

OLD BUSINESS

2016-17

Request of Rusty Nickel Brewing Company for a variance for property located at 4350 Seneca Street to allow outdoor patio seating

David Johnson & Jason Havens of Rusty Nickel Brewing Company stated they have addressed the items of concern that were commented on at the last meeting.

Chairman Elling noted two police reports were filed over the last year, but neither had to do with noise from the patio.

Mr. Marzullo questioned how many seats are on the patio and Mr. Havens responded there are 66 chairs. Code Enforcement Officer Jeffrey Baksa advised that his office is currently reviewing the site for occupant load and parking to be addressed at the Planning Board.

Kelly Cosgrove referred to a discussion on screening the patio that occurred at the Zoning Board meeting in 2016 and stated she is not satisfied with how the patio is screened. She has a pool and her children play in their back yard. She would like privacy and does not want people on the patio to be able to see into the yard. Mrs. Cosgrove presented a letter from her neighbor on the opposite side of the business who has concerns over noise and would like some sort of buffer. They also expressed concern about the hours of operation and do not want the business to be open until 4 P.M. like a bar.

John Riccardi spoke in favor of the patio and stated he and his family are patrons of the Rusty Nickel and they enjoy sitting on the patio, noting it is tranquil and relaxing and different from the Ebenezer Ale House. He commented the brewery is a draw for tourism and an asset to the community and suggested they work with the neighbors to come to an agreement.

Chairman Elling recited what was approved at last year's Zoning Board meeting which included adding 4' high deer impervious screening to cover the entire patio.

Mr. Havens stated he installed 10' high trellises, not a fence. The trellises have grape vines woven through and create a visual barrier the entire width of the patio. He recently added another visual barrier that is more representative of a fence. The speaker volume was reduced so there is no more than 50 decibels at any time during the day and 30 decibels at 11 P.M. The business is not open past midnight and the last call is 11:30 P.M.

*Corrected 06/28/2017
J. Balan*

2016-17 (continued)

Motion by Elling, seconded by Hughes, to close the public hearing and grant a variance for property located at 4350 Seneca Street to allow outdoor patio seating, conditioned upon installation of a solid 6' high fence for shielding from the front of the patio to the rear and the patio shall close no later than 11 P.M.

Ayes: All *" where people congregate "* Noes: None Motion Carried

2017-03

Request of Mark Mogavero for a variance for property located at 751 Seneca Creek Road to allow a 12' x 20' shed in the front yard (accessory structures not permitted in required front yard)

Chairman Elling advised the applicant was unable to attend the meeting.

Motion by Elling, seconded by Hughes, to table this item until the June 28, 2017 meeting.

Ayes: All Noes: None Motion Carried

2017-10

Request of Pat Boni of Saxton Sign Corp. for a variance for property located at 1200 Southwestern Blvd. to allow a 110.5 sf LED sign within 500' of residential zoning (maximum 40 sf allowed with minimum 500' from residential zoning)

The petitioner was not present at the meeting.

Motion by Hughes, seconded by Elling, to table this item until the end of the meeting.

Ayes: All Noes: None Motion Carried

2017-13

Request of Sandra Mancuso of EI Team Inc. for a variance for property located at 1845 Union Road to allow an electronic message board within 500' of residential property

2017-13 (continued)

Sandra Mancuso and Hormoz Mansouri of EI Team stated their request for a variance to allow an electronic sign at the new Union firehall at 1845 Union Road, noting the location has been deemed a disaster recovery center and the sign will allow them to post emergencies as needed. The proposed monument sign complies with size requirements, will match the building and will be landscaped.

Chairman Elling stated he was in receipt of letters of approval from property owners at 1854, 1860, 1864, 1874, 1882, 1904, 1909 & 1916 Union Road; 26, 34, 40, 45, 48, 55, 56, 60 & 65 Seneca Creek Road; 18, 24, 40 & 44 South Avenue; 2, 10, 14 & 18 Doster Place; and 20 & 25 Frontera Court. A response from NYSDOT indicated they have no objection to the sign as long as no portion is located within the state highway right-of-way.

