

NEW BUSINESS

2022-023

Request of Jeffrey Gaj for a variance for property located at 1010 Center Road to reduce the sf bulk area of the lot from 30,800-sf to 26,000-sf (28,000-sf lot required)

Chairperson Hicks stated the applicant has withdrawn the variance application.

2022-024

Request of Justin and Sarah Harmon for a variance for property located at 821 Seneca Creek Road to construct an accessory structure with 21' 8" midspan (maximum 12' midspan allowed)

Mr. Harmon stated he would like to construct a pole barn next to an existing pole barn. The pole barn would be approximately 400' from the road to store classic cars, equipment, and ATV's. The structure would also conceal the neighboring property which is zoned manufacturing.

Chairperson Hicks inquired if there are multiple lots owned by the applicant. Mr. Harmon stated the lot to the left is vacant and owned by his father. The rear of the property backs up into the industrial park and is considered wetlands; there is no rear neighbor. Code Enforcement Officer Doug Busse stated the lot to the west is a construction site.

Chairperson Hicks noted the Erie County Division of Environment and Planning provided correspondence stating they have no objection to the variance.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 812, 824, 857, 810, 803, and 795 Seneca Creek Road.

No comments were received from the public.

Ms. Greenan stated the structure would be significantly hidden and back from the road.

Motion by Kapuscinski, seconded by Greenan, to close the public hearing and grant a variance for property located at 821 Seneca Creek Road to construct an accessory structure with 21' 8" midspan.

Ayes: All

Noes: None

Motion Carried

2022-025

Request of Mary Neubauer for a variance for property located at 118 Ansley Court to erect a 6' fence in side yard (maximum 4' height allowed in side yard)

Ms. Neubauer stated the request is to have a 6' white vinyl fence running the length of the left side of the house.

2022-025 (continued)

Chairperson Hicks stated the survey shows the variance is only for the side along the garage. This is an unusual pie shaped lot with an approximate frontage of 64'; 110' deep, but extends to 102.75' in the rear backing up to the 400 expressway.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 103, 100, 106, 112, and 126 Ansley Court.

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 118 Ansley Court to erect a 6' fence in side yard.

Ayes: All

Noes: None

Motion Carried

2022-026

Request of Arnold Kowalski, Jr. for a variance for property located at 29 Greenfield Avenue to construct an accessory structure with 12' 6" midspan (maximum 12' midspan allowed)

Mr. Kowalski stated he would like to construct a pole barn and remove the existing one car garage.

Chairperson Hicks noted the Erie County Division of Environment and Planning provided correspondence stating they have no objection to the variance.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 23, 36, 33, 39, 30, and 26 Greenfield Avenue and 43 and 50 Forest Drive.

Mr. Kowalski stated this pole barn is in line with his current garage that will be taken down. There will be a driveway, concrete pad and gravel leading to the garage. Code Enforcement Officer Doug Busse stated this will need to be a hard surface upon completion. The code requires this be completed in a year. Mr. Kowalski stated he understood.

Chairperson Hicks noted this a not a big increase in the use of the yard; this is a self-created difficulty, but the neighbors are in favor of the project.

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 29 Greenfield Avenue to construct an accessory structure with 12' 6" midspan.

Ayes: All

Noes: None

Motion Carried

2022-027

Request of Nick Gelo c/o Cooper Sign Company for a variance for property located at 2900 Transit Road to erect a 55-sf LED pole sign in existing location (maximum 40-sf permitted)

Mr. Gademsky stated he is the property owner of 2900 Transit Road and would like to erect new signage in the front. The size of the sign was recommended for increased visibility due to the speed limit and congestion along the four-lane highway. The increased size will not cause cars to slow down, and the message can be read without disrupting the traffic flow.

Chairperson Hicks referred to §120-40.9 of the code and noted the electronic changeable portion should not exceed 75% of the area to which it is attached. This sign is 60% and under the 75%.

Code Enforcement Officer Doug Busse noted the sign location exceeds 500' of a residential zoning; this variance is specifically for the size, not the LED portion.

Chairperson Hicks noted the Erie County Division of Environment and Planning and the NYSDOT provided correspondence stating they have no objection to the variance; however, if any proposed work is within the NYS highway right-of-way a NYSDOT Highway permit will be required.

Chairperson Hicks noted the following: 1) the sign is consistent with other signs along Transit Road; 2) a new sign is being sought as the old sign is inadequate; 3) this is not a substantial request; 4) this is a self-created difficulty as the business is located on Transit Road. Chairperson Hicks further stated the sign must be off during non-operational hours.

No comments were received from the public.

Ms. Greenan noted this is next to an apartment complex and behind is a subdivision and questioned the residential area. Mr. Busse stated the code states residential zoning. The residential zoning on Schultz Road is greater than 500' to the sign location and the apartment complex is zoned commercial.

Motion by Hicks, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 2900 Transit Road to erect a 55-sf LED pole sign in existing location.

