

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

ZONING BOARD OF APPEALS
Minutes #2020-03
May 6, 2020
Page two..

OLD BUSINESS

2016-018

Request of Deborah Arzaga for renewal of a variance for property located at 227/229 Pellman Place to allow raising of chickens (raising of poultry/farm animals not permitted).

The applicant was not present via conference call.

Motion by Elling, seconded by Greenan, to table this item until the May 27, 2020 meeting.

Ayes: All

Noes: None

Motion Carried

2017-006

Request of Charles Zglinicki for renewal of a variance for property located at 5414 Seneca Street to allow raising of chickens (raising of poultry/farm animals not permitted)

Mr. Zglinicki stated he still owns four chickens.

Chairman Elling stated no complaints were registered with the Police Department over the past year relative to the chickens.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to close the public hearing and grant a one year variance for property located at 5414 Seneca Street to allow raising of chickens.

Ayes: All

Noes: None

Motion Carried

2019-010

Request of Tim and Robin Stolinski for renewal of a variance for property located at 227 Seneca Creek Road to allow raising of chickens (raising of poultry/farm animals not permitted).

Mr. Stolinski stated last year he was in possession of six chickens; two ended up being roosters and were rehomed; currently they have four hens.

Chairman Elling stated no complaints were registered with the Police Department over the past year relative to the chickens.

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2019-010 (continued)

No comments were received from the public.

Motion by Hughes, seconded by Elling, to close the public hearing and grant a one year variance for property located at 227 Seneca Creek Road to allow raising of chickens.

Ayes: All

Noes: None

Motion Carried

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.

The applicant was not present via conference call.

Motion by Elling, seconded by Hughes, to table this item until the May 27, 2020 meeting.

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 he is in receipt of approval from the NYSDOT and neighbor signatures with no opposition were received and filed at the previous meeting.

No comments were received from the public.

Chairman Elling stated at the previous meeting discussion was held in regards to a tent being on the property and asked if the tent was down. Mr. Wisniewski replied the tent was down and will not be back up.

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 486 Union Road to erect a garage with 15' midpoint building height.

Ayes: All

Noes: None

Motion Carried

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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 stated resident signatures were on file from a previous meeting.

Chairman Elling stated is in receipt of approval from the NYSDOT. The existing sign is entirely on the owner's property and Chairman Elling questioned if the sign will be in the same location. Mr. Falank replied the sign will be on the same location.

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 2800 Clinton Street to construct an LED sign within 500' of residential property with the stipulation the entire sign and base of the sign is on the owners property.

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).

Mr. Kumar presented the attached presentation for the property located at 147 Leydecker Road. The applicant is seeking to build an upscale duplex apartment with each apartment being approximately 1,400 sq ft. The layout shows a duplex with a third bedroom on the backside of the first floor. Mr. Kumar explained there will be 30' from the neighboring building to his proposed duplex.

Chairman Elling questioned the parking. Code Enforcement Officer Doug Busse stated there is a 40' setback on the parcel per the zoning district. The building would need to be pushed back to get two vehicles outside of the setback; all this would be discussed during site plan review. The variance is strictly for the width of the lot.

Mr. Kumar stated he will work with and comply with all setback requirements.

No comments were received from the public.

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2020-011 (continued)

Chairman Elling stated because the neighbors had not had a chance to look at the building drawings he would suggest tabling the item until May 27, 2020.

Mr. Kumar questioned the neighbors concerns. Chairman Elling replied the neighbors expressed concerns over the trees and natural area and noted a single family house could also be built at the same size without a variance.

Motion by Elling, seconded by Hughes, to table this item until the May 27, 2020 meeting.

Ayes: All

Noes: None

Motion Carried
APPENDICES

NEW BUSINESS

2020-014

Request of John Goodfellow for a variance for property located at 100 Wiesner Road to construct a pool 0' from existing deck (10' separation required).

Mr. Goodfellow stated he is looking to install a 4' above ground pool. There is an existing deck on the back of the house with a 16' extension which does not leave enough space for a 10' gap before the pool.

Chairman Elling stated he was in receipt of neighbor letters with no objection to the pool being attached to the existing deck from 108, 103, 92, 99, 93 and 104 Wiesner.

Ms. Hicks questioned if there is a cover over the deck. Mr. Goodfellow stated it is open; the pool will have a section that is gated off.

Code Enforcement Officer Doug Busse stated the pool/deck will have a self closing gate along with a pool alarm.

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 100 Wiesner Road to construct a pool 0' from existing deck.

Ayes: All

Noes: None

Motion Carried

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2020-015

Request of Christina Renner for a variance for property located at 163 Cambridge Avenue to construct a 6' fence off side yard (maximum 4' height allowed).

