

**VILLAGE OF YELLOW SPRINGS
BOARD OF ZONING APPEALS
MINUTES**

Virtual Meeting @ 6:00 P.M.

Wednesday, February 16, 2022

CALL TO ORDER

The meeting was called to order at 6:00 p.m. by Ellis Jacobs, Acting Chair.

ROLL CALL

Ellis Jacobs, Acting Chair, members Anthony Salmonson, Scott Osterholm and Matt Raska were present. Zoning Administrator for the Village, Denise Swinger, was present. Solicitor Breanne Parcels and Village Manager Salmeron were also present.

COMMUNICATIONS

There were no communications.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Minutes for BZA Meeting of November 17, 2021 were reviewed. Salmonson MOVED and Raska SECONDED a MOTION TO APPROVE THE MINUTES AS AMENDED. The MOTION PASSED 4-0 on a ROLL CALL VOTE.

PUBLIC HEARINGS

Variance Application – R-B, Moderate Density Residential District – 200 West South College Street – Nadia Malarkey on behalf of property owners Susan Stiles and Alan Raney, has submitted an application for a variance seeking relief from the required fence height – 1260.01 (a) (1) General Provisions. **Greene County Parcel ID #F19000100080023900.**

Swinger introduced the hearing as follows:

Nadia Malarkey, on behalf of property owners Susan Stiles and Alan Raney, has submitted a variance application seeking relief from the fence height requirement. The property owners have a dog, and desire a higher fence of 4 ½ to 5 feet. The request is for a one to two foot height variance depending on its location. Within rear and side yards, the zoning code allows a height of six feet. Front yards allow a height of four feet, except within the clear vision triangle where the height maximum is three feet.

Swinger noted that a fence cannot be located outside of the property line. If the property line abuts the public sidewalk, the fence must be set back at least one foot. Given that the fence is not a privacy fence and the existing pillar and yew hedges will remain, staff does not have an issue with this variance.

The Chief of Police and Street Foreman have both observed the intersection and have no issue with the requested variance, particularly given that the fence is see-through.

Susan Stiles stated that the fence is wrought iron and is see-through.

Nadia Malarkey noted the photos that indicate a clear line of sight for the intersection.

Malarkey stated that the front of the fence will be eleven feet back from the West South College side, and on the High Street side the fence will be as close to the property line as permitted.

Osterholm received clarification that the trees and pillar will be on the outer side of the fence.

Swinger noted that that type of fence can pose an entanglement hazard to deer.

Malarkey noted that the fence will be no higher than five feet and will not have a sharp top.

Salmonson suggested that the variance be stated as “ up to two feet” rather than “one-to-two feet”.

Jacobs OPENED THE PUBLIC HEARING. There being no comment, Jacobs CLOSED THE PUBLIC HEARING.

Raska MOVED TO APPROVE THE VARIANCE OF UP TO TWO FEET REGARDING THE FENCE HEIGHT. Salmonson SECONDED.

The Clerk read the Duncan Standards as follows, calling roll on each standard:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Salmonson: Y; Osterholm: Y; Raska: Y; Jacobs: Y
- (2) Whether the variance is substantial; Salmonson: N; Osterholm: N; Raska: N; Jacobs: N
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; Salmonson: N; Osterholm: N; Raska: N; Jacobs: N
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection; Salmonson: N; Osterholm: N; Raska: N; Jacobs: N
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Osterholm: Y; Raska: Y; Jacobs: Y
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Osterholm: Y; Raska: Y; Jacobs: Y
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Osterholm: Y; Raska: Y; Jacobs: Y
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Salmonson: N; Osterholm: Y; Raska: Y; Jacobs: Y

The Clerk CALLED THE VOTE ON THE MOTION and the MOTION PASSED 4-0 on a ROLL CALL VOTE.

Jacobs commented that front yard fence heights can have a profound effect on the feel of the town, and it is important that BZA be cognizant of this reality. Jacobs noted that this is not the case for the variance at hand, given that it is see-through, but that he did want note the potential for impact regarding a fence variance.

AGENDA PLANNING

There was no Agenda Planning.

ADJOURNMENT

There being no further business, Osterholm MOVED and Salmonson SECONDED a MOTION to adjourn. The MOTION PASSED 5-0 on a voice vote. Meeting ADJOURNED at 7:31PM.

Ellis Jacobs, Acting Chair

Attest: Judy Kintner, Clerk