

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

**ZONING BOARD OF APPEALS**  
**Minutes #2016-07**  
**July 27, 2016**

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 Richard Marzullo 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  
John J. Fenz, 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.

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### **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 Harmon, 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 Harmon, to approve Minutes #2016-06 of June 22, 2016.

Ayes: All                                      Noes: None                                      Motion Carried

### **OLD BUSINESS**

#### **2016-40**

Request of Sean Hopkins, Esq. representing Ebenezer Community Landings LLC for area variances for property located at 4592 Seneca Street for the proposed residential project consisting of 31 detached patio homes and 14 two-family homes

**2016-40** (continued)

Attorney Sean Hopkins represented Kevin Curry and Ebenezer Community Landings LLC and stated an amended variance application was submitted with supporting documentation and an updated site plan. There will be additional landscaping in the vicinity of the bioretention area and on the permanent open space. A detailed landscape plan will be prepared for the site plan review process. The backs of the garages for the two-family homes are now parallel with the back side of the homes, which will provide for additional parking in the driveways. They will convey the footprint of the home and the property around it to the purchaser. The permanent open space and retention areas will be owned and maintained by a homeowner's association that will be formed upon approval of the Attorney General's office. Mr. Hopkins presented photos of the proposed homes and compared the current project to the previously approved project that was much larger with regard to square footage. He stated they are confident there is a demand for this type of housing and commented on the benefit of the project being privately owned and maintained with infrastructure paid for at no cost to the town. Mr. Hopkins further referred to the attached Exhibit A that outlines the seven variances requested - four for the single story patio homes and three for the two-family homes.

Mrs. Hicks questioned if there will be a single owner for the two-family homes and if they will be renting out one or both sides. She further referred to the back yards of the Sky Hi Drive residents and the closeness of the project.

Mr. Hopkins responded they have not yet decided on ownership of the two-family homes, but they will be part of the homeowner's association. None of the lots along Sky Hi Drive are closer than 30' and they will work with adjoining property owners to come up with a landscape plan as opposed to fences.

Mrs. Hicks questioned if fences will be allowed between the properties.

Mr. Curry responded there will be restrictions on storage of boats and rv's, along with no outbuildings and no fences other than screening for patios. He further stated only the lots on the cul-de-sac have a rear setback less than 30', and although he has no letter from the abutting property owner, he has been in touch with him and has met with the neighbors at special meetings and interacted on a regular basis.

Mr. Marzullo referred to question #18 on the environmental assessment form concerning the detention ponds.

**2016-40** (continued)

Mr. Hopkins responded the detention ponds will be dry, but will fill with water during a rain event and gradually go down. The water will be detained, not retained and they have to comply with quality and quantity storm water requirements.

Mrs. Hicks questioned if property owners on the east side of the development will be prohibited from extending their lot if an offer is made by an abutting property owner.

Mr. Hopkins responded that a property owner could purchase abutting land but they would be responsible for maintaining it or they could approach the homeowner's association.

Susan Kims referred to Mr. Hopkins statement regarding the Attorney General's office approving the homeowner's association and questioned if this involved any tax breaks or payment in lieu of taxes (PILOT) arrangement. She further commented on the width of the single access to the site and the ability of emergency vehicles to maneuver. Mrs. Kims also referred to the detention ponds flowing into a ditch and questioned if it is Ebenezer Brook.

Mr. Hopkins did not believe the ditch was Ebenezer Brook and noted the plan is subject to approval by the Army Corps of Engineers. The Attorney General's office reviews documentation for the homeowner's association and there is no PILOT. The paved portion of the road is 24' and the 110' radius cul-de-sac can accommodate large fire trucks.

Code Enforcement Officer Jeffrey Baksa stated the fire code requires a minimum 20' roadway for emergency vehicles.

Chairman Elling questioned if parking on the street will be allowed and noted that senior developments often generate more emergency calls.

Mr. Curry responded the street meets town specifications and since they target seniors these types of projects have many less residents and generate low traffic. Half of the units are often occupied by one person. They will encourage one side parking rather than two and look for the homeowner's association to enforce it with signage.

Mr. Hopkins stated they could add surplus spaces, but it will be at the expense of green space.

Motion by Elling, seconded by Hughes, to close the public hearing and reserve decision on the variances requested.

**2016-40** (continued)

On the question, Town Attorney John Fenz advised the Zoning Board has 62 days to render a decision.

