

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

ZONING BOARD OF APPEALS
Minutes #2019-05
May 22, 2019

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 led by Michael Hughes and 30 seconds of silent prayer.

ROLL CALL: Present - Timothy J. Elling, Chairman
Evelyn Hicks
Michael P. Hughes
Richard P. Marzullo
Raymond Kapuscinski
Douglas Busse, Code Enforcement Officer
Kimberly Conidi, 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 Marzullo, seconded by Hicks, to open the public hearing.

Ayes: All Noes: None Motion Carried

APPROVAL OF PROOFS OF PUBLICATION

Motion by Hughes, seconded by Marzullo, 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 Kapuscinski, to approve Minutes #2019-04 of April 24, 2019.

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)

The applicant was not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

2017-22

Request of Julie Dembski for renewal of a variance for property located at 171 Wetherstone Drive to raise chickens

Allen Dembski stated their request to renew the variance to raise up to six chickens, no roosters, noting they currently have four chickens.

Chairman Elling stated no complaints were registered with the Police Department over the past year.

Motion by Hughes, seconded by Marzullo, to close the public hearing and grant a one year variance for property located at 171 Wetherstone Drive to raise a maximum of six chickens, no roosters.

Ayes: All

Noes: None

Motion Carried

2019-13

Request of David Buchheit Jr. for a variance for property located at 823 Fisher Road to construct an 18' high garage (maximum 12' height for accessory structures) and install an additional stone driveway (one driveway permitted; hard surface required)

Chairman Elling stated Erie County has still not rendered a second decision on the additional driveway. Mr. Buccheit has decided to pull that request and continue on with the variance for the 18' high garage.

Mr. Buccheit stated the 18' high garage will be used for cold storage, to store his camper and to fix his own vehicles and family member vehicles. There will be two full garage doors and one man door. The size will be 48' x 48' and it will be placed in the same location as originally proposed. Mr. Buccheit stated he started the driveway not knowing he needed a variance and approval from the county and immediately stopped when he found out.

2019-13 (continued)

Code Enforcement Officer Douglas Busse stated no driveway is required to lead to the garage, but Mr. Buccheit should not be tearing up his lawn to access it. If Erie County does not approve the additional driveway, he suggested installing access off his existing driveway over to the structure.

Chairman Elling stated he was in receipt of approval signatures from neighbors at 767, 819 & 855 Fisher Road.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to close the public hearing and receive and file the variance for an additional stone driveway at 823 Fisher Road and grant a variance to construct an 18' high garage, noting this is for personal use only and no business will be run from the garage.

Ayes: All

Noes: None

Motion Carried

2019-15

Request of Jeffrey Wick for a variance for property located at 1264 Indian Church Road to allow parking in required 30' front setback

Jeffrey Wick stated his request for a variance to make his front driveway approach wider. There is currently two feet that is unpaved between the existing driveway and house and he is looking to expand it either four or six feet in front of the house. He understands he cannot park a vehicle on it and just wants to make it easier to access the driveway. Mr. Wick stated he parks his work vehicle on the road and the expanded driveway will allow a place to put his garbage cans and give him a place to step when exiting his vehicle.

Code Enforcement Officer Douglas Busse noted the application indicates an 8' x 20' area.

Chairman Elling was not in favor of allowing a 35' wide driveway on Indian Church Road. Mrs. Hicks commented on the aesthetics of removing the lawn and also stated it is not safe to take that much frontage away for pedestrians and parking along side the road.

Chairman Elling stated he was in receipt of approval signatures from property owners at 1249, 1253, 1258, 1264 & 1276 Indian Church Road. A letter was also received from Erie County Department of Public Works indicating they will not permit parking within the 66' right-of-way along Indian Church Road.

2019-15 (continued)

No comments were received from the public.

Motion by Hicks, seconded by Kapuscinski, to close the public hearing and deny the request for a variance for property located at 1264 Indian Church Road to allow parking in the required 30' front setback as it creates an aesthetically unpleasing look and is not in conformance with the neighborhood.

Ayes: All

Noes: None

Motion Carried

2019-16

Request of Brian Bookmiller of Queen City Meadery LLC for a variance for property located at 290 Center Road #105 to allow outdoor seating

Chairman Elling stated the applicant contacted the Code Enforcement Office and advised that he would like to withdraw the variance request.

