

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

ZONING BOARD OF APPEALS
Minutes #2018-10
October 24, 2018

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 Raymond Kapuscinski and 30 seconds of silent prayer.

ROLL CALL: Present - Timothy J. Elling, Chairman
Evelyn Hicks
Michael P. Hughes
Richard P. Marzullo
Raymond Kapuscinski
Jeffrey Baksa, Code Enforcement Officer
Tina Hawthorne, Deputy 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 Marzullo, seconded by Kapuscinski, that proofs of publication and posting of legal notice be received and filed.

Ayes: All

Noes: None

Motion Carried

APPROVAL OF MINUTES

Motion by Hughes, seconded by Marzullo, to approve Minutes #2018-09 of September 26, 2018 and minutes from the October 3, 2018 special meeting.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS

2018-27

Request of Jonathan Powers for a variance for property located at 1500 Ridge Road to construct a building addition reducing rear yard setback to 5' (30' rear setback required)

2018-27 (continued)

Attorney Ralph Lorigo represented the applicant and stated they met with some of the neighbors at the rear of the property to work out some issues and Nussbaumer & Clarke has prepared a drainage plan. The buildings were built in the late 1970's and Mr. Powers would like to construct an 1134 sf addition on the smaller building. Both buildings have the same setback and he would like the addition to be in line with the other buildings. Mr. Powers hired a bulldozer and cleaned up the debris at the back of the building. Mr. Lorigo asked that the variance be approved conditioned upon acceptance of the drainage plan by the Town Engineer, obtaining easements if the town believes they are necessary and construction of a 4' solid fence to block headlights. The fence will be attached to the addition and extend to whatever distance the town requests.

A Maryon Drive resident stated he met with Mr. Powers and the problems were worked out.

Motion by Elling, seconded by Hughes, to close the public hearing and grant a variance to construct a building addition reducing rear yard setback to 5', conditioned upon approval of the drainage plan and easement by the Town Engineer and construction of a 4' fence in accordance with specifications of the Code Enforcement Office.

Ayes: All

Noes: None

Motion Carried

2018-55

Request of Brent Josker of All American Sign WNY for a variance for property located at 2181 & 2185 Clinton Street to construct an electronic sign within 500' of residential zoning

Chairman Elling stated the petitioner did not have all the neighbor approval letters and requested that this item be tabled.

No comments were received from the public

Motion by Hughes, seconded by Hicks, to table this item until the November meeting.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2018-61

Request of Matthew Lynch for a variance for property located at 58 Freedom Drive to construct a 6' high fence in side yard and a 4' high fence at front lot line (maximum 4' high fence in side yard with maximum 10' projection into front yard)

Matthew Lynch presented pictures of his property indicating where the fence will be located and stated he was considering increasing the height of the 4' fence.

Chairman Elling stated he was in receipt of letters of approval from surrounding property owners, but they had signed for a 4' fence. He asked if Mr. Lynch would like to table his request pending receipt of letters of approval from neighbors indicating they are aware of the change in the height of the fence.

No comments were received from the public.

Motion by Elling, seconded by Hicks, to table this item temporarily to allow Mr. Lynch time to decide on how he would like to proceed.

Ayes: All

Noes: None

Motion Carried

2018-56

Request of James Murphy for a variance for property located at 1246 Indian Church Road to construct a 6' high fence in side yard (maximum 4' high fence allowed)

James Murphy stated his proposal to construct a 6' high fence in the side yard to enclose his property for the safety of children and pets.

Code Enforcement Officer Jeffrey Baksa advised the only section of the 6' high fence that requires a variance is the 45' along the side of the house.

Chairman Elling stated he was in receipt of letters of approval from property owners at 1241, 1244, 1258 & 1282 Indian Church Road. Erie County also has no issue with the proposed 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 1246 Indian Church Road to construct a 6' high fence in the side yard.

Ayes: All

Noes: None

Motion Carried

2018-61 (continued)

Mr. Lynch requested that this item be tabled until the November meeting.

Motion by Elling, seconded by Marzullo, to table this item until the November meeting to allow the petitioner to amend the height of the fence and resubmit letters of approval from the neighbors.

Ayes: All

Noes: None

Motion Carried

2018-57

Request of Christopher Moran for a variance for property located at 155 Woodlane Drive to construct a 4' high fence in front yard setback (30' front setback required)

Christopher Moran stated his proposal to construct a 4' high chain link fence in his front yard to contain his dogs and young child. Mr. Moran spoke with his neighbors but had only received verbal approval.

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 155 Woodlane Drive to construct a 4' high fence in the front yard setback, conditioned upon submission of letters of approval from neighbors at 151 Woodlane Drive and 144 Bayberry Avenue.

Ayes: All

Noes: None

Motion Carried

2018-58

Request of Diana Murrett for a variance for property located at 687 Center Road to construct a 6' high fence in side yard (maximum 4' high fence permitted)

Diana Murrett stated her request to construct a 6' high fence from the back of her house where the paper street is for the safety of her grandchild, to contain her dogs and for privacy.

