WEST SENECA
ZONING BOARD OF APPEALS
1300 Union Road, West Seneca, NY 14224
6:00 PM in the Community Center

October 28, 2026, Draft Meeting Minutes

Start Time: 6:05

CALL TO ORDER
Present:
Zoning Board Member Joette Tronolone
Zoning Board Member Amelia Greenan
Zoning Board Member Edmund Bedient
Zoning Board Member Paul Lang
Chairperson Stephen Stachowski
ZBA Counsel Joseph Trapp
Code Enforcement Representative Doug Busse

Opening of Public Hearing

- **Motioned by:** Greenan
- **Seconded by**: Lang to open the Public Hearing.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Approval of Proofs of Publication

- **Motioned by:** Tronolone
- **Seconded by:** Bedient to approve proofs of publication.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Approval of Minutes from previous meeting

- **Motioned by:** Greenan
- **Seconded by**: Tronolone for approval of the August 2026 Minutes.
- A correction was made to change the spelling under Old Business from for 29 Class Avenue from Klas Avenue. The motion was amended to include this correction.

- **Vote:** Ayes: 4, Noes: 0. The motion carried as amended.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

Application 2026-041 — 33 Florence Avenue

Julie Slisz, the property owner, requested an area variance to construct a roof over a hot tub. The required separation from the existing attached patio roof is 10 feet; the proposed separation is 6 feet.

The applicant said the proposed location aligns with the existing shed, is aesthetically pleasing, and would provide shelter from snow. She stated that moving or reducing the roof would place it too close to the rear property line. She said the new roof would not have gutters; the existing patio roof drains into the house gutters. Code Enforcement Representative Doug Busse said the building department could address drainage concerns if they arise.

Neighbors' signatures were received from 27 Florence Avenue and 39 Florence Avenue. Erie County Planning issued a letter of no objection and determined that the matter was local for the board's consideration. Town counsel had no comment. No public comments were offered.

Area variance balancing test:

1. **Neighborhood character or detriment to nearby properties:** The applicant described the location as the most aesthetically pleasing option; neighbor signatures were submitted in support.
2. **Feasible alternatives:** The applicant said moving or reducing the roof was not feasible because it would place the structure too close to the rear property line.
3. **Substantiality:** The variance was characterized as moderate.
4. **Physical or environmental effects:** Code Enforcement said drainage concerns could be addressed if necessary.
5. **Self-created difficulty:** A board member said the difficulty might be self-created but that this was not determinative.

- **Motioned by:** Greenan
- **Seconded by**: Bedient for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-042 — 89 Thorndale Avenue

Property owner Thomas Fitzgerald, accompanied by Tim Elling, requested permission to enclose and insulate an existing porch and add seven windows. Elling said he was helping the owner through the building department process. The work would be limited to the existing porch, with no addition to or removal from its footprint.

The porch is approximately 18 feet from the front property line. Code Enforcement Representative Doug Busse noted that nearby homes have existing porches within the setback and said he saw no issue with the request. An Erie County letter was not required because the property was outside the 500-foot notification area. Town counsel had no comment. Neighbor signatures were submitted from 88 Tindall Avenue, 98 Tindall Avenue, 108 Thorndale Avenue, 88 Thorndale Avenue, 77 Thorndale Avenue, 82 Thorndale Avenue, and 85 Thorndale Avenue. No public comments were offered.

Area variance balancing test:

1. **Neighborhood character or detriment to nearby properties:** No. Enclosing an existing porch.
2. **Feasible alternatives:** The porch is already constructed on an existing foundation footprint.
3. **Substantiality:** No. It involves no new encroachment beyond the existing structure footprint.
4. **Physical or environmental effects:** No adverse physical or environmental effects.
5. **Self-created difficulty:** Yes/Partially but based on a pre-existing structural footprint and not precluding relief.

