Zoning Board of Appeals
Minutes
June 15, 2017

Present **Absent**

Chairman Dole
Michael Flavin
Dale Kellerson
Diana Powell Keery
Mark Unvericht

Also Present

Zoning Board Attorney Eric Stowe
Zoning Board Secretary Pam Gilbert
Building Inspector Patrick Smith
Carol Nellis-Ewell
Joan Quigley
Helen Stone
Robert Forth
Sam & Kendall Schmitt
Jill Guary

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Samuel Schmitt, 4 Bauers Cove, Spencerport, New York 14550, for an area variance to install a 6' fence, on property located at same, whereas, fences shall not exceed four feet in height, pursuant to Chapter 340-32 A (1) in a Residential District.

Kendall Schmitt: We would like to install a six foot chain link fence on the back of our property. It is all behind the house down the hill and you can't see it from the road. None of the neighbors would be able to see it so it wouldn't be a visual impairment for any one.

Chairman Dole: Why six foot?

Kendall Schmitt: we have german shepherds so four feet wouldn't work.

Bob Forth: I live across the street and I would strongly suggest that the board pass this. It can't be seen from the road, it goes along the edge of the creek. I can't see any problem with it what so ever.

Sam Schmitt: From my stand point too is that I just got out of the military less than a year ago and 90% disabled. My wife works nine to ten hours a day so I work from home. I don't have the luxury to walk them for long distances that they need so being able to have the fence in the back yard so that they can stretch their legs would definitely help me out as well.

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.

Building Inspector Smith: The only thing I have is their whole back yard, side yard has easements. I have already talked to Superintendent Tom West about it and he doesn't believe where they stated they want to put the fence was going to be an issue. But I just assured him before we gave a permit that we would have an absolute map drawn and show him where it is going. It shows sanitary sewer and storm or creek easements all through the property. So we just want to make sure that Superintendent West is ok with it and I will take care of that when we give the permit.

Attorney Stowe: If there are easement and the fence goes in over the easements and we have to come in we can take it down and don't have to put it back up just so that you know.

Kendall Schmitt: ok, absolutely.

Building Inspector Smith: We will do the hold harmless agreement.

Dale Kellerson: First thing thank you for your service. Secondly, you mentioned black fence is that just the coloring.

Kendall Schmitt: It is just chain link with black coating on it. So it is still the open chain link so it kind of blends in.

Dale Kellerson: I wasn't sure if it had the inserts in it.

Kendall Schmitt: Oh no it is just the color of the chain link.

Diana Powell Keery: I have two standard poodles and I have a six foot so I understand. Anything under six feet for a standard poodle is again just a fun jump.

RESOLUTION
332/2017

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Samuel Schmitt, for an area variance at 4 Bauers Cove in the Village of Spencerport, to allow a fence,

having a height of six (6) feet, whereas said variance is required to construct a fence exceeding four (4) feet in height on property located at 4 Bauers Cove, Spencerport, New York 14559; and

WHEREAS, an application for an area variance is a Type II Action pursuant to the New York State Environmental Quality Review Act (SEQRA), and is subject to no further review; and,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Samuel Schmitt, for an area variance at 4 Bauers Cove in the Village of Spencerport, to allow a fence, having a height of six (6) feet, whereas said variance is required to construct a fence exceeding four (4) feet in height is a Type II Action and is therefore subject to no further review; and

Motion: Chairman Dole
Second: Diana Powell Keery

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

RESOLUTION
333/2017

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Samuel Schmitt, for an area variance at 4 Bauers Cove in the Village of Spencerport, to allow a fence, having a height of six (6) feet, whereas said variance is required to construct a fence exceeding four (4) feet in height, 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 an area variance;
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/will not be produced in the character of the neighborhood or a detriment to nearby properties will/will not be created by granting the area variances because:
   i. _____
   ii. _____
2. The benefit sought by the applicant can/cannot be achieved by some method, feasible for the applicant to pursue other than area variances because:
   i. _____
   ii. _____
3. The area variances are not substantial because:
   i. _____
   ii. _____
4. The proposed variances will/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 these 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. Hold harmless agreement and the understanding that it doesn't infringe on any rights of the village or any municipalities that may have through the easements.
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: Diana Powell Keery

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

The application of Jill Guary, 71 Evergreen Street, Spencerport, New York 14559, for a special permit to erect approximately 50' privacy fence on property located at same, whereas, a special permit form the Zoning Board of Appeals shall be required for a privacy fence pursuant to Chapter 340-32 A(4)(a) in a Residential District.

Jill Guary: Yes I have a concrete slab with a hot tub and looking to put six foot tall white vinyl privacy fence around the hot tub.

Chairman Dole: So this would be strictly on your concrete slab?

Jill Guary: Yes.

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: The fence that you picked out is the one you will be installing? I like the look of it.

Jill Guary: Yes, I felt like that one you wouldn't feel so closed in.

RESOLUTION
334/2017

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Jill Guary of 71 Evergreen Street, Spencerport, New York 14559 for a special permit to erect fifty (50) feet of six (6) foot tall privacy fence on property at 71 Evergreen Street, Spencerport, New York 14559; 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 Jill Guary of 71 Evergreen Street, Spencerport, New York 14559 for a

special permit to erect fifty (50) feet of six (6) foot tall privacy fence on property at 71 Evergreen 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
335/2017

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Jill Guary of 71 Evergreen Street, Spencerport, New York 14559 for a special permit to erect fifty (50) feet of six (6) foot tall privacy fence on property at 71 Evergreen Street, Spencerport, New York 14559, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 15^{h} day of June, 2017, 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 Jill Guary of 71 Evergreen Street, Spencerport, New York 14559 for a special permit to erect fifty (50) feet of six (6) foot tall privacy fence on property at 71 Evergreen Street, Spencerport, New York 14559.

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

- ☐ _____;
- ☐ _____;
- ☐ _____;

Motion: Chairman Dole
Second: Mark Unvericht

Vote of the Board:

Ayes: Dole, Flavin, Kellerson, Powell Keery, Unvericht
Nays: None

Unfinished Business

Nothing requiring Board action

New Business

Nothing requiring Board action

Approval of Minutes

Motion made by Diana Powell Keery Seconded by Dale Kellerson carried unanimously to approve the May 18, 2017 minutes.

Adjournment

Motion made by Diana Powell Keery seconded by Mark Unvericht and carried unanimously to adjourn the meeting at 7:10 pm.