Zoning Board of Appeals
Minutes
September 18, 2014

Present	**Absent**
Chairman John Dole	Dale Kellerson
Michael Flavin	
Diana Powell Keery	
Mark Unvericht	

Also Present

Zoning Board Attorney Eric Stowe
Building Inspector Patrick Smith
Zoning Board Secretary Pam Gilbert

Joan Quigley
Barbara Zarpentine
Barbara Leckinger
Kathy & Dan Sadowski
Natalie Kane
Roger & Karen Sadowski
Pat Hotchkiss
Marie & Chris Bash
Pat Clifford
Mike Lopresti

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Barbara Leckinger, 71 Hillcrest Drive, Spencerport NY for a special permit and one area variance to erect 27 linear feet of six foot privacy fence on the lot line of property located at same. Whereas, a special permit from the Zoning Board of Appeals shall be required for a privacy fence and any privacy fence must be located to the rear of the front line setback and not nearer to a side line or rear line that the required side line or rear line setback, shall not exceed six foot in height and shall not exceed a total length of 65 feet on any one lot, pursuant to Chapter 340-32 A(4)(a)(b) in a residential district.

Barbara Leckinger: There is one picture in the packet of when I bought the house. That is probably the best thing I could get for you and I have if pretty well marked. So when we moved in the back yard was a disaster. So we have spent the last two years getting rid of every overgrow thing. So now we are landscaping back there. We have no privacy what so every now. There was an existing fence under the tall bushes that was on the lot line. We had to take that done because it was in bad shape. We want to replace what was there but make it higher.

Chairman Dole: Which fence were you thinking of using?

Barbara Leckinger: We really don't know yet. It is one of the two that you have pictures of. We are going to raise it up so that the weed eater can get under it. You just approved a split rail that we put up which is in the front of the house. We are going to try and butt up to it. It will be between 24 ft. and 27 ft. as the yard goes up by the hill.

At this time John Dole asked if anyone in the audience have any questions or concerns.

Barbara Zarpentine read the attached statement.

At this time Chairman Dole gave a quick review of Zoning Board and Code.

Mark Unvericht: So you will be starting the fence next to the other one?

Barbara Leckinger: Showed the board a few pictures she has on her camera.

Mike Flavin: What kind of fence was there before?

Barbara Leckinger: It was similar to the weave fence picture but shorter.

Chairman Dole: One of the problems with putting a fence like that on the property line is maintaining the other side of the fence.

Mr. Leckinger (?): That is why we said that we would raise it about 4 to 6 inches off the ground so I can get the weed eater underneath it.

Barbara Leckinger: It will be a few inches of the line as our split rail is a few inches off the lot line. So we will line it up with that.

At this time the Public Hearing was closed.

Chairman Dole asked the Building Inspector, Patrick Smith if he has any comments.

Patrick Smith: The only comments I would have is just the fact that any fence is allowed to close to the lot line. There is nothing in the code that states that it has to be back like an accessory structure. But because it is a privacy fence the code states that it doesn't exceed the set back of the house and that is what they are coming for. Not for the height a privacy fence is allowed to be 6 ft. high.

Chairman Dole asked Attorney Eric Stowe if he had any comments.

Attorney Stowe: My only question is the set back. The map I have shows the fence going passed the garage and into the driveway. Is that not correct? I was trying to make that work with the overhead that shows it stopping at the garage.

At this time Barbara showed Attorney Stowe pictures on her camera showing where the new fence will go.

Attorney Stowe: I have no issues as the fence will be going back. The front setback is not an issue.

Michael Flavin: You know how I like to see them one foot of the lot line to be able to get in there with a weed eater.

Attorney Stowe: The one foot does create title issues. When you go to sell it, it causes title issues.

Chairman Dole: You are only going 27 ft?

Barbara Leckinger: We will have to see how far as she has a gate there.

Michael Flavin: Are you going to install it?

Mr. Leckinger(?): Yes .

Chairman Dole asked Attorney Stowe about the title issue.

