

VILLAGE OF MINOA
PUBLIC HEARING ZONING BOARD MINUTES

Application – Gregory and Melisa Bliss

Upon due notice, a Public Hearing of the Village of Minoa Zoning Board of Appeals was held on Tuesday August 11, 2015 at 7:00 pm, in the Municipal Building in the Village Board Room, 240 North Main Street, Minoa, New York.

Present: Chairman Charlie Tocci, Deputy Chairman Chris Beers, ZBA Members Bernard Beck Jr., Scott Parish and John Turbeville, Attorney Courtney Hills and Secretary Barbara Sturick.

Absent:

Also present: Mr. & Mrs. Allott

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Minoa, New York, will hold a public hearing on August 11, 2015 at 7:00 p.m., in the Municipal Building, located at 240 North Main Street, Minoa, New York 13116 on the request of Gregory and Melisa Bliss, 100 Beresford Lane, Minoa, New York, for (an) area variance(s) of the regulations of the Village of Minoa Zoning Ordinance, specifically the requirements of §66-2(A) (“in any residential or mixed residential district... fencing may be no more than 4’ high (above ground) in the front yard”) and §66-2(E) (“fencing or screening along both front lot lines of a corner lot shall not exceed a height of 36” from grade...”), relative to the installation and maintenance of a six (6) foot fence at their premises located at 100 Beresford Lane. The subject parcel is located within a Residential R-A Zoning District and designated as Tax Parcel No. 005.-01-06.0.

Chairman Tocci called the Zoning Board Meeting to order at 7:00 p.m.

Board Member Bernie Beck made a motion to waive the reading of the published Public Hearing Legal Notice. Seconded by Chris Beers. All agreed. Motion Carried.

Attorney Hills went through the specifics of the Legal Notice for the Board.

§66-2(A)

In any residential or mixed residential district, fencing shall be installed at the outside perimeter of the property line and except as provided at § ~~66-2B~~, shall be installed at a minimum of 12 inches therefrom (inside such property line) and may be no more than four feet high (above grade) in the front yard (as defined in the Zoning Code of the Village of Minoa^{am}) nor more than six feet high (above grade) at the rear and side property lines. Fencing shall be uniform in design, of natural or natural appearing material or chain link, with the finished, or more aesthetically pleasing finished side facing adjoining properties.

§66-2(E)

Fencing or screening along both front lot lines of a corner lot shall not exceed a height of 36 inches from grade for a distance of 20 feet from the point of intersection of such lot lines nearest the street corner.

§160-3(B) LOT, CORNER

A lot at the junction of and abutting on two or more intersecting streets where the interior angle of intersections does not exceed 135°. Any lot abutting a curved street where the interior angle formed by the intersection of lines drawn tangent to the street at the points of intersection of street and lot lines does not exceed 135° shall also be considered a corner lot. All corner lots are deemed to have two front yards, two side yards and no rear yards.

Per interpretation of code section §160-3(B) Beresford Lane and Baird Street are the front yards. The fence location per application is more than 20 feet from the point of intersection therefore section §66-2(E) does not apply. The section of the code the board needs to review is §66-2(A) more than four feet high (above grade) in the front yard.

Attorney Hills informed Mr. and Mrs. Bliss that the Board, in determining whether or not to grant an area variance, is tasked with conducting a balancing test. She advised they must weigh the benefit to the applicant if the relief was granted against the burden to the health, safety and welfare that may be suffered by the community. She further advised in doing so they must consider the following five factors:

1. Whether an undesirable change will be produced in the character of neighborhood or whether a detriment to nearby properties will be created by granting of area variance;
2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance;
3. Whether the requested area variance is substantial;
4. Whether the proposed variance will have adverse effect on physical and environmental conditions in neighborhood or district; and
5. Whether the alleged difficulty was self-created, which consideration shall be relevant but not dispositive to issuance of area variance?

Attorney Hills advised Mr. and Mrs. Bliss that when addressing the Board they should gear their presentation around those five criteria. She noted however they did not have to satisfy all five criteria to be granted an area variance, but the Board must nonetheless consider each one.