- **Motioned by:** Bedient
- **Seconded by**: Greenan for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-043 — 30 Woodcrest Drive

Emily Kawa requested permission to extend her existing driveway to the property line to create a second parking space. She said on-street parking was limited because of nearby activity at a corner restaurant and that her existing driveway was narrow. The adjacent vacant-lot owner signed in support.

Code Enforcement said parking was difficult in the area and did not anticipate drainage concerns. Driveway drainage would be reviewed during the building-permit process. New York State provided a letter stating that it had no position on the application and considered the matter local. Town counsel had no comment.

Neighbor signatures indicating no objection were submitted. The applicant confirmed that the extension would be concrete and joined to the existing driveway, and that the driveway apron would be widened. A one- or two-foot separation would not provide enough space for the additional vehicle. The board discussed directing runoff toward the existing driveway; Code Enforcement said drainage would be addressed during the permit process. No members of the public spoke.

Area variance balancing test:

1. **Neighborhood character or detriment to nearby properties:** No adverse change was anticipated; the additional space could reduce on-street parking.
2. **Feasible alternatives:** A narrower extension would not provide a second parking space.
3. **Substantiality:** A member said the request could be considered substantial but viewed it as the only workable solution.
4. **Physical or environmental effects:** Drainage, including the direction of the driveway pitch, would be reviewed during the building-permit process.
5. **Self-created difficulty:** One member concluded that the difficulty was not self-created in light of limited neighborhood parking. The chair added that vehicle sizes and household vehicle needs had changed over time, while acknowledging that the difficulty could also be viewed as self-created.

- **Motioned by:** Greenan
- **Seconded by**: Lang for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-044 — 168 Charlescrest Court

Trish and Kevin Engleka requested an area variance to place an in-ground pool 7 feet from their deck where 10 feet is required. Code Enforcement explained that overhead utility wires along the rear property line and required clearances limit the available pool location. The applicants had already reduced the pool size to accommodate the utility-wire restrictions.

Neighbor signatures indicating no objection were submitted. No state or county referral was required, and town council had no comment. No members of the public spoke. The board discussed pool safety requirements. Code Enforcement said applicable safety matters would be addressed through the building-permit and inspection process.

Area variance balancing test:

1. **Neighborhood character or detriment to nearby properties:** No adverse change was anticipated; the pool was considered consistent with residential use, subject to applicable safety requirements.
2. **Feasible alternatives:** No feasible alternative was identified because overhead wires and required clearances restrict the usable area.

3. **Substantiality:** The reduction from a 10-foot to a 7-foot separation was considered not substantial.
4. **Physical or environmental effects:** No adverse impact was anticipated if utility and electrical clearances are met.
5. **Self-created difficulty:** The difficulty was considered not self-created because the utility pole and overhead wires are pre-existing conditions.

- **Motioned by:** Tronolone
- **Seconded by**: Greenan for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-045 — 95 Thomas Drive

Jeffrey Stange requested an area variance to install a 16-foot white vinyl privacy fence in the backyard of his corner lot. He cited privacy and security, including keeping his young child and the child's friends safely in the yard. Maximum 4' height is allowed. Neighbor signatures were submitted from nearby properties.

Code Enforcement described this as a standard corner-lot fence request and noted that no sidewalk separation requirement applied. No state or county referral was required, town counsel had no comment, and no members of the public spoke.

Area variance balancing test:

1. **Neighborhood character or detriment to nearby properties:** The fence was considered consistent with residential fencing commonly found on corner lots.
2. **Feasible alternatives:** A permitted 4-foot fence was technically an alternative but would be less effective for privacy and security.
3. **Substantiality:** The request was considered a relatively routine variance.
4. **Physical or environmental effects:** No significant adverse impact was anticipated.
5. **Self-created difficulty:** A member considered the need for privacy partly self-created but also noted the increased exposure associated with a corner lot.