Attorney Stowe: If it is a foot or over creates a tile issue in regards to fences. Anything under a foot is fine.

Diane Powell Keery: So you are safer to go with 4 to 6 inches.

At this time the following resolution was offered.

Resolution No 246 — Introduced by Mark Unvericht
September 18, 2014 — Seconded by Diana Powell Keery

Resolved, that the application of Barbara Leckinger for a special permit and one area variance to erect 27 linear feet of six foot privacy fence 4 to 6 inches off the lot line of property located at 71 Hillcrest Drive, Spencerport NY be approved. It is a Type 2 SEQR and needs no further review pursuant to Chapter 340-32 A(4)(a)(b) in a residential district.

Ayes: Dole, Flavin, Powell Keery, Unvericht
Nays: none

Next on the agenda is the appeal of Ogden Center Development, Brockport Road Townhouse Subdivision, Spencerport NY represented by Mike LoPresti for blanket approval for an area variance to construct no more than one 6’ high, open construction fence, of no more than 12’ in length, on proposed decks of each townhouse unit in the Brockport Road Townhouse Subdivision. Whereas, any fence in a residential district shall not exceed three feet in height if erected at any point on the lot

nearer the street than the front yard setback provided in this chapter and shall not exceed four feet in height if erected elsewhere on the lot pursuant to Chapter 340-32 A(1) in a residential district.

Mike Lopresti: We had a meeting here about a month ago for a privacy fence for one deck and were told that I would need to come back and get a blanket approval for the rest.

Chairman Dole: How many townhouses?

Mike Lopresti: There is ten total. But these will be by customer request.

At this time John Dole asked if anyone in the audience have any questions or concerns.

Chris Bash: I live across the creek from the development. To begin with I am not exactly clear where the fence will go. Will it be on the deck facing the creek?

At this time Mr. Bash was shown pictures where the proposed privacy fences would be going.

Chris Bash: So it is separating each townhouse then. I guess my concern was and I don't mean to drum up the old problem. But that land was sold without our knowledge. Rumor has it that they took down lot more trees then what was expected. Know we have headlights coming across into our backyard onto our decks. My concern is that we are giving variances to block between townhouses. Now we see them right through the trees where we didn't have that before. With that originally property was forever wild. That is really my main concern is why they are blocking each other. Why don't they put up trees to give us a buffer?

Chairman Dole: That is not something this board could act on. It was done back on the planning stages.

Patrick Smith: If I could say on Mike's behalf is that some of his buildings have three units and they all have a deck and you can reach three feet with the next person right there. This just offers them so privacy. It makes perfect sense.

Maria Bash: How can we get this addressed as we were never notified that the land was going to be sold? How do we get them to plant trees to give us the privacy that we lost? When we bought our home 26 years ago we were told it was "forever wild" and never be sold.

Chairman Dole: Again, that is out of this board's hand. But if you have a complaint or wish to talk you could call Mike's office and set an appointment to see what he could do to help you.

Chris Bash: My understanding that this board approved the sale of this land.

Attorney Stowe: You don't need municipal approval to sell land.

Chris Bash: Forever Wild?

Attorney Stowe: I don't know what that designation means? If it is protected lands then it is a totally different issue. If someone told you that when you bought your house that these trees will be protected, by what? If there was a site plan given when this was built that was when it was built. As far as municipal approvals for sales, it is not necessary.

Chris Bash: So the village sold it.

Attorney Stowe: This board had nothing to do with the sale.

Chris Bash: My understanding is that it was village property and sold to the developer.

Mike Lopresti: That piece of property was land locked and the village board saw it as an opportunity to sell it. In my understanding that nothing is forever wild, there are areas designated wetlands that have restrictions for development. Going back to your comment about the trees, we actually added several trees on the southeast side of the property. Are initial development was to go over the creek and have unites on the other side of the creek. We didn't do that. We allowed it to be a buffer between homes. We own right up to your property line. From our standpoint we have done what we could to offer a natural buffer. The way the road is setup I don't know where you are getting the headlights from. Our road runs parallel to your back yards and there is a hammerhead at the end. This would be the only time you might have light shining toward your direction. The homeowner to the south of us just removed some trees.

