

2011-047 (continued)

Chairperson Hicks stated there are no police reports on file with the West Seneca Police Department relative to chickens. Applicants for chickens return to the Zoning Board of Appeals in January for renewal of their variance.

Ms. Greenan referred to the use variance criteria and stated she plans to approve this request. Ms. Greenan requested Deputy Town Attorney Stephan Stochowski research the protocol of other municipalities in terms of granting permits for chickens. Chairperson Hicks stated a permit has been looked into in the past and a previous Town Attorney researched changing the code to allow raising chickens. The findings showed this would be difficult to enforce; many times residents would not know if the chicken was a hen or a rooster until the bird was full grown. A variance allows for the enforcement of only hens and the number of chickens.

Chairperson Hicks questioned if a renewable permit process through the Code Enforcement Office was researched. Chairperson Hicks stated she believed this would be difficult to enforce without being in the code; requesting to defer to the Deputy Town Attorney. Mr. Stachowski stated the town code dictates what the Code Enforcement Office can do. Currently, under the town code, residents may not raise chickens. This is why residents apply for a use variance. Mr. Stachowski stated he would look into the possibility of a permit process that allows oversight.

No comments were received from the public.

Motion by Greenan, seconded by Hughes, to close the public hearing and grant a renewal of a variance for property located at 183 Westcliff Drive to allow raising chickens on property, noting the applicant will return in January 2023 to renew the variance.

Ayes: All

Noes: None

Motion Carried

2011-060

Request of Dennis Sullivan for renewal of a variance for property located at 1481 Orchard Park Road to allow raising of chickens on property (raising of poultry/farm animals not permitted)

Ms. Sullivan stated she currently does not have chickens but plans to purchase six hens.

Chairperson Hicks stated there are no police reports on file with the West Seneca Police Department relative to chickens.

No comments were received from the public.

Motion by Hughes, seconded by Kapuscinski, to close the public hearing and grant a renewal of a variance for property located at 1481 Orchard Park Road to allow raising chickens on property, noting the applicant will return in January 2023 to renew the variance.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2022-007

Request of Kelly Schreier for a variance property located at 120 Suburban Court for construction of a 6' fence in side yard on corner lot (4' maximum height allowed in side yard)

Mr. Schreier stated there is currently a 4' fence on the property and is seeking permission for a 6' privacy fence. In the past there were pine trees that provided privacy and they have been removed.

Chairperson Hicks stated the side yard is the back yard on this property. Neighbor signatures with no objection to the variance were obtained from residents at 114, 135, and 139 Suburban Court, along with 145 and 129 Laurelton Drive.

Mr. Hughes questioned if the Code Enforcement Office had any concerns. Code Enforcement Officer Doug Busse stated the only concern was the fence should be 3' off the sidewalk. Mr. Schreier stated the fence would be in the same location, only taller in height.

Chairperson Hicks referred to the criteria and noted the request does not appear to create an undesirable change to the neighborhood; the alternative would be to keep the fence the way it is; this would not have an impact on the environment; and this is a self-created hardship, noting this is not the deciding factor.

No comments were received from the public.

Motion by Hughes, seconded by Greenan, to close the public hearing and grant a a variance for property located at 120 Suburban Court for construction of a 6' fence in side yard on corner lot.

Ayes: All

Noes: None

Motion Carried

Chairwoman Hicks noted the following requests (2022-009 and 2022-014) have been tabled this evening to allow the NYSDOT, ECDPW, and Erie County Division of Environment and Planning time to respond to the requests:

2022-009

Request of Roy Shepard, Jr. for a variance for property located at 606 Seneca Creek Road to allow the construction of a 48' x 60' pole barn with 18 1/2' midspan (12' maximum accessory structure midspan allowed in R district zoning)

2022-014

Request of Jennifer McAndrew of Plymouth Crossroads for a variance for property located at 3984 Clinton Street to have an interpretation for permitting proposed use of home in R-65A zoning

A neighbor questioned if residents will be allowed to move in by April. Chairwoman Hicks noted she is not aware of time frames; the Zoning Board of Appeals will not hear the item tonight and suggested the neighbor check with the Code Enforcement Office for status updates.

2022-008

Request of James and Erin Rathmann for a variance for property located at 42 Beechwood Drive to allow raising of chickens on property (raising of poultry/farm animals not permitted)

Mr. Rathmann stated he currently does not have chickens but would like to start with a flock of four hens and no roosters. Mr. Rathmann is on a larger lot and the chickens will be kept in a coop and when out of the coop the chickens will be supervised.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 34, 45, and 50 Beechwood Drive along with 19, 25, 32 and Cardinal Lane.

No comments were received from the public.

Motion by Greenan, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 42 Beechwood Drive to allow raising of chickens on property, noting the applicant will return in January 2023 to renew the variance.

