Zoning Board of Appeals
Minutes
April 18, 2019

Present **Absent**

Chairman Dole
Michael Flavin
Dale Kellerson
Diana Powell Keery
Mark Unvericht

Also Present

Zoning Board Attorney Eric Stowe
Building Inspector Patrick Smith
Village Clerk Jacqueline Sullivan
Code Enforcement Officer Rich McQuilkin
Alanna Dalba
John & Cinde Hale
Tim & Eileen Bruton
Diane Grammatico
Thalia Dephi
John Yeager
Karen & Jim Sickelco
Ben Bruton

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Alanna Dalba of Furry Paws Pet Salon, for a Special Permit to operate a pet grooming business in an Industrial District located at 42 Slayton Avenue, Spencerport, New York 14559, whereas, this use may be permitted when a Special Permit is obtained from the Zoning Board of Appeals pursuant to Chapter 340-24 R.

Alanna Dalba: I have been in business in Spencerport for about 4 years now. I am going to be expanding my business. I am currently at Hollink Motor Sports Plaza and looking to expand into the Tops Plaza, I just need a bigger space and have gotten really busy. Which is good and I am hoping to be starting a doggy day care in a separate area from the grooming but same facility by using a divider wall. It will just be dog and cat grooming and the doggy day care. No over nights just normal business hours during the day for people that work who are looking to let their dogs play while they are at work.

Joan Quigley: Will the dogs be coming out side.

Alanna Dalba: I will be bringing one dog at a time out every hour. They will be supervised. We back up to the Erie Canal and there is a little area that is a perfect spot. We are very diligent to picking up any pet waste.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Building Inspector Smith and the board if they have any comments.

Dale Kellerson: You are taking that whole area 42, 44, and 46?

Alanna Dalba: Yes, I am all three stores.

Dale Kellerson: It looks like you are already starting to work in there?

Alanna Dalba: They did start because the property manager was not aware that this permit was a thing. So, they have halted the construction as far as I know and will resume as soon as this permit is approved. I told the contractors that I was coming to this meeting and will not be moving until the 29th to give them ample time to get the work done. If they have been working on it, it is news to me.

Michael Flavin: Does the building manager know that you are going to be having a doggy day care? Are you going to be taking all sizes of dogs?

Alanna Dalba: I am going to put a cap on the weight. I don't have any bread or weight or size restrictions on my salon. It is not going to be the largest area, so I am going to put a cap on the weight that anything above seventy-five pounds is to much for the day care. I am going to be very strict on my vaccination policy and absolutely no aggression of any sort. Every animal must be fixed. I will also be having two-hour free interviews where the dogs have to come and stay with me for a little bit so I can deem them appropriate to have day care with the other animals. I will have surveillance the whole time they are there. So that way anybody needs to know anything, everything is under surveillance footage.

Diana Powell Keery: No, I am good, I looked at the resolution that the Spencerport Investors, LLC did. I am good with that.

Dale Kellerson: The barking, have you heard any concerns from the other business' there. Do you have a lot of barking where you are now?

Alanna Dalba: Occasionally, they do bark, but I personally do not like the animals staying in a cage. The way I operate I try to get them in a out so that is not a stressful experience for them. The day care is a new aspect for me, but I specifically have rules that state constant barking is a no for me. I spoke with Serenity Hair Studio that they were ok with me going in there. They are actually very excited, and a couple are my clients already. I did not speak to the printing place but I did ask my landlord if there were going to be any noise complaints. There is a clause in my lease that states that this is a business with dogs. I am not there very late. Wednesday is the only day I am there late until 8:00 or 8:30 pm.

RESOLUTION
408/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Alanna Dalba of Furry Paws Pet Salon for a special permit to operate a pet grooming business in an industrial district on property located at 42 Slayton Avenue, Spencerport, New York 14559;

WHEREAS, an application for a special use permit is an unlisted action, requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Alanna Dalba of Furry Paws Pet Salon for a special permit to operate a pet grooming business in an industrial district on property located at 42 Slayton Avenue, Spencerport, New York 14559, is an Unlisted Action, further, that the Zoning Board of Appeals declares their status as lead agency, and based upon the information contained in the Short Form Environmental Assessment Form and evidenced supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Diana Powell Keery

