

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

ZONING BOARD OF APPEALS
Minutes #2017-01
January 25, 2017

The regular meeting of the Zoning Board of Appeals of the Town of West Seneca was called to order by Chairman Timothy Elling at 7:00 P.M. followed by the Pledge of Allegiance led by Town Attorney John Fenz and 30 seconds of silent prayer.

ROLL CALL: Present - Timothy J. Elling, Chairman
Michael P. Harmon
Evelyn Hicks
Michael P. Hughes
Richard P. Marzullo
Jeffrey Baksa, Code Enforcement Officer
John J. Fenz, Town Attorney

Absent - None

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

OPENING OF PUBLIC HEARING

Motion by Hughes, seconded by Hicks, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

APPROVAL OF PROOFS OF PUBLICATION

Motion by Harmon, seconded by Hicks, that proofs of publication and posting of legal notice be received and filed.

Ayes: All

Noes: None

Motion Carried

APPROVAL OF MINUTES

Motion by Marzullo, seconded by Hughes, to approve Minutes #2016-10 of October 26, 2016.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS

2011-60

Request of Dennis Sullivan for renewal of a variance for property located at 1481 Orchard Park Road to raise chickens.

2011-60 (continued)

Dennis Sullivan stated his request to renew the variance to allow him to raise seven chickens, no roosters.

Chairman Elling stated no complaints were filed with the Police Department over the last year relative to the chickens at this address.

No comments were received from the public.

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a one year variance for property located at 1481 Orchard Park Road to raise a maximum of seven chickens, no roosters.

Ayes: All

Noes: None

Motion Carried

2011-47

Request of Lynda Otto for renewal of a variance for property located at 183 Westcliff Drive to raise chickens.

Joseph Otto stated his request to renew the variance to allow him and his wife to raise five chickens, no roosters.

Chairman Elling stated no complaints were filed with the Police Department over the last year relative to the chickens at this address.

No comments were received from the public.

Motion by Hughes, seconded by Marzullo, to close the public hearing and grant a one year variance for property located at 183 Westcliff Drive to raise a maximum of five chickens, no roosters.

Ayes: All

Noes: None

Motion Carried

2012-36

Request of Melinda & Edward Bauerlein for renewal of a variance for property located at 72 Sunset Creek Drive to raise chickens

The petitioner was not present at the meeting.

2012-36 (continued)

Motion by Hicks, seconded by Harmon, to table this item until the end of the meeting.

Ayes: All

Noes: None

Motion Carried

2016-72

Request of Obad Alkholaki for a variance for property located at 2111 Clinton Street to allow an electronic message board within 500' of residential zoning

Chairman Elling stated the applicant requested his application be withdrawn.

Motion by Hicks, seconded by Harmon, to receive and file the variance request for property located at 2111 Clinton Street.

Ayes: All

Noes: None

Motion Carried

2016-88

Request of Russell & Jamie DiFrancesco for a variance for property located at 718 Center Road to construct a 6' high fence in front yard (maximum 4' high fence allowed)

The petitioners were not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

2016-90

Request of Garrett Mayer for a variance for property located adjacent to 1540 Seneca Creek Road to allow a parking lot constructed of millings/stone (parking areas to be constructed of concrete or asphalt)

The petitioner was not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2016-99

Request of Josephine Morcelle for a variance for property located at 45 Parkside Drive to allow keeping of a pig on residential property (farm animals not permitted)

Josephine Morcelle stated her request for a variance to allow her to keep the family pet, Ginny, a Juliana miniature pig, at their 45 Parkside Drive home. Mrs. Morcelle presented a picture of Ginny who is 1.5 years old, 16.5" tall, 26" long, has been spayed and is steady at 36 lbs. since April 2016. Ginny goes outside on a leash or inside gates within the yard. She is not left outside unattended and is kenneled when they are not home. Mrs. Morcelle also presented information on pet pigs vs. standard farm pigs and stated their life span is 15 to 20 years.

Mrs. Hicks questioned if Mrs. Morcelle intends to have more than one pig. Mrs. Morcelle responded she does not.

Mr. Marzullo questioned if Ginny is muzzed when she is taken out in public. Mrs. Morcelle responded she is not muzzed and pigs are fearful of other animals.

Mr. Harmon questioned if Ginny has had any shots and if she bites. Mrs. Morcelle responded that Ginny does not bite, has had all required shots including rabies and received the vaccinations from All Creatures Animal Hospital.

Chairman Elling stated he was in receipt of letters of approval from property owners at 39, 44, 50 & 51 Parkside Drive and no complaints are on file in the Police Department.

Town Attorney John Fenz stated keeping of a pig is not a use provided for in the Town Code, so a variance is needed. He further suggested the size be limited since a pig is not considered a domesticated animal.

