

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

**ZONING BOARD OF APPEALS**  
**Minutes #2018-02**  
**February 28, 2018**

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  
Evelyn Hicks  
Michael P. Hughes  
Richard P. Marzullo  
Raymond Kapuscinski  
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 Hughes, seconded by Hicks, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

### **APPROVAL OF PROOFS OF PUBLICATION**

Motion by Marzullo, 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 Hughes, seconded by Marzullo, to approve Minutes #2018-01 of January 24, 2018.

Ayes: All

Noes: None

Motion Carried

**OLD BUSINESS**

**2012-36**

Request of Melinda & Edward Bauerlein for renewal of a variance for property located at 72 Sunset Creek Drive to raise chickens

Edward Bauerlein stated his request to renew the variance to raise chickens at his residence, noting he currently has three but has had up to five chickens.

Chairman Elling stated there have been no complaints registered with the town for this address.

No comments were received from the public.

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a one year variance for property located at 72 Sunset Creek Drive to raise a maximum of five chickens, no roosters.

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

Noes: None

Abstentions: (1) Mr. Hughes

Motion Carried

**NEW BUSINESS**

**2018-04**

Request of Barb Damato for a variance for property located at 146 Thorndale Avenue to allow a two-family home on a 40' wide, 4400 sf lot with three parking spaces (60' width, 13,000 sf lot and two parking spaces per unit required)

Dan Damato stated the house was purchased in 1981 as a two-family and they are now trying to sell it but discovered that variances are required to allow for a two-family.

Code Enforcement Officer Jeffrey Baksa stated with the two car garage there is room to park four vehicles on site without being in the front setback. A variance is only required for the bulk area and frontage.

Chairman Elling stated he was in receipt of letters of approval from property owners at 123, 145, 149, 150 & 159 Thorndale Avenue. He noted lack of a signature from the next door neighbor. Mr. Damato responded he tried three different times, but the neighbor is on vacation.

**2018-04** (continued)

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 Thorndale Avenue to allow a two-family home on a 40' wide, 4400 sf lot.

Ayes: All

Noes: None

Motion Carried

**2018-05**

Request of Mark & Erin DeFazio for a variance for property located at 69 Pine Cove Drive to construct a 6' high fence in front yard of corner lot projecting into front yard 41' on one side and 100' on other side (maximum 4' high fence in front yard; maximum 10' projection into front yard)

Mark DeFazio stated his proposal to construct a 6' high fence on his corner lot to keep his children safe and enclose a pool.

Code Enforcement Officer Jeffrey Baksa stated St. Jude Terrace is a paper street, so there is no sidewalk on that side. However, on the Morris Crescent side there is a sidewalk and the Zoning Board has required a 3' setback from sidewalks, which would reduce the distance from 41' to 38'. Mr. DeFazio had no problem locating the fence 3' off the sidewalk.

Chairman Elling stated he was in receipt of letters of approval from property owners at 46, 50, 63 & 67 Pine Cove Drive and 102, 106, 110 & 114 Morris Crescent.

No comments were received from the public.

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a variance for property located at 69 Pine Cove Drive to construct a 6' high fence in the front yard of the corner lot projecting into the front yard 38' on the Morris Crescent side (3' in from sidewalk) and 100' on the other side.

Ayes: All

Noes: None

Motion Carried

**2018-02**

Request of Ralph Lorigo for a variance for property located at 1197 Union Road to allow the following: 1) parking in front (side/rear parking required); 2) a one story building (two story required); 3) reduced parking spaces; 4) 24' driveway (30' required); 5) 83' front setback (0' - 20' setback required); 6) 5' rear setback (30' setback required)

Attorney Ralph Lorigo stated his client purchased the property at 1197 Union Road in September 2016 with the intent of building an 1800 sf building for a beauty/nail salon. The current code was not in place at that time and the building was designed based on the prior code. Mr. Lorigo presented a rendering of the proposed 30' x 60' building with a survey indicating the lot has 55.5' frontage, 75.93' in the back, a depth of 118.7' on the south and 120' on the north, so it is impossible to put the building any other way. The new code only allows parking in the side and rear yard and they are requesting a variance to allow parking in the front. Mr. Lorigo presented google earth pictures and noted none of the properties from Southgate Plaza to Main Street meet the new code. Properties across from Southgate Plaza also have parking in the front along with properties from Main Street to Center Road. A two story building with zero to 20' front setback is required under the new code, but a one story building with 83' front setback was planned. Mr. Lorigo noted no properties from Southgate Plaza through Center Road have a zero front setback. There will be three employees with five chairs and nine parking spaces are provided which they believe is adequate. The 30' entrance was reduced to 24' which used to be a standard ingress/egress. The rear setback is 5' instead of the required 30' and all properties along Union Road have a reduced rear setback. Mr. Lorigo commented the design standards adopted by the town are thorough and well meaning, but they do not fit this lot or the majority of properties along this area of Union Road and without variances this lot is unusable for commercial use.

Chairman Elling read a letter received from NYSDOT stating they had no objection to the 24' driveway, but they would like to review more detailed plans at the time of site plan review. He questioned if there were any letters of support from the neighbors and Mr. Lorigo responded he had not obtained any signatures as most of the neighbors are commercial properties.

A Covington Drive resident questioned why this project was presented to the Zoning Board before going to the Planning Board, noting other businesses were required to go to the Planning Board first. The resident further commented the new design standards apply to new businesses; existing structures are grandfathered in.

Mr. Lorigo responded the applicant has the right to proceed as they choose. Site plan review is required for this project and they will not proceed without approval of the variances.

**2018-02** (continued)

Deputy Town Attorney Tina Hawthorne advised there is nothing in the law and they cannot require the applicant to go to either board first.

Mr. Marzullo commented on the parking proposal for the side and front yards. Mr. Lorigo stated because of the shape of the lot any other configuration of the building will limit parking on the site.

Motion by Elling, seconded by Hughes, to table this item to allow the Zoning Board members time to review all the variances requested along with the Comprehensive Plan.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Hughes, seconded by Marzullo, to adjourn the meeting at 7:35 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,

Jacqueline A Felser  
Town Clerk/Zoning Board Secretary