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: none

RESOLUTION
409/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Alanna Dalba of Furry Paws Pet Salon for a special permit to operate a pet grooming business in an industrial district on property located at 42 Slayton Avenue, Spencerport, New York 14559; and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 18th day of April 2019, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a special permit to Alanna Dalba of Furry Paws Pet Salon for a special permit to operate a pet grooming business in an industrial district on property located at 42 Slayton Avenue, Spencerport, New York 14559,

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- ☐ _____;
- ☐ _____;
- ☐ _____;

Motion: Chairman Dole
Second: Michael Flavin

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: None

The application of Benjamin Bruton of Bruton Guitars, for a Major Home Occupation permit to operate a custom guitar building and repair business in an R-1 Residential District located at 63 Kirkgate Drive, Spencerport, New York 14559, whereas, this use may be permitted when a Home Occupation permit is obtained from the Zoning Board of Appeals pursuant to Chapter 340-46.

Benjamin Bruton: I build customer guitars and repair. I have been doing this since about 2008. At best I do twelve guitars a year. The business has been repair oriented, I am cutting back on that and focusing more on the build part of it. I operate in a space that is 900 square feet. It is a wood shop, table saws and sanders, those kinds of things.

Chairman Dole: So, you operate Monday thru Friday

Benjamin Bruton: Yes, and on Saturday too.

Karen Sickelco: We live right next door to the Bruton's. We love having them as neighbors, we never hear a sound. He is a very gifted artist. I'm in favor.

Jim Sickelco: We have lived there about 20 years next to the Bruton's and it's never been apparent to me that there has been a business operating out of there at all other than the occasional person up and down the driveway with a guitar or guitar case. You don't here and noise there is no smell. Nothing that we are

Jim Sickelco continued: every aware of and we talked to Ben to make sure that there would be no signs or anything of that nature on the place. Again, we have no problem with it.

Chairman Dole: You said no signs but if this is approved then a one-foot square sign will be allowed on house.

Tim Bruton: There won't be one. I own the property and I won't have it.

John Yeager: I live at 68 Kirkgate Drive. I have had a little bit of a different experience with this business.

Chairman Dole: Yes, we did see your e-mail.

John Yeager: Can I just ask the board that you realize that this business has been going on for ten plus years?

Chairman Dole: So I understand yes.

John Yeager: If I might I would like to just start with a question. Can he apply for a zoning variance for a property that he doesn't own doesn't live at?

Chairman Dole: That is what we are going to be discussing later.

John Yeager: So just to reiterate on my e-mail that I did send. I don't know how many years ago it was I would guess 8 to 10. Where we realized that our mailbox was constantly being blocked. I did talk to Ben about it. Within twenty minutes of that conversation the mailbox was blocked again with one of his customers. The mail came through and missed the mail again. I finally got so frustrated that I moved the mailbox at my own expense. That mailbox shared a post with the Sickelco's at the time. So that practice still goes on today. But my mailbox isn't there anymore.

Chairman Dole: Is that your sign?

John Yeager: That would be his, I believe that was his response to my frustration of my mailbox always being block.

Chairman Dole: Ok.

John Yeager: I will say that the times that my mailbox was blocked that the mailbox that goes with 63 Kirkgate was never blocked. So, I think that would have been taking more seriously had their mailbox been blocked. Also, my driveway seems to be the personal turnabout of Bruton Guitars. It has been like that for years. There was an incident years ago and I did tell Mr. & Mrs. Bruton about that where my son was playing basketball in the driveway and had to vacate into the grass because one of his customers pulled in while my son was playing basketball. People still turn around in my driveway.

Benjamin Bruton: If I may, if it is any consolation, I have made a considerable effort because of John's concerns, to tell all my customers not to do that and I have tried to mitigate traffic as much as I can. By doing it by appointment only. I am not interested in disrupting anybody either. I am trying to keep it quiet as I can. I don't want any bottlenecks with over flowing traffic so in that period of time. I would make an effort right now to apologize.

John Yeager: That is the first time you have addressed this with me in 10 years.

Chairman Dole: Ok we are not here for that.

John Yeager: So ok in this past year they have even has gone so far as knocking on my door. Apparently, that can't tell the difference between 68 and 63. I have also been stopped in my yard while doing yard work asking where Ben's business is. I didn't buy a house on that street to live with a business there. Those are my concerns and it still goes on to this day.

Chairman Dole: Thank you.

