



**2020-070**

Request of Robert Blood for a variance for property located at 3465 Seneca Street to construct a 316 sq ft addition with 9' 2" setback (30' setback required adjacent to residential district)

The petitioner was not present.

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

Ayes: All

Noes: None

Motion Carried

**OLD BUSINESS**

**2020-046**

Request of Michael B. Maw for a variance for property located at 105 Westcliff Drive to construct a 30' x 48' pole barn with 14' 6" midpoint height (12" midpoint height permitted)

Chairman Elling stated he was in receipt of approval signatures from property owners at 106, 113 and 114 Westcliff Drive and 31, 15 and 11 Century Drive.

Mr. Maw stated there was no issue with getting signatures and did attempt to get one more but was unsuccessful in contacting the resident.

A neighbor stated she was not aware of the applicant attempting to contact her and does object to the variance as the building is very large and next to her back yard. The neighbor stated if she looked out her back window she would only see the pole barn and would affect her ability to resell the property.

Code Enforcement Officer Doug Busse stated the resident may put up 30' x 48' pole barn and the variance is just for the height.

The neighbor questioned if the other garages would come down and what was the intended purpose of the new structure. Mr. Maw replied the other garages would come down and he would be storing various vehicles. A 10' door is required and not possible with a 10' wall and that is the reason extra height is being requested.

Chairman Elling stated the petitioner could put up the same size garage; the variance is for the extra height. The neighbor replied her objection is to the height of the structure.

Ms. Greenan questioned the slope of the structure. Mr. Maw replied the structure would have certified engineer trusses for the snow load. Code Enforcement Officer Doug Busse stated the engineer trusses are safe for the snow load.

**2020-046** (continued)

Ms. Hicks stated the following concerning the application of Mr. Maw for a variance for a pole barn higher than allowed at 105 Westcliff Drive:

- Mr. Maw applied for a height variance for a pole barn exceeding the 12' midpoint height requirement currently allowed by West Seneca town code
- The proposed barn replaces two existing garages on the property
- The Veteran's Park neighborhood is predominantly residential and parkland
- Mr. Maw applied for a pole barn permit in July 2020
- The Zoning Board of Appeals requests that all applicants supply letters of support from neighbors - Mr. Maw's initial neighbor letter did not contain information specific to the scope of this project - The ZBA requested revised neighbor letters.

The Zoning Board held two public hearings on this matter at which time the petitioner and the neighbors had ample opportunity to speak on the subject.

Ms. Hicks visited the neighborhood and subject property on numerous occasions and reviewed the information provided both by the petitioner and by the opposing neighbor and finds that, due to the residential nature of this parcel, this pole barn would cause an unwelcome change in the character of this neighborhood.

As to the balancing test: the pole barn will produce an undesirable change in the neighborhood as this type of pole barn is not typical in this neighborhood. There is not a better benefit that could have been achieved by another means as the pole barn is not required by current zoning code. The requested variance is considered to be substantial, as this type of pole barn is not typical for the neighborhood. This pole barn would produce an adverse effect on the physical and environmental condition of the neighborhood due to the height of this pole barn. Although this is clearly a self-created hardship by the petitioner, although this fact is not the determining factor in approving or denying this request; all of the factors are equally weighted.

After reviewing all of the relevant data and considering the information presented at the public hearings, Ms. Hicks will make a motion to deny the variance as requested.

Motion by Hicks, seconded by Kapuscinski, to close the public hearing and deny the variance request for property located at 105 Westcliff Drive to construct a 30' x 48' pole barn with 14' 6" midpoint height.

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2020-049**

Request of Joseph Jarnot for a variance for property located at 2846 Seneca Street to construct a LED sign within 500' of residential property (LED signs not permitted within 500' of residential zoning)

Mr. Jarnot of Custom Sign Company stated he is requesting to put an LED messaging sign in place of the changeable letter sign at the church; the square footage will remain the same. The sign will dim at night when the sign senses darkness and will go off at 10:00 P.M. The sign will be programmed to West Seneca Town Code.

**2020-049** (continued)

Chairman Elling stated he is in receipt of approval from Erie County and neighbor signatures with no opposition from residents at 53, 16, 21, 34, 25, 41, 50, 45 and 69 Thorndale Avenue; 2855, 2830, 2896, 2880, 2896, 2897, 2852 and 2820 Seneca Street; 21, 50 and 45 Bellwood Avenue; 22, 66, 54, 56, 59, 45, 41, 42 Tindle Avenue; 45, 36 and 30 Delray Avenue

No comments were received from the public.

