

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

**ZONING BOARD OF APPEALS  
Minutes #2016-10  
October 26, 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 Marzullo, to open the public hearing.

Ayes: All

Noes: None

Motion Carried

**APPROVAL OF PROOFS OF PUBLICATION**

Motion by Harmon, seconded by Hicks, 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 #2016-09 of September 28, 2016.

Ayes: All

Noes: None

Motion Carried

**OLD BUSINESS**

**2011-60**

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Request of Dennis Sullivan for renewal of a variance for property located at 1481 Orchard Park Road to raise chickens.

**2011-60** (continued)

Chairman Elling stated the applicant requested this item be tabled until the December 14, 2016 meeting.

Motion by Hughes, seconded by Marzullo, to table this item until the December 14, 2016 meeting.

Ayes: All

Noes: None

Motion Carried

**2016-72**

Request of Obad Alkholaki for a variance for property located at 2111 Clinton Street to allow an electronic message board within 500' of residential zoning

The petitioner was not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

**2016-77**

Request of Charles Stiglmeier for a variance for property located at 4261 Clinton Street to construct an addition reducing front setback to 32' (40' front setback required)

Charles Stiglmeier presented a floor plan for his proposed addition at 4261 Clinton Street which includes a side load garage, noting the view is not obstructed and his neighbors have no objections.

Chairman Elling questioned the location of the driveway.

Code Enforcement Officer Jeffrey Baksa stated the driveway will have to curve across the front of the house. A two car garage will allow for parking in the garage which is also in the front setback.

Chairman Elling stated he was in receipt of letters of approval from property owners at 4215, 4250, 4256, 4260 & 4271 Clinton Street. He questioned lack of a signature from the next door neighbor at 4269 Clinton Street.

Mr. Stiglmeier stated he attempted to contact the neighbor at 4269 Clinton Street, but they did not come to the door.

**2016-77** (continued)

Mr. Harmon questioned how the garage will be accessed.

Mr. Stiglmeier stated he did not have a plan for the driveway yet because he wanted to get approval of the variance first, but he will not have two driveways on Clinton Street.

Mr. Baksa stated the driveway issue will be addressed at the time of issuance of the building permit.

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 4261 Clinton Street to construct an addition reducing front setback to 32' and allow parking in the front setback inside the garage.

Ayes: All

Noes: None

Motion Carried

**2016-78**

Request of Joseph Jarnot for a variance for property located at 2724 Transit Road to construct a 100 sf sign (maximum 40 sf sign per side allowed)

Jeremy Ratajczyk of Tri-Town Animal Center and Joseph Jarnot of Custom Signs stated their proposal for an LED sign at 2724 Transit Road.

Chairman Elling stated he was in receipt of letters of approval from property owners at 2730, 2732 and 2701 – 2731 Transit Road. Correspondence was also received from NYSDOT approving the sign as long as it is located outside of the NYS highway right-of-way.

Code Enforcement Officer Jeffrey Baksa stated if approved this item will go to the Town Board for approval of an LED sign.

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 2724 Transit Road to construct a 100 sf sign.

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Ayes: All

Noes: None

Motion Carried

**2016-81**

Request of Michelle Monaco for a variance for property located at 1420 Union Road to reduce entrance width (minimum 30' required) and reduce parking to two spaces (three spaces required)

Town Attorney John Fenz stated the applicant withdrew this application and will be filing for a rezoning.

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

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2016-82**

Request of Christian & Margaret Mulderig for a variance for property located at 261 Tudor Blvd. to construct a roof over front porch with 27' front setback (30' front setback required)

Christian & Margaret Mulderig stated their proposal to construct a new patio with roof that will extend into the front setback.

Chairman Elling stated he was in receipt of letters of approval from property owners at 254, 255, 260, 264, 265, 271 & 274 Tudor Blvd.

Code Enforcement Officer Jeffrey Baksa stated Town Code allows an unenclosed, uncovered front porch extending 25 percent into the required front setback. The variance is actually to allow the covered porch in the front setback.

No comments were received from the public.

Motion by Hughes, seconded by Hicks, to close the public hearing and grant a variance for property located at 261 Tudor Blvd. to construct a roof over the front porch.

Ayes: All

Noes: None

Motion Carried

**2016-83**

Request of Eve Fadeley for a variance for property located at 355 Fawn Trail to construct covered porch in front yard reducing setback to 25' (30' front setback required)

**2016-83** (continued)

Eve Fadeley stated her request to construct a roof over her front porch, noting this is an open porch and will not be enclosed.

Chairman Elling stated he was in receipt of a letter of approval from the property owner at 349 Fawn Trail.

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 355 Fawn Trail to construct a covered porch in the front yard.