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

Ayes: All

Noes: None

Motion Carried

2019-18

Request of Julie Palmer for interpretation of the Zoning Ordinance on use as a single family home at 159 & 161 Leydecker Road

Chairman Elling stated the applicant had requested this item be held until the end of the meeting.

NEW BUSINESS

2019-19

Request of Thomas McDonnell for a variance for property located at 201 Tudor Blvd. to construct a porch with roof within required 30' front setback

Thomas McDonnell stated his request to build a covered porch on the front of his house reducing the front setback.

Chairman Elling stated he was in receipt of approval signatures from property owners at 194, 195, 204 & 205 Tudor Blvd.

2019-19 (continued)

No comments were received from the public.

Motion by Hughes, seconded by Elling, to close the public hearing and grant a variance for property located at 201 Tudor Blvd. to construct a porch with roof within the required 30' front setback.

Ayes: All

Noes: None

Motion Carried

2019-20

Request of Brian & Erica Carr for a variance for property located at 327 Woodcrest Drive to construct a garage with 27' front setback (30' setback required) and a driveway 2' off lot line (3' from lot line required)

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

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

Ayes: All

Noes: None

Motion Carried

2019-21

Request of Michelle Montaldi for a variance for property located at 52 Woodmar Terrace to construct a 6' high fence in side yard (maximum 4' high fence permitted)

Michele Montaldi stated her request to construct a 6' high fence in her side yard for privacy and to screen her bathroom and bedroom windows.

Chairman Elling stated he was in receipt of approval signatures from property owners at 40, 41, 58, 59 & 64 Woodmar Terrace.

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 52 Woodmar Terrace to construct a 6' high fence in the side yard.

Ayes: All

Noes: None

Motion Carried

2019-22

Request of James Walker for a variance for property located at 114 Cambridge Avenue to construct an addition on house with 6' separation from garage (10' separation required)

James Walker stated his proposal to construct an addition on his kitchen which will reduce the separation from his garage to 6'. The addition will be two-story and the second story will be attic for now and a bedroom in the future.

Chairman Elling stated he was in receipt of approval signatures from property owners at 110 & 120 Cambridge Avenue and 147 Lyndale Court.

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 114 Cambridge Avenue to construct an addition on the house with 6' separation from the garage.

Ayes: All

Noes: None

Motion Carried

2019-23

Request of James Gehen for a variance for property located at 461 Bullis Road to construct a detached garage with 5' front setback and 6' separation from house (30' front setback and 10' separation from house required)

James Gehen stated his request for a variance to construct a one car, 14' x 24' garage adjacent to his driveway, noting it will be setback 36' from the road and his property is adjacent to Route 400 at the dead end of Bullis Road. The garage is for personal use only and there will be no commercial business activity. Mr. Gehen stated there is a 15' easement for a drainage pipe in the side and back yard, so this is the only place he can put the garage.

Chairman Elling stated he was in receipt of approval signatures from property owners at 418, 420, 450, 456, 465, 467, 471, 485, 493, 501 Bullis Road.

No comments were received from the public.

2019-23 (continued)

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a variance for property located at 461 Bullis Road to construct a detached garage with 5' front setback and 6' separation from the house, noting the garage is for non-commercial use and the property situation is unique as this is the only place the garage will fit.

Ayes: All

Noes: None

Motion Carried

2019-24

Request of John-Paul Figlewski for a variance for property located at 8 John Alex Drive to construct a 6' high fence in side yard (4' high fence permitted)

John-Paul Figlewski stated his request for a variance to construct a 6' vinyl fence in his side yard for privacy and security for his children.

Chairman Elling stated he was in receipt of approval signatures from property owners at 9 & 12 John Alex Drive.

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 8 John Alex Drive to construct a 6' high fence in the side yard.

Ayes: All

Noes: None

Motion Carried

2019-25

Request of Lawrence O'Toole for a variance for property located at 215 Laurelton Drive to install a swimming pool with 16' front setback (30' front setback required)

Lawrence O'Toole stated his request for a variance to install a swimming pool within the front setback, noting he lives on a cul-de-sac and a 30' setback will not allow for a pool.

Mrs. Hicks questioned if Mr. O'Toole will be adding a deck from the house to the pool. Mr. O'Toole responded there is a deck on the pool, but it will not attach to the house.

2019-25 (continued)

Chairman Elling stated he was in receipt of approval signatures from property owners at 169, 214, 220, 226, 232, 238 & 256 Laurelton Drive and 217 Cranwood Drive.

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 215 Laurelton Drive to install a swimming pool with 16' front setback.