Mr. Cervali stated he would like to upgrade a portion of his fence with a 6' wooden fence. The house is at the end of a dead end street and there have been kids hanging out and deer jumping the fence. Mr. Cervali also stated this would add to the curb appeal of the house.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 160, 159 and 164 Cambridge and questioned if the yard was surrounded by all 4' fence. Mr. Cervali replied a portion of the fence in back is from the state and this is the only section that isn't covered in trees or shrubbery. The back section is 4' and covered in trees so nothing can get over.

No comments were received from the public.

Motion by Hughes, seconded by Hicks, to close the public hearing and grant a variance for property located at 163 Cambridge Avenue to construct a 6' fence off side yard.

Ayes: (4) Kapuscinski
Hughes
Hicks
Greenan

Noes: (1) Elling

Motion Carried

2020-016

Request of James Schmidt for a variance for property located at 4316 Clinton Street to construct a 6' fence in front and side yard (maximum 4' height allowed).

Mr. Schmidt stated he currently has a 4' fence that has rotted, has been pushed over by the wind and is looking to replace with a 6' wooden fence. Mr. Schmidt has young children and would like the added privacy.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 4320 and 4306 Clinton Street and 24 Broadway. The application was filed and March 9, 2020 and has passed the 45 day waiting period from the NYSDOT. Chairman Elling stated the petitioners land is low and questioned if the petitioner would bring in fill. Mr. Schmidt responded the fence will be 6' high wooden straight top dog eared; no fill will be brought in.

2020-016 (continued)

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 4316 Clinton Street to construct a 6' fence in front and side yard with the stipulation the fence must be entirely on the petitioner's property and not in the NY State right of way.

Ayes: All

Noes: None

Motion Carried

2020-017

Request of Young Development, Inc. for a variance for property located at 1220 Southwestern Boulevard to construct 24 apartments (18 units permitted) with an 18.94' setback (25' setback required).

Sean Hopkins from Hopkins Sorgi & McCarthy PLLC represented the petitioner Brian Young of Young Development, Inc. provided the attached power point presentation. Mr. Hopkins stated the site is 2.91 acres in size and is zoned C-2(s). The project is bordered by a self storage facility, retail plaza and storm water management area all of which are owned by Mr. Young. The project consists of 3, 2-story buildings with 8 units per building for a total of 24 units. The size of the apartments will range from 1,200 – 1,600 sf. The monthly rents will be \$1,250 - \$1,500. The plan calls for 60 parking spaces and exceeds the required code of 2 spots per unit. The plan will require site plan approval from the Planning Board which ensures the project complies with all technical requirements.

The application was filed with the need for two area variances.

1. §129.30 of the zoning code – for a setback variance from the retail plaza on the adjacent property; the requirement is 25' and the request is for 18.94'
2. §129.29 of the zoning code – allows for 18 units and the request is for 24 units

The decision should be based on New York State Town Law §267-B.3B that requires the board to balance the benefits and weigh against deterrents. The benefits are quite clear with the five criteria:

1. Will granting the request result in an undesirable change and character of the neighborhood or detriment to neighboring properties – the neighborhood is commercial, multi-family and Mr. Young owns the neighboring property
2. Can the benefits be achieved by some other method
3. Is the requested area variance substantial

2020-017 (continued)

4. Will the variance request have adverse effect or impact on the physical and environmental condition of the neighborhood - the Town Board issued a negative declaration on April 27, 2020
5. Was the alleged difficulty self created

Deputy Town Attorney Kim Conidi questioned the reason for the 18.94' setback. Mr. Hopkins responded Mr. Young owns the property directly next door and does not believe any harm will result from the request. Mr. Young has a precise footprint for upscale buildings and would like to leave adequate space between the buildings. All other aspects of the project comply with setback requirements defined in the code.

Ms. Hicks questioned if 25' setback was required in order to have a fire lane to get behind the building. Code Enforcement Officer Doug Busse stated the 25' setback does not have any bearing on the fire lane; fire access is discussed with the Planning Board. Mr. Hopkins stated there are state wide standards for the fire code; the Planning Board will ensure all technical standards are complied with.

Mr. Kapuscinski questioned if ADA compliant parking spaces will be made available. Mr. Hopkins stated ADA parking will be available and addressed with Code Enforcement.

Chairman Elling stated the application was filed and March 9, 2020 and has passed the 45 day waiting period from the NYSDOT. Mr. Hopkins noted he spoke with NYSDOT and they saw no problem and were in favor of the shared access with the retail plaza.

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 1220 Southwestern Boulevard to construct 24 apartments with an 18.94' setback.

Ayes: All

Noes: None

Motion Carried
APPENDICES

2020-018

Request of Joseph Milewski for a variance for property located at 319 Collins Avenue to construct a 6' fence off side yard (maximum 4' height allowed).