Karen Sickelco: Our mailbox has not been blocked. We were on the same post in my front yard I have not had that experience and I haven't had the experience of people turning around in my driveway. We are right next door.

John Yeager: If it helps at all I have a video on my phone from February just two months ago showing a car parked in front of her mailbox and turning around in my driveway. I work from home, so I see everything that goes on during the day.

Chairman Dole: That is not necessary.

Diane Crammatico: I live at 62 Kirkgate Drive, right across from Bruton's. I can hear Sickelco's and Johns' comments and agree with both of them. When John had the problem with the blockage we were too. We share the same post as the Bruton's. By them put little cards in the front yard that says "No Parking Here" we haven't had that problem. I would agree with John that back a few years' ago we had several days without mail delivery, it was a little frustrating. The way the Bruton's dealt with it was putting signs up. I really can say we haven't had any other problems other than that in years.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Building Inspector Smith and the board if they have any comments.

Chairman Dole stated that board received an e-mail from Ms. McCullough on this variance and she was in favor of it.

Diana Powell Keery: Article Seven of Home Occupation 340-44 it states, "the intent of this article to allow a variety of business pursuits as permitted uses in residential districts while recognizing the substantial goal of preserving and maintaining the residential atmosphere, appearance and character of residential

Diana Powell Keery Continued: districts." That is what it says in our code book that's what governs us. I have a couple of questions. First of all, how many years have you been operating this business without a permit?

Benjamin Bruton: On and off for about ten years.

Diana Powell Keery: Ok, why didn't you ever come to get a permit?

Benjamin Bruton: To be honest part of it was naivety.

Diana Powell Keery: For ten years?

Benjamin Bruton: Not for ten years but honestly, I don't have a good reason.

Diana Powell Keery: So, you were aware within the ten years that you probably need to get a permit but did not come?

Benjamin Bruton: I was aware.

Diana Powell Keery: So, you were just waiting till we found out that you were offering a business in your home. I would rather ask forgiveness then permission.

Benjamin Bruton: Yes, if you look at it that way.

Diane Powell Keery: Ok, so according to our code book to have a major occupation one of the rules is that it has to be your residence. Do you reside at 63 Kirkgate Drive?

Benjamin Bruton: No, I don't reside at 63 Kirkgate Drive.

Diane Powell Keery: Who lives there?

Benjamin Bruton: My parents.

Diane Powell Keery: Go you don't live there. Well it states in 340-46 (4) "It is carried on by a person residing in the dwelling unit as his or her principal residence. It is not your principal residence?

Benjamin Bruton: No, it is not.

Diana Powell Keery: In terms of the parking concerns I was listen to everybody. So, when you run your business is it people come in when they want to or is it only by appointment or both?

Benjamin Bruton: It is only by appointment.

Diana Powell Keery: What has it before or has it always been by appointment?

Benjamin Bruton: Well before it was "I am going to stop by sometime today or tomorrow" but never an exact time. Then I found that was an issue I didn't want to happen anymore so in effort to make sure that there wasn't so much traffic I went to a policy that it is strictly appoint only.

Diana Powell Keery: Ok, where do people park? Where is there designated parking space.

Benjamin Bruton: I have requested that they park in the driveway. On occasion someone would park in the street. But at this point I have made a considerable effort to that everybody knows that there is no parking in front of the mailboxes.

Diane Powell Keery: Ok we address that there is adequate off-street parking 340-46 (9). Adequate off-street parking shall be provided.

Benjamin Bruton: People can park off-street. I don't know what it is zoned for. You are allowed legally to park on the street. So, people can park on the street, but I am asking them not to.

Diana Powell Keery: Right but this is a business so you shall I mean must offer. But you are not offering it?

Benjamin Bruton: I am admitting that I am offering it, they can park on the street as well as in the driveway.

Diana Powell Keery: We don't allow parking on the street for the business in a residential area.

Benjamin Bruton: I see what you are saying.

Diana Powell Keery: Your hours of business?

Benjamin Bruton: 9-5 Monday through Friday and 9-11 on Saturdays.

Diana Powell Keery: I thought you said 9 to 7. Another question, have you ceased since you have been made aware you needed to come into see us to get a permit? Have you ceased operation of your business while you were waiting to come here?

Benjamin Bruton: No, and I didn't know that was the case.

Chairman Dole: I actually drove by there today a little after 3pm and saw someone walking in with a guitar and the driveway was full. There were four cars in the driveway and no room for anyone else.