Maria Bash: The trees that were taken down were the ones that blocked our view of the apartment by the retaining pond.

Mike Lopresti: The trees that were taken down by the creek were taken down by the village. They have a sewer line that runs through. At the time we did construction the village saw it as an opportunity to cut some trees along there sewer easement to maintain their sewer line. The neighbor next to the apartment also took down a big brushy berm.

At this time Chairman Dole closed the Public Hearing.

At this time Chairman Dole asked the board, Building Inspector and Attorney if they had any comments.

Being no comments the following resolution was offered.

Resolution No 247 — Introduced by John Dole
September 18, 2014 — Seconded by Michael Flavin

Resolved, that the application of Ogden Center Development for blanket approval for an area variance to construct no more than one 6' high, open construction fence, of no more than 12' in length, on proposed decks of each townhouse unit in the Brockport Road Townhouse Subdivision, Spencerport, NY

14559 be approved. It is a Type 2 SEQR and needs no further review pursuant to Chapter 340-32 A(1) in a residential district.

Ayes: Dole, Flavin, Powell Keery, Unvericht
Nays: none

Next on the agenda is the appeal of Ogden Center Development, 115 Clark Street, Spencerport NY represented by Michael Lopresti for a special permit and two area variances to erect 168 linear feet of six foot high wood stockade privacy fence on the lot line of property located at same. Whereas, a special permit from the Zoning Board of Appeals shall be required for a privacy fence and 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 setback, shall not exceed six feet in height and shall not exceed a total length of 65 feet on any lot, pursuant to Chapter 340-32 A(4)(a)(b) in a residential district.

Mike Lopresti: You should all have a survey map correct. If you will notice on that survey map that the north property line the house (111 Clark St) there is extremely close to the property line. The driveway is about five feet away. Their side door entrance is right there. We just felt that this fence would keep my tenants from thinking it the green space was our property. To delineate the property line and give them some privacy I thought that this fence would be a good idea.

Mike Flavin: I drove back there a couple of times and it's tight. You can reach out and touch your neighbor. The one garage is right there. I am thinking wow I wouldn't want this in my back yard. The gentleman who owns 111 Clark St. it is a two/three story house you would have to run a man lift to get to do any work on the house.

Mike Lopersti: I did speak with the homeowner regarding that and I would be willing to unscrew a couple of panels of the fence for him to do work on his house. I don't have a strong feeling either way. I just thought this way would be better. I have had a tenant living there for about two weeks and with them having a pet and it going into their yard. I also don't want people pulling in and possible driving onto their grass. If I were the adjacent owner I wouldn't be happy. Honestly, do I want to put a fence up? No, I really don't want the additional cost. I have a lot on money in the building already. But, I think at some point this could become a privacy issue for their tenant more so then mine. My tenants look the direction of the old rail road tracks. I also told Patrick Smith, Building Inspector the only reason I wanted it 168 feet because I wanted to make sure we had it covered so that I wouldn't have to come back here. My plan is not to do the fence all the way along. I would like to start where the neighbor's garage is and end where there are some lilac bushes. I would like to keep them as vegetation. I didn't have measurements at the time and didn't want to be one foot off and end up back here for one foot so I extended the line to make sure we had it covered.

At this time Chairman Dole asked if anyone in the audience have any questions or concerns.

Dan Sadowski: I am the owner of 111 Clark St. My only concern is the removal of the sections of fence. If he does that I have no problem. The garage door of our house faces his parking lot there. With 168

feet I picture the fence right in front of the door. So are you running it in front of the garage or are you stopping it at the garage.

Mike Lopresti: Like I said I would stop it. The only reason I am doing it is for privacy for people. Privacy from a garage I don't see that it as an issue. No, my plan is to go from the corner of your garage to the lilac bushes.

Chairman Dole: So you are going to start with the shorter fence and if that didn't work out then you would go further?

Mike Lopresti: Absolutely.