Mr. Hughes suggested a temporary variance so there could be some recourse if problems occur.

No comments were received from the public.

Motion by Elling, seconded by Harmon, to close the public hearing and grant a two year variance for property located at 45 Parkside Drive to allow keeping of a pig on residential property, noting the maximum weight of the pig shall not exceed 50 lbs. and proof of vaccination shall be produced on demand.

Ayes: All

Noes: None

Motion Carried

2016-94

Request of Mazin Dhafir M.D. for a variance for property located at 4085 Seneca Street to construct an addition reducing rear yard setback to 15' (30' rear yard setback required)

Dr. Mazin Dhafir stated his proposal to expand his office building at 4085 Seneca Street for storage purposes, noting he had applied for a variance in 2008 for this purpose and was approved, but the project was put on hold. Dr. Dhafir stated the addition will not cause any parking spaces to be eliminated.

Chairman Elling referred to a variance request from 2015 requesting five additional parking spaces in the front of the building.

Dr. Dhafir responded that Erie County did not approve that plan. He currently has 33 parking spaces and does not need more than 25 spaces. Two members of his staff currently park in the area where the addition will be, but it is just open space not parking spaces.

Chairman Elling stated he was in receipt of letters of approval from property owners at 4063, 4075 & 4099 Seneca Street, 180 Willowdale Drive and 105 & 111 Southwood Drive. Chairman Elling further stated Erie County was not in support of the project due to parking concerns.

Code Enforcement Officer Jeffrey Baksa questioned how many offices are in the building. Dr. Dhafir responded there are three offices and three patient rooms in each office. Mr. Baksa stated three parking spaces are required for each office along with three parking spaces for each treatment room, so 36 parking spaces are required. Dr. Dhafir does not have 36 parking spaces, but it is a pre-existing, non-conforming use. An addition for storage will not add to the required parking.

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 4085 Seneca Street to construct an addition reducing the rear yard setback to 15'.

Ayes: All

Noes: None

Motion Carried

2016-95

Request of Robert Riggs for a variance for property located at 78 Cathedral Drive to construct a 16' high garage (maximum 12' height allowed)

2016-95 (continued)

Robert Riggs stated his proposal to construct a 16' high garage to store his recreational vehicle, noting his home backs up to Route 400 so there are no neighbors to the rear. There will be a concrete driveway to the garage and drainage has been addressed with the Engineering Department. Mr. Riggs stated he does not intend to operate a business on site.

Code Enforcement Officer Jeffrey Baksa noted the garage will be 16' to mid span and 18'6" to the peak.

Chairman Elling stated he was in receipt of letters of approval from property owners at 70, 82 and 86 Cathedral Drive. He questioned lack of a signature from the next door neighbor at 74 Cathedral Drive.

Mr. Riggs stated he had approached the property owner, but they were not interested in signing.

Mr. Baksa stated the neighbor had contacted his office and asked questions about the height and distance of the garage from the property line. Mr. Baksa advised the neighbor to attend the meeting if they had any concerns or forward their comments in writing.

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 78 Cathedral Drive to construct a 16' high garage.

Ayes: All

Noes: None

Motion Carried

2016-96

Request of Ralph C Lorigo, Attorney for Vann Advertising Inc., for a variance for property located at 1940 Ridge Road to construct a billboard 1125' from nearest billboard (1250' interval to nearest billboard required)

Attorney Ralph Lorigo represented Vann Advertising Inc. and provided a survey of the property at 1940 Ridge Road, the old Arby's restaurant that is zoned M-1 and has been vacant for several years. Vann Advertising is purchasing the property contingent upon approval of the billboard and plans to develop the site. Mr. Lorigo presented views of the site and the existing billboard at the corner of Orchard Park Road and Ridge Road, noting the proximity of the nearest billboard as the crow flies

2016-96 (continued)

is only 1125'; however, by car it is more than 1250'. He referred to the 17 requirements in the Town Code for allowance of billboards and stated 16 apply to this location, noting the proposed billboard complies with 15 of the requirements and they are only short on the 1250' distance between billboards. Mr. Lorigo further commented the assessed valuation for a billboard is similar to a home yet uses no town services.

Mrs. Hicks questioned the development plan for the parcel. Mr. Lorigo responded his client had a contract to purchase the land and is considering acquiring the restaurant next door and putting the two parcels together. He commented on the good location of the site and stated in his opinion it is more of a retail site, but the M-1 zoning will allow anything but residential.

Mr. Marzullo questioned if the billboard will be two-sided and illuminated. Mr. Lorigo responded the billboard will be two-sided and illuminated, but it is not an electronic sign.

Chairman Elling stated Erie County offered no recommendation on the proposed billboard.