Diana Powell Keery: Do you have any employees?

Benjamin Bruton: I have some who is doing an apprenticeship.

Chairman Dole: Is he a paid apprentice?

Benjamin Bruton: No, he is learning the skill set for how to build guitars.

Diana Powell Keery: You said you have just under 900 square feet? Because it says that it can't be more than 25% of the total area of the structure or 500 square feet which ever is less. So, it is more than that.

Chairman Dole: I would guess that the house is 2000 square feet.

Eileen Bruton: Yes.

Chairman Dole: So, 500.

Diana Powell Keery: Under 340-46 (7) it says" There shall be no exterior display or storage of goods, materials, equipment or inventory". What do you have down there?

Benjamin Bruton: No nothing outside.

Diana Powell Keery: Is there another major home occupation conducted at this residence?

Benjamin Bruton: No.

Mark Unvericht: I had the same questions.

Michael Flavin: The only problem I have is the whole thing about do it and ask for forgiveness, that just rubs me the wrong way. That is my opinion. We are adults you knew it, you wanted to see how long you could push the envelope. I generally go where the neighbor want to go. I just wanted to say that for the record.

Dale Kellerson: No, I didn't have any other questions. I have seen the web site and never thought about it to much either. I didn't know if you were here before I was on the board, so I never knew if it was a new business or just something that you have had for a while. After this came up it is like putting the cart before the horse so to speak. Getting the approval after you have been doing it for a while.

Eileen Bruton: I would like to make just one comment. While Ben has conducted this business for several years not that it makes a difference what I am going to say. But there were several months or even a couple years in there where the business was not in operation.

Code Enforcement Officer McQuilkin: I was asked to be here, and I have nothing other than the complaints that you have heard. I had no idea that the business was going on till it was brought to my attention and that was when you guys knew about it too.

Dale Kellerson: So, if you knew that there was a business going on prior to an application what would have been your course of action?

Code Enforcement Officer McQuilkin: That is exactly what I did. I sent him a letter that he had to contact the town building inspector to submit an application for a major home occupation for a in home business.

Building Inspector Smith: We do that quite often when we catch somebody. Instead of issuing them a ticket to appear in court we say there is an avenue to do this. Submit an application and go through the process. They continue to do it after you say no it is a different story. But we try to help customers.

Attorney Stowe: It's not a majority or the nine its all for the criteria.

Diane Powell Keery: It sounds like it's a good business. I looked on your face book page and in November you were looking for a space about 2,000 square feet. That is kind of the point for me that this is what is the law and what are we supposed to look at. You may need to be someplace else where your business can flourish. But it is not appropriate for in home here.

Chairman Dole: The point of this board is to read the regulations and decide if we should bend this rule or that rule.

Attorney Stowe: The variances are the relief from the code. This one isn't a bend it is do they meet the criteria, and should a permit be issued.

Building Inspector Smith: If I am right to saying that if he did apply correctly and wants to vary from one of these he would have to come back and ask for a variance besides the special permit to exceed one of those criteria.

Attorney Stowe: It is not a use or an area. I would have to think about granting relief on that one.

Discussion ensued regarding area variance options and home occupation criteria.

Michael Flavin: Where do you live?

Benjamin Bruton: I live around the corner.

Michael Flavin: Your residence doesn't supply enough space if you were to move your business.

Benjamin Bruton: No unfortunately, if that was an option trust me that would have happened when we moved in.

Attorney Stowe: I think its important to state that there is nothing against a woodworking shop it's just the customers.

Chairman Dole: So, if we went on with this either approved or denied. Say we approved it he would still have to come back for an area variance.

Attorney Stowe: Potentially, a use variance for the use of the land which then you have got to show that it is not a self-created hardship and there is no reasonable return for the property. If it is a self-created hardship it is an automatic denial.

Chairman Dole: Anything else.

Attorney Stowe: No, I think Diana hit on everything. It not most or some it's all.

Code Enforcement Officer McQuilkin: I have a question do you do work while your customers are there or do, they just come to pick it up.

Benjamin Bruton: They come to pick it up. I meet with them personally.

Code Enforcement Officer McQuilkin: So, they are not there while you're working.

Benjamin Bruton: No.

