

OLD BUSINESS

2012-58

Request of Ronald Race for renewal of the variance for property located at 1100 Orchard Park Road for display of storage sheds for sale.

Chairman Elling stated the applicant has been receiving a variance since 2012; no complaints were registered with the West Seneca Police Department and Code Enforcement Office.

No comments were received from the public.

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a two year variance for property located at 1100 Orchard Park Road for display of storage sheds for sale.

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).

Mr. Marzullo stated the fence is beautiful but has already been built out of code. Mr. Hortman replied the previous fence was approximately 2" lower than the current fence; there were six 2'x6' all the way around on the bottom with 6' pickets and he only replaced what was already there.

Mrs. Hicks noted previously, Code Enforcement ~~indicted~~ ^{* indicated} an owner may replace an existing fence at the existing height; it was unknown if a permit was issued for the previous fence as it was possibly constructed before this code was enacted. Mrs. Hicks further stated a property line dispute is a legal matter between the neighbors and the town does not get involved in those issues. The height is measured from the grade of the property from where the fence is being installed not the neighboring properties. Code Enforcement Officer Douglas Busse responded that is correct; the variance proposal is strictly for the height of the fence.

The neighbor at 93 Round Trail read the attached letter in opposition to the variance request 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). Mr. Busse explained the request is for an area variance.

* corrected 1/33/2020

2019-64 (continued)

Mr. Hortman stated the neighbor was aware of the fence being built as he removed the debris from his yard for the installation as well as his father in law assisted with the building. Mr. Hortman further stated the neighbor asked to maintain part of his property; in the past Mr. Hortman did this for the previous owner and the time frame was not fast enough. Mr. Hortman informed the neighbor to get his own drain tile for the drainage issues which has turned this into a neighbor dispute.

Mr. Marzullo stated this appears to be a neighbor dispute. Although the fence is out of code, it is not an eyesore to the neighborhood; some of the nails need to be clipped flush to the fence.

Deputy Town Attorney Kimberly Conidi stated the neighbor in opposition to the fence correctly laid out the test. The Zoning board of Appeals must determine whether an undesirable change will be produced, could a better benefit been achieved by other means, whether the requested variance is substantial, is there an adverse effect on the physical and environmental condition of the neighborhood and if the alleged difficulty is self created. The determination of the factors is up to the board's discretion. Board members are advised to weigh the test in terms in what each member has observed and heard for the final determination to grant the variance.

Mrs. Hicks noted some troublesome area's on the neighbors side and questioned if Code Enforcement would get involved. Mr. Busse replied the Code Enforcement Office would as it is the owner's responsibility to make sure the fence is in good condition on both sides with no safety hazards; nails should be pounded in, flush to the boards. Mr. Hortman replied he has corrected most of the nails.

Mrs. Hicks read the criteria for determination of the variance:

- Can the benefit be achieved by another means feasible to the applicant
- Will there be an undesirable change to the neighborhood character
- Is the request substantial
- Will the request have an adverse physical or environmental effect
- Is the alleged difficulty self created

Ms. Conidi noted the question of a self created difficulty is a consideration that is relevant to the Zoning Board of Appeals but does not preclude the granting of the area variance.

Motion by Elling, seconded by Hicks, to close the public hearing and reserve the right to make a final determination within 62 days.

Ayes: All

Noes: None

Motion Carried
APPENDICES

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).

Mr. Heidinger stated they discussed alternative sights for the placement of the shed and believe the original spot requested was the most beneficial spot.

No comments were received from the public.

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a one year 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).

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2019-71

Request of Child Creative Development Center for a variance for property located at 2900 Transit Road to reduce required 10' setback to meet parking requirements.

Motion by Elling, seconded by Marzullo, to table this item pending receipt of comments from NYSDOT.

Ayes: All

Noes: None

Motion Carried

2019-72

Request of Cathleen A. Seebald for a variance for property located at 84 Sunset Creek Drive to construct a 6' high fence on side yard (maximum 4' high fence allowed).

Chairman Elling stated the applicant decided to withdraw the request for a variance.

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

Ayes: All

Noes: None

Motion Carried

WEST SENECA COMMUNITY CENTER
1300 Union Road
West Seneca, NY 14224

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2019-73

Request of Ryan Wagner for a variance for property located at 2185 Clinton Street to construct a cooler off the rear of the building with 20' setback (30' setback required).

Ryan Wagner and Curtis Knight stated they own a catering company to feed daycare and underprivileged children. They have received new accounts, are a growing business and looking for more room and space for a cooler/food safety prep. The business was approached by the Boys and Girls Club to feed almost 750 children out of the facility.

Chairman Elling stated he was in receipt of approval signatures from property owners at 95 Fernwood Avenue and 2181 Clinton Street and was in receipt of a letter from NYSDOT indicating they had no issue with the proposed construction.

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 2185 Clinton Street to construct a cooler off the rear of the building with 20' setback (30' setback required).

Ayes: All

Noes: None

Motion Carried

ZONING BOARD MEMBERS TRAINING

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

Chairman Elling - 4 hours
Evelyn Hicks - 4 hours
Richard Marzullo – 4 hours
Raymond Kapuscinski - 4 hours
Michael Hughes – certificates to be submitted

**WEST SENECA COMMUNITY CENTER
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ADJOURNMENT

Motion by Kapuscinski, seconded by Marzullo, to adjourn the meeting at 9:02 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M Kobler
Deputy Town Clerk/Zoning Board Secretary