Zoning Board of Appeals
Minutes
June 16, 2016

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
Marcia Stromquist
Bob & Nancy Dean
James Dickinson
Andy & Lori Foote
Becky Lopez
Don Cuvelier
Joan Quigley

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Andrew and Lori Foote, 1 Glen Cairn Court, Spencerport, New York 14559, for a special permit to erect a 64' privacy fence on property located at 3 Glen Cairn Court, whereas, a special permit from the Zoning Board of Appeals shall be required for a privacy fence and whereas; an area variance is required as any privacy fence must be located to the rear of the front line setback and not nearer to a side line or rear line than the required side line or rear line setback, shall not exceed six feet in height and shall not exceed a total length of 65 feet, pursuant to 340-32 A(4)(a) and 340-32 A(4)(b) respectively in a Residential District.

Lori Foote: It is just for privacy between our lot and the lots where they are doing all the condos. It will be 64 feet long and about 6 feet high it is just your standard fence.

Chairman Dole: The purpose of the fence is?

Lori Foote: For privacy, everybody there can see right into our back yard right now. They have cleared all these trees. So we can sit on our patio and not have everybody watching us.

Chairman Dole: You own both lots?

Andy Foote: Yes

Lori Foote: They are in the process of being merged into one.

Chairman Dole: What type of privacy fence are you putting up vinyl or wood?

Andy Foote: We are going to do cedar, the scalloped type at the top.

At this time Chairman Dole closed the Public Hearing.

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

Building Inspector Smith: I would like to suggest since the applicant has mentioned that they are in the process or merging the two lots and it should be contingent on the merge because if not they are putting a privacy fence on a property with no principal building which possible need another variance. So I would suggest making it contingent on the merge happening.

Dale Kellerson: The fence that is there now. Who's fence is that?

Lori Foote: It's ours. It is not permanent we didn't know that we had to do all this. It can be easily removed.

Dale Kellerson: Ok, so that is where it will be correct.

Lori Foote: Yes.

RESOLUTION
303/2016

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Andrew and Lori Foote of 1 Glen Cairn Court, Spencerport, New York 14559 for a special permit to erect a privacy fence, an application for an area variance to erect said privacy fence inside the rear setback, and an application for an area variance to allow said privacy fence to be erected in the side setback, said fence to be located at 3 Glen Cairn Court, 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,

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 Andrew and Lori Foote for area variances to allow a privacy fence to be erected inside the rear setback and inside the side setback, to be located at 3 Glen Cairn Court, Spencerport, New York 14559 is a Type II Action and is therefore subject to no further review; and

BE IT FURTHER RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Andrew and Lori Foote for a special use permit to allow the installation of a privacy fence, to be located at 3 Glen Cairn Court, 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 evidence 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
304/2016

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Andrew and Lori Foote, for area variances at 3 Glen Cairn Court in the Village of Spencerport, for the construction of a privacy fence to be placed inside the rear setback and inside the side setback, whereas a variance is required to place a fence inside the rear setback, and whereas a variance is required to place the fence inside the side setback, 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 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 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 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. Contingent on lots being consolidated into one lot.

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

RESOLUTION
305/2016

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Andrew and Lori Foote of 1 Glen Cairn Court, for a special permit to erect a privacy fence on property at 3 Glen Cairn Court, Spencerport, New York 14559, and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 16th day of June, 2016, 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 Andrew and Lori Foote of 1 Glen Cairn Court, for a special permit to erect a privacy fence on property at 3 Glen Cairn Court, Spencerport, New York 14559

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

- ☐ Contingent on lots being consolidated into one lot;

Motion: Chairman Dole
Second: Michael Flavin

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

The application of James C. Dickinson, 59 Big Ridge Road, Spencerport, New York 14559, for two area variances for a proposed side setback of 0 feet and a proposed rear setback of 0 feet for a Class II structure; whereas the minimum side setback is 5 feet and the minimum rear setback is 5 feet pursuant to 340-14 F. This is an R-2 Residential District.

James Dickinson: So this is a project to build a pergola over an old cement slab that was my old existing garage. It was demolished about two and half years ago. The purpose is somewhere cool to hang out. With hanging plants a b-b-que and some lawn chairs, just a casual hang out spot. I already have my building permit but I had to do this first and then remembered when they put on the permit can't be built within five feet of the property line. So I had to come back here.

At this time Chairman Dole closed the Public Hearing.

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

Building Inspector Smith: He is perfectly right on how he stated it. He came in and applied for a permit. I gave it to him and it stated that it had to be five feet from rear of side lines because of where he drew it on the map. So he came back because he doesn't want it five feet from the lot line. He already has a permit but once he gets the variance we would just take that stipulation of his permit.

Dale Kellerson: So is the cement slab right at the zero line?