Code Enforcement Officer McQuilkin: So, could you apply for a major home occupation at your house but do the work at your parents? Meet with customers at your house and then work at your parents. That way there is no traffic at your parents. You make an appointment with your customers for pick and delivery. Do the work at your parents and use it like it's a woodshop. But run the business out of your house by appointment if it's approved. Go through the process like you are doing here. It might eliminate all the problems as long as it doesn't happen at your house. I am just thinking outside the box.

RESOLUTION
410/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Benjamin Bruton of 63 Kirkgate Drive, Spencerport, New York 14559 for a home occupation permit to operate a major home occupation on property located at 63 Kirkgate Drive, Spencerport, New York 14559; TO WIT: a custom guitar building and repair business; and

WHEREAS, an application for a special use permit is an unlisted action, requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Benjamin Bruton of 63 Kirkgate Drive, Spencerport, New York 14559 for a home occupation permit to operate a major home occupation on property located at 63 Kirkgate Drive, Spencerport, New York 14559; TO WIT: a custom guitar building and repair business, is an Unlisted Action, further, that the Zoning Board of Appeals declares their status as lead agency, and based upon the information contained in the Short Form Environmental Assessment Form and evidenced supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Michael Flavin

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
411/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Benjamin Bruton of 63 Kirkgate Drive, Spencerport, New York 14559 for a home occupation permit to operate a major home occupation on property located at 63 Kirkgate Drive, Spencerport, New York 14559; TO WIT: a custom guitar building and repair business; and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 18th day of April 2019, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a home occupation permit to Benjamin Bruton of 63 Kirkgate Drive, Spencerport, New York 14559 for a home occupation permit to operate a major home occupation on property located at 63 Kirkgate Drive, Spencerport, New York 14559; TO WIT: a custom guitar building and repair business,

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- ☐ Said permit shall expire on April 18th, 2021, unless extension is approved pursuant to 340-49 (A) of the Code of the Village of Spencerport;

- ☐ Said permit shall terminate pursuant to 340-49 (C) of the Code of the Village of Spencerport;

Motion: Chairman Dole
Second: Michael Flavin

Vote of the Board:
Ayes: None
Nays: Dole, Flavin, Kellerson, Powell Keery, Unvericht

MOTION DENIED

The application of John Hale, 2800 Nichols Street, Spencerport, New York 14559, for a Special Permit and three (3) area variances to install approximately 233' of privacy fence on the property lot line, on property located at same, whereas, a special permit from the Zoning Board of Appeals shall be required for a privacy fence; and whereas, any privacy fence shall not exceed a total length of 65' on one lot and shall not be nearer to the side line or rear line than the required setback, respectively pursuant to 340-32 (4) in a Residential District.

John Hale: Just looking to replace a four-foot chain link fence in the back yard and I simple want to make it a six-foot privacy fence. That means I have a couple variances as I want to place it on the property line. I have a dog that barks, I don't want my neighbors complaining.

Chairman Dole: One of the problems with your place is it is a corner lot.

John Hale: Yes, it is a very strange lot. They way Prospect Street we really have no privacy at all. We have two front yards.

Joan Quigley: What style of fence would you put up?

John Hale: Pressure treated wood.

Chairman Dole: In your application you state that you are going to fix it to the chain link fence.

John Hale: Yes, they have brackets that are made for that. That go around the post, hang 2X4's on it then you attach the wood to it.

Michael Flavin: Is the existing fence right on the line?

John Hale: It is not. When I put the fence in Jack Crooks was the Building Inspector, he suggested keeping it a couple feet away from the property line So that I could get to the other side to take care of it. So that is what we did. I assume you have the survey map. If you look at property line is kind of weird on the road. There is a huge right of way that cuts through most of my back yard. I talked to Tom West and he said the only underground utility there is between the existing fence and the road. He said he had no problem with that if I give him a notarized letter that says if the village has to come and do anything with the fence at no cost to the village when they are done, I put my fence back up. He couldn't figure out why the property line curves way in. He thought maybe at one time there was going to be a sewage lift station put in.

Michael Flavin: Are you going to do the install, or have it done?

John Hale: I'm going to do it.

Chairman Dole: What kind of a dog do you have?

John Hale: I married into a black lab and then we rescued two German shepherds. It has been a barking nightmare for a while. Unfortunately, two of them have passed away and just have one German shepherd now. He is the barker. The next house has one dog then the next has two or three, so it's a big bark fest.

