



**2017-45** (continued)

Chairman Elling stated no complaints were registered with the West Seneca Police Department over the last year. He questioned if any times for the music had been changed and Mr. Havens stated the times are the same.

Code Enforcement Officer Douglas Busse noted specific dates for special events have been filed.

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 4350 Seneca Street to allow live music Monday – Thursday (indoor) 6 P.M. – 10 P.M.; Friday (indoor) 6 P.M. to 11 P.M.; Saturday (indoor) 2 P.M. to 11 P.M.; Sunday (indoor or outdoor) 4 P.M. to 8 P.M.

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2019-63**

Request of Joseph Crist of Crist Construction for a variance for property located at 213 Pellman Place to construct a covered front porch with 26' front setback (minimum 30' front setback required)

Joseph Crist represented the owner of 213 Pellman Place and stated their request to construct a covered front porch with 26' front setback, noting they are keeping the existing porch and just adding a roof.

Chairman Elling stated he was in receipt of approval signatures from property owners at 200, 206, 207 & 230 Pellman Place.

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 213 Pellman Place to construct a covered porch with 26' front setback.

Ayes: All

Noes: None

Motion Carried

**2019-64**

Request of Derek Hortman for a variance for property located at 101 Round Trail Road to allow a 6'3" – 7' high fence in rear and side yard (maximum 6' high fence in rear yard & maximum 4' high fence in side yard)

Derek Hortman stated in May of this year he replaced his existing fence that was rotting. His property is on a graded hill and everyone around is higher except the neighbor on the left. Mr. Hortman stated he installed 6" x 6" posts to keep the earth away from the new fence so it will not rot in the future.

Mr. Marzullo commented the fence is higher on both sides than both his neighbors' fences. Mr. Hortman responded due to the grading of his back yard there is no way to match the fences. Code Enforcement Officer Douglas Busse stated the height is measured from the grade of the property where the fence is being installed, not the neighboring properties.

The neighbor at 93 Round Trail Road presented pictures of the fence and commented it was constructed without obtaining a permit. He believes the fence between their properties was built entirely on his property and noted it was extended farther back than the previous fence. He was not happy with the height or appearance of the fence from his property and requested the variance be denied. He further questioned if the request is for a use variance or area variance.

Mr. Busse stated a property owner can replace an existing fence at the existing height. He did not know if a permit was issued for the previous fence and would need proof that the new fence was extended. Mr. Busse further stated a property line dispute is a legal matter between the neighbors and the town does not get involved in those issues.

Chairman Elling stated he was in receipt of approval signatures from property owners at 107 Round Trail Road and 104 & 110 Heritage Farm Road.

Motion by Elling, seconded by Hicks, to table this item until the next meeting for further review.

Ayes: All

Noes: None

Motion Carried

**2019-65**

Request of Joseph & Jennifer Pinto for a variance for property located at 83 Tampa Drive to construct a 6' high fence in front & side yard of corner lot (maximum 4' high fence permitted)

**2019-65** (continued)

Joseph & Jennifer Pinto stated their proposal to install a 6' high privacy fence on their corner lot, noting there is currently a shorter chain link fence on their neighbor's property line.

Chairman Elling stated he was in receipt of approval signatures from property owners at 90 & 94 Woodcrest Drive and 89 Tampa Drive.

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 83 Tampa Drive to construct a 6' high fence in the front & side yard.

Ayes: All

Noes: None

Motion Carried

**2019-66**

Request of John & Rosemarie Vohwinkel for a variance for property located at 463 Casimer Street to construct a driveway 2' off property line (3' side setback required)

John Vohwinkel stated he would like to replace their existing driveway and extend it to allow parking for their childrens' vehicles.

Chairman Elling questioned if drain tile will be installed on that side of the garage so water does not affect the neighbor. Mr. Vohwinkel stated the driveway will be pitched toward the center and down the street which will improve the drainage.

Mr. Marzullo questioned if there is an issue with extending the driveway at the road. Code Enforcement Officer Douglas Busse stated they will need approval from the Highway Department for the curb cut.

Chairman Elling stated he was in receipt of approval signatures from property owners at 457, 460, 469 & 475 Casimer Street.

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 463 Casimer Street to construct a driveway 2' off the property line, noting care must be taken to not create a water problem for the neighbor.

Ayes: All

Noes: None

Motion Carried

**2019-67**

Request of Joshua Heidinger for a variance for property located at 29 Windmill Road North to construct a shed with 10' front setback on corner lot (minimum 30' front setback required)

Joshua Heidinger stated his proposal to construct a shed in the front setback of his corner lot for storage purposes.

Chairman Elling commented on the proposed location of the shed and noted the neighbor behind will be looking at shed every time they leave there home. He suggested relocating the shed to the extreme westerly portion of the property.

Code Enforcement Officer Douglas Busse noted a variance is required if the shed is less than 5' from the pool, less than 3' from the property line and less than 30' off the Windmill Road side.

Other options for locating the shed were discussed and Chairman Elling asked Mr. Busse to work with Mr. Heidinger on setback requirements. He further stated he was in receipt of approval signatures from property owners at 10, 22, 28, 34 & 35 Windmill Road North; 58 Old Farm Circle and 219 Heritage Farm Road.

