

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 Evelyn Hicks and 30 seconds of silent prayer.

ROLL CALL: Present - Timothy J. Elling, Chairman
Evelyn Hicks
Richard P. Marzullo
Raymond Kapuscinski
Douglas Busse, Code Enforcement Officer
Kimberly Conidi, Deputy Town Attorney

Absent - Michael P. Hughes

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 Marzullo, seconded by Hicks, to open the public hearing.

Ayes: All Noes: None Motion Carried

APPROVAL OF PROOFS OF PUBLICATION

Motion by Marzullo, seconded by Elling, that proofs of publication and posting of legal notice be received and filed.

Ayes: All Noes: None Motion Carried

APPROVAL OF MINUTES

Motion by Hicks, seconded by Marzullo, to approve Minutes #2019-03 of March 20, 2019.

Ayes: All Noes: None Motion Carried

OLD BUSINESS

2013-03

Request of Brian & Lisa Hirsch for renewal of a variance for property located at 122 Tampa Drive to raise chickens

Brian & Lisa Hirsch stated their request for renewal of the variance to raise chickens, noting they have six chickens and no roosters.

2013-03 (continued)

Chairman Elling stated no complaints were registered with the Police Department over the past year.

Motion by Elling, seconded by Kapuscinski, to close the public hearing and grant a one year variance for property located at 122 Tampa Drive to raise six chickens, no roosters.

Ayes: All

Noes: None

Motion Carried

2019-04

Request of Eugene Staychock for a variance for property located at 789 Center Road to construct an LED sign within 500' of residential zoning

Eugene Staychock, owner of Schwabl's Restaurant, stated his request for a variance to construct an LED sign and submitted signatures of approval from surrounding property owners. Mr. Staychock stated he purchased the sign last year from Yost Sign. The company wanted it out of their shop and he had suggested they take advantage of good weather in February to put the sign up and he would then move forward with permits. Mr. Staychock noted he was out-of-town for the last two meetings and the sign has not been lit. He further stated he had previously received approval for a temporary LED sign.

Cheryl Staychock commented that she felt they were being penalized with the requirements for permits.

Mr. Marzullo stated this is the same process that everyone is required to follow and Mrs. Hicks referred to another instance where the application was tabled pending receipt of additional signatures from surrounding property owners.

Chairman Elling noted the sign ordinance was changed in 2017 to require a variance for an LED sign within 500' of residential zoning. He also noted there are certain regulations in place relative to illuminating the sign.

Code Enforcement Officer Douglas Busse stated the sign regulations will be reviewed with the applicant when he applies for the sign permit.

Chairman Elling stated he was in receipt of approval signatures from property owners at 736, 745, 795, 798, 799, 807, 835, 836 & 850 Center Road; 85, 96, 102, 108, 109, 110, 115 147 165, 171 & 178 Fremont Avenue; 35, 40, 51, 94 & 103 Greymont Avenue; 70 & 97 Almont Avenue; and 1419, 1425, 1442 & 1471 Union Road.

2019-04 (continued)

Motion by Elling, seconded by Marzullo, to close the public hearing and grant a variance for property located at 789 Center Road to construct an LED sign within 500' of residential zoning.

Ayes: All

Noes: None

Motion Carried

NEW BUSINESS

2019-11

Request of Dennis Spinelli for a variance for property located at 94 Tim Tam Terrace to construct a 6' high fence in the front and side yard (maximum 4' high fence permitted)

Dennis Spinelli stated his request for a variance to construct a 6' high fence for privacy. There is currently a 4' fence, but it is not setback off the sidewalk. Mr. Spinelli would like to install a 6' fence with placement 3' off the sidewalk.

Chairman Elling stated he was in receipt of approval signatures from property owners at 3, 6, & 10 Morris Crescent and 103 Tim Tam Terrace.

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 94 Tim Tam Terrace to construct a 6' high fence in the front and side yard setback 3' off the sidewalk.