No comments were received from the public.

Motion by Hughes, seconded by Marzullo, to close the public hearing and grant a variance for property located at 1845 Union Road to allow an electronic message board within 500' of residential property.

Ayes: (4) Mr. Hughes, Mr. Marzullo, Mr. Harmon, Mrs. Hicks

Noes: None

Abstentions: (1) Chairman Elling

Motion Carried

2017-15

Request of Peter Liberatore for a variance for property located at 599 Reserve Road to allow a flag lot with 35' frontage (40' frontage required)

Attorney Sean Hopkins represented Peter Liberatore and referred to the proposed flag lot on Reserve Road that is part of an 8-lot subdivision on a 7.3 acre site. The minimum width for flag lots is 40' with a minimum lot size of one acre and the proposed flag lot will have 35' of frontage on a 2.77 acre lot. Mr. Hopkins noted the entire subdivision site is zoned R-75A & R-65 which would accommodate 30 lots, but Mr. Liberatore is only proposing 8 lots and is not trying to maximize the density. He referred to a comment from the property owner to the west that expressed concern over the location of the driveway and stated although the minimum driveway setback is 3' from the property line, Mr. Liberatore will agree to a driveway setback of 10' from the west property line to accommodate the neighbor.

Mrs. Hicks questioned if SEQR will go to the Planning Board. Mr. Hopkins responded the variance requested is a Type II action, but the overall subdivision is subject to SEQR and that will be addressed at the Planning Board.

2017-15 (continued)

Louis Susabach commented on the location of the driveway, expressing concern for the safety of his grandchildren, and requested the applicant install a fence. Code Enforcement Officer Jeffrey Baksa advised that Mr. Susabach has the option to put up fence if he chooses to do so.

Mr. Hopkins noted the driveway will be a minimum of 15' from the neighbor's house and it is not a street, it is a driveway servicing one house.

Motion by Marzullo, seconded by Hughes, to close the public hearing and grant a variance for property located at 599 Reserve Road to allow a flag lot with 35' frontage, with the stipulation the driveway will have a minimum setback of 10' from the west property line.

Ayes: (4) Mr. Marzullo, Mr. Hughes, Mr. Harmon, Mrs. Hicks

Noes: (1) Chairman Elling

Motion Carried

NEW BUSINESS

2017-16

Request of Michelle Herbst for a variance for property located at 24 South Avenue to allow an 8' covered porch extending .5' into required front setback

Michelle Herbst presented pictures of her project and stated her proposal to replace her existing porch and awning with a covered porch that will extend 8' rather than 5.4' into the front setback.

Chairman Elling stated he was in receipt of letters of approval from property owners at 18 & 40 South Avenue.

No comments were received from the public.

Motion by Harmon, seconded by Hicks, to close the public hearing and grant a variance for property located at 24 South Avenue to allow an 8' covered porch extending .5' into the required front setback.

Ayes: All

Noes: None

Motion Carried

2017-17

Request of Scott & Andrea Galligan for a variance for property located at 114 Dauer Drive to allow a covered porch to extend 6' into required front setback

Scott Galligan presented a picture of his project and stated he would like to add a covered porch with gable roof that will extend 6' into the required front setback.

Chairman Elling stated he was in receipt of letters of approval from property owners at 108, 117, 120, 123 & 126 Dauer Drive.

No comments were received from the public.

Motion by Elling, seconded by Harmon, to close the public hearing and grant a variance for property located at 114 Dauer Drive to allow a covered porch extending 6' into required front setback.

Ayes: All

Noes: None

Motion Carried

2017-18

Request of S.A. Liberatore for a variance for property located at 14 Avon Drive to allow a driveway 0' from the property line (driveways permitted no less than 3' from property line)

Sal Liberatore stated his proposal to widen a portion of his driveway 6' which will match the existing width of the rest of the driveway, noting a portion of the existing driveway is on his neighbor's property but the addition will stay on his own property.

