

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

**ZONING BOARD OF APPEALS**  
**Minutes #2020-02**  
**February 26, 2020**

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 Amelia Greenan and 30 seconds of silent prayer.

**ROLL CALL:** Present - Timothy J. Elling, Chairman  
Amelia Greenan  
Evelyn Hicks  
Michael P. Hughes  
Raymond Kapuscinski  
Douglas Busse, Code Enforcement Officer  
Kimberly Conidi, 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 Hicks, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

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

Motion by Hughes, 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 Elling, to approve Minutes #2020-01 of January 22, 2020.

Ayes: All

Noes: None

Motion Carried

### **ETHICS CODE**

Chairman Elling provided Zoning Board of Appeals members the current Ethics Code to review along with the adopted disclosure statement to return to the Town Clerks Office by March 31, 2020.

**OLD BUSINESS**

**2017-074**

Request of Lamar Advertising for a variance for property located 730 Orchard Park Road to convert existing 14' x 48' billboard face to a 12' x 25' digital face within 500' of residential zoning.

Chairman Elling stated although the item was tabled last month, Lamar Advertising has a standing building permit on file with Code Enforcement from last year for the LED sign. The project has been started but no lights have been installed. Lamar Advertising was required to reappear to inspect the LED Lumens of the sign after a year of the billboard being constructed to ensure there are no issues with the neighbors or police calls. After construction is complete, Code Enforcement will inspect the sign and the one year will start from that date.

**2019-071**

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.

Andrew Gadomski from Child Creative Development Center stated he is looking for a 10' variance for parking in the back that would be blacktop where grass currently exists allowing for two more parking spaces.

Chairman Elling stated there was a prior concern with parking on the diagonal and inquired if the problem has been fixed. Mr. Gadomski replied he met with Code Enforcement but due to the weather the striping has not been corrected yet.

Mr. Kapuscinski stated the back left portion contains a childrens playground and questioned if the petitioner would be placing bollards for protection. Mr. Gadomski stated there is a fence and if bollards are required they would comply. Code Enforcement Officer Doug Busse replied there is nothing in the code to separate a parking area from a playground; the code can be deciphered if that something that needs to be done for a hazardous condition.

Chairman Elling stated the diagonal parking is ongoing and there is not an adequate fire lane at a facility that houses a daycare. Mr. Gadomski stated he spoke with Code Enforcement and will address the issue. Chairman Elling reiterated the business is not in compliance with the fire code and suggested parking employee cars in the morning the long way which was used before the striping and the way the plans specify. While the weather is understandable, it is still an illegal fire lane.

**2019-071** (continued)

Mr. Busse stated the fire lane is required to be 20' from the sidewalk to parking area and currently there is only 15'. Mr. Gadomski stated it will be fixed tomorrow.

Chairman Elling suggested tabling the item to allow the stripping to be completed. The board will not approve something that is against the fire code at a daycare.

Mr. Gadomski stated the town is requiring him to fix this before he can start the addition and doesn't understand. Chairman Elling replied the variance is not being granted tonight to ensure the change in direction of the parking. Mr. Busse suggested blacking out the existing lines now as a temporary fix until the weather breaks. The lines may be blacked out and restripped vertical along the parking lot.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to close the public hearing and table the item until the parking lines are blacked out and restripped vertical along the parking lot.

Ayes: All

Noes: None

Motion Carried

**2020-001**

Request of Patrick Eck for a variance for property located at 55 South Pierce Street to authorize the operation of a home business.

Patrick Eck stated he is requesting a variance for home occupation. Mr. Eck is a Buffalo Police Officer who is looking to obtain his Federal Firearms License to be the intermediary for procurement of firearms and ammunition for professional colleagues and municipalities. This will provide a more cost effective way to train as ammunition may be purchased at wholesale prices. To open the business, you must have the zoning approval permit and gain approval for a use variance.

Mr. Busse stated if approved, the next steps would be filing a home occupation permit through the Code Enforcement Office and attendance at a few more meetings.

Mr. Hughes stated there will be no inventory on the residents property; Mr. Eck will be conducting business similar to that of a broker. Mr. Eck explained he seeks to obtain his Federal Firearms License for himself and coworkers to obtain ammunition for training. People will not be coming to and from the house and no training will be done on the property.

**2020-001** (continued)

Mr. Kap questioned the inventory that will be kept on site. Mr. Eck responded the inventory will be no more than what can be kept in his safe.

Mr. Busse stated the process of the home occupation permit is to seek Town Board approval. The variance the applicant is seeking is specifically for Federal Firearms Licensed Dealer to be listed as a home occupation in the Town of West Seneca.

Chairman Elling stated he was in receipt of neighbor letters from 59, 50, 43, 46, 68 and 93 South Pierce who had no objections; a neighbor who was in attendance at the January meeting spoke in favor of the variance.