Ayes: All

Noes: None

Motion Carried

**2016-42**

Request of Christopher Ford for a variance for property located at 165 East Avenue to construct a 4' high fence projecting 15' from house to 1' from lot line (zero projection permitted)

Christopher Ford stated his request to construct a 6' fence in accordance with the Judge's previous order and presented neighbor letters of support.

Chairman Elling stated he was in receipt of letters of approval from property owners at 153, 159 & 180 East Avenue. He further noted Judge Marshal's order from November 2013 stipulates a 6' high fence.

No comments were received from the public.

Motion by Elling, seconded by Harmon, to close the public hearing and grant a variance for property located at 165 East Avenue to construct a 6' high fence projecting 15' from the house to 1' from the lot line.

Ayes: All

Noes: None

Motion Carried

**2016-48**

Request of Thane & Michele Hoffmann for a variance for property located at 414 Angle Road to construct a garage with 22' front setback (minimum 30' front setback required)

Thane & Michele Hoffmann stated their proposal to construct a detached garage with 22' front setback. The garage will be placed on a 90 degree angle so they will not have to add additional driveway. It will have the same siding, architectural shingles and garage doors as on the home.

Chairman Elling stated he was in receipt of letters of approval from property owners at 358 & 377 Angle Road, 1045 & 1069 East & West Road and 2, 5 & 9 Taylor Drive. He questioned lack of a signature from the property owner at 1 Taylor Drive and Mr. Hoffmann responded they never got back to him.

**2016-48** (continued)

No comments were received from the public.

Motion by Harmon, seconded by Marzullo, to close the public hearing and grant a variance for property located at 414 Angle Road to construct a garage with a 22' front setback.

Ayes: All

Noes: None

Motion Carried

**2016-52**

Request of Gregory Showalter for a variance for property located at 54 Maplewood Avenue to allow keeping of bees in boxes on top of garage roof higher than 12' (maximum 12' high accessory building allowed)

Gregory Showalter stated he is keeping bees on top of his greenhouse and needs a variance due to the height which exceeds 12'. Mr. Showalter moved the hives off the ground so the flight path of the bees will be higher to avoid problems with the neighbors.

Chairman Elling stated he was in receipt of letters of approval from property owners at 46, 50, 60 & 63 Maplewood Avenue.

Mr. Marzullo questioned how many hives are in the boxes and how they are stacked.

Mr. Showalter stated he will not have any more than four hives. He explained the process of keeping organic bees and stated they need deep boxes so they can supplement themselves. The boxes will never be higher than 17' and the fourth box will be removed in September.

Janice Moscicki submitted a letter of opposition and presented pictures, noting the bee towers are visible from her kitchen window. Mrs. Moscicki contacted NYS Agriculture & Markets and they recommended not placing the bees on any type of structure in a residential area. They should be placed on the ground with one or two boxes at the most. She referred to the Town of Alden's code that stipulates bees need to be placed on a farm lot of five acres or more. Mrs. Moscicki was concerned with a possible decrease in property value and presented a petition signed by neighbors asking for some type of ordinance on beekeeping.

Mr. Showalter stated honey bees are not aggressive and his adjacent neighbors have no problem with them. He further stated urban beekeeping in elevated positions is popular in Europe, but not as commonplace in the USA.

**2016-52** (continued)

Mrs. Hicks commented the height of the boxes have caused a significant change in the appearance of the neighborhood.

Mr. Hughes commented that beekeeping is a growing hobby, but he is not aware of anything stating they should be kept in the air. He proposed asking the county or state health department for an official ruling.

Mr. Showalter stated bees are more comfortable 12' in the air and feral hives are located 10' to 12' in the air in a tree. He further stated there will be a skunk and raccoon problem if the hives are on the ground.

Ms. Moscicki noted that New York City requires bees to be registered with the state and they regulate by checking on the bees.

Town Attorney John Fenz advised the Zoning Board members to just consider the height variance and not the contents of the boxes.

Mrs. Hicks commented that she would not want to look at boxes of all different colors up to 17' in the air and Mr. Showalter offered to make them all one color.

Motion by Hicks, seconded by Elling, to table this item pending further information and guidance from NYS on the height issue.

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2016-58**

Request of Sean Farrell for a variance for property located at 68 Davis Road to construct a 6' high fence in the side yards of a corner lot (maximum 4' high fence allowed)

Sean Farrell stated he is amending his request and only wants to construct a 6' high fence in the back yard.