Mr. Milewski stated he is looking to replace a decaying 4' galvanized fence with 6' wooden fence for security, privacy and aesthetics.

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2020-018 (continued)

Chairman Elling stated he was in receipt of neighbor letters with no objection from 315, 323 and 306 Collins Avenue.

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 319 Collins Avenue to construct a 6' fence off side yard.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Elling, seconded by Kapuscinski, to adjourn the meeting at 7:00 P.M.

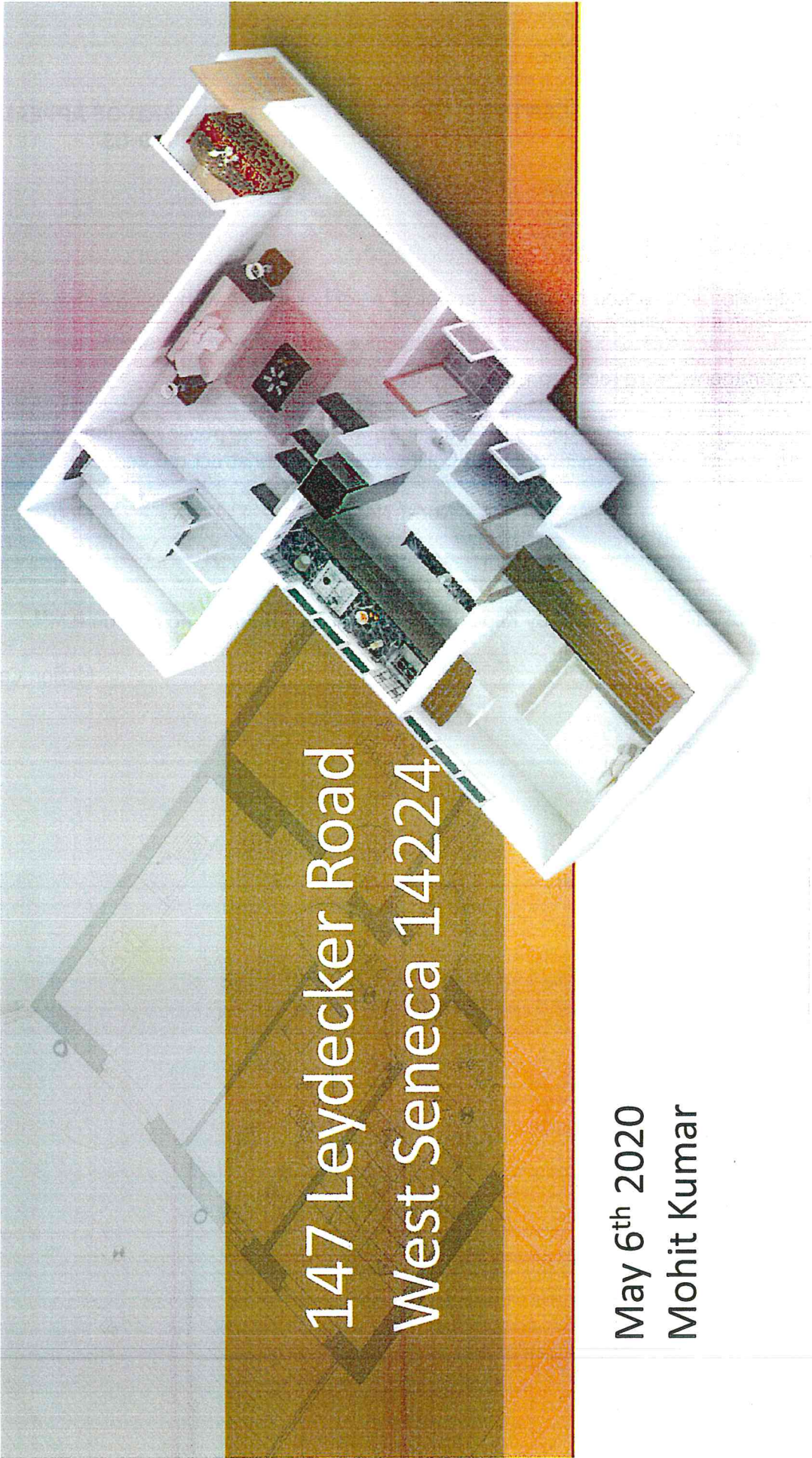
Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler
Town Clerk/Zoning Board Secretary