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 55 South Pierce Street authorizing the operation of a home business.

Ayes: All

Noes: None

Motion Carried

**2020-002**

Request of Bogdan Wisniewski for a variance for property located at 486 Union Road to erect a garage with 15' midpoint building height (12' maximum allowed).

Chairman Elling stated the petitioner was not present.

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

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2020-005**

Request of Christian Rich for a variance for property located at 115 Caldwell Drive to construct a 6' high fence in front and side yard (maximum 4' high permitted) with 25' projection (10' permitted).

**2020-005** (continued)

Mr. Rich stated the residence is on a bend requiring the petitioner to obtain a variance in order to construct a 6' high fence off the back of the house and along the backyard. Mr. Rich has also had some theft of furniture from the backyard along with people wandering through the wooded area and believes a fence would provide security.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 96, 92, 100, 108, 104 and 119 Caldwell Drive.

No comments were received from the public.

Motion by Hicks, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 115 Caldwell Drive to construct a 6' high fence in front and side yard (maximum 4' high permitted) with 25' projection (10' permitted).

Ayes: All

Noes: None

Motion Carried

**2020-006**

Request of Cassie Tomasic for a variance for property located at 70 Walnut Road to construct a 6' fence in side and rear yard (4' permitted).

Ms. Tomasic stated she was in attendance last month for the side of her property and has since realized the variance did not include the back of the property. The fence has currently not been constructed but would like to include a 6' fence along the back.

Mr. Busse stated if the variance is approved the petitioner has six months to file for the building permit and one year after to complete the project.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 58 Walnut Road.

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 70 Walnut Road to construct a 6' fence in side and rear yard (4' permitted).

Ayes: All

Noes: None

Motion Carried

**2020-007**

Request of David Mathis for a variance for property located at 238 East & West Road to construct an accessory structure 19' high (maximum 12' height to middle allowed).

Mr. Mathias stated he is seeking to construct a pole barn for his boat and motor home storage.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 252, 248, 212 and 232 East & West Road.

Mr. Busse stated the property is far from the road with a motor home currently on the property.

Mr. Hughes questioned if the pole barn was just for storage or if a business would be run out of the property. Mr. Mathis replied the pole barn is just for storage.

Chairman Elling stated he was in receipt of a letter from Erie County with no objection to the construction of the structure.

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 238 East & West Road to construct an accessory structure 19' high (maximum 12' height to middle allowed).

Ayes: All

Noes: None

Motion Carried

**2020-008**

Request of Dylan Falank for a variance for property located 2800 Clinton Street to construct an LED sign within 500' of residential property (LED signs not permitted within 500' of residential property).

Mr. Falank from Flexlume Signs was present on behalf of the Roofers Union; the proposal is to replace the existing ground sign on the property with a message center. The message center will have two faux stone columns with the Roofers Union logo on the top. This message center will be within 500' of a residential zone and requires a variance. The hope is the message center will increase membership, retention and communicate activities to the public and potential members. The message center will be used in accordance with Town Code.

**2020-008** (continued)

Chairman Elling stated NY State has not yet sent back an approval letter and has 45 days to do so from the date of the application; the Zoning Board is in receipt of neighbor letters with no objection from 2965, 2979, 3507, 2990, 3003 Clinton Street and 187, 199 and 209 French Road

No comments were received from the public.

Motion by Elling, seconded by Hughes, to close the public hearing and table the item pending correspondence from the NYSDOT.

Ayes: All

Noes: None

Motion Carried

**2020-009**

Request of James W. Carr, Jr. for a variance for property located 200 Tudor Boulevard to construct a covered porch 6' into front yard setback (covered porches not allowed within 30' front setback).

Mr. Carr stated he has been living in his house since 1963 and has been updating his house. The front porch will replace the original front porch of the house.

Chairman Elling stated stated he was in receipt of neighbor letters with no objection from 204, 194, 191, 195 and 201 Tudor Boulevard.

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 200 Tudor Boulevard to construct a covered porch 6' into front yard setback (covered porches not allowed within 30' front setback).

Ayes: All

Noes: None

Motion Carried

**2020-010**

Request of Julie C. Witt for a variance for property located 40 Muriel Drive to construct a 6' fence in front and side yard (maximum 4' fence allowed in front and side yard).

Ms. Witt stated she is looking to construct along the back of the house a 6' fence for privacy and to secure her dogs. The fence will be along the back of the garage to the other side of the house and will not obstruct anyone's view.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 50 and 41 Muriel Drive along with 11 and 10 Joanne Drive.

No comments were received from the public.

Motion by Hughes, seconded by Elling, to close the public hearing and grant a variance for property located 40 Muriel Drive to construct a 6' fence in front and side yard (maximum 4' fence allowed in front and side yard) according to the application print.