- **Motioned by:** Lang
- **Seconded by**: Bedient for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-046 — 4350 Seneca Street

- **Applicant/Representatives:** Jason Havens (Owner/Partner & Project Designer), Katie Havens (General Manager), Brian Culp / Culpa (Architect, Waves Architecture and Engineering)

- **Request:** Area variance from the required 25-foot side-yard setback to allow a 5-foot setback (seeking a 20-foot area variance) for a proposed addition, concrete pad, cooler, and associated structures. The 5-foot setback occurs at the building's front southeast corner for approximately 68 feet, with only 15 feet of the building located less than 10 feet from the side lot line.
- **Summary of Discussion:**
    - Applicant noted the use was approved by the Town in 2014; the request concerns only dimensional setback relief.
    - Katie Havens highlighted the brewery's 12-year presence, community involvement, charitable partnerships, and safety needs to modernize operations by separating production areas from the general public.
    - Jason Havens and Brian Culp explained the addition provides indoor space for equipment, materials, and forklift operations currently stored outdoors, eliminating an outdoor shed, reducing clutter, and meeting current building/energy codes for sound mitigation and insulation. Second-floor space is limited to offices, storage, and business meetings; it will not increase production volume, customer capacity, traffic, or parking demand.
    - Site topography sits approximately 38 feet below Main Street, separated by a steep embankment. More than 90% of the addition footprint is on already disturbed/operationally used ground.
    - Water and sanitary services are adequate. Drainage flows toward the brewery property. Two trees over 6 inches (approx. 18 inches in diameter) will be removed and replaced at a 3:1 ratio with additional landscaping planned. Town reviewed as a minor action with no SEQR requirement.
    - Steps taken to mitigate neighbor concerns include adding blinders to parking lot lighting, considering a gas line for the fire pit, and localized speaker systems. Code-required exterior equipment (nitrogenator, exterior compressor, cooler) will remain compliant with the approved site plan.
    - **Public Comments in Support:**
        - Colleen Hutton (West Seneca resident/patron) spoke in support of the business and requested approval.
        - Maureen Wilhelm (West Seneca resident/patron) stated the addition enhances operational efficiency without increasing crowds.
        - Marty Wilkie (neighboring owner of Tax Savvy) noted the cramped nature of the current brewing facility and supported the expansion.
        - Evan (Rusty Nickel bartender, resident of 4649 Seneca) testified to internal space constraints and improved safety/navigation for staff.
        - Emily (former employee) spoke in support of local business growth and community partnership.
    - **Public Comments in Opposition / Inquiries:**
        - Lee (owner of the hill above the brewery, 899 Main Street) raised objections regarding proximity to her property, depicted setbacks, RV overnight parking, and an asserted property boundary dispute. Code Enforcement responded that the property is not a campground and characterized overnight RVs as parking lot visitors.

- Tina (878 Main Street) raised concerns regarding noise and loss of tree/sky views from her home.
- ZBA Counsel and the Board clarified that the Board acts upon the submitted survey measurements and plans before it; Code Enforcement confirmed measuring the proposed addition at approximately 5 feet from the surveyor's flag. Legal boundary disputes are matters for separate legal processes outside the ZBA's scope.

AREA Variance Balancing Test:

1. **Neighborhood character or detriment to nearby properties:** No. The addition modernizes and visually enhances the property, bringing outdoor equipment and storage indoors, improving neighborhood aesthetics. Topography and design mitigate visual impacts.
2. **Feasible alternatives:** No. The property is uniquely constrained by its lot shape, steep embankment, existing equipment/utilities, and parking requirements; the footprint was minimized to the smallest workable option.
3. **Substantiality:** No. While numerically requesting 20 feet of relief from a 25-foot requirement, the 5-foot setback applies only to a single corner of the structure rather than the entire building length, and the physical impact is lessened by topography.
4. **Physical or environmental effects:** No. Building height will not impact sightlines from Main Street due to topography, stormwater drainage will meet code standards and flows toward the brewery, and removed trees will be replaced at a 3:1 ratio.
5. **Self-created difficulty:** Yes. The owner purchased and developed the site knowing its physical limitations; however, this is balanced against site constraints and overall community benefit and is not the sole determining factor.