Ayes: All

Noes: None

Motion Carried

**2016-84**

Request of William Hay for a variance for property located at 86 Cathedral Drive to construct a 6' high fence in front and side yard (maximum 4' high fence permitted)

William Hay stated he constructed a 4' fence years ago. He recently installed a sprinkler system and the neighbor complained about water in their driveway. Mr. Hay would now like to install a 6' fence to stop water from getting onto the neighbor's driveway. The fence will be positioned 4' off the sidewalk.

Mr. Harmon questioned how far the fence will be located from the house.

Mr. Hay responded there is 31' to the lot line.

Mr. Harmon commented that he thought a 4' fence was sufficient to stop the water from getting on the neighbor's driveway and Code Enforcement Officer Jeffrey Baksa advised that a 6' hedgerow could be installed along the side yard up to 4' off the sidewalk. A 4' fence would also be allowed without a variance up to 10' off the sidewalk.

Chairman Elling stated he was in receipt of letters of approval from property owners at 66, 70 & 78 Cathedral Drive and 2 Cathedral Court.

Mr. Hay stated the neighbors next door did not sign, noting one is new to the neighborhood and the other did not want to get involved.

No comments were received from the public.

**2016-84** (continued)

Motion by Harman, seconded by Elling, to close the public hearing and deny a variance for property located at 86 Cathedral Drive to construct a 6' high fence in front and side yard.

Ayes: All

Noes: None

Motion Carried

**2016-85**

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

Tracy Coccia of Big Lots stated the storage containers on their property are considered temporary structures and are used for storage of furniture and seasonal merchandise. Sales are up and they have outgrown their storage space in the area they are currently renting. They would like to keep three of the storage containers at ground level at the back of the store. The one in front and the raised one will be removed.

Chairman Elling questioned if they had looked into leasing additional space to address the storage issue.

Ms. Coccia stated it is a separate parcel and the landlord is looking to rent the entire space to another entity. The current square footage is average for the store and they have no plans to expand into other parts of the building.

Mr. Hughes questioned if there were any neighbor complaints.

Code Enforcement Officer Jeffrey Baksa responded the storage containers have been there for a while and his office recently advised them that the containers are temporary structures.

Mr. Harmon suggested screening the containers.

Ms. Coccia stated she will have to check with the landlord.

Chairman Elling stated he was in receipt of letters of approval from property owners at 550, 620, 630 & 650 Orchard Park Road.

**2016-85** (continued)

Susan Kims referred to other businesses in town that were not allowed to keep temporary structures. She commented this business is located on a main road through town and there is no screening of the structures.

No comments were received from the public.

Motion by Harmon, seconded by Hughes, to close the public hearing and grant a temporary variance until August 31, 2017 for property located at 1980 Ridge Road to allow three temporary structures at the rear of the building with no space between them and request the landlord screen the structures from public view; and further, the applicant should look for a more viable solution to their storage issue.

Ayes: (4) Mr. Harmon, Mr. Hughes, Mrs. Hicks, Chairman Elling

Noes: (1) Mr. Marzullo

Motion Carried

**2016-86**

Request of Vincent Odierno for a variance for property located at 66 Carla Lane to connect house to deck and pool (no connection permitted)

Vincent Odierno stated his proposal to remove the existing decks in his rear yard and construct a single deck that connects his house to the pool, noting he is disabled and it is difficult for him to maneuver two decks. They also take up a lot of space in his back yard.

Code Enforcement Officer Jeffrey Baksa stated a self closing, self latching gate will be required.

Mrs. Hicks questioned the distance from the house to the pool and Mr. Odierno responded it is 6' to 8' from the existing deck to the pool.

Chairman Elling stated he was in receipt of letters of approval from property owners at 203 Oakbrook Drive and 62 & 70 Carla Lane.

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 66 Carla Lane to connect the house to deck and pool.

Ayes: All

Noes: None

Motion Carried

**2016-87**

Request of Ron & Lisa Strong for a variance for property located at 27 Giblin Drive to construct a shed in front yard of corner lot (accessory structures not permitted in required front or side yard)

Ron & Lisa Strong stated there is no room in the back yard of their corner lot for a shed. They would like to construct a 10' x 12' already built shed and presented a picture indicating where the shed will be located within the fence.

Chairman Elling stated he was in receipt of letters of approval from property owners at 15, 32 & 35 Giblin Drive and 30 Bosse Lane.

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 27 Giblin Drive to construct a shed in front yard of corner lot.

Ayes: All

Noes: None

Motion Carried

**2016-88**

Request of Russell & Jamie DiFrancesco for a variance for property located at 718 Center Road to construct a 6' high fence in front yard (maximum 4' high fence allowed)

Russell & Jamie DiFrancesco stated their proposal to increase the height of their existing fence from 4' to 6', noting this was previously approved in 2002 but the fence was never put up.