Ayes: All

Noes: None

Motion Carried

**2020-011**

Request of Mohit Kumar for a variance for property located 147 Leydecker Road to construct a two family dwelling with 76' frontage (85' frontage required).

Robert Block represented Mr. Kumar and stated the petitioner is seeking to construct a two family home with each upscale unit containing 3 bedrooms and 1½ baths. The petitioner is aware of town code and will follow what is permissible; the frontage is 9' short which requires the variance.

Mr. Hughes questioned if any neighbors have signed off on the project. Mr. Block responded he did go door to door but no neighbors would sign. Reasons provided were they did not want a duplex or rental units. There is one neighbor who owns his adjacent property and rents the home out.

Chairman Elling read the attached letter in opposition to the project signed by 155, 150, 141, 143 and 146 Leydecker Road.



**2020-011** (continued)

Two residents from Leydecker Road stated their opposition to a double rental being constructed on the lot and did not object to a single rental; the lot should be built and sold as is with no variance granted.

Chairman Elling questioned the content of the letter stating the residents wanted the lot left wooded.

A Leydecker Road resident stated he was not opposed to the lot being left wooded but was concerned about the amount of dead trees on the lot; his opposition is to a double rental.

Mrs. Hicks questioned who owns the property. Mr. Block responded the property is under contract to be sold to Mr. Kumar, subject to the approval for the rezoning.

A Leydecker Road resident stated she purchased her home because of the country charm. The resident stated variances are granted for things that she feels should not be that have changed the character of the neighborhood. Granting this variance takes away neighboring properties privacy. The lot is not big enough to support a duplex and will decrease the value of her home. The resident further expressed concerns with renters, drainage, utility poles and the condition of the property including dead trees.

Chairman Elling questioned the allowable width of a single family home on a 76' frontage property. Mr. Busse stated a single family home could be up to 65' wide; a 5' side yard setback is required on each side of the house.

Mr. Block stated no plans have been drawn up but the plans would follow what is permissible by the town as far as width and drainage. The property will require a substantial amount of fill and they will follow the Engineering Departments requirements. This is a high end rental with the rent being between \$1300 -\$1500 per month.

Mrs. Hicks questioned if there will be a garage. Mr. Block stated no plans have been drawn but they will comply with all the town codes.

Mrs. Hicks stated if utilities are to be moved they are done so at the expense of the developer.

Mr. Kapuscinski questioned the side setback on a duplex. Mr. Busse replied it is the same as a single family because of the zoning.

**2020-011** (continued)

Mrs. Hicks questioned if Code Enforcement will inspect the safety of the trees. Mr. Busse stated there is currently an issue with the trees on the property and is in the process of being solved.

Motion by Elling, seconded by Hicks, to close the public hearing and table the item until next month pending the receipt of a draft rendering of the duplex.

Ayes: All

Noes: None

Motion Carried  
\*APPENDICES\*

**2020-012**

Request of Tara Campise for a variance for property located 124 Southridge Drive to construct an 18' x 23' addition 13' off property line (30' required)

Mr. Campise stated they are seeking to add an addition to their home.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 115, 114 and 123 Southridge Drive and 198 Oakbrooke Drive. The rendering shows a fence being removed and questioned if a new fence will be constructed. Mr. Campise stated eventually a new fence will be constructed.

Mr. Busse stated the fence will require a new variance to move the fence to where the addition ends; the office will work with homeowner on the application fee.

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 124 Southridge Drive to construct an addition 13' off property line (30' required).

Ayes: All

Noes: None

Motion Carried

**2020-013**

Request of James and Jillian Gorman for a variance for property located 1543 Center Road to construct a 6' fence in front and side yard of corner lot (4' permitted).

Mr. Gorman stated the property is on a corner lot and would like to obtain a variance to place a fence in the backyard.

**2020-013** (continued)

Chairman Elling stated he was in receipt of neighbor letters with no objection from 1535, 1536, 1551, 1550 Center Road and 5 Rebecca Way.

Mr. Hughes questioned if the resident at 5 Rebecca Way would see the 6' fence that runs parallel down the street and would be 3' off the sidewalk. Mr. Gorman stated that is correct; the goal is to be 3' off the sidewalk due to a 15' tree that Mr. Gorman did not want to remove.

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 1543 Center Road to construct a 6' fence in front and side yard of corner lot (4' permitted).

Ayes: All

Noes: None

Motion Carried

**2020-002**

Request of Bogdan Wisniewski for a variance for property located at 486 Union Road to erect a garage with 15' midpoint building height (12' maximum allowed).

Chairman Elling stated the petitioner was not present.

Motion by Elling, seconded by Hughes, to table the item until next month.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Hicks, seconded by Elling, to adjourn the meeting at 8:07 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler  
Town Clerk/Zoning Board Secretary