

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
Amelia Greenan
Evelyn Hicks
Michael Hughes
Raymond Kapuscinski
Douglas Busse, Code Enforcement Officer
Kimberly Conidi, Deputy Town Attorney

Absent - None

OPENING OF PUBLIC HEARING

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

Ayes: All Noes: None Motion Carried

APPROVAL OF PROOFS OF PUBLICATION

Motion by Greenan, seconded by Hughes, 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 #2021-06 of June 23, 2021.

Ayes: All Noes: None Motion Carried

NEW BUSINESS

2021-050

Request of Phillip Hargrove c/o People Inc for property located at 4 Chippewa Court to erect an 8' fence in front and side yard on corner lot (6' maximum height allowed per 2004 variance)

The petitioner was not present at the meeting.

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

Ayes: All Noes: None Motion Carried

2021-046

Request of Lee Shainbroun c/o Applegate Dental for a variance for property located at 2177 Union Road to construct a 660-sf addition with 24' front yard setback on Woodbine Avenue and no parking setback on Woodbine Avenue (40' front yard setback required; 10' parking setback required)

Motion by Hughes, seconded by Kapuscinski, to table the item until the September meeting pending receipt of comments from the NYSDOT.

Ayes: All

Noes: None

Motion Carried

2021-047

Request of Robert Jemiolo for a variance for property located at 3377 Clinton Street to allow outdoor live music (outdoor live music not permitted)

Motion by Elling, seconded by Greenan, to table the item until the September meeting pending receipt of comments from the NYSDOT.

Ayes: All

Noes: None

Motion Carried

2021-048

Request of Paul Strada c/o NAS Sign company for property located at 1015 Union Road to 1) erect two signs on property; 2) a 46-sf sign; 3) 3' off lot line; 4) 7' to bottom of sign (one sign permitted; 24-sf maximum; 5' required off lot line; 3' allowed to bottom of sign)

Motion by Elling, seconded by Kapuscinski, to table the item until the September meeting pending receipt of comments from the NYSDOT.

Ayes: All

Noes: None

Motion Carried

OLD BUSINESS

2020-048

Request of Jeffrey Walters for review variance for property located at 49 Country Lane to allow raising of chickens (raising of poultry/farm animals not permitted)

Chairman Elling stated no complaints were registered with the West Seneca Police Department over the past year relative to the chickens.

Ms. Greenan stated the town has received calls regarding the cleanliness of properties who own chickens and questioned how the food is contained. Mrs. Walters stated the chicken's food is

2020-048 (continued)

taken away at night. The coop has an automatic door to keep the chickens in and the food is removed and taken in the house until the morning.

No comments were received from the public.

Motion by Hughes, seconded by Greenan, to close the public hearing and grant a 6-month variance for property located at 49 Country Lane to allow raising of chickens, noting the petitioner will reappear January 2022.

Ayes: All

Noes: None

Motion Carried

2021-035

Request of Alexander Suffoletto for a variance for property located at 220 Center Road to construct a new building on parcel with 20' front yard setback (40' front yard setback required)

Motion by Elling, seconded by Hicks, to receive and file at the request of the applicant.

Ayes: All

Noes: None

Motion Carried

2021-038

Request of Tritec Construction c/o Rex Cameron for a variance for property located at 2111 Clinton Street to construct a new four (4) pump gas canopy with 25' setback (40' front yard setback required)

Mr. Cameron explained the request is to place new canopy with a 25' setback from the top of the canopy.

Chairman Elling referred to the residents complaints from the June meeting and stated the property has been cleaned up. Code Enforcement Officer Doug Busse confirmed the property has been cleaned up since the last meeting

Chairman Elling referred to water pooling in the lot. Mr. Khulaqi stated the sewer line is being repaired.

Ms. Hicks referred to a dead tree at the edge of the property that is impacting the neighbor and questioned if there is a remedy. Mr. Khulaqi stated he can remove the tree if need be and stated neighbors may call him.

No comments were received from the public.

2021-038 (continued)

Motion by Elling, seconded by Hicks, to close the public hearing and grant a variance for property located at 2111 Clinton Street to construct a new four (4) pump gas canopy with 25' setback.

Ayes: All

Noes: None

Motion Carried

2021-045

Request of Joseph Jankowiak for a variance for property located at 559 Potters Road to construct an addition to existing building with 1) 10' 9" front yard setback; 2) 3' side yard setback; 3) 3' rear yard setback; 4) 10 parking spaces requested (40' front yard setback required; 5' side yard setback required; 30' rear yard setback required; 15 parking spaces required with 3 per bay)

Mr. Jankowiak stated this is an awkward property in need of repairs. Mr. Jankowiak stated his plan is to use the empty space in the back and put a cinder block building with flat roof, pave the lot, and fix up the building.

Chairman Elling stated the parking lot has approximately 24 cars currently in the parking lot and questioned the request. Code Enforcement Officer Doug Busse replied the variance is for the parking spaces. The stiping on the lot needs work and will have to be sorted out.

Ms. Hicks questioned if there was room to add more spaces; the request is for a reduction to 10 spaces and this is what will be voted on tonight. Mr. Busse stated this was for open spaces that are there now. There is more than enough room for sufficient parking.

Chairman Elling questioned the need for the variance and reduction in parking. Mr. Busse stated he believed it to be for 10 open spots for customers. Chairman Elling stated this would be for 10 open spaces with 3 bays versus 15 parking spots.

Chairman Elling commented on the amount of vehicles on the property and stated they appear to have been there for some time. Mr. Jankowiak stated there is a plow truck, and two vans for storage of scrap metal and tires. The others may have been in an accident and have to sit for a time. Chairman Elling stated he had concerns about cars sitting and Mr. Jankowiak being a good neighbor.