Mrs. Hicks questioned the drainage plans for the driveway addition. Mr. Liberatore responded he will pitch the concrete away from the neighbor's property which will be an improvement to the drainage.

Chairman Elling stated he was in receipt of letters of approval from property owners at 10, 12, 17 & 19 Avon Drive.

No comments were received from the public.

Motion by Harmon, seconded by Elling, to close the public hearing and grant a variance for property located at 14 Avon Drive to allow a driveway 0' from the property line with the stipulation that the new concrete is pitched away from the neighbor's property toward the street.

Ayes: All

Noes: None

Motion Carried

2017-19

Request of Madonna Scoville for a variance for property located at 315 Emporium Avenue to construct a 6' high fence in the side yard (maximum 4' high fence permitted)

Madonna Scoville stated she installed a 6' high fence because of issues with her neighbor and presented pictures of the situation with garbage sitting out.

Code Enforcement Officer Jeffrey Baksa stated his office had received a complaint on April 17, 2017 concerning the garbage and a letter was sent. The neighbor contacted his office and was told not to put garbage out early.

Chairman Elling stated he was in receipt of letters of approval from property owners at 309, 310, 322, 331 & 332 Emporium Avenue. He noted lack of a signature from the neighbor at 321 Emporium Avenue.

Mrs. Scoville stated she did not speak to the neighbor, but the fence has been up a month and they have not said anything about it.

Mr. Harmon questioned how far the fence extends in front of the house. Mrs. Scoville responded the fence extends 2' in front of the house and ends at the back of the house.

No comments were received from the public.

Motion by Hughes, seconded by Harmon, to close the public hearing and grant a variance for property located at 315 Emporium Avenue to construct a 6' high fence in the side yard extending 2' in front of the house.

Ayes: All

Noes: None

Motion Carried

2017-20

Request of Christopher Fenton for a variance for property located at 5 Park Meadow Drive to construct a shed in the side yard of corner lot (accessory structures not permitted in required side yards)

Christopher Fenton stated his proposal to construct a 10' x 14' shed built by Race Sheds in the side yard of his corner lot, noting the shed will match the house and pine trees were planted to help screen it.

Chairman Elling stated he was in receipt of letters of approval from property owners at 3 Park Meadow Drive and 7 & 12 Brook Lane.

2017-20 (continued)

No comments were received from the public.

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a variance for property located at Park Meadow Drive to construct a shed in the side yard of the corner lot.

Ayes: All

Noes: None

Motion Carried

2017-21

Request of Nicholas Sabia for a variance for property located at 81 Robin Lane to construct a 6' high fence in front and side yard (maximum 4' high fence permitted)

Nicholas Sabia stated his proposal to construct a 6' high fence in his side yard to contain his dog, noting the fence will extend to the corner of the garage.

Chairman Elling stated he was in receipt of letters of approval from property owners at 73, 80 & 85 Robin Lane.

No comments were received from the public.

Motion by Hughes, seconded by Harmon, to close the public hearing and grant a variance for property located at 81 Robin Lane to construct a 6' high fence in the front and side yard.

Ayes: (4) Mr. Hughes, Mr. Harmon, Mrs. Hicks, Chairman Elling

Noes: (1) Mr. Marzullo

Motion Carried

2017-22

Request of Julie Dembski for a variance for property located at 171 Wetherstone Drive to raise chickens

Allen Dembski stated his request to raise four chickens in his back yard, noting there are no neighbors to the left and 18 acres of unoccupied land to the rear between his property and Kloc's Grove.

Chairman Elling stated he was in receipt of letters of approval from property owners at 154 & 160 Canterbury and 159 & 165 Wetherstone Drive.

No comments were received from the public.

2017-22 (continued)

Motion by Elling, seconded by Hughes, to close the public hearing and grant a one year variance for property located at 171 Wetherstone Drive to raise four chickens, no roosters.