Ms. Hicks expressed concerns with dimming and turning the sign off at night and requested attaching a stipulation to the variance approval. Mr. Jarnot stated he had no issue with that request.

Motion by Hicks, seconded by Hughes, to close the public hearing and grant a one year variance for property located at 2846 Seneca Street to construct a LED sign within 500' of residential property.

Ayes: All

Noes: None

Motion Carried

**2020-050**

Request of William Sahlem for a variance for property located at 987 Orchard Park Road to construct an uncovered front porch 10' into setback (uncovered porch permitted 75% into setback)

The petitioner was not present.

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

Ayes: All

Noes: None

Motion Carried

**2020-051**

Request of James Treadway for a variance for property located at 3961 Clinton Street to construct a pole barn (accessory structure) with 24' peak and 18' mid-span (accessory structures not permitted higher than 12' mid-span)

Mr. Treadway stated after discussion with neighbors the project will be placed in the back yard. The dimensions have been adjusted to have a 16' mid-span with a 20' peak; the barn is 30' x 40' with a 10' opening.

Chairman Elling questioned if the variance change required a new legal notice. Deputy Town Attorney Kim Conidi replied the request would not require a new legal notice as the structure is going down in size.

Chairman Elling stated he is in receipt of approval from the NYSDOT.

A Clinton Street resident questioned how far the structure will be from the property line. Mr. Treadway stated according to code, the structure would be 3' off the property line but would agree to 4'.

Ms. Hicks questioned if there will be an additional driveway and if trees would be removed. Mr. Treadway replied there will be a driveway in the future leading to the barn and would require removing 1 or 2 trees.

**2020-051** (continued)

A Clinton Street resident questioned the intended use of the pole barn; it was her understanding it was for commercial use.

Chairman Elling stated there is to be no commercial business, no vehicles worked on and no construction vehicles outside of the building; absolutely no type of business being run out of the structure. Mr. Treadway stated this is for personal use only.

Chairman Elling stated he is in receipt of a petition in opposition from 35 residents based on the original dimensions and locations.

Motion by Elling, seconded by Greenan, to table the item until the September 23, 2020 meeting to allow Mr. Treadway ample time to consult with his neighbors.

Ayes: All

Noes: None

Motion Carried

**2020-050**

Request of William Sahlem for a variance for property located at 987 Orchard Park Road to construct an uncovered front porch 10' into setback (uncovered porch permitted 75% into setback)

Mr. Sahlem stated he is remodeling an old farm house and would like a 10' porch for aesthetics. The frontage is different due to the road being moved.

Chairman Elling stated he is in receipt of approval from the NYSDOT and neighbor signatures with no opposition from residents at 25, 6 and 200 Elmsford Drive along with 1005 Orchard Park Road.

No comments were received from the public.

Motion by Elling, seconded by Hicks, to close the public hearing and grant a variance for property located at 987 Orchard Park Road to construct an uncovered front porch 10' into setback.

Ayes: All

Noes: None

Motion Carried

**2020-052**

Request of Paul and Tammy Gregorczyk for a variance for property located at 12 Barnsdale Avenue to construct a covered front porch with 20' front setback (covered porches shall not be permitted within front setback)

Mr. Gregorczyk stated he is looking to add a front porch with a cover.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 21, 7, 13 and 6 Barnsdale Avenue.

No comments were received from the public.

**2020-052** (continued)

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 12 Barnsdale Avenue to construct a covered front porch with 20' front setback.

Ayes: All

Noes: None

Motion Carried

**2020-053**

Request of Flexlume for a variance for property located at 1700 Union Road to construct a 102.5 sq ft per side sign – replacing existing sign (40 sq ft permitted)

Ms. Griffin from Flexlume Signs stated Union Transfer is seeking a variance to replace the current sign. The sign is currently over 200 sq ft and not aesthetically pleasing. The new sign will be smaller than current sign and will be able to state the nature of the business. The sign will be a top cabinet stating Union Transfer and below an LED message center with a small bar containing the address.

Code Enforcement Officer Doug Busse stated there are no residents within 500' of the sign; no variance is required for the LED portion.

Chairman Elling stated he is in receipt of an email from the NYSDOT stating:

- NYSDOT does not object to the Town granting a variance for the sign larger than allowed. However, it is not clear exactly where the sign is located with respect to the State Highway Right-of-Way and no portion of the sign or foundation shall be located within the State Highway Right-of-Way. Also, no portion of the sign should project into the air space of the State Highway Right-of-Way.
- It appears that a portion of the blacktop parking lot encroaches into the State Highway Right-of-Way. If the applicant does not have a Use and Occupancy (U&O) Permit for the use of the State Right-of-Way, then they will need to apply for one.