- **Motioned by:** Stachowski
- **Seconded by**: Bedient for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-047 — 182 Tampa Drive

Debbie Wolcott, owner of 182 Tampa Drive, requested an area variance to construct a roof over an existing deck or patio located 6.5 feet from a detached garage where a 10-foot separation is required. Neighbor support letters from Tampa Drive were received. Code Enforcement confirmed that the existing deck already sat at the 6.5-foot separation and the roof would not expand the footprint any closer.

Area variance balancing test:

1. **Neighborhood character or detriment to nearby properties:** The roof would cover a pre-existing, nonconforming deck and was considered consistent with the residential character of the neighborhood.
2. **Feasible alternatives:** A reduced footprint would not allow full coverage and use of the existing deck.
3. **Substantiality:** Although the separation was numerically reduced, the physical impact was considered minor in the context of the property.
4. **Physical or environmental effects:** No significant physical or environmental impacts were anticipated.
5. **Self-created difficulty:** The difficulty was considered self-created but not determinative.

- **Motioned by:** Lang
- **Seconded by**: Tronolone for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-048 — 94 Villa Maria Road

The chair introduced application 26-48, referring to the property as 94 Elmaria Road. Applicant Lawrence Monaco gave his address as 94 Columbia Road and requested a variance to place a whole-house generator 2 feet from the property line where 5 feet is required.

Monaco said the proposed location was the only practical place for the generator because of the home's deck, access limitations, and gas-line location. He cited frequent power outages and the need for reliable power in connection with potential home dialysis treatment. A neighbor's letter was accepted into the record. No state or county letters were required, and no public comments were offered.

A board member moved to approve the variance as requested, and another board member seconded. Their names are not established in the excerpt. A member asked about fire-safety clearances. Code Enforcement said the required clearance from the home is based on the manufacturer's specifications and that no separation requirement from the neighboring property applied in this case.

Area variance balancing test:

1. **Neighborhood character or detriment to nearby properties:** The generator was described as a typical accessory structure and necessary given the applicant's circumstances.
2. **Feasible alternatives:** Given the site and utility constraints, the east side of the home was considered the most practical location.
3. **Substantiality:** The requested 3-foot variance was considered not substantial.
4. **Physical or environmental effects:** The installation was expected to comply with applicable building and safety codes, including noise and emissions standards, without affecting drainage, traffic, or environmental conditions.

5. **Self-created difficulty:** The difficulty was attributed to the applicant's choice of location but was not considered determinative.

- **Motioned by:** Tronolone
- **Seconded by**: Lang for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-049 — 238 Schultz Road

The applicant, identified as the property owner, said he was constructing a single-family home on a corner lot. The application concerns a required 40-foot setback; the reported setback is 38.79 feet, a deficiency of approximately 1.21 feet.

The applicant said the house could not be moved as laid out. Code Enforcement explained that the foundation had already been installed and that the house turned out larger than anticipated after being laid out on plans showing a compliant setback. Code Enforcement had no objection to correcting the record to reflect the 38.79-foot setback.

Neighbor letters from 240 Schultz Road and 3 Pine Court were accepted into the record. Code Enforcement clarified that the lot had been vacant after a prior house was demolished following a fire and that the current foundation was new.

Area variance balancing test: Not captured in the excerpt.

1. **Neighborhood character or detriment to nearby properties:** No. Setback deficiency of ~1 foot is not perceptible from the street.
2. **Feasible alternatives:** No. Relocating a poured foundation is economically infeasible.
3. **Substantiality:** No. Characterized as very minor/small.
4. **Physical or environmental effects:** No adverse impact.
5. **Self-created difficulty:** Yes. Construction error, but applicant acted in good faith to correct the record.