147 Leydecker Road
West Seneca 14224

May 6th 2020
Mohit Kumar

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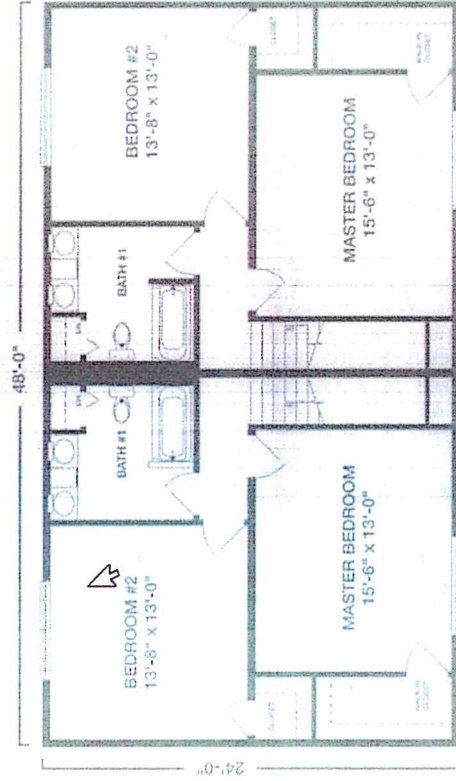
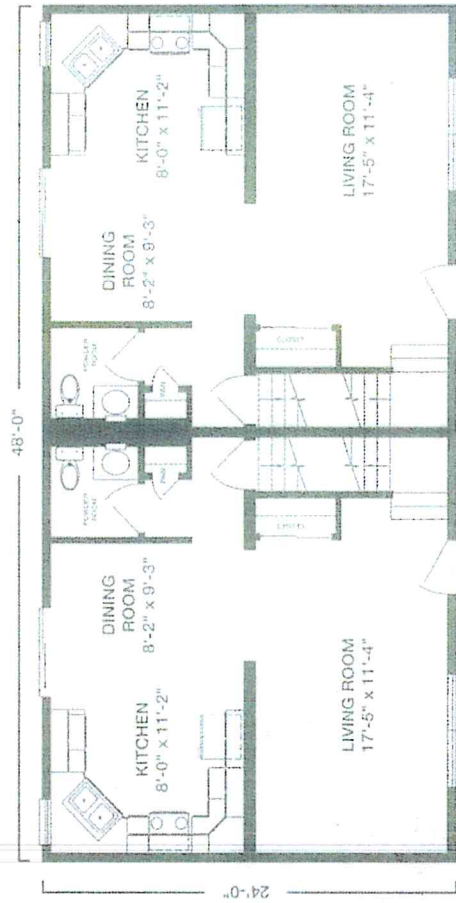
Street View



