stated the traffic impact letter from Passero stated no additional studies would be necessary based on the presented density noting the study also included a restaurant.

Chairperson Hicks requested Town Clerk Newton note the Town Board Meeting the rezoning was granted and asked the applicant if the rezoning and special use permit included a larger area. Mr. Fox stated the rezoning included 3.5 additional lots and all were converted to C-2(S) and commented that there were residents that attended the public hearing and are aware of the project. Mr. Stachowski stated in his opinion the bigger variances are the unit density and parking and advised Mr. Fox to speak to why the number of units is important to the project. Mr. Fox asked if a financial need statement is required for area variances. Chairperson Hicks

stated the information would be helpful and is concerned about resistance from the surrounding neighbor's regarding the height of the buildings. Mr. Stachowski stated this information will speak to whether the variances could be achieved by another method. Chairperson Hicks asked how many residential homes are within 100' of the project. Mr. Fox stated there are 7 or 8 parcels that are not owned by the applicant but is uncertain if houses remain on all and the developer has purchased 2 additional parcels. Mr. Bedient asked what the parcels in between the developer's property businesses are. Mr. Fox stated one is a home/business, and the other is a home. Chairperson Hicks asked if any residential property owners have signed a letter of no objection to the project or if it is likely any would. Mr. Fox stated he does not have any letters and is not able to say if any owners would. Mr. Stachowski stated Code Enforcement has the letter Chairperson Hicks is referring to. Mr. Busse stated the letter of no objection is more appropriate to residential situations and this project is unique. Chairperson Hicks encouraged Mr. Fox to make an effort to obtain neighbor support. Mr. Stachowski stated he will consult with the Town Attorney and Code Enforcement Office regarding this. Mr. Busse stated neighbors within 250' were notified for the rezoning public hearing, but were not notified of this meeting. Chairperson Hicks stated in her opinion the green space is not adequate for the project density. Mr. Fox stated there will be additional green space and the units will have outdoor patios. Chairperson Hicks asked what is planned for the undeveloped area between the two parcels. Mr. Fox stated the intention is to add green space to this area. Chairperson Hicks stated the Zoning Board is concerned with safety and asked if the applicant has contacted the fire companies. Mr. Fox confirmed the fire company submitted a comment letter in 2023 concerning details inside the buildings and the size of the turnaround on the property. Chairperson Hicks stated she prefers the density be up instead of out and likes the design. Mr. Fox stated he believes vertical density was specifically identified in the Comprehensive Plan, and up to 4 – 5 floors. Chairperson Hicks asked how tall the St. Vincent de Paul development is. Mr. Busse stated he could not recall. Chairperson Hicks asked Mr. Busse to investigate any accidents or police reports and stated the density is comparable. Chairperson Hicks asked if the proposed units will be subsidized or market rate. Mr. Fox stated market rate.

Motion by Hicks, seconded by Tronolone, to suspend the discussion until the applicant returns.

Ayes: All

Noes: None

Motion Carried

Mr. Fox asked if there is a limit to the length of time the item may remain tabled. Mr. Stachowski stated the situation is unique and understands the applicant is waiting information on the upcoming project. Mr. Busse stated a new submittal is not necessary if there are no changes to the applicant's plans. Town Clerk Newton stated the March Planning Board meeting has been cancelled. Mr. Stachowski asked if the applicant is pausing until the plans for the Seneca Mall site are available. Mr. Fox confirmed they are waiting. Chairperson Hicks stated she would like the applicant to return to the May meeting to provide an update.

2025-007

Request of Doug Busse for property located at 4662 Seneca Street for a variance for the installation of a concrete turnaround driveway 25' in the front setback (front setback maximum 40').

Mr. Busse appeared before the Zoning Board as a resident and stated he would like to install a 20' x 20' pad for turnaround purposes and snow removal collection. The location of his property on a bend in the road on Seneca Street makes it very difficult to back out of his driveway and even more so in the winter.

Chairperson Hicks stated neighbor signatures with no objection to the variance were received from residents at 4672, 4652, 4677, and 4666 Seneca Street. Mr. Busse confirmed these properties are adjacent and directly across the street from his property.

Chairperson Hicks stated no vehicles can be parked long term or stored in this area.

Susan Kims, 99 Covington Drive, stated in her opinion this is a good project. Mr. Busse stated his wife has expressed concerns about backing out onto Seneca street with their child in the vehicle. Mr. Stachowski stated it appears that neighbors have a turnaround area, also. Mr. Busse confirmed that many properties along Seneca Street have turnarounds.

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 applicant must back out onto a heavily trafficked street where the view is obstructed and the sun is a factor in the mornings; 3) Is the request substantial – no, the parcel is unique and there will be substantial green space remaining; 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 – no, due to the layout of the parcel and the traffic on Seneca Street.

Motion by Tronolone, seconded by Bedient, to close the public hearing and grant a variance for property located at 4662 Seneca Street for a variance for the installation of a concrete turnaround driveway 25' in the front setback.

Ayes: All

Noes: None

Motion Carried

Town Clerk Newton stated Erie County Department of Environment and Planning responded to the ZR-1 notification, and they do not have a recommendation, and determined the request is a local concern. NYSDOT indicated that the project does not appear to have a significant impact on traffic on the State Highway System, has no opinion, and is determined to be a local concern.

ADJOURNMENT

Motion by Tronolone, seconded by Lang, to close the public hearing and adjourn the meeting at 8:04 P.M.

Ayes: All

Noes: None

Motion Carried