Ayes: All

Noes: None

Motion Carried

2019-12

Request of Scott Eggleston for a variance for property located at 6 Rolling Woods Lane to construct a new house with 31.5' front setback (40' front setback required)

Scott Eggleston stated his request for a variance to construct a new house at 6 Rolling Woods Lane, noting there is a pipe that goes through the back yard and he cannot build 10' on either side of it. The farthest setback he can have is 31.5'.

Chairman Elling stated he was in receipt of approval signatures from property owners at 1 & 14 Rolling Woods Lane. Erie County has no issue with construction of the proposed house.

2019-12 (continued)

No comments were received from the public.

Motion by Marzullo, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 6 Rolling Woods Lane to construct a new house with 31.5' front setback.

Ayes: All

Noes: None

Motion Carried

2019-13

Request of David Buchheit Jr. for a variance for property located at 823 Fisher Road to construct an 18' high garage (maximum 12' height for accessory structures) and install an additional stone driveway (one driveway permitted; hard surface required)

David Buchheit stated his request for a variance to construct an 18' high, 48' x 48' garage on the back corner of his property for storage of old cars. He uses battery power tools so may not run any electricity or other utilities. Mr. Buccheit noted he started installing the driveway and then found out he needed a variance and stopped installation. He submitted approval signatures from neighbors on either side of his property and stated he was unable to obtain a signature from the neighbors across the street, but he has a good relationship with them.

Chairman Elling stated he was in receipt of approval signatures from property owners at 767 & 819 Fisher Road. He further referred to a letter from Erie County stating the existing concrete driveway cannot meet the paved road and must be removed. They also objected to the proposed second driveway.

Mr. Buccheit referred to residences on Fisher Road that have a concrete driveway that meets the pavement and other residences that have a second driveway going to an accessory structure. He asked that the item be tabled to allow him time to pursue this with Erie County.

No comments were received from the public.

Motion by Elling, seconded by Marzullo, to table this item until the May meeting to allow the applicant an opportunity to work things out with Erie County with regard to the second driveway.

Ayes: All

Noes: None

Motion Carried

2019-14

Request of Laura & Ian Ott for a variance for property located at 105 Rose Avenue to construct a 6' high fence in side yard (maximum 4' high fence permitted)

Laura & Ian Ott stated their request for a variance to construct a 6' high fence around the perimeter of their back yard, noting they are trying to match it with their neighbor's fence.

Chairman Elling stated he was in receipt of approval signatures from property owners at 99 & 106 Rose Avenue and 519 Center Road. Erie County has no issue with the proposed fence.

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 105 Rose Avenue to construct a 6' high fence in the side yard.

Ayes: All

Noes: None

Motion Carried

2019-15

Request of Jeffrey Wick for a variance for property located at 1264 Indian Church Road to allow parking in required 30' front setback

The applicant was not present at the meeting.

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

Ayes: All

Noes: None

Motion Carried

2019-16

Request of Brian Bookmiller of Queen City Meadery LLC for a variance for property located at 290 Center Road #105 to allow outdoor seating

Brian Bookmiller, co-owner of Queen City Meadery LLC, stated his request to build a seasonal patio to allow outdoor seating at 290 Center Road. There is a 4' high brick wall at the end of the sidewalk and the patio will be the width of the sidewalk (7') and 21' long. A fence will wrap around to enclose the area and it will be removed in the winter months. There will be approximately two tables with chairs. Alcohol will be served inside and can then be taken outside on the patio.

2019-16 (continued)

Chairman Elling stated he was in receipt of approval signatures from the plaza owner, three tenants of the plaza and the property owner at 276 Center Road. He further expressed concern about the possibility of vehicles driving onto the patio and questioned if any protection will be provided. Code Enforcement Officer Douglas Busse stated they would require vehicle protection in the form of bollards, jersey barrier, concrete posts, etc.

No comments were received from the public.

Motion by Elling, seconded by Hicks, to table this item pending receipt of a plan to afford patrons of the patio some type of protection from vehicles.

