

VILLAGE OF MINOA
PUBLIC HEARING ZONING BOARD MINUTES

Application – Koagel, Charles

Upon due notice, a Public Hearing of the Village of Minoa Zoning Board of Appeals was held on Thursday, August 8, 2019 at 7:00 pm, in the Municipal Building in the Village Board Room, 240 North Main Street, Minoa, New York.

Present: Chairman Chris Beers, ZBA Members Scott Parish, Gary Stoddard and Adrienne Turbeville, Attorney Courtney Hills and Secretary Barbara Sturick

Absent: Member Nicole Stoffel

Also present: Alyssa Eighmey, Susan Eighmey, Emma Eighmey, Charles Koagel, Doug Knapp, Chris Morgia, Trinity Morgia and Venessa Stanley

PLEASE TAKE NOTICE that a public hearing will be held by the Zoning Board of Appeals of the Village of Minoa, New York, on August 8, 2019, at 7:00 p.m., in the Municipal Building, located at 240 N. Main Street, Minoa, New York, on the request of Charles Koagel, for a variance of the regulations of the Village of Minoa Zoning Code, specifically §66-2(A) which requires that fencing in any residential or mixed residential district, shall be installed no more than six feet high (above grade) at the rear and side lines and §66-2(f) which prohibits fencing or screening devices to be installed or maintained in any drainage easement. The applicant is proposing the installation of an eight foot fence within the boundary of an existed drainage easement. The premises located in a Residential B Zoning District at 509 Baird Street (Tax Parcel No. 004.-07-06.7).

Chairman Beers called the public hearing to order at 7:00 p.m.

Member Scott Parish moved to waive the reading of the published Public Hearing Legal Notice. Seconded Gary Stoddard. All in favor; Motion carried.

Attorney Hills advised Charles Koagel that the ZBA must conduct a balancing test, weighting the benefit to the applicant if the relief was granted versus 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 summarized the requested relief, Attorney Hills requested the applicant present their request to the ZBA.

Charles Koagel stated:

- He stated he removed large overgrown and dying bushes and would like to install 8 ft. fencing in their place
- He has existing 8 ft. fencing on the opposite property line (installed prior to the Village's enactment of the height restrictions).
- The existing 4 ft. chain link fencing at the rear of the property shall remain, and in the front of the house the fencing will be scalloped.
- He and his neighbors both have pools and the installation is for the privacy of himself and his neighbors.
- If he installed 6' fence per code it would not look appealing in relation to the existing 8' fencing.
- He realizes the proposed fencing would be in a Village owned water line easement and is well aware if the need arise he would be would have to permit the Village access, same likely involving the removal of the fencing.
- He stated the alternative option of installing a 6 ft. fence would not look as pleasing as it would not match his current fence.

Member Adrienne Turbeville moved to close the public hearing and continue in regular session at 7:20 pm. Seconded Gary Stoddard. All in favor; Motion carried.

Attorney Hills confirmed for the record that the Legal Notice was submitted to Syracuse Media Group for publication order confirmation #0009264404; was posted at (6) six locations within the Village: Village Hall, Library, Trappers II, Post Office, Sunshine Mart and Scotty's Automotive, and was sent to neighbors located within 500 feet of the subject premises via first class mail.

Secretary Sturick confirmed for the Board that there is no other correspondence for or against the Variance application.

The Board then went through each criteria and determined the following:

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;
 - The Board discussed the prior condition – the 10' +/- decaying trees that were removed, and determined that 8' fencing was actually less detrimental than replacement of the trees with new trees of the same height.

- There is currently 8ft fencing present on the premises, and installing 6ft would be less aesthetically pleasing as it would not match the existing fencing.
 - Whether or not approving is setting a neighborhood precedent as previous 8ft fence variances have been granted. The Board determined this particular application presented unique circumstances, for example the presence of existing 8' fencing on the subject property. This factor distinguishes it from other applications. Therefore approval would not be setting a precedent for all applications requesting a variance for 8' fencing.
2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance. The Board determined the alternative of installing 6ft fencing per code could be unfeasible as it would not match the existing fencing and thus be detrimental to nearby properties by creating a less aesthetically character of the neighborhood.
 3. The Board members determined the requested area variance was not substantial after reviewing the particular circumstances of the application, and noted no neighbors were present or had written in opposing the proposed fencing, and granting same would match character of the neighborhood.
 4. The Board determined the proposed variance would likely not have any adverse environmental effects taking; the ground slope would not be changed, fence is not a large structure like a building or house. The board discussed with Charles Koagel that he should be aware that the Fence Company should be contacting Dig Safely 811 and that utility lines should be marked.
 5. The Board determined the alleged difficulty was self-created, which consideration shall be relevant but not dispositive to issuance of area variance.

The Board identified the proposed action as a Type II Action pursuant to NY SEQRA, elected to designate itself as Lead Agency, and subsequent to discussion and review of the Short Form EAF, the Board completed the questions in Part 2 of the form, and upon an unanimous vote determined based on the information provided therein and upon the analysis thereof and all supporting documentation, that the proposed action would not result in any significant adverse environmental impacts, and therefore issued a Negative Declaration.

The ZBA, taking into consideration the above five factors, a motion was made by Member Scott Parish to approve the relief as requested; with the following conditions; the new 8ft fencing is to match the existing 8' fencing and that it be made clear on the record that the Village is not responsible for any damage to the fencing in the event the Village needs to remove same to access the easement area, and that the Village shall not be responsible for restoring the fencing in that case. The motion was seconded by Member Adrienne Turbeville. All in favor. Motion carried.

Resident Alyssa Eighmey of 502 Hulbert Street requested to address the Board in reference to her submitted Variance application. Attorney Hills stated that the Board could listen but that New York State Law requires that a duly scheduled public hearing must be held on same, and that the legal notice advising of the public hearing be published in Local Newspaper no less than five (5) days prior to the hearing, and in addition the notice is required to be sent to neighbors within a 500 ft. radius of the property address no less than five (5) days prior to the hearing. Therefore those requirements must be met before the Board could make a decision on her application.

A motion was made by Member Gary Stoddard to close the Regular meeting of the Village of Minoa Zoning Board of Appeals at 8:15 p.m. The motion was seconded by Member Adrienne Turbeville, and all were in favor. The motion carried.

Respectfully submitted,

Barbara Sturick, Secretary