

WEST SENECA TOWN OFFICES
1250 Union Road
West Seneca, NY 14224

ZONING BOARD OF APPEALS
Minutes #2017-08
August 23, 2017

The regular meeting of the Zoning Board of Appeals of the Town of West Seneca was called to order by Chairman Timothy Elling at 7:00 P.M. followed by the Pledge of Allegiance and 30 seconds of silent prayer.

ROLL CALL: Present - Timothy J. Elling, Chairman
Michael P. Harmon
Evelyn Hicks
Michael P. Hughes
Richard P. Marzullo
Jeffrey Baksa, Code Enforcement Officer
Tina Hawthorne, Deputy Town Attorney

Absent - None

Chairman Elling read the Fire Prevention Code instructing the public where to exit in case of a fire or an emergency.

OPENING OF PUBLIC HEARING

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

Ayes: All

Noes: None

Motion Carried

APPROVAL OF PROOFS OF PUBLICATION

Motion by Marzullo, seconded by Harmon, that proofs of publication and posting of legal notice be received and filed.

Ayes: All

Noes: None

Motion Carried

APPROVAL OF MINUTES

Motion by Harmon, seconded by Hicks, to approve Minutes #2017-07 of July 26, 2017.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS

2016-01

Request of Steven Haney of Seneca Steel Erectors for renewal of the variance for property located at 611 Indian Church Road to allow a temporary structure for five years (one year permitted)

2016-01 (continued)

Steven Haney stated all items mentioned at the March meeting have been taken care of.

Chairman Elling stated there are no complaint calls on file in the Police Department.

No comments were received from the public.

Motion by Elling, seconded by Hicks, to close the public hearing and grant a one year variance ending April 30, 2018 for property located at 611 Indian Church Road to allow a temporary structure.

Ayes: All

Noes: None

Motion Carried

2016-56

Request of Michele & Leonard Damico for a variance for property located at 70 Iris Avenue to raise chickens

The petitioners were not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

2016-85

Request of Tracy Coccia of Big Lots for renewal of the variance for property located at 1980 Ridge Road to allow temporary structures to remain permanent (temporary structure maximum is 30 days)

Tracy Coccia represented Big Lots and submitted a proposal to install 8' tall vinyl fencing to enclose all four containers on the property at 1980 Ridge Road so they are not visible from the road.

Chairman Elling stated only three containers were approved at a previous meeting and there are now four storage containers and a semi trailer with no license plates. He questioned if anyone had looked into renting additional space in the building.

Ms. Coccia responded the fourth container was in the front and was moved to the back of the property. Big Lots corporate office either has not looked into additional space within the building or believes it is too expensive.

2016-85 (continued)

No comments were received from the public.

Motion by Elling, seconded by Hughes, to table this item pending review of the proposal submitted.

On the question, Code Enforcement Officer Jeffrey Baksa stated he will review the submission and forward on to the Zoning Board members. He further noted if the proposal is acceptable, the application will have to be amended to include a variance for the height of the fence.

Ayes: All

Noes: None

Motion Carried

2017-32

Request of Keith Berlinski for a variance for property located at 277 Center Road to construct a 14' high garage (maximum 12' height for accessory buildings)

The petitioner was not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

2017-44

Request of Todd Huber of Buildings Solutions for a variance for property located at 235 Carriage Park to construct a shed one foot from side lot line (minimum 3' side setback for accessory buildings)

Todd Huber represented the property owner at 235 Carriage Park and stated their proposal to construct a shed one foot from the side lot line.

Chairman Elling stated he was in receipt of letters of approval from property owners at 224, 241 & 247 Carriage Park, noting no signature was received from 227 Carriage Park who will be most affected by the shed. He questioned if there was a problem with that neighbor. Mr. Huber stated there was no problem with the neighbor at 227 Carriage Park; she just chose not to sign.

Mr. Harmon questioned if the neighbor had an objection or did she just basically say she did not want to get involved. Mr. Huber responded that is what she had said.

2017-44 (continued)

Mr. Marzullo questioned how the one foot area will be maintained, noting there is a fence along that property line and he was concerned that debris will collect in between. Mr. Huber stated the neighbor has a solid vinyl fence along the property line and there will only be stone in between the fence and the shed.

Mr. Harmon questioned why they would not move the shed farther away from the fence. Mr. Huber responded there previously was a shed in this area to the rear and there is a garden to the east of where the shed will be located.

Code Enforcement Officer Jeffrey Baksa suggested installing fabric underneath the stone to prevent weeds from growing. He further referred to the gable roof and questioned which way the eaves will face. Mr. Huber responded the eaves will face the front and rear of the property and the structure will open into the yard rather than toward the front.

Chairman Elling questioned how the Code Enforcement Office polices a situation with weeds or grass growing through the stone and Mr. Baksa responded it would strictly be by a complaint from the neighbor. They can require a final inspection to ensure the fabric is installed.

