

VILLAGE OF MINOA
ZONING BOARD OF APPEALS
PUBLIC HEARING & SPECIAL MEETING MINUTES

Application – Matthew and Kimberly Raterman

Upon due notice, a Public Hearing of the Village of Minoa Zoning Board of Appeals was held on Thursday, June 6, 2013 at 7:00 pm, in the Municipal Building in the Village Board Room, 240 North Main Street, Minoa, New York.

Present: Chairman Charlie Tocci, ZBA Members Bernard Beck Jr., Scott Parish, and John Turbeville, ZBA Attorney Steve Primo and Secretary Barbara Sturick.

Absent: Chris Beers, ZBA member

Also present: Matthew & Kimberly Raterman, John Sears and Eric Christensen.

The purpose of the meeting was to review the Area Variance of Matthew and Kimberly Raterman, for an area variance of the regulations of the Village of Minoa Zoning Ordinance, specifically the requirements of §66-2(A), Fences, Installation requirements; to permit a fence more than six feet high (above grade) at the south rear and west side property lines proposed as eight feet. The parcel is located within a Residential-B Zoning District. The subject parcel is designated as Tax Parcel No. 004.-01-02.0 and located at 507 Hulbert St, Minoa, NY.

Chairman Tocci called the Special Meeting to order at 7:00 p.m. then noted the Public Hearing as the first order of business opening the same, reading the legal Notice and leading the Board in the Pledge of Allegiance.

Secretary Barbara Sturick provided proof of publication from the Post-Standard of the Public Hearing published on 5/23/2013, an affidavit of mailing was signed by secretary Sturick of notifications sent to residences within a 500 ft buffer area from the subject premises. Residences were located by using the “Syracuse-Onondaga County G.I.S. on the Web” website Secretary Barbara Sturick stated there was no correspondence received in support of or against the Area Variance application.

Attorney Primo advised no referral was needed to County Planning due to the Village’s longstanding agreement with County Planning and since this is a Type II Action, no SEQR review was required for this Area Variance.

Chairmen Tocci requested the applicants present an overview of their request.

Matthew and Kimberly Raterman stated:

- That due to the lay of the land, the neighbor's property to the West is significantly higher than their property and slopes to their yard; The Premises then, for the most part flattens out relative to the easterly property; The Ratermans advised they did not have any fill brought onto their property to cause the sloping nor were they in any other way responsible for the change in grade. Due to the slope in the yard a 6ft fence will not serve the purpose of screening the yard area from the western property and beyond that the street and sidewalk, and the fencing they desired and included in the submission is manufactured only in increments of two feet therefore the next highest height is 8 ft.
- The Applicants represented they would be installing an Eco-friendly Woodland Select Cedar fence to blend with the foliage of the back yard and the underdeveloped property behind them. Colored photographs and brochure materials were submitted showing the proposed fence design.
- They planted 7ft arborvitaes to help with privacy due to the sloping of the yard but it did not provide sufficient privacy.
- The fence will provide privacy from visibility into their yard of cars passing by (the west side of the western property fronts the street with no fencing) and will also provide privacy for their neighbor to the west of their property with additional privacy.
- Their reason for the request is to provide privacy from the traffic, screen some of the noise from the street and they proposed it will also serve to benefit their neighbors to the west by increased privacy.

The ZBA Attorney noted that with respect to this Area Variance application, in considering the general test (weighing the benefit to the applicant if relief is granted versus any burden to the health, safety and welfare that may be suffered by the community), the Board should consider the following factors:

1. Whether an undesirable change will be produced in character of neighborhood or detriment to nearby properties will be created by granting of area variance;
2. Whether the benefit sought by applicant can be achieved by some 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 an 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.

The ZBA Attorney also reminded Board members that reasonable conditions may be imposed with any grant of variance.