Dan Sadowski: I have one more question, once the fence is up, who maintains it?

Chairman Dole: The maintenance falls back on the person who put the fence up.

Mike Lopresti: I know your wife concerned about the maintenance and maybe putting up vinyl. I don't oppose to doing vinyl. It is just the cost. If five or ten years the fence deteriorates we may consider vinyl then.

Kathy Sadowski: That was just my main concern. As far as the fence goes I didn't want a year from now paint peeling off of it. As long as there is going to be maintenance to the fence we just want a yard to look nice.

Mike Lopresti: As do I. I am glad you are concerned. I don't plan to paint the fence. I want to see it just weather so this way there is no need for painting. When it needs new panels put in new panels.

Roger Sadowski: When you put up the fence does the nice side face Mr. Lopresti's side or my son's side?

Mike Flavin: Your son gets the nice side.

At this time Chairman Dole closed the Public Hearing.

At this time Chairman Dole asked the board, Building Inspector and Attorney if they had any comments.

Patrick Smith: Are you going to make a stipulation that it can only go as far as the garage?

Chairman Dole: No, I we are going to give him the 168 ft. but he is going to start at 90 ft. I don't want to have to make him have to come back.

Patrick Smith: Well if you give him the entire length I don't think they want their garage blocked. That was my only concern.

Mike Lopersti: If for whatever reason we decide to do the whole length we could always put a gate in at the garage.

Chairman Dole: You also offered to make some of the panels removable.

Mike Lopresti: It is all about the cooperation.

Diana Powell Keery: If it wasn't a 6 ft. privacy fence but 4 ft. he wouldn't have to be here. So it is a good will type of thing.

Attorney Stowe: I was going to state the same thing. You could have 4 ft., 6ft., or 8ft. you would still have the same issue. Other than that I have no issue.

At this time the board offered following resolution.

Resolution No 248 — Introduced by Diana Powell Keery
September 18, 2014 — Seconded by John Dole

Resolved, that the application of Ogden Center Development for a special permit and two area variances to erect 168 linear feet of six foot high wood stockade privacy fence on the lot line of property located at, 115 Clark Street, Spencerport NY, 14559 be approved. It is a Type 2 SEQR and needs no further review pursuant to Chapter 340-32 A(4)(a)(b) in a residential district.

Ayes: Dole, Flavin, Powell Keery, Unvericht
Nays: none

Next on the agenda is the appeal of Natalie Kane, 194 Prospect Street, Spencerport, NY for an area variance to replace an existing front porch with a current setback of 30' 1.5" with a new front porch with a setback of 28' 6.5", on property located at same, whereas the minimum front setback allowable is 50' pursuant to Chapter 340-12.B(1) in a residential district.

Natalie Kane: As you can see by the pictures the concrete steps are falling apart and I would like to replace them with wood and have stoop with two steps down with railings. I have giving you the picture of what it would look like when it is complete. This is a rental for me. I live on Village Hill Drive.

At this time Chairman Dole asked if anyone in the audience have any questions or concerns.

There being no comments from the audience Chairman Dole closed the Public Hearing.

At this time Chairman Dole asked the board, Building Inspector and Attorney if they had any comments.

There being no further comments at this time the board offered the following resolution.

Resolution No 249 — Introduced by John Dole
September 18, 2014 — Seconded by Diana Powell Keery

Resolved, that the application of Natalie Kane for an area variance to replace an existing front porch with a current setback of 30' 1.5" with a new front porch with a setback of 28' 6.5", on property located at 194 Prospect Street, Spencerport, NY 14559 be approved. It is a Type 2 SEQR and needs no further review pursuant to Chapter 340-12.B(1) in a residential district.

Ayes: Dole, Flavin, Powell Keery, Unvericht
Nays: none

Approval of Minutes

Motion made by Mark Unvericht seconded by Diana Powell Keery and carried unanimously to approve the June 19, 2014 minutes as written.

Adjournment

Motion made by Chairman Dole seconded by Diana Powell Keery and carried unanimously to adjourn the meeting at 7: 50 pm.