Ayes: All

Noes: None

Motion Carried

2017-23

Request of Andrew Greiner for a variance for property located at 1590 Center Road to construct an addition 3'5" from existing garage (minimum 10' required from accessory structure)

Andrew Greiner stated his proposal to construct an addition to his home, noting the existing house is only 620 sf and the addition is needed to better accommodate his family of four.

Chairman Elling stated he was in receipt of letters of approval from property owners at 1586 & 1600 Center Road. Erie County also has no issue with the project as it is not located within the Center Road right-of-way.

No comments were received from the public.

Motion by Harmon, seconded by Marzullo, to close the public hearing and grant a variance for property located at 1590 Center Road to construct an addition 3'5" from the existing garage.

Ayes: All

Noes: None

Motion Carried

2017-24

Request of Brian & Kelly Cosgrove for a variance for property located at 825 Main Street to construct an addition on the front of existing attached garage reducing front setback to 25' (40' front setback required)

Kelly Cosgrove stated her proposal to expand their existing attached garage on the northwest corner of the residence at 825 Main Street, noting additional garage space is needed and it will not be used for a business.

Chairman Elling stated he was in receipt of letters of approval from property owners at 800, 805, 810, 811, 834 & 840 Main Street.

No comments were received from the public.

2017-24 (continued)

Motion by Elling, seconded by Hughes, to close the public hearing and grant a variance for property located at 825 Main Street to construct an addition on the front of the existing attached garage reducing the front setback to 25'.

Ayes: All

Noes: None

Motion Carried

2017-25

Request of Michael Fratantonio for a variance for property located at 87 Greenhill Terrace to construct a 4' fence in front yard setback (fences not permitted in front yard setback)

Michael & Sharon Fratantonio stated their proposal to construct a 4' high black aluminum fence down the side of their home and extending into the front yard 5' from the sidewalk.

Chairman Elling stated he was in receipt of letters of approval from property owners at 82, 84 & 86 Greenhill Terrace. A letter of opposition was also received signed by neighbors at 85, 89 & 91 Greenhill Terrace who had concerns the fence will impede them from safely exiting their driveway.

Mr. Marzullo questioned the purpose of the 4' fence. Mr. Fratantonio responded they would like to stop the encroachment of their neighbors.

Chairman Elling read the attached complaint letter that Mr. Fratantonio sent to Town Attorney John Fenz dated April 19, 2017 concerning the neighbor. Code Enforcement Officer Jeffrey Baksa noted his office is aware of neighbor issues and Deputy Town Attorney Tina Hawthorne advised the members to just address the variance request and not get into any neighbor disputes.

Mr. Harmon stated a 4' fence is permitted on the side and 10' forward of the house. He did not see any hardship causing a need to extend the fence to 5' from the sidewalk.

Phyllis Melski stated she lives next to the property and expressed concern that she will not be able to see if the fence is installed too close to the sidewalk. She was concerned with safety and felt they should comply with the code.

2017-25 (continued)

Motion by Harmon, seconded by Elling, to close the public hearing and deny the variance for property located at 87 Greenhill Terrace to construct a 4' fence in the front yard setback, noting it is out of character with the neighborhood, no hardship exists and the 4' fence can extend 10' into the front setback.

Ayes: (4) Mr. Harmon, Mr. Hughes, Mrs. Hicks, Chairman Elling

Noes: None

Abstentions: (1) Mr. Marzullo

Motion Carried

2017-26

Request of Daniel Steger for a variance for property located at 23 Corwin Drive to construct a 6' high fence in side yard of corner lot (maximum 4' high fence permitted)

Daniel Steger stated his proposal to construct a 6' high fence in the side yard of his corner lot.

Code Enforcement Officer Jeffrey Baksa noted the survey shows a large area on the property that is an Erie County Sewer District easement and part of the fence will be on that easement on the Chancellor Lane side of the property. At the present time there is no sewer located there.

Mrs. Hicks questioned how far the fence will be from the sidewalk on Chancellor Lane. Mr. Steger responded the fence will be 18.5' from the sidewalk.