Ayes: All

Noes: None

Motion Carried

2019-17

Request of Jennifer Fouchie for a variance for property located at 7 Fernwood Avenue to construct a 6' high fence in front & side yard of corner lot (maximum 4' high fence permitted in front & side yard and projecting no more than 10' past house)

Jennifer Fouchie stated her request for a variance to construct a fence in the front and side yard of her corner lot, noting it will be a 4' high fence rather than 6' high as indicated on the application.

Chairman Elling expressed concern about possible sight issues.

Mrs. Hicks questioned the type of fence and the length across the front yard. Ms. Fouchie responded the fence will be 36' from the steps across to the driveway and either solid white vinyl or chain link with slats.

Chairman Elling stated he was in receipt of approval signatures from property owners at 339 & 350 Casimer Street.

No comments were received from the public.

Motion by Marzullo, seconded by Kapuscinski, to close the public hearing and grant a variance for property located at 7 Fernwood Avenue to construct a 4' high fence in the front & side yard of the corner lot.

Ayes: (3) Mr. Marzullo, Mr. Kapuscinski, Mrs. Hicks

Noes: (1) Chairman Elling

Motion Carried

2019-18

Request of Julie Palmer for interpretation of the Zoning Ordinance on use as a single family home at 159 & 161 Leydecker Road.

Julie Palmer stated her request for interpretation of the definition of a single family home. The proposed use of the home is to allow four unrelated women who have experienced abuse in their past to reside there and operate as a single family household. Ms. Palmer submitted approval signatures from surrounding neighbors and stated the proposed use was explained to them.

Chairman Elling stated he was in receipt of approval signatures from property owners at 146, 155, 150 – 160, 165 & 175 Leydecker Road.

Deputy Town Attorney Kimberly Conidi questioned if the application is for an interpretation, a use variance, or a use variance only if the Zoning Board does not favorably interpret the property as a single family dwelling.

Ms. Palmer stated the application is for an interpretation for the proposed use of the property and she spent several hours with the neighbors so they were fully aware of what the proposal is.

Ms. Conidi stated the Zoning Board is appellate only, meaning there has to be standing by the group making application in order for the Zoning Board to consider the application. The applicant has to be an aggrieved person, having had a permit denied, or the owner of the property subject to interpretation. She recommended tabling this item pending receipt of a legal opinion from the NYS Association of Towns as to whether this group has standing to bring this to the Zoning Board and whether the anticipated use would be considered a family dwelling with no more than two non-transient lodgers.

Mrs. Hicks questioned if this proposed use is any different than other group dwellings in town and expressed concerns on possible occupants of the house.

Ms. Palmer stated she spoke with Code Enforcement Officer Jeffrey Schieber and asked if they need to own the property before going before the Zoning Board, noting they have a contract to purchase the property and may lose the contract if this does not move forward. She further stated there will be no sex offenders or criminals occupying the house; the occupants will be women that have come from abusive situations.

2019-18 (continued)

Ms. Conidi questioned how the women that will reside in the home will be selected to ensure they will not be transient. Ms. Palmer responded that would be a requirement; they will have an agreement and be part of a program, so they will be evaluated and move through levels in the program to make sure they qualify.

Motion by Elling, seconded by Kapuscinski, to table this item pending receipt of a legal opinion from the NYS Association of Towns as to whether the applicant has standing to bring this application before the Zoning Board, and if so, whether they would deem this dwelling and the anticipated use as a family dwelling with no more than two non-transient lodgers.

Ayes: All

Noes: None

Motion Carried

2019-15

Request of Jeffrey Wick for a variance for property located at 1264 Indian Church Road to allow parking in required 30' front setback

The applicant was not present at the meeting.

Motion by Elling, seconded by Marzullo, to table this item until the next meeting.

Ayes: All

Noes: None

Motion Carried

ADJOURNMENT

Motion by Marzullo, seconded by Kapuscinski, to adjourn the meeting at 8:10 P.M.

Ayes: All

Noes: None

Motion Carried

Respectfully submitted,



Jacqueline A Felser
Town Clerk/Zoning Board Secretary