Ayes: All

Noes: None

Motion Carried

2022-010

Request of Quality Quick Signs for a variance for property located at 103 South Drive - Queens Landing to erect a 96-sf single sided sign (40-sf maximum signage permitted)

The applicant was not present.

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

Ayes: All

Noes: None

Motion Carried

2022-011

Request of Ed Wojcik c/o Sunset Custom Homes, Inc. for a variance for property located at 194 Westgate Boulevard to construct a 2-family home with 47% of the lot area permitting a 2-family home (50% of lot area required for 2-family home)

Mr. Wojcik stated the request is to construct a single-family home with an in-law suite. The addition of the in-law suite would make the residence the 2-family home. A variance is required due to the lot area being short 2' 6".

Chairperson Hicks noted roughly half of the lot is zoned R-75 with the other half being R-75A; 47% on one side with 53% on the other. The 47% side is the side that does not currently allow a 2-family home. Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 190 Westgate Boulevard and Michael Hanley who owns the lots on Reserve Road currently being developed.

Code Enforcement Officer Doug Busse noted that town code states if 50% of the bulk area is zoned R-75A the property may be used for a 2-family home. Unfortunately, this fell short at 47% of the bulk area.

2022-011 (continued)

No comments were received from the public.

Chairperson Hicks noted, the zoning is not changing on this parcel. If approved this a variance or relief from the current zoning designation. In regard to the balancing test: could this be achieved by another method, yes a single family home could be built; is the circumstance unique, yes as the lot is split in half with zoning; does the variance change the essential character of the neighborhood, no based on Code Enforcement advisement; although this is a self-created hardship, the Zoning Board recognizes the uniqueness of the lot.

Motion by Hughes, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 194 Westgate Boulevard to construct a 2-family home with 47% of the lot area permitting a 2-family home, noting this is a unique circumstance with regard to the way the lot is zoned.

Ayes: All

Noes: None

Motion Carried

2022-012

Request of Denise Dunford for a variance for property located at 220 Brookside Drive to construct a 4' x 8' patio roof in front yard setback (covered patio not permitted in front yard setback)

Ms. Dunford stated she is looking to place a roof over her existing 4' x 8' patio.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 236, 226, 210, and 216 Brookside Drive.

No comments were received from the public.

Chairperson Hicks noted the criteria: the request could not be achieved by another method; it is not a unique circumstance; this does not change the character of the neighborhood; this is a self-created hardship.

Motion by Hughes, seconded by Greenan, to close the public hearing and grant a variance for property located at 220 Brookside Drive to construct a 4' x 8' patio roof in front yard setback.

Ayes: All

Noes: None

Motion Carried

2022-013

Request of Blaine Shugarts for a variance for property located at 111 Carla Lane to erect a shed and install an inground pool with concrete covering 86% of rear lot (30% of rear lot coverage permitted)

Mr. Shugarts stated he is in a townhome and has a relatively small backyard. The back 10' is an easement; the usable property is 27' x 55'. Mr. Shugarts is looking to install an inground pool, shed, and patio. More than 30% of the yard would be concrete. Mr. Shugarts has proposals from engineers and plans to put drain tile in place around the perimeter of the property for any drainage concerns.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 107, 109, 115, 117, 114, 110, 105, and 106 Carla Lane.

2022-013 (continued)

Chairperson Hicks referred to the plans and questioned if there would be any lawn to cut. Mr. Shugarts stated there is currently an above ground pool and an existing shed. The shed would be removed and replaced based on the layout. The inground pool is narrow and longer, but similar in gallons. Currently there is no patio and grass is only around the above ground pool. After planning the pool and a shed, the patio was incorporated to enjoy and sit around the pool. The grass would be covered with landscaping along the fence for aesthetics. The drain tile would be under the landscaping and covered with stone, to drain to storm drains through the drain tile. This would be according to plans from a civil engineer.

Chairperson Hicks stated she did not believe this type of request has been heard before. Driveways would be similar as they have the potential to impact the neighbor's property with respect to runoff. If granted, there should be no runoff from the pool or yard onto the neighboring property.

Mr. Shugarts stated the patio and shed would cover roughly 42% of the yard. There would be landscaping on both sides of the yard with 3' of landscape above the drain tile; the 10' easement would be landscaped, as well as landscaping along the patio. There would be 854-sf of landscaping in the yard. The pool and spa are 544-sf and take on the water. The drain tile would be along the entire perimeter of the property to take care of any runoff from the patio.

Chairperson Hicks stated there could be the possibility of a high-water event and the pool would need to be pumped. Mr. Shugarts stated he understood.

The neighbor at 113 Carla Lane stated Mr. Shugarts did provide him with a sketch and numbers and was not aware of the amount of concrete. The neighbor has put drainage in his own yard and was told by the town that the back storm drain was too high and not able to be tapped into. The neighbor would like the result to be no water runoff to his yard. The neighbor believes this project is too big for the size of the yard. The resident further questioned how this has been dealt with in the past.