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 1940 Ridge Road to construct a billboard 1125' from the nearest billboard.

Ayes: All

Noes: None

Motion Carried

2016-97

Request of James P Shea of Woodwright Company for a variance for property located at 771 Indian Church Road to rebuild existing addition in same location along paper street (25' setback required)

James Shea of Woodwright Company represented Philip Stolarski, owner of 771 Indian Church Road, and stated a paper street runs along side of his house. An addition was previous built on that side of the house and he would like to enlarge the addition by four feet.

Chairman Elling stated he was in receipt of letters of approval from property owners at 759 and 778 Indian Church Road and Erie County offered no recommendation on this project.

2016-97 (continued)

Town Attorney John Fenz advised there is no issue with encroaching on the paper street.

No comments were received from the public.

Motion by Elling, seconded by Hicks, to close the public hearing and grant a variance for property located at 771 Indian Church Road to rebuild the existing addition in the same location along the paper street.

Ayes: All

Noes: None

Motion Carried

2016-98

Request of Ryan Lyke for a variance for property located at 3674 Clinton Street to construct a 6' fence in the front and side yard of corner lot projecting 20' into front yard (maximum 4' high fence allowed with maximum 10' projection into front yard)

Ryan Lyke represented the property owner of 3674 Clinton Street and stated he works for PAPP Construction, a fence installer for Home Depot. There was a misunderstanding with the requirements and a permit to install the fence was never obtained. The property owners wanted the fence to contain two large dogs.

Code Enforcement Officer Jeffrey Baksa stated this is a corner lot, but there is a significant setback from the roadways.

Chairman Elling stated he was in receipt of letters of approval from property owners at 3670, 3687 and 3696 Clinton Street.

No comments were received from the public.

Motion by Elling, seconded by Hicks, to close the public hearing and grant a variance for property located at 3674 Clinton Street to construct a 6' fence in the front and side yard of the corner lot projecting 20' into the front yard.

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

Noes: (1) Mr. Marzullo

Motion Carried

2017-01

Request of Rev. John Stanton of St. John XXIII Parish for a variance for property located at 1 Arcade Street to allow an electronic message board within 500' of residential zoning

Motion by Elling, seconded by Hicks, to table this item until the February meeting pending receipt of comments from NYSDOT.

Ayes: All

Noes: None

Motion Carried

2012-36

Request of Melinda & Edward Bauerlein for renewal of a variance for property located at 72 Sunset Creek Drive to raise chickens

Edward Bauerlein stated his request to renew the variance to allow him and his wife to raise chickens, noting he currently has three chickens and no roosters and the variance was for a maximum of five chickens.

Chairman Elling stated no complaints were filed with the Police Department over the last year relative to the chickens at this address.

No comments were received from the public.

Motion by Hicks, seconded by Marzullo, to grant a one year variance for property located at 72 Sunset Creek Drive to raise a maximum of five chickens, no roosters.

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

Noes: None

Abstentions: (1) Mr. Hughes

Motion Carried

2016-90

Request of Garrett Mayer for a variance for property located adjacent to 1540 Seneca Creek Road to allow a parking lot constructed of millings/stone (parking areas to be constructed of concrete or asphalt)

The petitioner was not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

2016-88

Request of Russell & Jamie DiFrancesco for a variance for property located at 718 Center Road to construct a 6' high fence in front yard (maximum 4' high fence allowed)

The petitioners were not present at the meeting.

Town Attorney John Fenz stated the petitioners appeared at the October Zoning Board meeting and at that time were advised to contact him regarding their variance application. To date the petitioners have not contacted him and Mr. Fenz suggested this item be received and filed.

Motion by Elling, seconded by Hughes, to receive and file Item #2016-88.

Ayes: All

Noes: None

Motion Carried

OTHER BUSINESS

- Code Enforcement Officer Jeffrey Baksa referred to a previous variance granted for 1934 Union Road for a sign (#2016-92). The Zoning Board approved the variance pending receipt of approval from Erie County and NYSDOT. Mr. Baksa advised that approval has been received from both agencies.
- Code Enforcement Officer Jeffrey Baksa referred to a previous variance granted for 1557 East & West Road for a fence (#2016-89). The Zoning Board approved the variance pending receipt of a letter of approval from Edward Masterson, the owner of 1535 – 1545 East & West Road. Mr. Baksa advised that a letter of approval has been received from Mr. Masterson.
- Chairman Elling announced the April 26th Zoning Board meeting is being rescheduled to April 12th. The deadline for filing applications will be March 29th.

ADJOURNMENT

Motion by Marzullo, seconded by Hicks, to adjourn the meeting at 8:15 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser
Town Clerk/Zoning Board Secretary