Ayes: All

Noes: None

Motion Carried

2019-26

Request of Mark Schork for a variance for property located at 5024 Seneca Street to construct a 15' high pole barn (maximum 12' high accessory structure permitted)

Mark Schork stated his proposal to demolish his existing garage that is in poor condition and construct a 15' high, 36' x 40' pole barn in its place. The existing driveway will be used along with the existing electric supply. There will be no gas or plumbing installed and the garage will be used for his vehicles and storage.

Chairman Elling stated he was in receipt of approval signatures from property owners at 5008, 5016, 5032 & 5040 Seneca Street. A letter was also received from Erie County indicating they have no issue with the proposed pole barn.

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 5024 Seneca Street to construct a 15' high pole barn.

Ayes: All

Noes: None

Motion Carried

2019-27

Request of Jordan Kamholz for a variance for property located at 5651 Seneca Street to construct an 8' high fence in rear yard (maximum 6' high fence permitted)

The applicant was not present at the meeting.

2019-27 (continued)

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

Ayes: All

Noes: None

Motion Carried

2019-28

Request of E Michael Hanley for a variance for property located at 1904 Center Road to construct a duplex with 31' front setback (40' front setback required)

Michael Hanley stated his request for a variance to allow a 31' front setback for the duplex he is building at 1904 Center Road, noting he would like to move the building away from the creek that runs along the rear of the property.

Mrs. Hicks commented there have been concerns about possible wetlands on this site. Mr. Hanley responded there are no wetlands on site and Code Enforcement Office Douglas Busse confirmed that wetlands is not an issue. Mrs. Hicks questioned if the 31' frontage is unobstructed and Mr. Hanley advised it is unobstructed.

Chairman Elling stated he was in receipt of approval signatures from property owners at 1896, 1903 & 1927 Center Road. A letter was also received from Erie County indicating they had no issue with construction of the duplex and noting that a work permit is needed for the driveway.

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 1904 Center Road to construct a duplex with 31' front setback.

Ayes: All

Noes: None

Motion Carried

2019-29

Request of Savanna Nuessle for a variance for property located at 5 Belmont Drive to construct a 6' high fence in front and side yard of corner lot (maximum 4' high fence permitted)

Savanna Nuessle stated her request for a variance to construct a 6' high fence in her front and side yard to contain her dogs and for the privacy and safety of her child.

2019-29 (continued)

Mr. Marzullo commented on the 13.5' strip of land along Woodward Drive and questioned if that will be maintained and Mrs. Nuessle responded that area will be maintained.

Chairman Elling stated he was in receipt of approval signatures from property owners at 81, 98 & 101 Woodward Drive and 9 Belmont Drive.

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 5 Belmont Drive to construct a 6' high fence in the front and side yard of the corner lot.

Ayes: All

Noes: None

Motion Carried

2019-30

Request of Colleen O'Connell for a variance for property located at 38 Clearview Drive to construct a 6' high fence in front yard of corner lot projecting 36' into front yard (maximum 4' high fence and maximum 10' projection permitted)

Ian & Jennifer Leach represented Colleen O'Connell and stated her request for a variance to construct a 6' high fence in the front yard of her corner lot.

Deputy Town Attorney Kimberly Conidi noted there is no authorization from Mrs. O'Connell designating Mr. & Mrs. Leach to represent her. Mr. & Mrs. Leach requested this item be tabled until the end of the meeting to allow them to contact her.

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

Ayes: All

Noes: None

Motion Carried

2019-31

Request of Nicholas Powers for a variance for property located at 146 Seneca Creek Road to construct a 16' pole barn (maximum 12' high accessory structure permitted)

Nicholas Powers stated his request to construct a 16' high, 24' x 40' pole barn, noting he wants to clean up his yard and move everything inside. The shelter that is covering his boat will be taken down.

2019-31 (continued)

Chairman Elling stated he was in receipt of approval signatures from property owners at 115, 124, 140, 157 & 160 Seneca Creek Road. A letter was received from Erie County indicating they have no objection to the proposed pole barn. Chairman Elling commented on the clean up of the property and expressed concern on the length of time to get the work done.

Mr. Powers stated he has a contract with House of Steel to build the pole barn pending approval of the variance and he hoped it could be built in July.

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 146 Seneca Creek Road to construct a 16' high pole barn.