On the question, Ms. Greenan inquired if the variance is not approved, could the pole sign be erected at 40-sf. Mr. Busse stated this is correct.

Ayes: All

Noes: None

Motion Carried

2022-028

Request of Chris Laska and Monica Collins for a variance for property located at 3 Centerview Drive to erect a 6' fence in front and side yard on corner lot with 15' projection into front yard (maximum 4' height allowed; no projection into front yard allowed)

Ms. Collins stated the house is on a corner lot. The house faces Centerview Drive; the driveway facing Centerview Lane is attached to the back of the house. The request is to take down the existing fence and extend

2022-028 (continued)

a new 6' fence along the side of the house, to the sidewalk, across the driveway and attach to the back corner of the house.

Chairperson Hicks stated this is an odd, shaped lot with 113.89' of frontage, going back 110' on one side and 85' – 90' on the other side. Mr. Laska noted there are only three sides as the lot is pie shaped.

Chairperson Hicks stated she had concerns with the fence being at least 3' off the sidewalk for pedestrian safety. Ms. Collins stated this would not be an issue; the fence would be 6' off the sidewalk.

Chairperson Hicks stated because this is a corner lot, the property is considered to have two front yards. Mr. Laska stated currently there is a 4' fence that cuts the yard in half. The new fence will all match and be a white vinyl fence.

Chairperson Hicks noted the Erie County Division of Environment and Planning provided correspondence stating they have no objection to the variance.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 19, 31, 37, and 25 Centerview Lane and 253 Ansley Court. Mr. Laska stated 9 Centerview Drive did not answer the door, there is currently a fence along the property.

Deputy Town Attorney Stephen Stachowski stated he believed there were two issues: 1) going from a 4' to 6' fence which requires an area variance; 2) the fence shall not exceed past front of house. Code Enforcement Officer Doug Busse stated this is an odd, shaped lot with only 26' to the property line. There is a minimum 30' setback in this neighborhood, if the house does not meet this requirement there is no projection off the front of the house allowed. Therefore, there is a variance for 15' past the front of the house along with the height of the fence. Mr. Stachowski stated the height would be an area variance and the fence past the house would be use variance.

Chairperson Hicks inquired why there was a need to have the fence go across the driveway. Ms. Collins stated the back door is in the driveway and this would allow more privacy. The driveway is very long and partially used as a patio for enjoyment.

Chairperson Hicks stated the following concerning the area variance: 1) going from a 4' to 6' fence does not create a undesirable change as currently a portion is 6'; 2) there is no alternative to the variance due to the shape of the parcel; 3) the request is not substantial as this only impacts two neighbors; 4) there is no impact on the environment; 5) this is a self-created difficulty but the lot and home configuration is not ideal. As to the use portion of the variance: 1) a reasonable return could be achieved by running the fence along the side of the house, but this would impede the enjoyment of the property; 2) this is a unique circumstance with the corner lot; 3) this does not change the character of the neighborhood; 4) this is a partially self-created hardship as they did not build the house.

No comments were received from the public.

2022-028 (continued)

Motion by Hicks, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 3 Centerview Drive to erect a 6' fence in front and side yard on corner lot with 15' projection into front yard.

Ayes: All

Noes: None

Motion Carried

2022-029

Request of Angelo and Karen Bonetto for a variance for property located at 70 Norwood Drive to erect a 6' fence in front yard on corner lot (maximum 4' height permitted)

Mr. Bonetto stated there is currently a 4' fence along the side of the house and they would like to replace the fence with a 6' fence to help keep their dogs in the yard.

Chairperson Hicks stated this house is considered to have two front yards. There is an existing 4' fence that conforms to the town code; the 6' height is needed for the safety of the dogs.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 14, 19, and 79 Warren Avenue and 77 and 60 Norwood Drive.

No comments were received from the public.

Chairperson Hicks noted the following: 1) there is no undesirable change to the neighborhood; 2) the alternative is to leave the fence as is, but this would not be safe; 3) this is not substantial; 4) there is no adverse effect on the environment; 5) this is a self created difficulty. Chairperson Hicks further stated there is no sidewalk to be considered.

Motion by Kapuscinski, seconded by Greenan, to close the public hearing and grant a variance for property located at 70 Norwood Drive to erect a 6' fence in front yard on corner lot.

Ayes: All

Noes: None

Motion Carried

2022-030

Request of Bonita Gleisle for a variance for property located at 265 Aurora Avenue to erect a 6' fence in front and side yard with 38' projection into front yard (maximum 4' height allowed; 10' projection allowed)

Ms. Gleisle stated she recently bought the home and had a pool installed. The home has a 4' fence that is falling apart and Ms. Gleisle would like to replace the fence with a 6' vinyl fence. The neighbor has three large dogs that may be able to get over the 4' fence.

Chairperson Hicks noted the backyard faces Gordon Avenue.