Mr. Harmon stated Mr. Huber did talk to the neighbor and showed her what they were going to do and she didn't say she didn't want it done, she just didn't want to sign. She also had the opportunity to come to the meeting and express her views.

No comments were received from the public.

Motion by Harmon, seconded by Hicks, to close the public hearing and grant a variance for property located at 235 Carriage Park to construct a shed one foot from the side lot line, conditioned upon installation of fabric and stone in the one foot area with inspection by a Code Enforcement Officer.

Ayes: (3) Mr. Harmon, Mr. Hicks, Chairman Elling

Noes: (2) Mr. Hughes, Mr. Marzullo

Motion Carried

2017-45

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

Chairman Elling stated the petitioners had requested this item be tabled until the next meeting.

2017-45 (continued)

Jeff Orlowski submitted a petition signed by ten of the surrounding residents stating they are opposed to live outdoor music and request that if permits are applied for they be limited to four times per year.

Kelly Cosgrove stated it has been quiet since the last meeting, but this has been an ongoing problem. Mrs. Cosgrove further stated she has not complained to the Police Department because her husband is an officer and he asked her to not get involved because of his position.

Chairman Elling stated the owners of the Rusty Nickel asked that this be tabled because they are trying to come up with a way to make things better for the neighbors. He encouraged surrounding property owners to attend the next meeting.

Motion by Elling, seconded by Hughes, to table this item until the next meeting.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2017-46

Request of Jason Boruszewski for a variance for property located at 4617 Clinton Street to expand driveway into required front yard setback

Jason Boruszewski stated his proposal to widen his driveway to allow for a turn around. He was not aware he needed a permit or variance and already dug out the area he would like to blacktop.

Code Enforcement Officer Jeffrey Baksa stated a driveway cannot be widened in the required front yard setback for use as a parking space, but there is sufficient room to park one vehicle without being in the front setback.

Chairman Elling stated he was in receipt of letters of approval from property owners at 4605, 4620, 4627 & 4630 Clinton Street. Erie County has no objection to the project, but NYSDOT has not responded yet. Chairman Elling stated the addition to the driveway must be totally out of the state right-of-way and they can approve the variance pending receipt of approval from NYSDOT.

No comments were received from the public.

2017-46 (continued)

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a variance for property located at 4617 Clinton Street to expand the driveway into the required front yard setback, pending NYSDOT approval and noting no building permit will be issued until said approval is received.

Ayes: All

Noes: None

Motion Carried

2017-47

Request of Howard Stutz for a variance for property located at 545 Fisher Road to construct a detached garage with 15' front setback (40 ft. front setback required)

Howard Stutz stated his proposal to construct a detached garage extending 15' into the front setback, noting he had no site plan because Nussbaumer & Clarke suggested applying for the variance first. The house is located in a flood plain and is surrounded by Smokes Creek.

Mr. Hughes questioned if Mr. Stutz intends to operate a business from the garage and Mr. Stutz responded he did not.

Chairman Elling stated he was in receipt of letters of approval from property owners at 476, 533, 540 & 585 Fisher Road. Erie County Division of Planning had no recommendation on this project.

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 545 Fisher Road to construct a detached garage with 15' front setback.

Ayes: All

Noes: None

Motion Carried

2017-48

Request of Ronald Salisbury for a variance for property located at 92 Pine Court North to construct a porch in front yard with overhang projecting 6' into front setback (30' front setback required)

Ronald Salisbury stated his proposal to construct a porch on the front of his house with an overhang projecting 6' into the front setback.

2017-48 (continued)

Chairman Elling stated he was in receipt of letters of approval from property owners at 86, 91 & 98 Pine Court North.

No comments were received from the public.

Motion by Hughes, seconded by Marzullo, to close the public hearing and grant a variance for property located at 92 Pine Court North to construct a porch in the front yard with an overhang projecting 6' into the front setback.

Ayes: All

Noes: None

Motion Carried

2016-56

Request of Michele & Leonard Damico for a variance for property located at 70 Iris Avenue to raise chickens

The petitioners were not present at the meeting.

Motion by Hughes, seconded by Elling, to receive and file this variance request.

Ayes: All

Noes: None

Motion Carried

2017-32

Request of Keith Berlinski for a variance for property located at 277 Center Road to construct a 14' high garage (maximum 12' height for accessory buildings)

The petitioner was not present at the meeting.

Motion by Hughes, seconded by Elling, to receive and file this variance request.

Ayes: All

Noes: None

Motion Carried

OTHER BUSINESS

Chairman Elling stated the October 25th meeting is being changed to November 8th and the November and December meetings will be combined and held December 13th.

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ADJOURNMENT

Motion by Marzullo, seconded by Elling, to adjourn the meeting at 7:45 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Jacqueline A Felser
Town Clerk/Zoning Board Secretary