No comments were received from the public.

Deputy Town Attorney Kimberly Conidi suggested the item be tabled until the next meeting to review alternative locations. Although the publication as written would still allow the board to proceed with the variance if an alternative location is chosen, the original location was represented to the surrounding neighbors and it was posted on the town's website.

Mrs. Hicks requested additional approval signatures from those neighbors that will be affected if an alternate location is chosen.

Motion by Elling, seconded by Kapuscinski, to table this item until the next meeting in order to review alternative locations for placement of the shed.

Ayes: All

Noes: None

Motion Carried

**2019-68**

Request of Daniel Baccari, Architect for a variance for property located at 479 Lein Road to construct a 16' high garage addition (maximum 12' height for accessory structures)

**2019-68** (continued)

Daniel Baccari represented the property owner, Joseph Milazzo, and stated his proposal to enlarge his garage to store specialty vehicles and a truck with trailer. A higher door and height variance is needed for the trailer. Mr. Baccari presented pictures of the existing garage and the proposed raised section at the back of the addition, noting the structure is setback approximately 140' from the road. He further stated seven of the 11 surrounding neighbors signed with their approval.

Mrs. Hicks questioned if the use will be for business purposes. Milazzo responded the garage is to store his collection of personal vehicles which is his hobby and there will be no painting of vehicles.

Mr. Marzullo questioned what utilities will be installed. Mr. Milazzo stated there is electric in the existing structure and he planned to install a gas line for heat.

Mr. Kapuscinski questioned if a driveway will be installed to the structure. Mr. Milazzo stated the existing driveway will be extended and it will be 20' to 25' wide, but there is over 40' to the property line.

Chairman Elling stated he was in receipt of approval signatures from property owners at 432, 444, 448, 470, 475 & 500 Lein Road.

Two nearby property owners opposed the proposal for a 16' high garage addition and offered the following comments/concerns:

- Will see nothing but a garage from their property
- Property has been in disrepair for four years
- Drainage issues; proposed structure will cause more problems
- Removal of trees
- Location of driveway
- Possible commercial use
- A tall garage will change the appearance of the neighborhood; concerned about decrease in property values

Mr. Milazzo stated he just purchased the property two months ago and has been fixing it up and making repairs.

Code Enforcement Officer Douglas Busse commented on the size of the building and stated a property owner can cover up to 30 percent of their back yard with an accessory structure. The variance is only for the height of the back 20' section. The driveway can be 3' off the property line and the drainage cannot affect the neighbors. Mr. Busse further noted if the garage is not approved, Mr. Milazzo can park his vehicles in the driveway as long as they are licensed.

**2019-68** (continued)

Chairman Elling noted the property is zoned residential, so Mr. Milazzo is not permitted to operate a business from the garage.

Mr. Baccari stated the drainage will run to the ditch and they will need approval from Erie County since Lein Road is a county road.

Motion by Marzullo, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 479 Lein Road to construct a 16' high garage addition, conditioned upon submission of a drainage plan for approval by the Engineering Department.

Ayes: All

Noes: None

Motion Carried

**2019-69**

Request of JSEK West Seneca LLC for a variance for property located at 1343, 1347 & 1353 Union Road & 0 Fremont Avenue to 1) reduce southern side driveway setback to 6'10" (12' setback required) and 2) reduce northern side driveway to 9'9" (12' setback required)

Attorney Sean Hopkins of Hopkins Sorgi & McCarthy PLLC represented Joseph Spino of JSEK West Seneca LLC and stated his request for two variances for the driveway setbacks at the proposed 6500 sf car wash facility on the 1.4 acre site on Union Road. A special permit was approved by the Town Board, a negative declaration was issued and they are in the process of site plan approval. There will be no driveway access to Fremont Avenue. Ingress to the site will be on the south side with egress on the north side. Mr. Hopkins stated they need to have adequate stacking on site to avoid causing a traffic problem on Union Road. The southern side variance will allow for three stacking lanes between Union Road and the pay station, enough room for at least 30 vehicles. The northern side variance will also allow vehicles to stack on site by going back into the site and around a circle before exiting onto Union Road. Letters were sent to all neighbors on the mailing list used by the town and all those that came to past meetings. The layout is unchanged and screening and landscaping will be provided. A 6' privacy fence will be installed as indicated on the site plan.

Mrs. Hicks questioned what is envisioned for the future rental space. Mr. Spino stated he currently has employees of his other businesses working from his home (bookkeeping, etc.) and he may use the rental space as his corporate office.

**2019-69** (continued)

Mr. Marzullo questioned if there will be any signage for the business. Mr. Hopkins stated pole signs are not allowed under the Union Road corridor regulations, but there will be building signage.

Mrs. Hicks questioned if Mr. Spino had any neighbor letters. Mr. Spino responded he did not have any neighbor letters, but they are aware of the project and attended past meetings where they submitted a petition in support of the project.

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 1343, 1347 & 1353 Union Road & 0 Fremont Avenue to 1) reduce southern side driveway setback to 6'10" and 2) reduce northern side driveway setback to 9'9".

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Marzullo, seconded by Elling, to adjourn the meeting at 8:50 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser  
Town Clerk/Zoning Board Secretary