

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

**ZONING BOARD OF APPEALS**  
**Minutes #2018-09**  
**November 28, 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 Richard Marzullo 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.

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### **OPENING OF PUBLIC HEARING**

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

Ayes: All

Noes: None

Motion Carried

### **APPROVAL OF PROOFS OF PUBLICATION**

Motion by Marzullo, 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 Hughes, seconded by Marzullo, to approve Minutes #2018-10 of October 24, 2018.

Ayes: All

Noes: None

Motion Carried

### **OLD BUSINESS**

#### **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

**2018-55** (continued)

Richard Johnson, owner of Xpress Sign, represented Brent Josker of All American Sign WNY and presented a picture of the proposed single pole sign, stating the sign will conform to the sign ordinance and if they want to enlarge it in the future they will apply for another variance. Two businesses will advertise on the sign.

Mrs. Hicks stated it appeared the sign will be located between two parking spaces and questioned if the height will infringe on overhead wires. The property owner responded the sign will be located between two properties and no parking spaces will be blocked off. There will be no infringement on overhead wires and all the electrical will be underground and go up through the pole.

Chairman Elling stated he was in receipt of letters of approval from property owners at 75, 76, 86 89, 95, 101 & 107 Fernwood Avenue; 77, 79 & 85 Boynton Avenue; 24, 26 & 32 South Rossler Avenue; 23 Willowlawn Parkway; 15, 19, 27, 34, 35, 38, 43 & 52 Meadowbrook Parkway; 2140, 2141 & 2144 Clinton Street. Chairman Elling noted commercial properties are excluded from signing.

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 2181 & 2185 Clinton Street to construct an electronic sign within 500' of residential zoning, noting no portion of the sign can be located in the right-of-way.

Ayes: All

Noes: None

Motion Carried

**2018-61**

Request of Matthew Lynett for a variance for property located at 58 Freedom Drive to construct a 6' high fence in side yard and a 6' high fence in front yard 3' off sidewalk (maximum 4' high fence in side and front yards; maximum 10' projection into front yard)

Matthew Lynett stated he revised the variance application to a 6' high fence and presented pictures of the proposed fence.

Chairman Elling stated he was in receipt of letters of approval from property owners at 28, 130, 135, 141 & 145 Liberty Lane and 16, 22, 47 & 53 Freedom Drive. Chairman Elling also read an email received from the property owner at 149 Liberty Lane opposing a 6' high fence and 3' setback from the sidewalk.

Property owners at 138 & 144 Liberty Lane expressed their opposition to a 6' high fence due to sight concerns.

**2018-61** (continued)

Mrs. Hicks questioned if the fence will impede vision if it is positioned 3' off the sidewalk. Mr. Lynett responded the fence will actually be setback 5' from the sidewalk. His major concern was on the west side where a 6' high fence is needed for privacy.

Motion by Elling, seconded by Hughes, to table this item until the end of the meeting to allow the applicant to speak with neighbors and attempt to work out a resolution.

Ayes: All

Noes: None

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 the applicant withdrew the variance request.

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

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2018-65**

Request of Damian Ruzbacki for a variance for property located at 135 Cambridge Avenue to construct a deck with roof extending into required front setback

Damian Ruzbacki stated his proposal for a 10' porch with a roof on the front of his house.

Chairman Elling stated he was in receipt of letters of approval from property owners at 130, 131, 134, 140 & 141 Cambridge Avenue.

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 135 Cambridge Avenue to construct a deck with roof extending into the required front setback.

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

Noes: None

Abstentions: (1) Chairman Elling

Motion Carried

**2018-66**

Request of Ronald Miller for a variance for property located at 52 Terrace Blvd. to construct a 15' high garage (maximum 12' height for accessory structures)

Ronald Miller stated his proposal to construct a 24' x 32' addition 15' high on his existing garage. He would like to install a lift in the garage to work on his own vehicles. There will be one door facing west 10' high x 12' wide.

Chairman Elling stated he was in receipt of letters of approval from property owners at 44, 57, 60, 66, 67 & 70 Terrace Blvd.