Chairman Elling stated in 2002 there was an issue with the fence being located outside the lot line and he questioned if the 4' fence was moved.

Mrs. DiFrancesco stated the 4' fence is still there and they are asking to keep it where it is but just raise it to 6'. She submitted pictures of the fence and a letter from Highway Supt. Matthew English stating he did not see any issues.

Chairman Elling stated he was in receipt of letters of approval from property owners at 700, 721 & 722 Center Road and 21 & 24 Washington Street. A letter was also received from property owners at 25, 27, 31 & 35 Washington Street and 706 Center Road stating the fence will be located too close to the road and limits visibility. Chairman Elling noted the fence will have to be placed at least 3' away from the right-of-way within the applicant's property.



**2016-88** (continued)

Town Attorney John Fenz suggested a boundary line agreement with the town for the existing fence and then applying for a variance for the 6' high fence.

Tim Schrader stated the 6' fence will not allow inspectors to see in the back yard of the corner lot to determine if there are any violations.

Code Enforcement Officer Jeffrey Baksa responded his office is often informed by neighbors of possible violations and they are still able to do their job even with a 6' high fence, so this is not an appropriate comment with regard to the variance.

Another resident expressed concern for the children in the area as cars speed down the street erratically and a 6' high fence will be an obstruction.

Motion by Hicks, seconded by Harmon, to table this item for further review.

Ayes: All

Noes: None

Motion Carried

Mr. Baksa suggested Mr. & Mrs. DiFrancesco contact Town Attorney John Fenz at their earliest convenience.

**2016-89**

Request of Phillip B Polanski for a variance for property located at 1557 East & West Road to construct a 6' high fence in front and side yard (maximum 4' high fence allowed)

Phillip Polanski requested a variance for the 6' high fence that was constructed in his yard 100' off the road. He has three dogs and two small children and the fence was put up in August to protect them due to the traffic at Sunshine Park across the street. Mr. Polanski did not obtain a building permit and did not know it was required or that a 6' high fence required a variance.

Chairman Elling stated he was in receipt of a letter of approval from the property owner at 1563 East & West Road. He questioned the signature from the owner of the apartment complex.

Mr. Polanski stated the owner of the apartment complex at 1535 – 1545 East & West Road gave the property manager permission to sign.

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Mrs. Hicks questioned if a company installed the fence.

Mr. Polanski responded that he installed the fence with the help of others.

**2016-89** (continued)

Chairman Elling stated he was not comfortable approving the variance without the apartment complex owner's signature.

No comments were received from the public.

Motion by Harmon, seconded by Hughes, to close the public hearing and grant a variance for property located at 1557 East & West Road to allow a 6' high fence in the front and side yard, conditioned upon receipt of a letter from the property owner at 1535 – 1545 East & West Road, noting the fence is already constructed.

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

Noes: (2) Mr. Marzullo, Mrs. Hicks

Motion Carried

**2016-90**

Request of Garrett Mayer for a variance for property located adjacent to 1540 Seneca Creek Road to allow a parking lot constructed of millings/stone (parking areas to be constructed of concrete or asphalt)

Motion by Elling, seconded by Hicks, to table this item pending receipt of comments from Erie County.

Ayes: All

Noes: None

Motion Carried

**2016-91**

Request of Sean Shoemaker for a variance for property located at 100 Shirley Drive to construct an attached garage with 22' front setback and 2' side setback (minimum 30' front setback and 5' side setback required)

Sean Shoemaker stated his proposal to construct a 25' x 23' front load garage with a 15' high peak located 8' into the front setback and 3' into the side setback.

Mr. Marzullo requested a better set of plans for the project.

Code Enforcement Officer Jeffrey Baksa stated stamped prints will be required by the Code Enforcement Office.

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Chairman Elling stated he was in receipt of letters of approval from property owners at 90 & 100 Shirley Drive and 65 & 70 Norma Drive.

**2016-91** (continued)

Mr. Marzullo questioned if Mr. Schoemaker intends to park the snowmobiles inside the garage along with his vehicles.

Mr. Schoemaker responded he does not use the snowmobiles much and they will probably be sold.

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 100 Shirley Drive to construct an attached garage with 22' front setback and 2' side setback and allow parking in the front setback inside the garage.

Ayes: All

Noes: None

Motion Carried

**2016-92**

Request of Judy Stamm of Silvertip Ventures for a variance for property located at 1934 Union Road to construct a 39.62 sf sign (maximum 20 sf sign allowed)

Attorney Ralph Lorigo represented Silvertip Ventures and stated their request to construct a 39.62 sf sign at 1934 Union Road. He presented the approved site plan indicating location of the pedestal sign and the proposed new location, noting all other requirements are met except the 10' setback requirement. Mr. Lorigo commented the change in location will be better for business and will not obstruct vision as the sign will be 20' in the air.