Ayes: All

Noes: None

Motion Carried

2019-32

Request of Richard Johnson Jr. for a variance for property located at 2172 Transit Road to construct an electronic sign within 500 feet of residential zoning

Richard Johnson stated his request for a variance to construct an electronic sign at the Harvesters Church located at 2172 Transit Road, noting the proposed sign will be placed in the same location as the existing sign.

Code Enforcement Officer Douglas Busse noted no variance is needed for the square footage of the proposed sign.

Chairman Elling stated he was in receipt of approval signatures from property owners at 2120, 2130, 2132, 2134 & 2136 Transit Road and 5583, 5589, 5627, 5641 & 5647 Seneca Street. He further noted Transit Road is a state highway and no comments were received from NYSDOT, but the application has not been on file for 30 days.

No comments were received from the public.

Motion by Elling, seconded by Hughes, to table this item pending receipt of comments from NYSDOT.

Ayes: All

Noes: None

Motion Carried

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)

The applicant was not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

2019-27

Request of Jordan Kamholz for a variance for property located at 5651 Seneca Street to construct an 8' high fence in rear yard (maximum 6' high fence permitted)

Jordan Kamholz stated his request for a variance to construct an 8' high fence on the west side of his property at 5651 Seneca Street, noting the property sits 2' – 3' lower than the adjoining property.

Chairman Elling stated he was in receipt of a letter from Erie County indicating they had no issue with the proposed fence.

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 5651 Seneca Street to construct an 8' high fence in the rear yard.

Ayes: All

Noes: None

Motion Carried

2019-18

Request of Julie Palmer for interpretation of the Zoning Ordinance on use as a single family home at 159 & 161 Leydecker Road

Deputy Town Attorney Kimberly Conidi stated she reached out to the Association of Towns for guidance on the proposed use of this property as a single family home and has concluded the proposed use falls within the R-60A zoning and the Zoning Board should not interpret "single family dwelling unit" to include this use. Ms. Conidi recited R-60A district uses to include "non-profit institutions for charitable, religious, cultural or community social purposes." The applicant's organization is a

2019-18 (continued)

non-profit 501(c)(3) organization with a mission to end human exploitation and this is the type of use R-60A zoning districts provide for. Ms. Conidi further referred to §120-14B(4) of the Town Code that states "not more than two nontransient lodgers" in an R-75A district and the applicant has represented there would be up to four women in the home at a time who intend to remain in the home for an extended amount of time, which contravenes what the Town Code specifies. She also noted the applicant is not aggrieved in that they do not own the property and have not been denied a permit. Ms. Conidi recommended the Zoning Board not render an interpretation that would allow the organization to operate in an R-75A zoning district.

Mrs. Hicks commented on other group homes in town and suggested the applicant get together with the Code Enforcement Office for advice on what is needed to allow for this use.

Motion by Elling, seconded by Hughes, to deny the proposed use as a single family residence within the R-75A zoning classification based on the recommendation of Deputy Town Attorney Kimberly Conidi that the proposed use falls within the R-60A zoning classification.

Ayes: (4) Chairman Elling, Mr. Hughes, Mr. Marzullo, Mr. Kapuscinski

Noes: (1) Mrs. Hicks

Motion Carried

2019-30

Request of Colleen O'Connell for a variance for property located at 38 Clearview Drive to construct a 6' high fence in front yard of corner lot projecting 36' into front yard (maximum 4' high fence and maximum 10' projection permitted)

Colleen O'Connell stated her request to construct a 6' high vinyl fence around her yard to contain her dogs, for privacy and for the safety of children.

Mrs. Hicks questioned how far the fence will be setback from Clearview Drive and Mrs. O'Connell responded the fence will be setback 10' from the street.

Chairman Elling stated he was in receipt of approval signatures from property owners at 14, 23, 27 & 43 Clearview Drive.

No comments were received from the public.

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2019-30 (continued)

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 38 Clearview Drive to construct a 6' high fence in the front yard of the corner lot projecting 36' into the front yard and at least 3' off the sidewalk.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

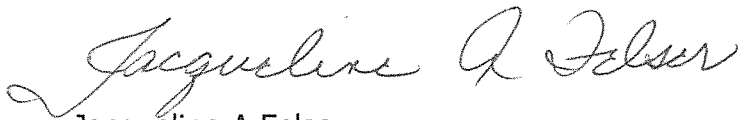
Motion by Elling, seconded by Hughes, to adjourn the meeting at 8:15 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser
Town Clerk/Zoning Board Secretary