

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

**ZONING BOARD OF APPEALS
Minutes #2021-10
October 27, 2021**

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
Evelyn Hicks
Raymond Kapuscinski
Douglas Busse, Code Enforcement Officer
Kimberly Conidi, Deputy Town Attorney

Absent - Amelia Greenan
Michael Hughes

OPENING OF PUBLIC HEARING

Motion by Kapuscinski, seconded by Hicks, to open the public hearing.

Ayes: All Noes: None Motion Carried

APPROVAL OF PROOFS OF PUBLICATION

Motion by Hicks, 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 Kapuscinski, seconded by Hicks, to approve Minutes #2021-09 of September 22, 2021.

Ayes: All Noes: None Motion Carried

NEW BUSINESS

2021-056

Request of Tammy Weisbeck for a variance for property located at 1729 Union Road to allow off-site advertising (no off-site advertising permitted)

Ms. Weisbeck stated she is the owner of the Caboose Ice Cream Stand and would like to have off site advertising on her LED sign. Ms. Weisbeck is closed for the winter and has had other businesses approach her to advertise on the sign. Currently, some businesses place smaller signs into the grass and utilizing her sign would be more aesthetically appealing. Businesses in the vicinity did not have any objections.

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2021-056 (continued)

Chairman Elling stated he was in receipt of letters of approval from property owners at 1711, 1703, 1728, 1740, 1777 Union Road and 51, 50, 150 151 and 11 North America Drive, and 67 and 28 Ransier Drive, along with correspondence from the NYSDOC with no objection to granting the variance.

Ms. Hicks questioned if the location of residential homes to the signs. Code Enforcement Officer Doug Busse stated there are no residential homes within 500' of the sign.

Ms. Hicks requested clarification on the Town Code. Mr. Busse referred to §120-40-6m stating: roof signs, obsolete signs and off premises signs are not permitted.

Ms. Hicks questioned if any LED signs in the town advertise for anyone other than their own business or a not-for-profit. Mr. Busse stated to his knowledge, no. Ms. Hicks further questioned if advertising for not-for-profit was allowed. Mr. Busse stated this was allowed.

Ms. Hicks referred to the billboard zoning code; and questioned if they have a separate tax. Mr. Busse stated he had no knowledge of a billboard's tax status. Mr. Busse noted this section of the code allows for offsite advertising in §120-40.10; however, this sign does not qualify as a billboard.

Chairman Elling questioned what qualifies as a billboard. Mr. Busse stated without researching the sign code, he believed it was based on size, location, and zoning requirements.

Deputy Town Attorney Kim Conidi stated she would like to research the town code, to see if the sign qualifies as a billboard. This would also set a precedence to allow other businesses to follow suit.

Mr. Busse stated this LED sign along with one other in town are the only signs not within 500' of a residential neighborhood.

Ms. Weisbeck stated this sign is at the end of the business park and the only way for the occupants to advertise. This would allow them to get their name out, she is not looking to gain business from any businesses other than the business park.

Ms. Hicks stated there are many issues that could come from approving the request, this sets a precedent. The request is a use variance as opposed to the normal area variance that may have implications.

No comments were received from the public.

Chairman Elling stated he would like to take the advice of the Deputy Town Attorney and gain more clarity on the wording of the Town Code.

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Ms. Conidi stated the board should be mindful of possible restrictions on the types of businesses allowed to advertise. There may be certain businesses the Board would not want to advertise.

Mr. Busse questioned if a restriction could be placed noting that advertising is only for North America Drive and Ransier Drive. Chairman Elling stated an industrial site could allow adult entertainment and this decision needs to be researched further.

Motion by Kapuscinski, seconded by Hicks, to close the public hearing and table the item until the December 1, 2021, meeting.

Ayes: All

Noes: None

Motion Carried

2021-057

Request of Mark Mingle for a variance for property located at 180 Theresa Court to construct a garage addition with 14' front yard setback on corner lot (30' front yard setback required in R-65 zoning)

Mr. Mingle stated he is looking to place an addition to his garage.

Code Enforcement Officer Doug Busse stated if approved, the expansion off the existing driveway would be okay.

Chairman Elling stated he was in receipt of letters of approval from property owners at 176, 183 and 54 Theresa Court and 61 and 53 Heather Hill Drive.

Ms. Hicks noted, if not approved, the driveway would not exceed the area noted on the plan. Mr. Busse stated this is correct.

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 180 Theresa Court to construct a garage addition with 14' front yard setback on corner lot.

Ayes: All

Noes: None

Motion Carried

2021-058

Request of Gerry Gould of TBF of WNY for property located at 97 Dwyer Street for construction of an egress window with a 12' front yard setback on corner lot (30' front yard setback required in R-65 zoning)

Ms. Barone stated she would like to place a basement egress on the Arcade sign of the home with a 12' setback.

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2021-058 (continued)

Chairman Elling stated he was in receipt of letters of approval from property owners at 85, 101, 96 and 86 Dwyer Street and 82 and 92 Collins Avenue.

Ms. Hicks noted similar projects have been approved in the past and are a required safety feature for a basement alteration.

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 97 Dwyer Street for construction of an egress window with a 12' front yard setback on corner lot.

Ayes: All

Noes: None

Motion Carried

2021-059

Request of Jennifer Kelchin for property located at 37 East Center Road to construct an addition with 2' side yard setback and attached garage with 20' 6" setback (5' side yard setback required; 30' setback required)

Ms. Kelchin stated she is requesting a side variance for a kitchen addition along with a back variance for a garage.

Chairman Elling questioned the driveway placement. Ms. Kelchin stated there will be a new driveway with the current driveway eliminated. Mr. Busse noted only one driveway is permitted.

Chairman Elling stated he was in receipt of letters of approval from property owners at 32, 31 and 45 East Center 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 37 East Center Road to construct an addition with 2' side yard setback and attached garage with 20' 6" setback, noting only one driveway is permitted; the driveway towards Transit Road is to be eliminated.

Ayes: All

Noes: None

Motion Carried

2021-060

Request of Steven Hollis for a variance for property located at 646 Potters Road to: 1) driveway with 0' setback to side property line; 2) 44' width of road frontage; 3) +/- 5,400-sf lot size; 4) parking in front yard setback drive area (3' required off lot line; 60' frontage required; 10,000-sf lot size required; no parking permitted within 30' front yard setback)

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2021-060 (continued)

Mr. Hollis stated this is a house and business in one parcel but under two addresses. Mr. Hollis would like the property split so he may sell the house.

Chairman Elling stated he was in receipt of letters of approval from property owners at 646, 644, 648 and 640 Potters Road along with correspondence from the NYSDOC with no objection to granting the variance.

Mr. Kapuscinski questioned the setback for the parking and noted it does not appear to be what is on site. The survey shows no concrete in front of the porch. Chairman Elling stated the concrete in front of the porch will be addressed with a new variance.

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 646 Potters Road to: 1) driveway with 0' setback to side property line; 2) 44' width of road frontage; 3) +/- 5,400-sf lot size; 4) parking in front yard setback drive area noting, the applicant is to apply within a two week time frame for a variance for additional parking area within front yard setback.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Kapuscinski, seconded by Hicks, to adjourn the meeting at 6:35 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler
Town Clerk/Zoning Board Secretary