James Dickinson: The existing garage that was a big monstrosity that took up half my yard. So yes it really was right at the east and south corner of the lot. This will be a much smaller structure and much nicer looking.

Dale Kellerson: Being open like that it's not blocking the view it is nice.

Michael Flavin: You are using the existing slab?

James Dickinson: Basically the four corner post will be right outside of the slab.

Chairman Dole: The overhang will be on your property correct?

James Dickinson: Yes, it will be a zero overhang. It is not even a roof; it is two x six's.

Chairman Dole: Well the picture here has a fairly large looking overhang?

James Dickinson: That is just the best example to show you. I would modify it so it wouldn't overhang.

Attorney Stowe: You don't want it to overhang at all.

James Dickinson: The overhang would be on the east and west side so the back side would just be square.

Diane Powell Keery: So there is enough room to put the posts in and I know that the picture is just an example but is shows the posts on the concrete but you are saying you are putting the posts off the concrete and it is still within the property line.

James Dickinson: When I took out my map and my dad helped me survey it out. It will be.

Attorney Stowe: You will just want to have the resolution state that 100% of structure contained within his property.

RESOLUTION
306/2016

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from James C. Dickinson for two area variances to allow a side setback of zero (0) feet and a rear setback of zero (0) feet for a Class II structure, to be located at 59 Big Ridge Road, 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 James C. Dickinson to allow a side setback of zero (0) feet and a rear setback of zero (0) feet for a Class II structure, to be located at 59 Big Ridge Road, Spencerport, New York 14559 is a Type II Action and is therefore subject to no further review; and

Motion: Chairman Dole
Second: Michael Flavin

Vote of the Board:

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

RESOLUTION
307/2016

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of James C. Dickinson, for area variances at 59 Big Ridge Road in the Village of Spencerport, to allow a side setback of zero (0) feet and a rear setback of zero (0) feet, whereas said variances are required to construct a Class II Structure within the setback, 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 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 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:

    iii. _____
    iv. _____

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. 100% of structure is to be contained on his property.
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 Univericht

Vote of the Board:

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

The application of Rebecca Lopez, 181 Prospect Street, Spencerport, New York 14559, for an area variance to construct a front porch with a proposed front setback of 26 feet, whereas, the minimum front setback is 50 feet pursuant to 340-12 B(1). This is an R-1 Residential District.

Rebecca Lopez: I didn't bring any extra things to show you other than what you have but I have hired Don to build a deck then wanting to put an overhang on it in the future. Right now I have a stoop in front of my front door. It is cement and it is falling apart so this deck would be in place of that. I see it as an improvement and a nice place to put some chairs and have neighbors over. It is a wooden structure and we talked about putting up vinyl railing and there are steps that go down to the center part of the yards and steps that go on the end towards the driveway. Do is here to answer any questions if you have any.

At this time Chairman Dole closed the Public Hearing.

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

Dale Kellerson: You mentioned in the future would you put a roof over it. Would she need to come back for that?

Building Inspector Smith: No, as long as she didn't project any further than the deck she would just need a building permit.

Rebecca Lopez: Hopefully that will be in the next year or two. No it wouldn't go past the deck.

Don Cuvelier showed a picture of similar deck he just did. Her deck will be built out of pressured treated wood and down the road she could switch it over to composite material.

Dale Kellerson: I think it is good going with the eight feet I have the exact same thing on my house and I went with six feet and wish I went with eight. I do remember at the time the concern with the board with having the roof not knowing what the sides might be would it block any view of the neighbors. If it is just posts just straight up to the roof and is not blocking any view it would be ok.

Rebecca Lopez: It won't be enclosed.

RESOLUTION
308/2016

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Rebecca Lopez for an area variance to allow a front setback of twenty-six (26) feet on property located at 181 Prospect Street, 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 Rebecca Lopez to allow a front setback of twenty-six (26) feet, on property located at 181 Prospect Street, Spencerport, New York 14559 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
309/2016

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Rebecca Lopez, for an area variance at 181 Prospect Street in the Village of Spencerport, to allow a front setback of twenty-six (26), whereas said variance is required to construct a porch in the existing setback, 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:

a. 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. _____

6. 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. _____
7. The area variances are not substantial because:
    i. _____
    ii. _____

8. 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. _____
9. 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._____
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: Dale Kellerson

Vote of the Board:

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

New Business

Nothing requiring Board action

Approval of Minutes

Motion made by Dale Kellerson seconded by Diana Powell Keery and carried unanimously to approve the May 19, 2016 minutes as amended.

Amend Page 2

Dale Kellerson comment to read: I looked at it today and like I mentioned to Gerry it is very close so I can see where you would want something to protect you from who move into those houses.

Adjournment

Motion made by Diana Powell Keery seconded by Michael Flavin and carried unanimously to adjourn the meeting at 7:22 pm.