- **Motioned by:** Greenan
- **Seconded by**: Lang for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

2026-050 --162 Tampa Drive

Jason Zurek presented a request involving an existing deck that extends 5 feet into the required setback. The deck was being rebuilt without a change in size, and the applicant proposed adding a roof. Code Enforcement reported no objection, noting that similar setbacks are common among pre-existing homes in the neighborhood and that the project would not move the structure closer to the road. The chair reported neighbor signatures of no objection from 165, 161, 166, 153, and 158 Tampa Drive. No comments were offered by the town attorney's office, the board, or the public.

Area variance balancing test:

1. **Neighborhood character or detriment to nearby properties:** No. Do not anticipate an undesirable change and said the project could improve the property.
2. **Feasible alternatives:** The board member did not identify a viable alternative.
3. **Substantiality:** The variance was considered not substantial.
4. **Physical or environmental effects:** The impact was described as minimal; the project could be an improvement.
5. **Self-created difficulty:** A member remarked that such difficulties are often self-created but said this would not affect the vote.

- **Motioned by:** Bedient
- **Seconded by**: Lang for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

Application 2026-051 -1100 Southwestern Boulevard-

Applicant Representative: Corey Hourback (Barclay Damon)

- **Request / Appeal Summary:**
    - Appeal of an administrative interpretation/determination by Code Enforcement regarding a proposed adult-use retail cannabis dispensary in the C-1 zoning district.
    - Applicant's counsel raised a two-part appeal:
        1. Town Chapter 59 proximity/dimensional requirements are preempted by New York State Cannabis Law and state regulations governing time, place, and manner.
        2. Alternatively, if local special-use standards apply, relief from proximity/dimensional requirements must be classified and heard as an **Area Variance** (citing *Real Holdings* and Town Law § 274-b(3)) rather than a **Use Variance**, allowing the applicant to proceed to a special use permit application.
    - Discussion ensued between Applicant's counsel, Town Counsel Joseph Trapp, Code Enforcement, and Board members regarding communication timelines (May 18/19 emails, August 26 Town Attorney letter, October 9 appeal filing), the existence of a formal stamped determination, FOIL requests, and the ZBA's jurisdiction regarding statutory preemption versus variance classification.
    - County Planning returned a letter classifying the matter as local concern. NYS DOT indicated no current opinion, requesting updates on final property use.
- **Balancing Test Framework for Future Variance Review:**
    - *AREA Variance Balancing Test (5 Questions)* if classified as Area Variance:

        1. Undesirable change in neighborhood character / detriment to nearby properties.
        2. Feasible alternative method to achieve benefit.
        3. Substantiality of the requested variance.
        4. Adverse effect on physical or environmental conditions.
        5. Self-created difficulty.
    - *USE Variance Balancing Test (4 Questions)* if classified as Use Variance:
        1. Inability to realize a reasonable return (proven by competent financial evidence).
        2. Unique hardship not applicable to substantial portion of district.
        3. Will not alter essential character of neighborhood.
        4. Hardship not self-created.
- **Motion to Close Public Hearing and Prepare Written Findings:**
- **Motioned by** Chairperson Stachowski, **seconded by** Lang to close the public hearing and direct Board Counsel to draft formal written findings of fact and legal citations for decision at the December 2, 2026 meeting (within the statutory 62-day decision window).
- **Vote:** Ayes: 5, Noes: 0 (Motion carried)

General Discussion and Housekeeping

- **Mandatory board training:** Members were reminded to submit proof or certificates of completed annual training to the Town Clerk's office before the end of 2026.
- **Agenda scheduling footers:** Members discussed removing confusing text from the bottom of standard agendas through the CivicClerk system to avoid schedule misunderstandings around upcoming holidays.
- **Neighbor courtesy signatures:** The board clarified that neighbor signatures are not a statutory requirement, but may be useful supporting evidence when evaluating neighborhood character in area variance applications. Code Enforcement Representative Doug Busse reviewed the administrative practice of identifying adjacent property owners using tax maps.

Adjournment

Moved to close and adjourn the meeting.

- **Motioned by:** Greenan
- **Seconded by**: Lang for approval.
- **Vote:** Ayes: 5, Noes: 0. The motion carried.

End Time: 8:45 pm