

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

**ZONING BOARD OF APPEALS**  
**Minutes #2012-11**  
**December 12, 2012**

The regular meeting of the Zoning Board of Appeals of the Town of West Seneca was called to order by Chairman David Monopolus at 7:00 P.M. followed by the Pledge of Allegiance led by Michael Harmon and 30 seconds of silent prayer.

**ROLL CALL:** Present - David Monopolus, Chairman  
Michael P. Harmon  
Evelyn Hicks  
Michael P. Hughes  
Sandra Giese Rosenswie  
John Gullo, Code Enforcement Officer  
Shawn P. Martin, Town Attorney

Absent - None

Chairman Monopolus 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 Rosenswie, 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 Hicks, to approve Minutes #2012-10 of October 24, 2012.

On the question, Mrs. Hicks referred to Page two and the motion to approve Item #2010-063, noting that the time should read 1:30 A.M. rather than 1:30 P.M.

Ayes: All

Noes: None

Motion Carried

**NEW BUSINESS**

**2012-056**

Request of Denis J & Kathleen A Jacques for a variance for property located at 43 Heather Hill Drive to allow construction of three 8' sections of 6' high fence in front yard (4' high allowed)

Denis Jacques stated his home is located on a corner lot and there was an existing fence that was taken down this summer to construct a patio. He presented a picture of the proposed 6' high fence and stated he would like to construct three 8' sections to screen traffic on Heather Hill Drive. The fence will be 8' off the side of the house and there will be four posts.

Mr. Hughes questioned if Code Enforcement Officer John Gullo had any traffic & safety concerns with the fence on a corner lot and Mr. Gullo responded he did not.

Mr. Harmon commented there are no dimensions on the plan indicating the distance from the fence to the lot line. Mr. Jacques responded there will be 18.74' from the fence to the lot line.

Chairman Monopolus noted receipt of letters of support from neighbors at 31 & 34 Heather Hill Drive and 54 Theresa Court.

No comments were received from the public.

Motion by Hughes, seconded by Rosenswie, to close the public hearing and grant a variance for property located at 43 Heather Hill Drive to allow construction of three 8' sections of 6' high fence in the front yard.

Ayes: All

Noes: None

Motion Carried

**2012-057**

Request of Patrick F Sullivan for a variance for property located at 3036 Seneca Street to allow live music

Patrick Sullivan stated his proposal to have live music at Fusion located at 3036 Seneca Street. Mr. Sullivan stated he owns the business but not the building and it is open until 1:30 A.M. on Friday and Saturday and weekdays until 11 P.M. The live music will only be indoors.

**2012-057** (continued)

Mr. Harmon questioned if Mr. Sullivan had obtained letters of support from his neighbors and Mr. Sullivan responded he had not but the bar has been open for many years so the neighbors are aware of the activity there.

No comments were received from the public.

Motion by Monopolus, seconded by Rosenswie, to close the public hearing and grant a one year variance to allow live music at 3036 Seneca Street on weekdays (Sunday through Thursday) until 11:00 P.M., except for New Year's Eve and Thanksgiving Eve when live music will be allowed until 1:30 A.M., and allow live music on Friday and Saturday nights until 1:30 A.M.

Ayes: All

Noes: None

Motion Carried

**2012-058**

Request of Ronald Race for a variance for property located at 1100 Orchard Park Road for display of storage sheds for sale (temporary structures not allowed)

Ronald Race stated his proposal to display three storage sheds for sale on property at 1100 Orchard Park Road and presented pictures of the sheds to the board members. The sheds will be on display throughout the year but they will be changed periodically. Mr. Race further presented a picture of a 3.5' x 16' single post sign, unlit, that will be located 10' from the property line.

Chairman Monopolus questioned if there will be a driveway off Orchard Park Road for cars to park while a prospective buyer looks at the sheds. Mr. Race responded that the property line is 15' from the edge of the road and the sheds will be another 30' to 40' back, so there is plenty of room for cars to pull in and park. He intended to stone that area eventually.

Code Enforcement Officer John Gullo stated that the storage shed must be located at least 30' to 40' from the front property line.

Mrs. Hicks expressed some concern about vandalism and Mr. Race responded that the sheds are locked. Prospective buyers copy the phone number and call if they want to make an appointment to look at them.

Chairman Monopolus noted receipt of letters of approval from the property owner of 1100 Orchard Park Road and neighbors at 1045 & 1081 Orchard Park Road and 21 East & West Road.

**2012-058** (continued)

Amy Carpenter questioned if this application will have to go to the Planning Board for site plan approval.

Mr. Gullo responded that there will be no structures on the property other than three sheds and there will be no parking lot. He further noted that the property is zoned commercial.

Mrs. Carpenter commented on the residential nature of the surrounding area and suggested another location to display the sheds.

Motion by Hughes, seconded by Harmon, to close the public hearing and grant a one year variance for property located at 1100 Orchard Park Road for display of storage sheds for sale 40' off the lot line.

Ayes: All

Noes: None

Motion Carried

**2012-059**

Request of Nicholas M Calandra (Hearts for the Homeless WNY) for a variance for property located at 1907 Center Road for placement of a temporary structure in parking lot (temporary structures not allowed)

Nicholas Calandra stated his proposal to place a clothing donation bin on property located at 1907 Center Road, noting that the bin will be placed closer to the Seneca Street properties. The 4' x 4' x 6' bin will be used to collect clothes and shoes for the charity Hearts for the Homeless. They have 150 donation bins throughout WNY and much of the clothing goes to the soup kitchen in Buffalo. Some of the clothing is recycled for post consumer processes and some of those products are shipped overseas. The location at Bank of America has been temporarily removed, but there is still a donation bin at the Stop & Gas on Seneca Street that has received a good volume of donations.