Code Enforcement Officer Doug Busse stated the 38' projection is needed because the side of the house, towards the front property line on Gordon Avenue, is 38' off the road. This meets the 30' setback but only allows a 10'

2022-030 (continued)

projection into the front yard. The applicant is looking to expand the side/rear yard area to the maximum with 3' off the sidewalk. Ms. Gleisle stated there is no sidewalk.

Deputy Town Attorney Stephan Stachowski questioned if the Aurora side is the front of the house. Mr. Busse stated the actual front of the house is on the Aurora side; officially the house has two front yards, one on Aurora and on Gordon. If the house meets the setback, you are allowed to project 10' into the front yard. The request is for 28' past the 10'.

Chairperson Hicks noted for the area variance portion: 1) there is no undesirable change to the neighborhood as this is a corner lot with two backyards; 2) this is not a substantial request; 3) the alternative is to leave the 4' fence up but this does not provide for privacy and protection; 4) this does not have an adverse effect on the environment; 5) this is a self-created difficulty, but this is an older home. The use portion of the variance extends an additional 28' to square off the yard to continue the fence. Chairperson Hicks provided the following comments: 1) a reasonable return could be achieved by keeping the existing 4' fence, but safety and privacy would not be met; 2) two front yards make this a unique circumstance; 3) the essential character of the neighborhood is not changed; 4) to some extent this is a self-created hardship.

Ms. Gleisle stated she did not receive neighbor signatures. Mr. Busse stated he spoke with neighbors, and they had no issues. Mr. Stachowski stated the neighbor letters are not required.

No comments were received from the public.

Motion by Kapuscinski, seconded by Greenan, to close the public hearing and grant a variance for property located at 265 Aurora Avenue to erect a 6' fence in front and side yard with 38' projection into front yard.

Ayes: All

Noes: None

Motion Carried

2022-031

Request of Jacqueline Schiersing for a variance for property located at 65 Morris Crescent to install pool equipment 1' 6" off the property line (3' required)

Ms. Schiersing stated she is having a pool installed and would like the equipment to be installed in the back corner of her home; some pipes would stick out farther than what is allowed. The neighbor has a fence and will not see the equipment.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 90, 94, and 61 Morris Crescent. Ms. Schiersing stated 61 Morris Crescent is directly next door with the fence.

Code Enforcement Doug Busse stated he has not had complaints regarding pool equipment noise in the past.

Chairperson Hicks stated the following: 1) this does not create an undesirable change in the neighborhood as the neighbor directly impacted has approved the use; 2) the alternative would be to place the equipment someplace else that would cost more money and not be aesthetically appealing; 3) this extra amount is not substantial at 18"; 4) there is no impact on the environment.

2022-031 (continued)

No comments were received from the public.

Motion by Kapuscinski, seconded by Hicks, to close the public hearing and grant a variance for property located at 65 Morris Crescent to install pool equipment 1' 6" off the property line.

Ayes: All

Noes: None

Motion Carried

2022-032

Request of Christine Tomaselli for a variance for property located at 238 Warren Avenue to: 1) install a pool within front yard setback; 2) erect a 6' fence in front and side yard with 20' projection off the house (30' front yard setback required; maximum 4' height in front and side yard; no projection permitted; maximum 4' height in front and side yard)

Ms. Tomaselli stated the variance is to install a 21' pool in the side yard.

Code Enforcement Officer Doug Busse noted there is a large addition and deck off the back of the house leaving a very small space in the backyard.

Chairperson Hicks questioned if the deck and addition extend past the garage. Ms. Tomaselli replied yes.

Ms. Greenan questioned the placement in relation to the trees along the side. Ms. Tomaselli stated this would be between the trees and the house.

Chairperson Hicks questioned if trees will be removed. Ms. Tomaselli stated no trees will be removed.

Chairperson Hicks stated neighbor signatures with no objection to the variance were obtained from residents at 229 and 234 Warren Avenue and 218 Almont Avenue.

Chairperson Hicks noted there are no sidewalks surrounding the home. The residence is on a corner lot, the pine trees will remain with a pool between the house and the trees because there is not enough area. There are two front yards due to the corner lot and the ask if for the fence to extend from the house toward the pine trees and along the back of the house. The lot widens towards the back; the fence would come off the front corner towards Gilfillian which is the front yard setback. Ms. Tomaselli stated the fence would be 4' in the front, 4' halfway up Gilfillian to finish at 6'. The second area variance is the height of the fence in the rear 2/3 section just past the pool. Ms. Tomaselli stated the area by the pool would be 4'.

Mr. Kapuscinski suggested the fence be 6' by the pool for privacy. Chairperson Hicks stated there is nothing in the legal notice prohibiting approving a 6' fence along Gilfillian if the applicant wishes. Ms. Tomaselli stated she would like to propose this. Deputy Town Attorney Stephan Stachowski stated this was allowable.

Chairperson Hicks questioned if the front of the house would be 6'. Ms. Tomaselli stated she would like to go with 6'.