Chairman Elling stated he was in receipt of letters of approval from property owners at 70, 75 & 76 Tobey Hill Drive.

No comments were received from the public.

**2016-58** (continued)

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a variance for property located at 68 Davis Road to construct a 6' high fence in the rear yard of the corner lot.

Ayes: All

Noes: None

Motion Carried

**2016-59**

Request of Michelle Wall for a variance for property located at 114 Camelot Drive to construct a 6' high fence in the side yard (maximum 4' high fence allowed)

Michelle Wall stated her request for a variance for a 6' high fence extending 16' into the side yard to enclose her fireplace and air conditioning unit.

Chairman Elling stated he was in receipt of letters of approval from property owners at 110, 115 & 119 Camelot Drive and 49 John Alex Drive.

No comments were received from the public.

Motion by Hughes, seconded by Harmon, to close the public hearing and grant a variance for property located at 114 Camelot Drive to construct a 6' high fence in the side yard.

Ayes: All

Noes: None

Motion Carried

**2016-60**

Request of Craig Munro for a variance for property located at 33 Brianwood Drive to construct a 6' high fence in side yard (maximum 4' high fence allowed)

Craig & Paula Munro stated their proposal to construct a 6' high fence in the side yard next to their neighbor's chain link fence.

Chairman Elling stated he was in receipt of letters of approval from property owners at 36 Brianwood Drive and 40 Reynolds Road. He also read a letter from the property owner at 39 Brianwood Drive who objected to the fence because it will be detrimental to her property and obstruct her view and sunlight. The property owner further commented the petitioner is not taking care of the weeds between the fences that are there.

**2016-60** (continued)

Mr. Munro stated the weeds have always been there and they are actually the neighbor's weeds growing through the chain link fence. Mrs. Munro takes care of yard maintenance and their gardens are all mulched along the fence. She also cares for special needs children and they would like some privacy.

Code Enforcement Officer Jeffrey Baksa noted the Munro's could put up a 4' high fence and no variance would be required.

No comments were received from the public.

Motion by Hughes, seconded by Harmon, to close the public hearing and grant a variance for property located at 33 Brianwood Drive to construct a 6' high fence in the side yard.

Ayes: All

Noes: None

Motion Carried

**2016-61**

Request of Luigi Collana for a variance for property located at 71 Terrace Blvd. to install a pool 4' from the house (minimum 10' from house required) and construct a 6' high fence in side yard (maximum 4' high fence allowed)

Luigi Collana stated his proposal to install an inground pool in his yard, noting the location is restricted due to a storm sewer. He would also like to enclose the entire yard with a 6' high fence for privacy.

Chairman Elling stated he was in receipt of letters of approval from property owners at 66, 70 & 75 Terrace Blvd. He questioned lack of a signature from the property owner at 63 Terrace Blvd.

Mr. Collana responded he has had problems with the neighbor in the past and they do not really communicate with each other.

Code Enforcement Officer Jeffrey Baksa commented on the situation and stated the neighbor was using the vacant parcel for his own belongings prior to Mr. Collana building his home there.

No comments were received from the public.



**2016-61** (continued)

Motion by Harmon, seconded by Hicks, to close the public hearing and grant a variance for property located at 71 Terrace Blvd. to install a pool 4' from the house and construct a 6' high fence in the side yard.

Ayes: All

Noes: None

Motion Carried

**2016-62**

Request of Troy Koerner for a variance for property located at 75 Lisa Ann Lane to construct a 6' high fence with 22' projection into front yard of corner lot (maximum 4' high fence with 10' projection allowed)

Troy Koerner stated he had a pool installed along with a 6' high vinyl fence for privacy. Colley's subcontracted the fence to B & B Fence and the posts are 18" from the sidewalk, but they will be moved to 24".

Mr. Harmon stated the Zoning Board has been consistent in requiring fences to be placed a minimum of 36" off a sidewalk.

Chairman Elling stated he was in receipt of letters of approval from property owners at 100 & 108 Carmelite Drive and 112 & 118 Wedgewood Drive.

No comments were received from the public.

Motion by Elling, seconded by Harmon, to close the public hearing and grant a variance for property located at 75 Lisa Ann Lane to construct a 6' high fence in the front yard of the corner lot and setback 3' from the sidewalk along Wedgewood Drive.