Mrs. Hicks questioned if there has ever been any problems with these donation bins and Code Enforcement Officer John Gullo responded there has not been any complaints.

Chairman Monopolus noted receipt of letters of support from neighbors at 5150 & 5174 Seneca Street and the property owner of 1907 Center Road.

No comments were received from the public.

**2012-059** (continued)

Motion by Hicks, seconded by Harmon, to close the public hearing and grant a variance for property located at 1907 Center Road for placement of a temporary structure in the parking lot.

Ayes: All

Noes: None

Motion Carried

**2012-060**

Request of Nicholas M Calandra (Hearts for the Homeless WNY) for a variance for property located at 395 Center Road for placement of a temporary structure in parking lot (temporary structures not allowed)

Nicholas Calandra stated his proposal to place a clothing donation bin on the West Middle School property located at 395 Center Road, noting he had received permission from the principal of the school.

Chairman Monopolus stated that approval of the West Seneca School Board was required.

Mr. Calandra commented that there are similar style paper recycling bins located at some of the schools and he questioned if they needed School Board approval.

Code Enforcement Officer John Gullo responded that the school itself may be running the paper recycling program.

No comments were received from the public.

Motion by Hicks, seconded by Harmon, to table this request pending approval from the West Seneca School Board.

Ayes: All

Noes: None

Motion Carried

**2012-061**

Request of Larry Bueme for a variance for property located at 61 Greenhill Terrace to allow a temporary structure in the rear yard (temporary structures not allowed)

Larry Bueme presented pictures and stated his proposal for a year round carport for storage of his show vehicles. He questioned if the 18' x 21' carport can be a permanent structure and Code Enforcement Officer John Gullo responded that he will meet with Mr. Bueme to formulate what is needed to make it permanent.

**2012-061** (continued)

Mrs. Hicks questioned if the rear neighbors had a problem with the carport and if it was collapsible.

Mr. Bueme responded that the carport is not collapsible. He knows one neighbor behind him and he has no problem with the carport. Mr. Gullo further noted there were no neighbor complaints with regard to the carport.

Chairman Monopolus noted receipt of letters of approval from neighbors at 59 & 68 Greenhill Terrace.

No comments were received from the public.

Motion by Hicks, seconded by Harmon, to close the public hearing and grant a variance for property located at 61 Greenhill Terrace to allow a temporary carport in the rear yard until April 15, 2013, noting the petitioner will discuss with Code Enforcement Officer John Gullo the possibility of making the carport a permanent structure.

Ayes: All

Noes: None

Motion Carried

**2012-062**

Request of David Shamlan of Genergy Properties LLC & Todd Huber of Building Solutions for a variance for property located at 5029 Clinton Street to reduce required parking from 39 to 29 spaces.

Todd Huber of Building Solutions stated their proposal for a Carquest retail store at 5029 Clinton Street at the corner of Transit Road and presented endorsements from neighbors, noting they were requesting three variances for the project. At the suggestion of Code Enforcement Officer John Gullo, the dumpster was moved to the side which reduced the number of parking spaces to 29. Another variance was needed for the lot line setback; however, the new building will have more setback than the building that is currently there. The third variance was concerning the proximity of the parking lot to Transit & Clinton Street and they worked with Mr. Gullo to place the building appropriately.

Mrs. Hicks questioned where the snow will be plowed and Mr. Huber indicated on the plan an area near the creek where snow will be plowed. Mrs. Hicks was not in favor of plowing snow near the creek and supported reducing parking to provide an area away from the creek.

**2012-062** (continued)

Mr. Hughes questioned how often the parking spaces turnover and Mrs. Hicks questioned if there is a fleet of delivery vehicles on site.

Mr. Huber stated the vast majority of their business is delivering car parts to dealers and garages. The average Carquest store has between 5 and 11 customers at any one time and there are two or three employees along with three delivery vehicles, so there will be a maximum of 17 vehicles in the parking lot at any given time.

Mr. Hughes questioned the hours of operation and Mr. Huber responded the typical hours are 8:00 A.M. until 9:00 P.M.

Mr. Gullo stated that the application had to be amended to include a variance to reduce the required side yard setback from 30' to 15' and reduce the required 10' setback on Clinton Street to zero.

Town Attorney Shawn Martin suggested reducing the parking to 20 spaces to allow some flexibility in design of the project at site plan.

Chairman Monopolus noted receipt of letters of support from the neighbor at 5029 Clinton Street and the owner of Lucky's Restaurant.

No comments were received from the public.

Motion by Monopolus, seconded by Hughes, to close the public hearing and grant a variance for property located at 5029 Clinton Street to reduce required parking from 39 to 20 spaces, reduce side yard setback from 30' to 15', and reduce required green space on Clinton Street to zero.

Ayes: All

Noes: None

Motion Carried

**ADJOURNMENT**

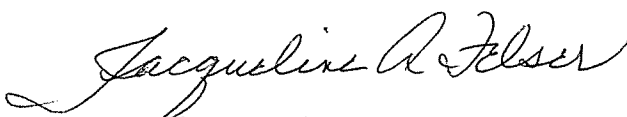
Motion by Hughes, seconded by Rosenswie, to adjourn the meeting at 7:45 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser  
Town Clerk/Zoning Board Secretary