Chairman Elling stated he was in receipt of letters of approval from property owners at 1904 & 1937 Union Road, 18 Doster Place and 1365 Indian Church Road.

Code Enforcement Officer Jeffrey Baksa stated the size of the pedestal sign complies with Town Code, but the proposed location is closer than permitted to a state road and they have not received comments from NYSDOT.

Mr. Lorigo stated they intend to open for business in December and he asked for contingent approval of the variance.

Mrs. Hicks expressed concern about signage along the Union Road corridor and questioned what type of signage the other building will have.

Mr. Lorigo stated they do not know what is going in the other building, but they will only have signage that is allowed under the Town Code.

**2016-92** (continued)

Mrs. Hicks objected to a pedestal sign and suggested a monument sign would be better, noting the Town Board intends to amend the zoning ordinance to comply with the Comprehensive Plan (Page 39) and enhance primary gateways to the town (Page 53). The Design Standards Committee has been meeting and they are looking to bring things down to a level more appealing. Mrs. Hicks stated people will know Tim Horton's is there without having a pedestal sign and she presented a picture of a monument sign from the Tim Horton's location in East Aurora.

Mr. Lorigo responded the Comprehensive Plan does not restrict signs along any area, especially in a C-2 zoning area, and there is no prohibition against a pedestal sign. He presented a picture of a currently approved Tim Horton's monument sign and stated they are more obstructive than a pole sign. Mr. Lorigo further commented the project substantially complies with the intent of the Comprehensive Plan and they are just looking for a better location for the sign.

Mr. Marzullo commented the proposed location of the pedestal sign will obstruct vision from Indian Church Road, as would a monument sign. He did not believe the sign should be located closer to the road and would like to see a cleaner look along Union Road.

Mrs. Hicks questioned if the pedestal sign will only have the Tim Horton's logo and not the drive-thru portion.

Mr. Lorigo responded the sign will look as indicated on the drawing submitted.

Mr. Hughes stated he favored a pedestal sign closer to Union Road rather than a monument sign, noting a monument sign is larger and more invasive/obstructive.

Mrs. Hicks questioned how many units will be in the other building.

Judy Stamm of Silvertip Ventures stated there will be a maximum of three businesses in the other building with signage only on the building. The proposed sign will be the only free standing sign on the parcel.

Fred Stamm of Silvertip Ventures stated they are also working with landscapers to enhance the landscaping along Union Road.

Susan Kims stated the Planning Board approved the site plan for this project with the sign in a specific place. She questioned if this will go back to the Planning Board if the variance is approved.

**2016-92** (continued)

Mr. Baksa advised that the Zoning Board has the authority to a grant variance for the sign.

Motion by Hughes, seconded by Harmon, to close the public hearing and grant a variance for property located at 1934 Union Road to construct a 39.62 sf pedestal sign located closer than 10' to the property line along Union Road and contingent upon approval of NYSDOT.

Ayes: (4) Mr. Hughes, Mr. Harmon, Mrs. Hicks, Chairman Elling

Noes: (1) Mr. Marzullo

Motion Carried

**2016-93**

Request of Robert Krautsack for a variance for property located at 219 Pellman Place to construct a garage with 19' peak (maximum 12' height allowed for accessory structures)

Robert Krautsack stated his proposal to construct a pole barn to store his boat and camper, noting the barn will be 19' to the peak.

Mrs. Hicks questioned if there are any plans for the driveway. Mr. Krautsack responded he is not planning to have a driveway to the barn as it will be used for storage and he will only access it a few times a year.

Chairman Elling stated he was in receipt of letters of approval from property owners at 206, 210, 234 & 236 Pellman Place.

No comments were received from the public.

Motion by Harmon, seconded by Hughes, to close the public hearing and grant a variance for property located at 219 Pellman Place to construct a garage with 19' peak.

Ayes: (4) Mr. Harmon, Mr. Hughes, Mrs. Hicks, Mr. Marzullo

Noes: None

Abstentions: (1) Chairman Elling

Motion Carried

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

**ZONING BOARD OF APPEALS**  
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**2016-72**

Request of Obad Alkholaki for a variance for property located at 2111 Clinton Street to allow an electronic message board within 500' of residential zoning

The petitioner was not present at the meeting.

Motion by Hughes, seconded by Elling, to close the public hearing and table the request for a variance for property located at 2111 Clinton Street to allow an electronic message board.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

Motion by Marzullo, seconded by Elling, to adjourn the meeting at 9:15 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser  
Town Clerk/Zoning Board Secretary