No comments were received from the public.

Motion by Hughes, seconded by Elling, to table the item until the September 23, 2020 meeting.

Ayes: All

Noes: None

Motion Carried

**2020-054**

Request of Troy Koerner for a variance for property located at 2 Vista Court to erect a 6' fence in front and side yard (fence shall not exceed 4' in height in front and side yard)

Mr. Koerner stated he is looking to install a 6' vinyl fence to line up to the rear neighbor and will be 10' from the sidewalk.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 112 Caldwell Drive, 6 Vista Court and 6 Clearview Drive.

**2020-054** (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 2 Vista Court to erect a 6' fence in front and side yard.

Ayes: All

Noes: None

Motion Carried

**2020-055**

Request of Derek Houseman for a variance for property located at 103 Ansley Court to erect a 6' fence in front and side yard on corner lot (fence shall not exceed 4' in height in front and side yard)

Mr. Houseman stated he is on a corner lot and is looking to install a 6' vinyl fence 8' from the road for family privacy and a new puppy.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 97, 100, 130, 135 and 146 Ansley Court.

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 103 Ansley Court to erect a 6' fence in front and side yard on corner lot.

Ayes: All

Noes: None

Motion Carried

**2020-056**

Request of Todd and Charmaine Schmigel for a variance for property located at 53 Gerard Drive to construct a turnaround driveway within 30' front setback (no construction permitted within 30' of front setback)

Mr. Schmigel stated the variance is for additional concrete in the front of the house for family to park their cars. Mr. Schmigel intends to connect the 2 driveways and re-landscape.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 52, 46 and 38 Gerard Drive, 70 Queens Drive and 51 Joanne Drive.

Chairman Elling questioned the Town Code's parking restrictions on turnaround driveways. Code Enforcement Officer Doug Busse replied cars are not to be parked on turnaround driveways; there is a 30' front setback and there should be no construction with building and storing.

Mr. Kapuscinski requested clarification on the parking of cars; parking cars is not permitted. Chairman Elling replied that is correct and the motion will state no parking. Mr. Schmigel stated he would like off street parking for family visits and parking would not be 24/7.

Mrs. Schmigel stated neighbors did not have objection. Chairman Elling stated the neighbors may move and residential areas do not want a parking lot.

**2020-056** (continued)

No comments were received from the public.

Motion by Elling, seconded by Greenan, to close the public hearing and grant a variance for property located at 53 Gerard Drive to construct a turnaround driveway within 30' front setback with the stipulation that no parked cars allowed in the front area.

Ayes: (2) Greenan  
Elling

Noes: (3) Hicks  
Hughes  
Kapuscinski

Motion Failed

Motion by Hicks, seconded by Kapuscinski, to close the public hearing and deny the variance request for property located at 53 Gerard Drive to construct a turnaround driveway within 30' front setback as the request does not fit in with the character of the neighborhood and the petitioner did state the intent is to occasionally park cars in the area.

Ayes: All

Noes: None

Motion Carried

**2020-057**

Request of Donna and Jim Handzlik for a variance for property located at 190 French Lea Road to erect a 5' fence in front and side yard (4' fences permitted in front and side yard)

Ms. Handzlik stated she is looking to replace the current chain link fence with a 5' privacy fence along the driveway and side of the house for privacy.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 197, 184 and 198 French Lea Road.

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 190 French Lea Road to erect a 5' fence in front and side yard.

Ayes: All

Noes: None

Motion Carried

**2020-058**

Request of Ashley Smolen for a variance for property located at 76 Orchard Avenue to erect a 4' fence in front on corner lot with 34' projection (10' projection permitted)

Ms. Smolen stated she is on a corner lot and connects to a lot on Trier Avenue; most of the yard is the side and front yard. The fence would be black chain link to secure the pool and would match the neighboring fence.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from a resident at 15 Trier Avenue and the survey shows the fence would be 34' from the street.



**2020-058** (continued)

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 76 Orchard Avenue to erect a 4' fence in front on corner lot with 34' projection.

Ayes: All

Noes: None

Motion Carried

**2020-059**

Request of Cynthia Demski for a variance for property located at 224 Pellman Place to erect a 6' fence in side yard (fence shall not exceed 4' in height in side yard)

Mr. Wisniewski was present of behalf of the applicant and stated the desire is to put a short section of fence to connect to existing pieces of fence on the west side of the property for privacy.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 223, 210 and 230 Pellman Place.

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 224 Pellman Place to erect a 6' fence in side yard.