Chairman Elling stated he was in receipt of letters of approval from property owners at 560, 554, and 548 Potters Road and 17, 11, and 18 Covington Drive and the corner market along with correspondance from the NYSDOT with no objection to the variance.

No comments were received from the public.

2021-045 (continued)

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 559 Potters Road to construct an addition to existing building with 1) 10' 9" front yard setback; 2) 3' side yard setback; 3) 3' rear yard setback; 4) 10 parking spaces requested.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2021-049

Request of Marcia Bielatin for property located at 90 Delray Avenue to erect a 6' fence in front yard setback on corner lot (4' maximum height allowed)

Ms. Bielatin stated a 4' fence was in front and a 6' piece was added for privacy; the application is to continue the fence.

Chairman Elling stated he was in receipt of letters of approval from property owners at 64, 96, 89, 97, and 80 Delray Avenue and 90 Bellwood Avenue.

Chairman Elling questioned if the fence was 3' in from the property line. Code Enforcement Officer Doug Busse stated the existing 4' fence is at least 3' off the property line.

No comments were received from the public.

Motion by Elling, seconded by Greenan, to close the public hearing and grant a variance for property located at 90 Delray Avenue to erect a 6' fence in front yard setback on corner lot in the same location of the 4' fence.

Ayes: All

Noes: None

Motion Carried

2021-050

Request of Phillip Hargrove c/o People Inc for property located at 4 Chippewa Court to erect an 8' fence in front and side yard on corner lot (6' maximum height allowed per 2004 variance)

Mr. Hargrove stated the request is replace the 6' fence up 2' for the safety and security of the individuals who live at the site.

Chairman Elling requested clarification on the elopement issue. Mr. Hargrove replied there is an individual who is a quick elopement and can get over the fence.

2021-050 (continued)

Chairman Elling referred to the gate and questioned why this is still 6'. Code Enforcement Officer Doug Busse stated while the fence was going up, his office stopped the job.

Chairman Elling questioned the state protocol for individuals who elope. Mr. Hargrove stated most are a two staff or more to one ratio.

Ms. Greenan questioned why 8' as opposed to 7'. Mr. Hargrove responded there are individuals who can get over fence; when an 8' is seen residents do not try to get over it.

Mr. Hughes questioned if Mr. Hargrove has spoken with the neighbors. Mr. Hargrove stated he spoke with some neighbors and the feelings were mixed about the height of the fence. Regretably Mr. Hargrove did not know this was need before the project started.

Chairman Elling stated he checked the West Seneca Police records for calls at the address; only fire alarm calls were on record and questioned if the individual had ever gotten out. Mr. Hargrove stated the individual has gotten out of a window into the yard, or away from staff for transporting and this would not be a 911 call.

Chairman Elling referred to the applicants letter that stated residents were not able to go outside due to covid. Mr. Hargrove stated the residents were encouraged to go outside but because the project was stopped it was not secure. The residents can not go in the yard without a secure fence.

Chairman Elling asked if the residents were not able to go outside because of a 6' fence. Mr. Hargrove replied that was not an issue.

Mr. Kapuscinski referred to the 6' gate and questioned why the resident would not jump the 6' gate. Mr. Hargrove stated this was a texture issue for the resident, and two different styles of fence; one is plastic, and one is wood.

Ms. Hicks questioned who was doing the construction. Mr. Hargrove responded Lehigh Construction is installing the fence.

Chairman Elling questioned why the good side of the fence was put on the inside. Mr. Hargrove stated there will be pickets on both sides of the fence.

Mr. Kapuscinski referred to supports being on the inside and possibly making it easier to jump. Mr. Hargrove stated the pickets will be "sandwiched" and both sides will be smooth.

A Willowcrest Drive resident stated the fence is not attractive. The only place you see an 8' fence is when a residence is next to a business. The resident further stated he does not see a resident jumping a 6' fence with no beams being exposed with employees being two to one resident.

2021-050 (continued)

Mr. Kapuscinski questioned if the only escape had been through windows or doors. Mr. Hargrove stated this is correct, no one has jumped the fence and the only escape was windows and doors. Staff issues were looked at and adjusted.

Chairman Elling stated he was in receipt of letters of approval from property owners at 16 Chippewa Court and 73 Willowcrest Drive. 10 Chippewa Court refused to sign and 79 Willowcrest Drive is vacant.

Ms. Greenan stated this is a unique situation and understands the different circumstances surrounding sensory detail.

Motion by Kapuscinski, seconded by Hicks, to close the public hearing and deny a variance request for property located at 4 Chippewa Court to erect an 8' fence in front and side yard on corner lot for the following reasons: 1) not conducive to the neighborhood; 2) residents have not tried to elope the fence.

On the question, Ms. Hicks stated while she appreciates the attempt to keep the residents safe the residents are not permanent residents of the house.

Ayes: (3) Elling
Hicks
Kapuscinski

Noes: (2) Hughes
Greenan

Motion Carried

Ms. Hicks referred to the fees of the Zoning Board and questioned if a compromise could be made if the applicant wanted to appear again for a 7' fence. Mr. Busse stated it was his opinion the fee would not be waived. A 6' vinyl fence would not require a variance, just a building permit.

Mr. Hargrove stated the materials have been bought and questioned if the contractor could cut the fence down to an acceptable height. Chairman Elling stated the fence could be cut down, but it had to go to 6'. Mr. Busse stated anything over 6' is required to attend another meeting.

ADJOURNMENT

Motion by Elling, seconded by Kapuscinski, to adjourn the meeting at 6:43 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Amy M. Kobler
Town Clerk/Zoning Board Secretary