

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

**ZONING BOARD OF APPEALS**  
**Minutes #2020-08**  
**September 23, 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 6:00 P.M. followed by the Pledge of Allegiance

**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

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### **OPENING OF PUBLIC HEARING**

Motion by Hughes, seconded by Elling, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

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

Motion by Hughes, seconded by Kapuscinski, 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 #2020-07 of August 26, 2020.

Ayes: All

Noes: None

Motion Carried

### **NEW BUSINESS**

#### **2020-071**

Request of Abdul Salam Hasan for a variance for property located at 1048 Orchard Park Road to erect a 6' privacy fence in side yard on corner lot (fence shall not exceed 4' in height in side yard)

Motion by Elling, seconded by Kapuscinski, to table this item until the October 28, 2020 meeting to allow Erie County and the NYSDOT time to respond to the application.

Ayes: All

Noes: None

Motion Carried

#### **2020-073**

Request of Olivia Miller and Ty Benthon for a variance for property located at 1 Brookedge Court to erect a 6' privacy fence in front and side yard on corner lot with 30' projection off house (fence shall not exceed 4' in height in front and side yard and shall not project more than 10' past house)

**2020-073** (continued)

Motion by Elling, seconded by Hughes, to table this item until the October 28, 2020 meeting to allow Erie County time to respond to the application.

Ayes: All

Noes: None

Motion Carried

**2020-077**

Request of Robert Jemiolo for a variance for property located at 3385 Clinton Street to allow live music

Motion by Elling, seconded by Kapuscinski, to table this item until the October 28, 2020 meeting to allow the NYSDOT time to respond to the application.

Ayes: All

Noes: None

Motion Carried

**OLD BUSINESS**

**2017-045**

Request of Rusty Nickel Brewing Company for review of a variance for property located 4350 Seneca Street to allow live music

Chairman Elling stated no complaints were registered with the Police Department over the past year relative to live music. The approved time from is Monday – Thursday – indoors from 6:00 pm – 10:00 pm, Friday – indoors from 6:00 pm – 11:00 pm , Saturday – indoors from 2:00 pm – 11:00 pm, Sunday - indoor or outdoor from 4:00 pm – 8:00 pm.

The applicant stated covid has been challenging with indoor space and would like different hours if possible for the outside venue during the week. Mr. Hughes suggested Monday – Friday between 5:00 pm – 8:00 pm as there is a residential neighborhood behind the Rusty Nickel.

Motion by Elling, seconded by Hughes, to close the public hearing and grant a one year variance for property located 4350 Seneca Street to allow live music with the following conditions: 1) Monday – Thursday – indoors from 6:00 pm – 10:00 pm and outdoors from 5:00 pm – 8:00 pm; 2) Friday – indoors from 6:00 pm – 11:00 pm and outdoors from 5:00 pm – 8:00 pm; 3) Saturday – indoors from 2:00 pm – 11:00 pm and outdoors from 5:00 pm – 8:00 pm; 4) Sunday - indoor or outdoor from 4:00 pm – 8:00 pm.

**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 neighbors were previously under the impression that a mechanic shop would be run out of the building. Mr. Treadway stated he will not be running a business; the structure is for his personal storage of a boat and vehicles. The town requires an accessory structure to be 3' off the property line and Mr.

**2020-051** (continued)

Treadway will be 4' – 5' off the property lines. Originally the structure was in the front and has been moved to the back.

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 3961 Clinton Street to construct a pole barn (accessory structure) with 24' peak and 18' mid-span with the following conditions: 1) the structure will be 5' off the property line; 2) no commercial business will be conducted out of the structure.

On the question, Ms. Hicks questioned if there is a rear neighbor. Mr. Treadway stated although there is not a neighbor directly behind, there is a property approximately 600' off the property line and a fence would be ideal for privacy. Code Enforcement Officer Doug Busse replied this variance is only for the accessory structure. A variance for a fence higher than 6' would require a new application at no charge.

Chairman Elling stated the neighbors adjacent to the property with no issue are 3955, 3995, 3985 and 3959 Clinton Street.

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)

Chairman Elling stated the NYSDOT has sent in a new letter stating there is no issue with the sign as long as everything is on the applicant's property. The NYSDOT does not believe a use and occupancy permit is warranted; if the area is expanded in the future one would be required.

Mr. Jerge stated the sign is not near the state right of way and will enhance the Union Road corridor.

Ms. Hicks questioned who will be controlling the sign. Mr. Jerge stated his office will be in control of the sign to ensure all the codes and regulations are followed.

Motion by Hughes, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 1700 Union Road to construct a 102.5 sq ft per side sign – replacing existing sign.

On the question, Chairman Elling stated LED signs require a one year variance to ensure compliance.

Motion by Hughes, seconded by Kapuscinski, to close the public hearing and grant a one year variance for property located at 1700 Union Road to construct a 102.5 sq ft per side sign – replacing existing sign.

Ayes: All

Noes: None

Motion Carried

**2020-065**

Request of Michael Hanley for a variance for property located at 12 Lein Road 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)

**2020-065** (continued)

Mr. Hanley was present and stated his request is for a 6' fence and 30' off the garage due to being surrounded by commercial property and the property is on a busy corner lot. The fence will be 75' off the road ensuring no issues with traffic view.

Ms. Hicks stated approval signatures from property owners were turned in at last month's meeting.

