

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

**Virtual Meeting @ 6:00 P.M.**

**Wednesday, June 15, 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 (entered meeting at 6:06) and Matt Raska were present. Zoning Administrator for the Village, Denise Swinger, was present. Solicitor Breanne Parcels was also present.

**COMMUNICATIONS**

Matt Raska re: Zoning Zine

Matt Raska re: Conservation of Gas

**REVIEW OF AGENDA**

There were no changes made.

**REVIEW OF MINUTES**

Minutes for BZA Meeting of February 16, 2022 were reviewed. Salmonson MOVED and Raska SECONDED a MOTION TO APPROVE THE MINUTES AS WRITTEN. The MOTION PASSED 3-0 on a ROLL CALL VOTE.

**PUBLIC HEARINGS**

Variance Request– R-B, Moderate Density Residential District – 380 West North College Street. Keith Gunderkline has submitted an application for a variance seeking relief from the required fence height – Chapter 1260.01 (a) (1) General Provisions. Greene County Parcel ID # F19000100050013500.

Keith and Molly Gunderkline have submitted a variance application seeking relief from the fence height requirement. The property is located at the corner of West North College and Green Street on three lots and a vacated alley for a total measurement of 13,125 sq. ft. The front of their house and driveway are on West North College Street and they would like to run a six-foot fence along the Green Street side, running to the front of their deck and covering a portion of it. This property has two front yards, but the fence is outside the clear vision triangle area.

Staff has included in the packet a modified site plan from the Gunderklines to show two additional areas where the fence is non-compliant due to the required height changes from side yard to front yard. The Gunderklines are asking for a two-foot variance in order to run a six-foot fence along the Green Street side of their property.

The area where the fence will be located does not have an effect on visibility for drivers traveling on West North College or Green Street as the fence will not block that northwest corner of the property. There are also no driveways on the east side of Green Street where drivers would be visually impacted by the fence's location if pulling out. The closest driveway on the east side of Green Street is one of several entrances to Hawthorne Apartments and is over 100-feet from the Gunderkline's southwest property line.

Swinger noted that the fence extends only up to the enclosed deck on the Gunderkline property.

Jacobs received confirmation that there is no fence on the College Street side of the property.

Gunderkline stated that the fence is to be located on the sides of the property that face the Hawthorne Apartments, and is meant to afford them greater property.

Salmonson received confirmation that the fence can be built right along the property line.

Swinger noted that any property owner who receives a fence permit to build along a property line signs an agreement assuring that if the Village requires access to the property for a utility matter that the Village is not liable for any repair of structures.

Salmonson inquired as to the type of fence proposed, and was told that it will be a solid style fence.

Gunderkline noted that there is 14 feet between the road and the fence.

Jacobs OPENED THE PUBLIC HEARING.

Jacobs inquired as to whether any neighbors had expressed objections and was told that none had, and that one neighbor had expressed support for the plan.

Jacobs CLOSED THE PUBLIC HEARING.

Salmonson MOVED TO APPROVE THE VARIANCE. Osterholm SECONDED.

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 the fence height does not traverse into the side onto which the front door faces.

Jacobs noted the effect on the feel of a community that a front yard fence can have.

Gunderkline responded that if the fence were in fact across the front yard—the area faced by the front door of the house—it would be a different matter.

Swinger commented that corner lots have two front yards, and she would not recommend the variance if the fence were to be located in the “true” front of the house.

Parcels commented that one of the Duncan standards relates to the “essential character of the neighborhood”, which she sees as being addressed by Jacobs’ comments.

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: N; Raska: N; 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

Raska MOVED TO APPROVE THE VARIANCE REQUEST AS PRESENTED. Salmonson SECONDED.

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

#### **AGENDA PLANNING**

Jacobs noted Raska’s contributions. Raska thanked a number of people for their collaboration on the Zines.

Swinger commented that there are two variance requests upcoming, and the group agreed to a July 6<sup>th</sup> meeting to address these.

**ADJOURNMENT**

There being no further business, Osterholm MOVED and Raska SECONDED a MOTION to adjourn. The MOTION PASSED 4-0 on a voice vote. Meeting ADJOURNED at 6:28PM.

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Ellis Jacobs, Acting Chair

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Attest: Judy Kintner, Clerk