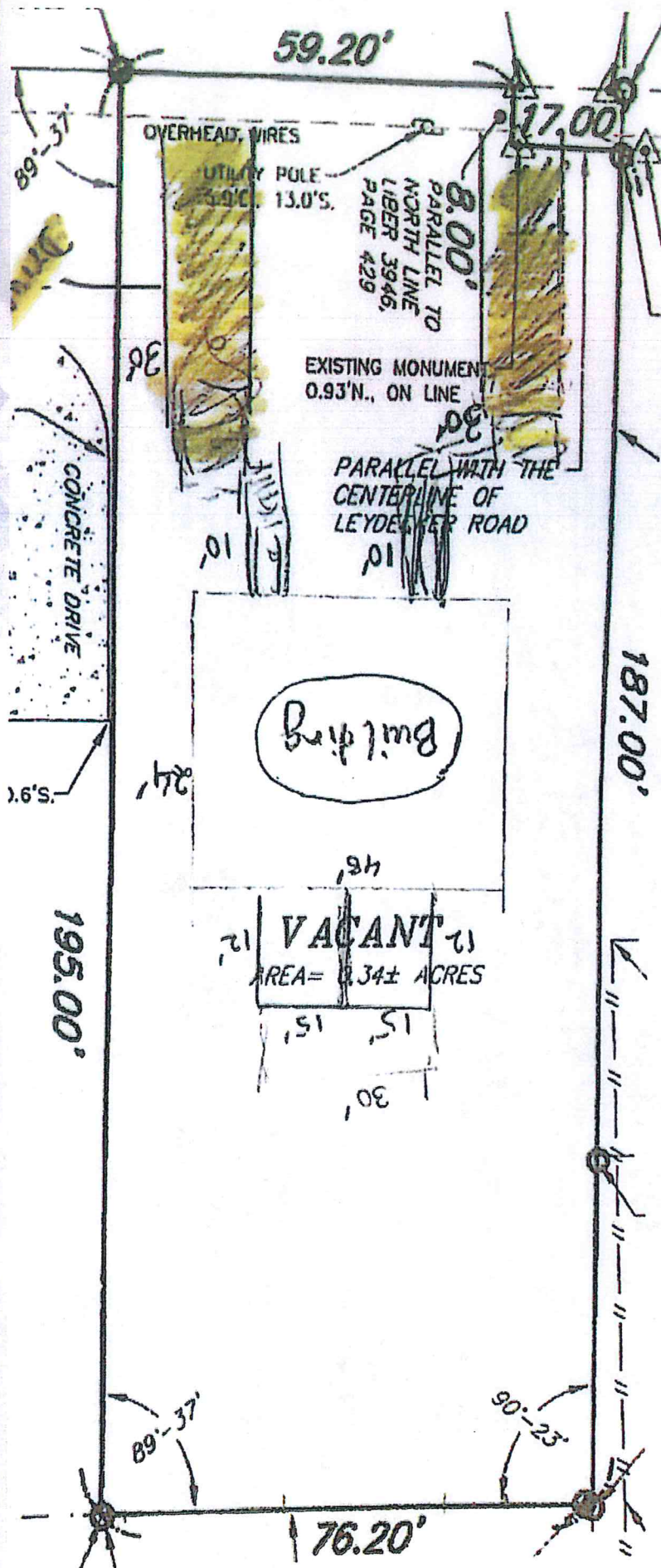
First Cut Layout/Plan



Duplex



Layout on Survey



Town of West Seneca Zoning Board of Appeals

Address: 1220 Southwestern Boulevard

Applicant: Young Development

Project: Fox Trace East – Request for Special Use Permit