Discussion pursued as to the location and type of the fence, slope of the yard, development of the adjoining properties and their bearing on the criteria to consider. Bernie Beck stated a few houses down and in close proximity of the property there are other 8ft nonconforming use fences, therefore theirs would not be changing the character

of the neighborhood and the type of fence would blend with the foliage of the property. The Ratermans did try to achieve the benefit sought by another method by landscaping but could not achieve the privacy or address the sloping condition intended to be mitigated. In addition it was noted by the ZBA Attorney and Board members and briefly discussed that the difficulty may or may not be deemed self created, however in any event if it were that would not bar the relief sought, that the proposed fencing seemed to be the only appropriate remedy and the 8ft height is the minimum over 6ft in that type of fence (the aesthetic appearance of which the ZBA viewed favorably. The fence could cause no "environmental" or "physical" effects other than aesthetically, (and which was not an issue insofar as the Board was concerned) and it seemed clear it was reasonably necessary and consistent with others in the neighborhood.

Discussion pursued in which the Raterman's then addressed the other side of their property – it was noted by the ZBA Attorney and Board that this was not subject matter dealt with in this application, and was in effect an amended request for another variance extending the 1 year requirement pursuant to Section 160-41 of the Village of Minoa to permit (if granted) that installation in the future. Village of Minoa Code §160-41 entitled "Expiration of Variance and Approval," states any approval or variance granted by the Board of Appeals shall become null and void if not exercised within one year from the date it is granted. The Raterman's requested to have a 5 year term to construct the fence on the east side of property due to the cost of the fence. Attorney Primo advised that the Board did not have the authority to vary any section of the Village Code other than the Zoning Code, that request was not clearly stated in the application and therefore was not stated in the Public Hearing Notice and thus could not be considered.

Chairmen Tocci asked if there were any question or comments from anyone else present.

Resident John Sears of 103 S. Main Street asked:

1. If the applicants could have an extension at the end of a year for the building permit? Attorney Primo stated that the applicants could address that with the codes enforcement officer at the end of the one year period.
2. Who on the Board has not inspected the property? (following direct questioning of the Board members on this) Attorney Primo stated that it was unfair to cross examine the Board but if the members wished they could answer the question to continue with the meeting. Each Board member present stated that they had viewed the property prior to the meeting.
3. Did they check with the fire department? Matthew Raterman stated that he hoped that the fire department would not hesitate to protect his family and home even if that meant knocking down the fence if necessary.

Chairmen Tocci asked if Eric Christensen has any questions or comments. Eric Christensen said no. Attorney Primo stated that he would like to acknowledge and appreciated Village of Minoa Trustee Christensen for being present at this meeting and the previous meeting.

Scott Parish made a motion to close the Public Hearing of the Village of Minoa Zoning Board of Appeals at 7:36 p.m., seconded by Bernie Beck. All in favor. Motion carried.

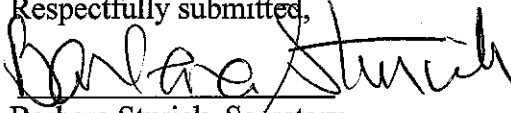
The Village of Minoa Zoning Board of Appeals continued with the Regular meeting.

A motion was made by Bernie Beck to accept the Public Hearing Area Variance Application minutes of Ms. Joan Mitchell dated April 18th 2013. Seconded by Charlie Tocci. All in favor. Motion Carried.

After brief discussion and review of the factors which are to be taken into consideration by the Zoning Board a motion was made by John Turbeville to approve the Area Variance application upon condition the 8ft fence be the Woodland Select Weathered Cedar and in the color as described by the Applicant (as submitted in the application) and (as required by Village Code) within the property line. All in favor. Motion Carried.

Scott Parish made a motion to close the Regular meeting of the Village of Minoa Zoning Board of Appeals at 7:50 p.m., seconded by Bernie Beck. All in favor. Motion carried.

Respectfully submitted,


Barbara Sturick, Secretary