Chairman Elling stated he was in receipt of letters of approval from property owners at 44, 59 & 63 Chancellor Lane and 19 Corwin Drive. A letter was also received from Erie County Sewer District #3 stating no permanent structure is allowed on the easement. A fence is permitted if it is not a permanent structure, if it is removable and if it does not restrict access to a sanitary manhole or sewer line. It was also noted that if the sewer district is required to remove the fence for purposes of operations and maintenance, the homeowner must restore the fence.

No comments were received from the public.

Motion by Hughes, seconded by Marzullo, to close the public hearing and grant a variance for property located at 23 Corwin Drive to construct a 6' high fence in the side yard of the corner lot.

Ayes: All

Noes: None

Motion Carried

2017-27

Request of Debra Rust for a variance for property located at 86 Knox Avenue to construct an above ground pool in side yard of corner lot (accessory structures permitted in rear yard only)

Debra Rust stated her proposal to construct a pool in the side yard of her corner lot.

Chairman Elling stated he was in receipt of letters of approval from property owners at 74 & 90 Knox Avenue and 93 Barnsdale Avenue.

No comments were received from the public.

Motion by Elling, seconded by Harmon, to close the public hearing and grant a variance for property located at 86 Knox Avenue to construct an above ground pool in the side yard of the corner lot.

Ayes: All

Noes: None

Motion Carried

2017-28

Request of Bryan Young of Young Development Inc. for a variance for property located at 221 Seneca Creek Road to construct a two-family home on 65' frontage lot (75' frontage required)

Attorney Sean Hopkins represented Bryan Young and stated his proposal to construct a two-family home on a 65' frontage lot at 221 Seneca Creek Road, noting the width of the lot is identical to nearby lots at 197, 207 & 217 Seneca Creek Road. The lot is 19,500 sf and the house will comply with front, rear and side setbacks. Mr. Young will maintain ownership of the home, but it will not be owner occupied.

Mrs. Hicks questioned if the existing garage used by 227 Seneca Creek Road will remain part of that property. Chris Wood of Carmina Wood Morris responded the garage is completely on the lot at 227 Seneca Creek Road, but he did not know the setback from the property line.

Chairman Elling stated he was in receipt of letters of approval from property owners at 197, 217, 218 & 227 Seneca Creek Road. A letter was also received from Erie County and they have no issue with the project.

No comments were received from the public.

2017-28 (continued)

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a variance for property located at 221 Seneca Creek Road to construct a two-family home on a 65' frontage lot.

Ayes: All

Noes: None

Motion Carried

2017-29

Request of Bruce Horschel for a variance for property located at 4632 Seneca Street to construct a driveway turnaround in front yard setback (40' front setback required)

Bruce Horschel stated his proposal to install a turnaround in front of his home which will be pitched toward the street and side of his house to help solve a drainage issue and allow him to turn around without backing out onto Seneca Street.

Code Enforcement Officer Jeffrey Baksa noted no vehicles can be parked in the turnaround as it is located in the front setback.

Chairman Elling stated he was in receipt of letters of approval from property owners at 4631, 4636, 4645 & 4652 Seneca Street. A letter was also received from Erie County stating they have no issue with the driveway extension as long as it is not constructed within the Seneca Street right-of-way.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to close the public hearing and grant a variance for property located at 4632 Seneca Street to construct a driveway turnaround in the front yard setback, noting there is no parking allowed in the turnaround.

Ayes: All

Noes: None

Motion Carried

2017-10

Request of Pat Boni of Saxton Sign Corp. for a variance for property located at 1200 Southwestern Blvd. to allow a 110.5 sf LED sign within 500' of residential zoning (maximum 40 sf allowed with minimum 500' from residential zoning)

The petitioner was not present at the meeting.

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

ZONING BOARD OF APPEALS
Minutes #2017-04
May 24, 2017
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2017-10 (continued)

Motion by Elling, seconded by Harmon, to table this item until the June 28, 2017 meeting and notify the applicant this is the last time it will be addressed.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Marzullo, seconded by Hicks, to adjourn the meeting at 9:00 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser
Town Clerk/Zoning Board Secretary