Chairman Elling stated he was in receipt of letters of approval from property owners at 667, 690 and 695 Center Road. He also read a letter from surrounding residents at 670, 675, 678, 690 & 695 Center Road that are opposed to the variance and do not want a fence between 687 and 695 Center Road. Chairman Elling noted a variance is only required for the section of fence from the house to the lot line and then 16' to the back.

2018-58 (continued)

Code Enforcement Officer Jeffrey Baksa commented on property maintenance issues at Ms. Murrett's property and neighboring properties. He stated the housing inspector will be going through that section of Center Road tomorrow and all properties with issues will receive violation letters. Mr. Baksa commented that installation of a fence may curtail some of the problems and he questioned the length of the fence to Avenue B. Ms. Murrett responded the length will be 80'.

No comments were received from the public.

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 687 Center Road to construct a 6' high fence in the side yard.

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

Noes: Mr. Hughes

Motion Carried

2018-59

Request of Dale J McCabe for interpretation on the use of property located at 1366 Orchard Park Road

Chairman Elling stated the applicant requested to withdraw this item.

Residents questioned what withdrawal of the application meant. Code Enforcement Officer Jeffrey Baksa stated this property is in housing court and he asked the residents to contact him to discuss the situation.

Motion by Hughes, seconded by Elling, to receive and file this item.

Ayes: All

Noes: None

Motion Carried

2018-60

Request of Eugene Wachala for a variance for property located at 3710 Seneca Street to reduce required bulk area to 7131 sf (8000 sf required)

Eugene Wachala, coowner of Pasquale's located at 3720 Seneca Street, stated he previously purchased 3710 Seneca Street for additional parking for the restaurant. He requested a variance to reduce the bulk area for the house so he can separate it from the back parking area.

2018-60 (continued)

Chairman Elling stated he was in receipt of letters of approval from property owners at 3698, 3700, 3705, 3723 & 3729 Seneca Street.

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 3710 Seneca Street to reduce required bulk area to 7131 sf.

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

Noes: None

Abstentions: (1) Mr. Hughes

Motion Carried

2018-62

Request of Corey Auerbach of Barclay Damon LLP for interpretation of the Zoning Ordinance, and if necessary, a variance to allow parking within 10 foot setback for property located at 3400 Transit Road & 5028 Clinton Street

Chairman Elling stated no comments were received from NYSDOT so they will be tabling this item until the November meeting.

Attorney Corey Auerbach stated he is not aware of any statute requiring comments from NYSDOT. He referred to Section 120-56(a) and 120-56(b) of the Town Code and stated he does not believe a variance is required so they are asking for an interpretation of the Town Code.

Motion by Elling, seconded by Hughes, to table this item until the end of the meeting to allow Deputy Town Attorney Tina Hawthorne and Mr. Auerbach to discuss the application and proper procedure.

Ayes: All

Noes: None

Motion Carried

2018-63

Request of Michael Broad for a variance for property located at 223 Fawn Trail to construct a shed with 20' setback (30' setback required) and construct a 6' high fence projecting 12' in front of house (maximum 4' high fence with maximum 10' projection)

Michael Broad stated his proposal to extend an existing chain link fence and construct a shed inside the fence.

2018-63 (continued)

Chairman Elling stated he was in receipt of letters of approval from property owners at 144, 145, 152, 153 & 160 Sunrise Terrace and 221, 224, 232, 238 & 246 Fawn Trail.

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 223 Fawn Trail to construct a shed with 20' setback and construct a 6' high fence projecting 12' in front of the house.

Ayes: All

Noes: None

Motion Carried

2018-64

Request of Thomas & Gina Matyjakowski for a variance for property located at 112 Singer Drive to construct a 4' high fence projecting 12' into front yard (fences not permitted to project into front yard with less than required 30' setback)

Thomas Matyjakowski stated his proposal to construct a 4' high fence projecting 12' into his front yard to contain his dogs.

Chairman Elling stated he was in receipt of letters of approval from property owners at 24, 30 & 38 St. Davids Drive.

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 112 Singer Drive to construct a 4' high fence projecting 12' into the front yard.

Ayes: All

Noes: None

Motion Carried

2018-62 (continued)

Deputy Town Attorney Tina Hawthorne suggested tabling this item until the next meeting to allow for further review and discussion on the procedure going forward.

Motion by Elling, seconded by Kapuscinski, to table this item until the November meeting pending further review and discussion.

Ayes: All

Noes: None

Motion Carried

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ZONING BOARD MEMBERS TRAINING

Chairman Elling announced receipt of the following training certificates for 2018:

Chairman Elling - 4 hours
Evelyn Hicks - 8 hours
Richard Marzullo – 3 hours
Raymond Kapuscinski 6.5 hours
Michael Hughes – 2 hours

ADJOURNMENT

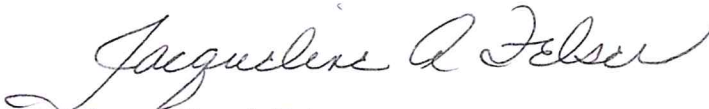
Motion by Hughes, seconded by Hicks, to adjourn the meeting at 8:10 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser
Town Clerk/Zoning Board Secretary