Ayes: All

Noes: None

Motion Carried

**2020-060**

Request of Jesse Plotner and Rachel Otto for a variance for property located at 160 Phyllis Drive to construct a deck with 3' separation from existing garage (10' separation required)

Ms. Otto stated she is replacing the current deck on her house and is replacing with more aesthetically appealing materials.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 240 and 251 Mill Road and 154 Phyllis Drive.

No comments were received from the public.

Motion by Elling, seconded by Greenan, to close the public hearing and grant a variance for property located at 160 Phyllis Drive to construct a deck with 3' separation from existing garage.

Ayes: All

Noes: None

Motion Carried

**2020-061**

Request of Joelle Sawyer for a variance for property located at 905 Mill Road to approve existing 2-family home with 50' frontage (85' frontage required)

**2020-061** (continued)

Joelle Sawyer and Kathy Linhardt were present for the call. Ms Linhardt stated Ms. Sawyer is in the process purchasing a family home. The house is currently a 2-family home; the tax records show the house as a single family home and the mortgage application was denied. The request is correct the records for the purchase of the home.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 909, 887, 890, 866, 891 and 889 Mill Road.

No comments were received from the public.

Code Enforcement Officer Doug Busse stated the variance is strictly to reduce the frontage. The applicant will still seek approval from the Planning Board for the 2-family home.

Motion by Hicks, seconded by Hughes, to close the public hearing and grant a variance for property located at 905 Mill Road to approve existing 2-family home with 50' frontage, noting: 1) the 50' setback is typical of the neighborhood; 2) the character of the neighborhood is not changed as the existing neighbors have a similar situation; 3) there are 2-family homes in the immediate adjacent neighborhood; 4) from the street the depth of the property is sufficient to allow parking for a 2-family home with a 2 car garage in the rear of the property.

Ayes: All

Noes: None

Motion Carried

**2020-062**

Request of Scott Filipetti for a variance for property located at 164 Hybank Drive to construct a driveway 1' off property line (driveway is required to be 3' off property line)

The applicant's representative stated the project is already completed. The applicant believed the code to be misleading and the driveway extension was already scheduled. The property is a cul-de-sac with no off street parking in the winter.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 192, 178, 167, 158, 73 and 161 Hybank Drive.

Chairman Elling questioned the trailer on the lawn. The applicant's representative stated the camper will be moved.

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 164 Hybank Drive to construct a driveway 1' off property line.

Ayes: All

Noes: None

Motion Carried

**2020-063**

Request of Paul Crevatin for a variance for property located at 128 Mill Road to erect a 6' fence in side yard (fence shall not exceed 4' in height in side yard)

Mr. Crevatin stated his request is for a vinyl fence in his side yard to replace an existing fence.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 115, 122, 132 and 119 Mill 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 128 Mill Road to erect a 6' fence in side yard.

Ayes: All

Noes: None

Motion Carried

**2020-064**

Request of Mark R. Hunter for a variance for property located at 170 Saint Jude Terrace to erect a 6' fence in side yard (fence shall not exceed 4' in height in side yard)

Alicia Ally was present on behalf of the applicant stating the variance is for a 6' vinyl privacy fence on the side of the house with a 6' setback to the corner of the house.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 12 Organ Crescent.

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 170 Saint Jude Terrace to erect a 6' fence in side yard.

Ayes: All

Noes: None

Motion Carried

**2020-066**

Request of Janet Montgomery and David Doyle for a variance for property located at 4009 Clinton Street to erect a 6' fence on corner lot (fence shall not exceed 4' in height in side yard)

Mr. Doyle stated he would like to install a 6' vinyl fence for his children and puppy.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 3995 3985, 4027 and 4029 Clinton Street and 10, 6, 1 and 2 Lindner Drive as well as a letter from the NYDOT with no objection.

No comments were received from the public.

**2020-066** (continued)

Ms. Hicks requested verification that the fence will be 14.25' away from the road. Mr. Doyle replied that is correct.

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 4009 Clinton Street to erect a 6' fence on corner lot.

Ayes: All

Noes: None

Motion Carried

**2020-067**

Request of Andrew Radder for a variance for property located at 22 Cambridge Avenue to erect a 4' fence in front yard (4' fence not permitted in front yard)

Mr. Radder stated there is an existing fence on the side lot and has since purchased the land behind 37 Lyndale Avenue. The desire is to connect the fence line and enclose the full side lot.

Chairman Elling stated normally the fence is to be 3' from the sidewalk and he is in receipt of neighbor signatures with no objection from residents at 37 Lyndale Court, 30, 36, 49, and 55 Cambridge Avenue.

No comments were received from the public.