Mr. Bliss stated their number one concern for requesting a 6 ft fence was for the safety of their children playing in the yard due to the traffic in the area. They had a vehicle come through their yard in February. Mrs. Bliss stated there is a sidewalk next to their property and a fence would give them privacy from people walking on the sidewalk, she runs a family daycare and it would provide safety and security of the children. She also stated that they have had dogs run into their yard from people walking their dogs off leash.

Mr. and Mrs. Bliss addressed the five criteria as follows:

1. Mrs. Bliss stated that she did not believe her fence would have an undesirable effect on the character of neighborhood or be a detriment to nearby properties if their request were granted; the request is consistent with other fences on corner lots and fences within the neighborhood.

2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance. They have requested that the Village of Minoa put up a guardrail for traffic safety issue so height wouldn't address that but 6' would address other safety concerns with respect to the licensed day care being operated there and keeping children safe. Mostly they are requesting 6' for safety, security and privacy and do not believe it is an unreasonable request due to the sidewalk being right there. Chairman Tocci stated that the Bliss should pursue the village to install a guardrail whether or not the variance is requested due to the corner of Baird St and Hulbert St. Discussion pursued as to whether or not the path behind the property at the end of Hulbert St is part of Minoa Farms Nature Trail. It is National Grid right-a-way to Substation.
3. Whether the requested area variance is substantial for the neighborhood. It is not substantial since consistent with neighbors. Other properties have 6' fences closer to the property line.
4. Whether it would have any adverse effect on physical and environmental conditions in neighborhood or district. They did not believe there would be any adverse physical or environmental conditions as a result of having a 6' fence versus 4'.
5. Mr. and Mrs. Bliss acknowledge that the alleged difficulty was self-created by their desire to install a fence greater in height per code requirements.

Secretary Sturick confirmed for the record that the Legal Notice was submitted to Syracuse Media Group publication on 07/23/2015 (order confirmation Ad Order #0000571517-01), posted in the Village Hall, Library, Greiner's Hardware, Post Office, Sunshine Mart and Scotty's Automotive (all within the Village), and was sent to neighbors located within 500 feet of the subject premises via first class mail.

Chairman Charlie Tocci asked if any correspondence was received by the village office for or against the application. Secretary Sturick stated there was no correspondence for or against.

A motion was made by Member Scott Parish to close the Public Hearing and continue into Regular Session of the Village of Minoa Zoning Board of Appeals at 7:15 p.m. The motion was seconded by Member Chris Beers. All in favor. Motion carried.

A motion was made by Chris Beers to ratify prior approval of the Public Hearing Area Variance Application minutes of Matthew Barkley dated Thursday, April 23, 2015. Seconded by John Turbeville. All in favor. Charlie Tocci abstained as he was not present at the hearing. Motion Carried.

Zoning Board of Appeals members discussed in its regular session:

1. Whether an undesirable change will be produced in the character of neighborhood or whether a detriment to nearby properties will be created by granting of area

- variance; Chris Beers stated that in that part of the development the board approved a 6' high variance on Kensington High and Beresford Lane. Scott Parish stated that an 8' high fence was also approved in the same area but in that case the yard sloped significantly. Board Members agreed that there are other corner lots and properties with fences so it would not change the character of the neighborhood.
2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance; Attorney Hill stated the consideration is a 4' vs. 6' fence. Scott Parish stated a guard rail would help for traffic but the 6' would be for privacy. Also 6' would also have uniformity with rear and side.
 3. Whether the requested area variance is substantial; Board agreed it is not. Bernie Beck stated it is not more so than what is already there.
 4. Whether the proposed variance will have adverse effect on physical and environmental conditions in neighborhood or district; the fence is located significantly in from the sidewalk so it would not affect visibility. Board agreed it would not.
 5. Whether the alleged difficulty was self-created, which consideration shall be relevant but not dispositive to issuance of area variance? Board agreed that it is self-created. Scott Parish asked if running a business changed the law or interpretation; Attorney Hills stated it did not as it is still residential neighborhood.

Attorney Hills stated the proposed project and action contemplated comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

A motion was made by Bernard Beck to approve the Variance Applicant as submitted seconded by Chris Beers. All in favor. Motion carried.

A motion was made by Scott Parish to close the Regular meeting of the Village of Minoa Zoning Board of Appeals at 7:30 p.m. The motion was seconded by Member Chris Beers, and all were in favor. The motion carried.

Respectfully submitted,

Barbara Sturick, Secretary