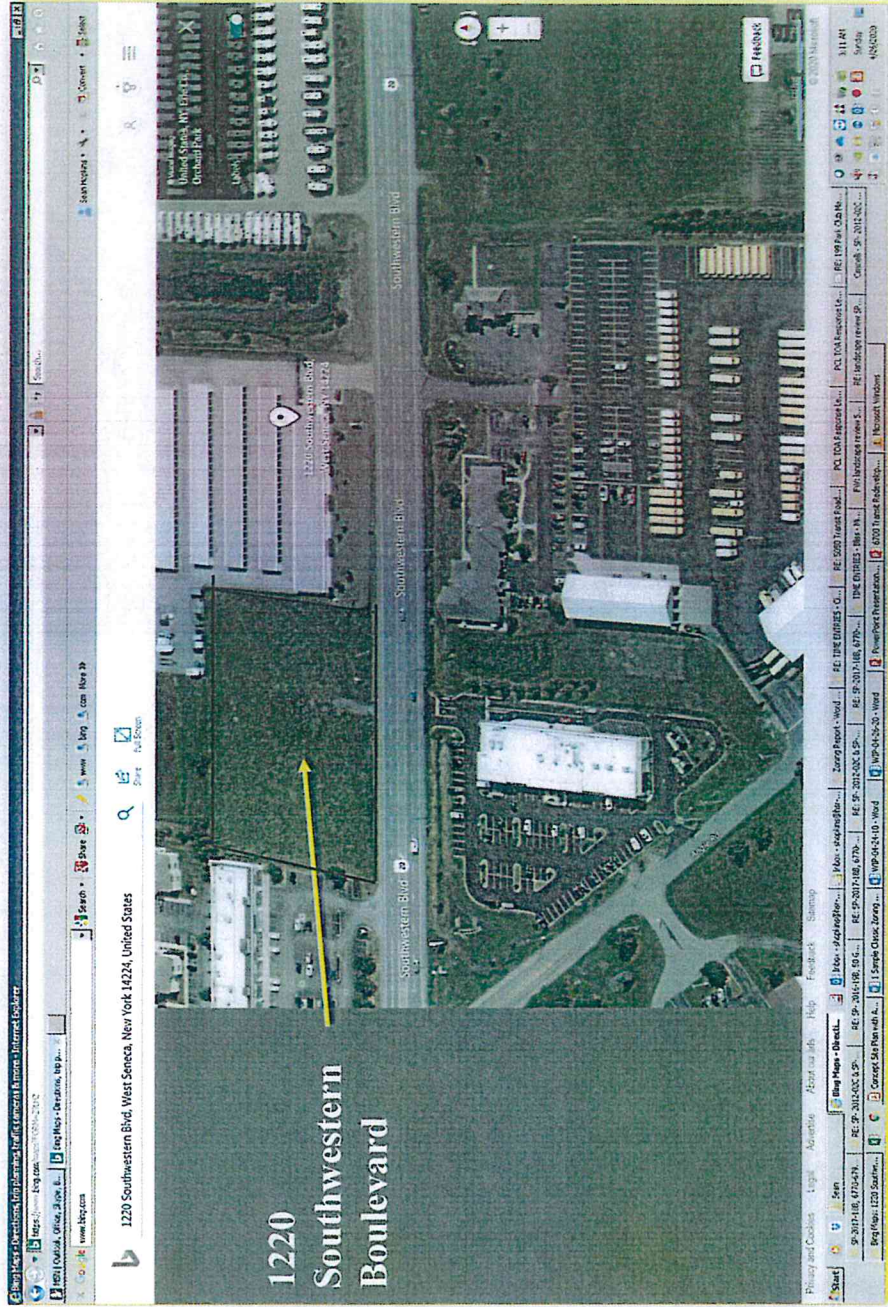
Date: May 6, 2020

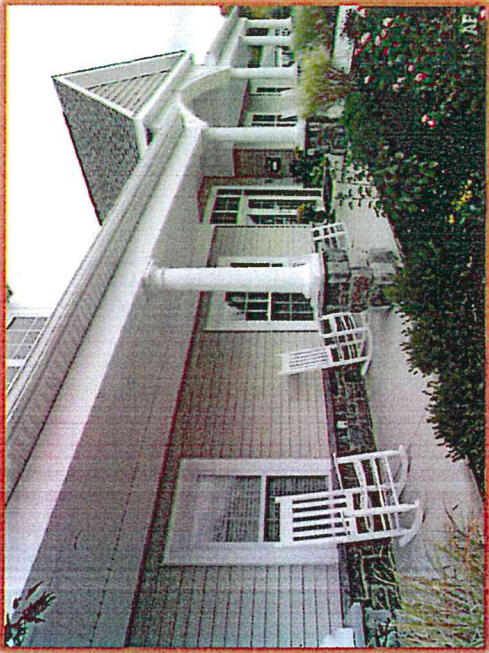
Size: 2.19 acres

Zoning: C-2(s)

Neighboring Uses:

- Self-storage facility
- Retail plaza





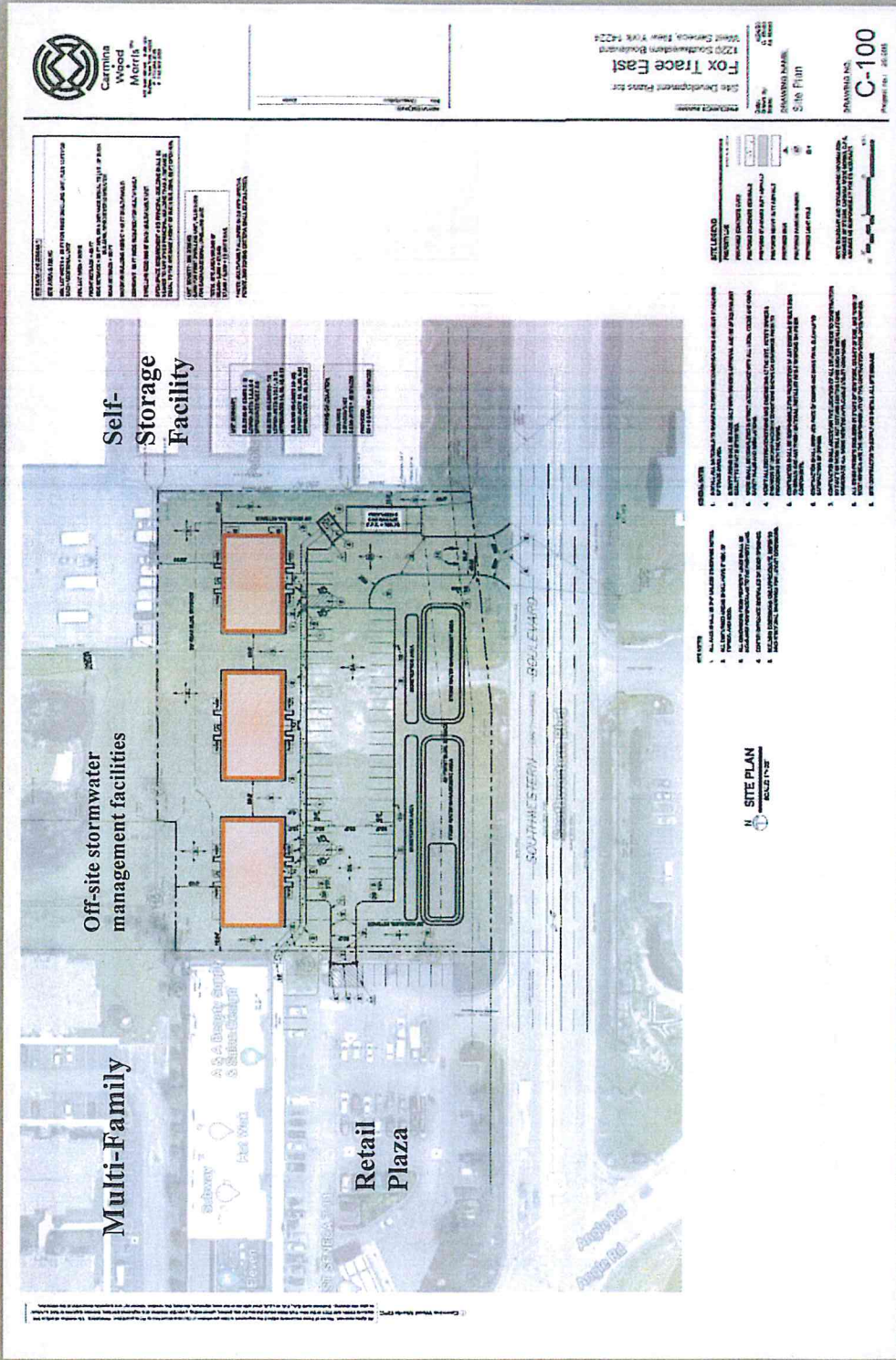
Project Description:

- The proposed residential project consists of 3 two-story buildings totaling 24 residential units for lease and related site improvements including a single-story building with 5 garage spaces, a stormwater management system, landscaping, etc.
- Each of the residential units for lease will consist of 2 bedrooms [Projected Monthly Rents of \$1,250 to \$1,500]
- 60 parking spaces [48 parking spaces required]
- During its meeting on April 27th, the Town Board voted unanimously to issue a negative declaration pursuant to SEQRA and to grant a Special Use Permit for C-2(s) zoning for the multiple-dwelling project
- The proposed residential units for lease will be serviced by private infrastructure including a private driveway connection to Southwestern Boulevard and private sanitary sewer and water infrastructure.
- The proposed residential project will also require Site Plan Approval from the Planning Board and the required engineered plans and SWPPP with Engineer's Report prepared by Carmina Wood Morris DPC have been submitted

Description of Requested Area Variances:

- **Area Variance No. 1:** The western side yard setback of one of the proposed multiple-family buildings is less than required pursuant to Section 129-30 of the Zoning Code [25 ft. required vs. 18.94 ft. proposed].
 - Section 129-30 of the Zoning Code states that for multifamily dwellings, each side yard shall be 25 feet or a distance equal to one-half (1/2) the height of such building, whichever is greater. The total of the two side yards shall be twice that required for one side yard. The proposed building height is less than 40 ft. and as such the 25 ft. setback requirement applies.
- **Area Variance No. 2:** The number of multiple-dwelling units is greater than permitted pursuant to Section 129-29 of the Zoning Code [18 units permitted vs. 24 unit proposed]
 - Section 129-29 of the Zoning Code states that the allowable density for a multifamily project on property zoned either R-50 or C is 50 is 8,000 sq. for the first dwelling unit, plus 5,000 sq. ft. for each additional dwelling unit.