Chairman Elling stated the property is located at Lein Road and Center Road; there is frontage on the back and front of the house.

Mr. Hanley questioned placing a 6' fence on the front parallel with Lein Road. Mr. Busse stated the application was for 4' and would require a new variance publication.

Motion by Hughes, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 12 Lein Road to erect a 6' fence in front and side yard on corner lot.

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)

Code Enforcement Officer Doug Busse stated a rear garage door was installed for access to the backyard.

Chairman Elling stated he is in receipt of approval from two adjacent neighbors granting permission to the neighboring property in order to access the garage.

Deputy Town Attorney Kim Conidi stated this letter does not run with the neighboring property; the variance is just in respect to the pole barn.

Chairman Elling stated no commercial work will be allowed.

Motion by Hughes, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 1956 Transit Road to construct a pole barn (accessory structure) with 16' peak and 13' 6" mid-span with the following condition: 1) no commercial use.

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)

**2020-070** (continued)

Mr. Blood was present and stated Connors Restaurant was looking to diversify and expand takeout service by placing pizza on the menu. A building addition would allow pizza ovens and expand the kitchen. The proposed addition would be 316 sq ft and square off the southern end of the existing building.

Chairman Elling stated this would be in the rear of Connors Restaurant from Seneca Street and would square the back off; the covered porch would remain. A letter from David Sutton at the neighboring property was read stating he does not have an issue with the addition but expressed his concern was the amount of grease that may build up in the sewer line.

Deputy Town Attorney Kim Conidi asked the applicant of their knowledge of the grease. Code Enforcement Officer Doug Busse stated he was aware of the letter and has had many conversations with Mr. Blood concerning this issue. Mr. Sutton has experienced backups and there are talks regarding addressing the issue. Mr. Blood stated the addition will provide for a grease trap to be relocated to increase the efficiency.

Mr. Sutton was present and requested assurance from the Town of West Seneca that the public line will be kept clear until a remedy is found. Code Enforcement Officer Doug Busse stated his office will decide where and what type of grease trap. The Engineering Department has had no problem in the past flushing the line.

Mr. Hughes questioned the timeline of the project. Mr. Blood replied they would like to submit plans early October to complete by year's end.

Ms. Hicks questioned if the state had guidelines for the lines. Mr. Busse replied the Building Code provides a cleaning schedule to prevent issues; affecting a neighboring property is a rare occurrence.

Motion by Hughes, seconded by Greenan, to close the public hearing and grant a variance for property located at 3465 Seneca Street to construct a 316 sq ft addition with 9' 2" setback.

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2020-072**

Request of Robert and Erin Kaminski for a variance for property located at 540 East & West Road to erect a 6' privacy fence in side yard (fence shall not exceed 4' in height in side yard)

Robert Kaminski was present on behalf of his son and stated there is currently a 4' fence; for safety and security he would like a 6' fence brought up approximately 14'.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 536 and 552 East & West Road and 20 Rosewood Drive.

Motion by Elling, seconded by Greenan, to close the public hearing and grant a variance for property located at 540 East & West Road to erect a 6' privacy fence in side yard.

Ayes: All

Noes: None

Motion Carried

**2020-074**

Request of Laurie Vega for a variance for property located at 37 Aurora Avenue to construct a garage 14' 2" to mid-span (12' permitted)

Ms. Vega stated there is no basement in the residence and would like a higher garage for convenience.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 29, 41, 38, 59, 49, 42 and 50 Aurora Avenue; there is no rear neighbor.

Motion by Elling, seconded by Hicks, to close the public hearing and grant a variance for property located at 37 Aurora Avenue to construct a garage 14' 2" to mid-span.

Ayes: All

Noes: None

Motion Carried

**2020-075**

Request of Blaine Shugarts for a variance for property located at 111 Carla Lane to install a driveway in front of house (parking in required setback)

Mr. Shugarts stated the proposal is to widen the driveway to accommodate 4 vehicles of the residents of the home.

Mr. Hughes stated the driveway dimensions are 9' wide by 33' and 38'.

Chairman Elling stated he was in receipt of neighbor letters with no objection from 114, 115, 109, 113, 110 and 106 Carla Lane.

Code Enforcement Officer Doug Busse stated many residents on Carla Lane have done the same.

The owner of 107, 109, 115 and 117 Carla Lane stated he was not made aware of this and requested this be tabled as he was not made aware of the variance.

Mr. Busse stated he normally advises applicants to seek the owner of the properties signature and was unaware there was a different owner.

Chairman Elling requested the neighbor letter be redone in the future.

Motion by Elling, seconded by Greenan, to table this item until the October 28, 2020 meeting.

Ayes: All

Noes: None

Motion Carried

**2020-076**

Request of Jamile Gangarossa for a variance for property located at 328 Fawn Trail to construct a covered front porch in required setback (covered porch not permitted in front setback)

Mr. Gangarossa stated the application is for a covered porch to add value to the property, aesthetic appeal and protection from the elements.

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**2020-076**

Chairman Elling stated he was in receipt of neighbor letters with no objection from 350, 332, 355, 324, 323, 340, 336, 341, 349 and 344 Fawn Trail.

Motion by Elling, seconded by Hicks, to close the public hearing and grant a variance for property located at 328 Fawn Trail to construct a covered front porch in required setback.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Kapuscinski, seconded by Hicks, to adjourn the meeting at 7:01 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler  
Town Clerk/Zoning Board Secretary