Ayes: All

Noes: None

Motion Carried

**2016-63**

Request of Louis Irace for a variance for property located at 17 Borden Road to construct an attached garage with 5'3" side setback (minimum 10' side setback required)

Louis Irace stated his proposal to construct an attached garage, noting the house sits on an angle so the front corner of the garage will be setback 5'3" from the side lot line. The garage will be used for personal storage and there will be no storage on the side. Gutters will be tied into the house drainage system.

**2016-63** (continued)

Code Enforcement Officer Jeffrey Baksa stated the R-90A zoning requires a 10' side setback for an attached garage while other residential zonings only require 5'.

Chairman Elling stated he was in receipt of a letter of approval from the property owner at 27 Borden Road.

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 17 Borden Road to construct an attached garage with 5'3" side setback.

Ayes: All

Noes: None

Motion Carried

**2016-64**

Request of George Aronis of Olive Branch Family Restaurant for a variance for property located at 2343 Union Road to allow outdoor patio seating

George Aronis, owner of Olive Branch Family Restaurant, presented a seating chart for his proposal to install outdoor patio seating on the front of the building. The patio will be half covered with the existing ledge of the roof and about 5' will be uncovered. He might install a vinyl canopy in the spring and will be installing a 3.5' aluminum rail fence. Plans have also been submitted for an addition on the right side of the building.

Code Enforcement Officer Jeffrey Baksa stated the parking will not be changed and they will address the use of bollards around the patio for safety.

Mr. Hughes questioned the hours of operation for the patio and Mr. Aronis stated the patio will be open at lunch time thru 9 P.M., weather permitting.

Mr. Marzullo questioned if alcohol will be sold and Mr. Aronis responded they have applied for a full liquor license and should receive approval shortly.

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 2343 Union Road to allow outdoor patio seating.

Ayes: All

Noes: None

Motion Carried

**2016-65**

Request of Mary Sienkiewicz for a variance for property located at 130 Theresa Court to construct a roof over porch in front setback (40' front setback required)

Mary Sienkiewicz stated her proposal to add a roof over her existing front step to protect from rain and snow when entering and exiting her home.

Chairman Elling stated he was in receipt of letters of approval from property owners at 116, 123, 129, 137 & 138 Theresa Court.

No comments were received from the public.

Motion by Marzullo, seconded by Hughes, to close the public hearing and grant a variance for property located at 130 Theresa Court to construct a roof over the porch in the front yard setback.

Ayes: All

Noes: None

Motion Carried

**2016-66**

Request of Edward Lewandowski for a variance for property located at 200 Lowell Lane to construct a 6' high fence in side yard and a 4' high fence in front yard projecting more than 10' into front yard (maximum 4' high fence allowed in side yard with maximum 10' projection into front yard)

Edward Lewandowski stated his proposal to construct a 6' high fence in his side yard to screen his neighbor's back yard and a 4' high fence in his front yard, noting the neighbor intends to take down their fence and tie into Mr. Lewandowski's fence.

Code Enforcement Officer Jeffrey Baksa advised that the neighbor will also need a variance if he intends to tie into Mr. Lewandowski's fence.

Chairman Elling stated he was in receipt of letters of approval from property owners at 194, 195 & 201 Lowell Lane 407 & 413 Meadow Drive.

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 200 Lowell Lane to construct a 6' high fence in the side yard and a 4' high fence in the front yard projecting more than 10' into the front yard and setback 3' from the sidewalk.

Ayes: All

Noes: None

Motion Carried

**2016-67**

Request of Diane and Jim Hourihan for a variance for property located at 1551 Center Road to construct a garage with 19'6" front setback and 5'2" rear setback (30' front and rear setback required)

Aaron Henderson of Sutton Architecture represented the Hourihan's and stated their proposal to construct an attached garage on a house to be built at 1551 Center Road. The main structure of the home will fall within the proper setbacks, but the garage will have a 19'6" front setback and a 5'2" rear setback. The face of the garage will be even with the adjacent home on Rebecca Way.

Chairman Elling stated he was in receipt of letters of approval from property owners at 5 & 9 Rebecca Way and 1540 & 1543 Center Road.

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 1551 Center Road to construct a garage with 19'6" front setback and 5'2" rear setback.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Marzullo, seconded by Hughes, to adjourn the meeting at 9:05 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser  
Town Clerk/Zoning Board Secretary