Chairman Dole: The one thing that I am concerned about is the fence along Prospect Street. Is there anyway we can not do six, do maybe a four-foot? If you have the closed construction.

John Hale: There is a high deck on the back of house, and I think that the six-foot would keep her from seeing out. She sees everything and she starts barking. I think every little bit helps.

Chairman Dole then asked Attorney Stowe, Building Inspector Smith and the board if they have any comments.

Building Inspector Smith: I talked to Tom West and he said he has no issue with the fence as long as it doesn't come out any further. He still wants the form just in case because it is in the village right of way.

Attorney Stowe: Nothing other than the agreement that states "Yes you are in a right of way and if there is an emergency and we take it down and you put it back up. If we give you notice your going to take it down and back up. We would need a copy of that agreement.

John Hale submitted the signed agreement for our file.

At this time Chairman Dole closed the Public Hearing.

RESOLUTION
412/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from John Hale, 2800 Nichols Street, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 2800 Nichols Street, Spencerport, New York 14559; and for an area variance to erect two hundred thirty-three (233') linear feet of privacy fence on property at 2800 Nichols Street, Spencerport, New York 14559; and for an area variance to install said privacy fence on the rear property boundary line at said property; and for an area variance to install said privacy fence on the side property boundary line.

WHEREAS, an application for a special use permit is an unlisted action, requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of John Hale, 2800 Nichols Street, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 2800 Nichols Street, Spencerport, New York 14559, is an Unlisted Action, further, that the Zoning Board of Appeals declares their

status as lead agency, and based upon the information contained in the Short Form Environmental Assessment Form and evidenced supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Dale Kellerson

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
413/2019

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from John Hale, 2800 Nichols Street, Spencerport, New York 14559 for a special permit to allow two hundred thirty-three feet (233') of privacy fence on property at 2800 Nichols Street, Spencerport, New York 14559, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 18th day of April 2019, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a special permit to John Hale, 2800 Nichols Street, Spencerport, New York 14559 for a special permit to allow two hundred thirty-three feet (233') of a privacy fence on property at 2800 Nichols Street, Spencerport, New York 14559,

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- ☐ Notarized easement agreement _____;
- ☐ _____;
- ☐ _____;

Motion: Chairman Dole
Second: Diana Powell Kerry

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: None

RESOLUTION
414/2019

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of John Hale, 2800 Nichols Street, Spencerport, New York 14559 for an area variance to erect two hundred thirty-three (233') linear feet of privacy fence on property at 2800 Nichols Street, Spencerport, New York 14559; and for an area variance to install said privacy fence on the rear property boundary line at said property; and for an area variance to install said privacy fence on the side property boundary line, having considered, among other things:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than area variances;
3. Whether the requested area variances are substantial;
4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and
5. Whether the alleged difficulty was self-created

AND, the Zoning Board of Appeals of the Village of Spencerport makes the following findings of fact:

1. An undesirable change in the neighborhood will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting the area variances because:
    i. _____
    ii. _____

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than area variances because:
    i. _____
    ii. _____
3. The area variances are/are not substantial because:
    i. _____
    ii. _____
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:
    i. _____
    ii. _____
5. The alleged difficulty was self-created, however, the self-created difficulty is not a reason for the board to deny the variances.

The Zoning Board of Appeals further determines that the variances requested are the minimum variances necessary and adequate and preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

The Zoning Board of Appeals further determines that the following conditions/restrictions shall be placed on the variances:

i. _____
ii. _____

Said conditions/restrictions being consistent with the spirit and intent of the zoning local law and are being imposed for the purpose of minimizing any adverse impact said variances may have on the neighborhood or community.

The application for the area variances is hereby GRANTED.

Motion: Chairman Dole
Second: Mark Unvericht

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: None

Unfinished Business

Chairman Dole stated that 73 Amity Street was withdrawn by letter from the applicant.

New Business

Diana Powell Keery asked about the two crosswalks in the village on Union Street for her daughter. Isn't there official supposed to be only one as there is some confusion.

Attorney Stowe stated that Tom West would be the appropriate person to notify.

Approval of Minutes

Motion made by Chairman Dole Seconded by Michael Flavin carried unanimously to approve the March 21, 2019 minutes.

Adjournment

Motion made by Chairman Dole seconded by Mark Unvericht and carried unanimously to adjourn the regular meeting at 7:50 pm.