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 52 Terrace Blvd. to construct a 15' high garage.

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

Noes: (1) Mr. Marzullo

Motion Carried

**2018-67**

Request of Jim Popiela of Santoro Sign Company for a variance for property located at 172 Slade Avenue to construct a new sign with no setback (10' setback required)

Jim Popiela stated the proposal of Steenburg Law Firm to construct a monument sign at 172 Slade Avenue with no setback, noting if they comply with the required 10' setback the sign will be hidden by a tree.

Code Enforcement Officer Jeffrey Baksa commented on calls received by his office concerning sight problems when pulling out of the hotels on Slade Avenue.

Chairman Elling suggested cutting the tree down and planting one elsewhere to allow for the sign to meet the setback requirement. He received letters of approval from property owners at 164, 171 & 174 Slade Avenue, but suggested tabling this item to allow the applicant to speak with Ellicott Development about the tree.

No comments were received from the public.

Motion by Hughes, seconded by Elling, to table this item until the January meeting to allow the applicant to speak with the neighboring property owner regarding tree removal.

Ayes: All

Noes: None

Motion Carried

**2018-68**

Request of Frank Zappia of Pro Tech LED for a variance for property located at 1449 Orchard Park Road to construct an electronic sign within 500' of residential zoning

Frank Zappia of Pro Tech LED stated his proposal to convert the bottom portion of the existing sign at 1449 Orchard Park Road to an LED sign that will be slightly smaller, 24' x 48'.

Chairman Elling stated he was in receipt of letters of approval from property owners at 1320, 1415, 1434, 1470, 1481, 1487, 1495 & 1510 Orchard Park Road. Chairman Elling also noted no comments had been received to date from NYSDOT and they had until December 10, 2018 to respond.

No comments were received from the public.

Motion by Hughes, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 1449 Orchard Park Road to construct an electronic sign within 500' of residential zoning, pending any comments received from NYSDOT by December 10, 2018.

Ayes: All

Noes: None

Motion Carried

**2018-69**

Request of Christopher Lorson for a variance for property located at 3524 Seneca Street to construct an 18' high pole barn with 22' front setback (maximum 12' height for accessory structures; minimum 30' front setback)

Christopher Lorson stated his proposal to construct a pole barn to store his ladder truck, noting he is not operating a business and the structure will be accessed from Newell Place.

Chairman Elling stated he was in receipt of letters of approval from property owners at 24 & 31 Newell Place and 3480, 3510, 3516, 3530 & 3540 Seneca Street and Erie County Department of Public Works has no objection.

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 3524 Seneca Street to construct an 18' high pole barn with 22' front setback.

Ayes: All

Noes: None

Motion Carried

**2018-61**

Request of Matthew Lynett for a variance for property located at 58 Freedom Drive to construct a 6' high fence in side yard and a 6' high fence in front yard 3' off sidewalk (maximum 4' high fence in side and front yards with maximum 10' projection into front yard)

Code Enforcement Officer Jeffrey Baksa stated the applicant proposed a 4' fence along the north property line setback 5' from the sidewalk and continuing along the west property line for 12' (17' from sidewalk), then a 6' high fence to the back corner of the property. Mr. Baksa noted the neighbors at 138 Freedom Drive were not satisfied with the proposal.

Motion by Chairman Elling, seconded by Mr. Kapuscinski, to close the public hearing and grant a variance for property located at 58 Freedom Drive to construct a 4' high fence along the north property line setback 5' from the sidewalk, continuing along the west property line for 12' and then a 6' high fence to the back corner of the property.

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

Noes: (1) Mr. Marzullo

Motion Carried

**ADJOURNMENT**

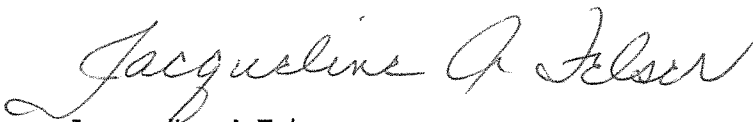
Motion by Hughes, seconded by Marzullo, to adjourn the meeting at 8:15 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser  
Town Clerk/Zoning Board Secretary