Motion by Elling, seconded by Hicks, to close the public hearing and grant a variance for property located at 22 Cambridge Avenue to erect a 4' fence in front yard with the condition the fence is to be 3' in from the sidewalk.

Ayes: All

Noes: None

Motion Carried

**2020-068**

Request of Michelle Shanley for a variance for property located at 1956 Transit Road to construct a pole barn (accessory structure) with 16' peak and 13' 6" mid-span (accessory structures not permitted higher than 12' mid-span)

Mr. Shanley stated they are looking to construct a 24' x 40' pole barn with a 16' peak for storage of campers, snow mobiles, etc. to protect from the elements.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 1948 and 1960 Transit Road as well as a letter from the NYDOT with no objection. Chairman Elling questioned if the pole barn will replace the garage. Mr. Shanley stated the pole barn will replace a shed in the back.

Ms. Hicks questioned how the applicant will get to the pole barn. Mr. Shanley replied access will be from the side or through the garage. Ms. Hicks questioned if this is acceptable to the neighbor and if the driveway will be 3' off the property line. Mr. Shanley stated the neighbor has no objections and he is not putting in a driveway.

Chairman Elling stated there is only 7' from the garage to the property line.

**2020-068** (continued)

Code Enforcement Officer Doug Busse stated any issues with accessing the garage on the neighbors side is a trespassing issue and not under Code Enforcement's jurisdiction.

Mr. Shanley stated there will be no commercial use of the structure.

Mr. Kapuscinski stated his concerns with accessing the garage via the adjacent property. Mr. Shanley stated at the present time that is how he would access the pole barn; however in the future he will place another garage door to the rear of the existing garage. The garage door will be 8'.

Chairman Elling questioned if lack of access affects the variance. Mr. Shanley stated the neighbor did give permission. Chairman Elling replied that permission is not on the neighbor letter.

Deputy Town Attorney Kim Conidi encouraged written permission from the neighbor as access requires the neighbor's property. Mr. Kapuscinski had concerns of the neighbor selling and a new neighbor may not agree to the arrangement.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to table the item until the September 23, 2020 meeting to allow the applicant time to obtain letters from both neighbors granting permission to access the land.

On the question, Deputy Town Attorney stated variances run with the land; minimally a letter needs to be obtained from the neighbor. The Zoning Board of Appeals should then make a determination regarding the granting of the variance and weigh the fact that the variance continues if the neighbor sells the house or determine if there is a way to grant a variance that will not impose on the neighbor.

Ayes: All

Noes: None

Motion Carried

**2020-069**

Request of Michael Hayek for a variance for property located at 227 Oakbrook Drive Road to construct a pole barn (accessory structure) with 14' 6" mid-span (accessory structures not permitted higher than 12' mid-span)

Mr. Hayek stated the application is to construct a pole barn to store 4 classic cars that are currently stored off site. The height is required to store one car above the other on a lift. The pole barn will be a finished accessory with colors to compliment the house.

Chairman Elling stated he is in receipt of neighbor signatures with no objection from residents at 233, 228, 222, 216 and 221 Oakbrook Drive along with 88 and 80 Carla Lane.

Chairman Elling commented on the size of the structure. Mr. Hayek replied the size is only 24' x 24'; the height is required to stack the cars. A 10' ceiling wouldn't allow stacking of cars. A driveway is already in place to provide access to the structure.

Ms. Hicks stated her objection to the variance as the structure does not fit into the general characteristic of the residential neighborhood.

**2020-069** (continued)

Mr. Kapuscinski questioned the largest the applicant can go for the pole barn with the size of the lot. Code Enforcement Officer Doug Busse stated the yard is 4,480 sq ft and the code allows 30% - bringing the structure size to 1,344 sq ft and the applicant is applying for 576 sq ft. The variance is strictly for the height of the structure.

No comments were received from the public.

Motion by Hicks, seconded by Kapuscinski, to close the public hearing and deny the variance request for property located at 227 Oakbrook Drive Road to construct a pole barn (accessory structure) with 14' 6" mid-span.

Ayes: All

Noes: None

Motion Carried

**2020-070**

Request of Robert Blood for a variance for property located at 3465 Seneca Street to construct a 316 sq ft addition with 9' 2" setback (30' setback required adjacent to residential district)

Chairman Elling stated a response has not yet been received from Erie County regarding the variance request.

Motion by Elling, seconded by Hughes, to table the item until the September 23, 2020 meeting to allow a reply from Erie County.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

The September meeting will be held in person at the Community Center & Library located at 1300 Union Road with a 6:00 P.M. start time.

Motion by Elling, seconded by Hicks, to adjourn the meeting at 8:12 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler  
Town Clerk/Zoning Board Secretary