**Color Site Plan
Prepared by
Carmina Wood
Morris**

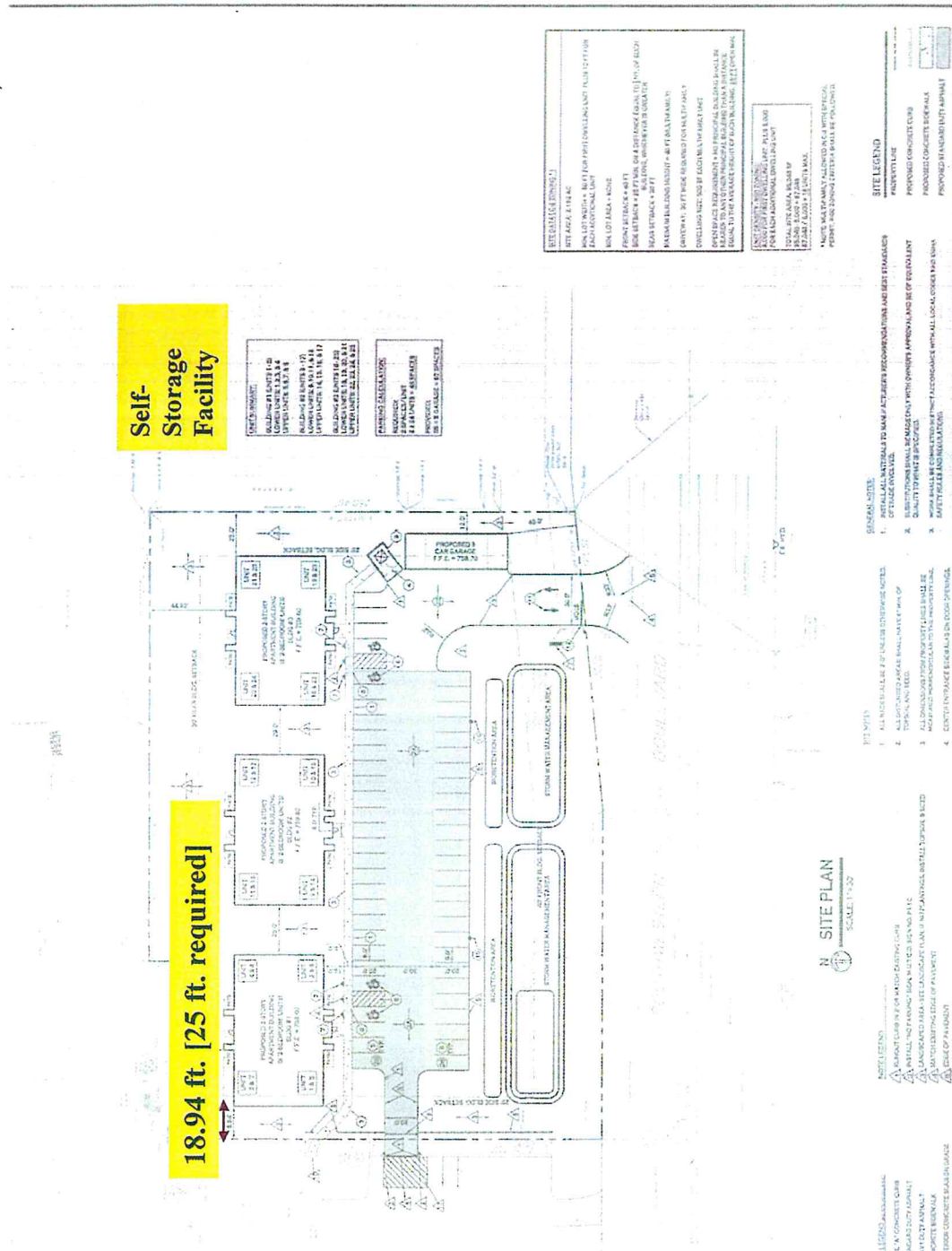


Self-Storage Facility

18.94 ft. [25 ft. required]

Retail Plaza

• Minor side yard building setback from the Applicant's adjacent retail plaza



- GENERAL NOTES:**
1. ALL UTILITIES TO BE LOCATED AND DEPTH INDICATED ON THE SITE PLAN.
 2. ALL UTILITIES SHALL BE DEPTH INDICATED ON THE SITE PLAN.
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N SITE PLAN
 SCALE: 1"=20'

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 SCALE: 1"=20'

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 SCALE: 1"=20'

N SITE PLAN
 SCALE: 1"=20'

Town Law Section 267-b(3)(b):

- Statutorily mandated balancing test:
 - “The benefits to the applicant if the area variances are granted as weighed against the detriments to the health, safety and welfare of the neighborhood or community.”
 - Granting of the requested area variances will result in substantial benefits to the Applicant without any detriments to the health, safety and welfare of the neighborhood or community
- Benefits that will be received by the Applicant if the requested relief is granted:
 - 1. The Applicant will be able to develop the Project Site as three 2-story multifamily buildings consisting of 24 units and related improvements as depicted on the Site Plan.
 - 2. The Applicant will be able to develop the Project Site in a manner that will be compatible with the nearby uses including the retail plaza owned by the Applicant adjacent to the Project Site and self-storage facility.
 - 3. The Applicant will be able to develop the Project Site in a manner entirely consistent with the plan presented to the Town Board in connection with its issuance of a Special Use Permit on April 27th

Town Law Section 267-b(3)(b):

- **Criteria #1: Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the requested area variances.**
 - The granting of the requested area variances will not produce an undesirable change in the character of the neighborhood and will not have any detriments on the nearby properties consisting of a retail plaza and a self-storage facility.
- **Criteria #2: Whether the benefits sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variances.**
 - No. It would not be possible for the Applicant to receive the benefits it is seeking without the granting of the requested relief
- **Criteria #3: Whether the requested area variances are substantial**
 - Requested area variances are not substantial – Key is whether any “harm” will result
 - No harm will result from the granting of the two requested area variances

Town Law Section 267-b(3)(b):

- **Criteria #4: Whether the proposed variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.**
 - Extensive greenspace and landscaping
 - Stormwater management system compliant with stringent NYSDEC stormwater quality and quantity standards – The project requires site plan approval from the Planning Board
 - The Town Board issued a negative declaration pursuant to the State Environmental Quality Review Act on April 27th
- **Criteria #5: Whether the alleged difficulty was self-created.**
 - Town Law §267-b(3)(b) expressly this criteria cannot be sole basis for decision

Conclusion:

- Requesting granting of the two requested area variances
- Questions...