Chairperson Hicks stated a similar situation would be a driveway, although in the front, this has a similar result. If the property is higher and the request is for more concrete, common sense tell you the water is going to run from high to low. Driveways must comply with the code and have inspections from the Code Enforcement Officer.

Code Enforcement officer Doug Busse stated any plan submitted by Mr. Shugarts would be forwarded to the Town Engineer for review and approval prior to construction.

The resident questioned the motive of the code. Chairperson Hicks stated the motive of the code is to allow residents to enjoy their yard and children to play. Chairperson Hicks referred to a relative's yard with a pool, spa, and concrete with landscaping around the perimeter and there has been no problems with runoff to the neighbor. Chairperson Hicks is in favor of the project if it is built properly, to code, and no water impacts the neighbor.

The resident questioned if any resident in West Seneca has paved their entire backyard. Mr. Busse stated he has seen many that have been paved entirely, they have been there for some time. This is a new project and

2022-013 (continued)

that is how the variance came about. Mr. Busse stated he does not have any outstanding issues with the neighbor yard being covered in concrete and a pool but understands the concerns.

The resident stated the homes are adjoined and expressed concerns regarding his property value. Chairperson Hicks stated the approval could come with the stipulation that there is no damage to the neighboring yard. Both residents have the right to enjoy their yards. The belief of an undesirable change to the neighborhood could be open to interpretation. The alternative would be to not do the project. This is a substantial project as 86% of the yard would be covered. This should not have a negative impact on the environment based on the rules of the Code Enforcement Office and the rules implemented by the Town Engineer to manage the site. This is a self-created hardship. As far as the project impacting the enjoyment of the neighbor's yard, this is always a concern when buying a patio home.

Mr. Busse stated there will be engineers involved for drainage and the applicant's plan will be submitted to the Town Engineer for approval.

Chairperson Hicks stated the applicant provided two quotes from civil engineers. The petitioner must incur a charge for this.

Mr. Busse questioned if approval is granted, would the Town Engineer approve before the start of the project. Deputy Town Attorney Stephan Stachowski stated one of the factors in assessing an area variance is the environmental impact and suggested the engineering report be submitted to the engineering office before approval. This could be made part of the application.

Chairperson Hicks questioned if the Deputy Town Attorney was advocating for the petitioner to spend additional money to come before the Zoning Board of Appeals with the possibility of being denied.

Mr. Hughes stated variances have been granted contingent upon a report. Mr. Busse and Mr. Kapuscinski concurred with Mr. Hughes that the request could be granted contingent upon engineer approval.

Mr. Stachowski stated he has never seen an engineering report from the town and questioned if it will give an approval or could it state they were not sure. Mr. Busse stated engineering plans can be submitted multiple times before engineering approval is granted. Residents can not start construction until engineering gets a plan up to their required standards.

Mr. Stachowski questioned if a drainage plan was a requirement for anyone putting in a pool. Mr. Busse stated not necessarily but drainage inspections are done on pools. This variance is for the 30% rule. The drainage and engineering would be contingent.

The resident stated he is not against the project and wants assurance of the water. Chairperson Hicks stated if this is approved it would be contingent upon a stamped drawing signed off by the applicants and Town Engineer. No work would start until the Town Engineer was satisfied.

Mr. Hughes is in favor with engineer approval and questioned if the Zoning Board gave permission for 65% what Mr. Shugarts would do. Mr. Shugarts stated his various calculations. Mr. Hughes questioned if Mr. Shugarts could get closer to the neighbor's request. Mr. Shugarts stated his calculations, size of the current pool and

2022-013 (continued)

noted he has worked hard to fit everything in. The yard is not large, and he placed a deposit on the pool before he knew a variance was needed.

Chairwoman Hicks stated she believed there would be no impact on the neighbor from the pool; any issues would need to be addressed. Mr. Shugarts stated this is a large investment and wants it constructed correctly.

Motion by Hicks, seconded by Greenan, to close the public hearing and grant a variance for property located at 111 Carla Lane to erect a shed and install inground pool with concrete covering 86% of rear lot, noting this is substantial and unique with the narrow lot, the applicant is making a large investment in his property and will be taxed accordingly; Code Enforcement is to work with the applicant, the Town Engineer, and the applicants engineer regarding the runoff and drainage plan; there will be no impact either of the immediate neighbors as a result of this project.

Ayes: All

Noes: None

Motion Carried

2022-010

Request of Quality Quick Signs for a variance for property located at 103 South Drive - Queens Landing to erect a 96-sf single sided sign (40-sf maximum signage permitted)

The applicant was not present.

Motion by Hicks, seconded by Kapuscinski, to table the item until the April 27, 2022, meeting.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Greenan, seconded by Hughes, to adjourn the meeting at 7:06 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler
Town Clerk/Zoning Board Secretary