

**MINUTES OF THE ZONING BOARD OF APPEALS**  
**June 22, 2015**

The regular meeting of the Zoning Board of Appeals was called to order by Acting Chairman Walter Oakley at 7:00 p.m. at the Village Hall.

Members present: Acting Chairman Walter Oakley, Amy Flores, Kurt Schultz, and David Semmelman.

Members absent: Chairman William Cotey, Dan Donahue, and Mark Moore.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Fred Chung, Senior Project Engineer.

Board Member Schultz moved, seconded by Board Member Semmelman, to approve the May 18, 2015, Zoning Board of Appeals meeting minutes.

Motion carried 4 - 0.

**OLD BUSINESS:** None.

**NEW BUSINESS:**

**ZBA 15-17 George and Vivian Roman, Applicants**  
**185 West Peterson Road**

**Request is for a variation to reduce the minimum required Perimeter Landscaped Open Space from 10 feet to 5 feet from the west side property line in order to permit the location of an outdoor refuse enclosure for property located in the C-3, General Commercial District.**

Mr. David Smith, Senior Planner, introduced the variation request. Mr. Smith stated that the petitioners, George and Vivian Roman, are seeking approval for a variation to reduce the minimum required Perimeter Landscaped Open Space in order to permit the constructed location of a refuse enclosure along the side property line in a C-3, General Commercial District located at 185 Peterson Road. Mr. Smith stated that the subject property is located along the south side of Peterson Road surrounded on the north, east, and west sides by C-3, General Commercial District and R-5, Single Family Residential District on the south rear property line.

Mr. Smith stated that the petitioner was granted a sign variation in 2012 as part of their proposed improvements to upgrade the site and prepare it for their car wash service. Mr. Smith stated that those improvements also included expanding their vehicular circulation, parking, attach an awning over the front entrance, and a refuse enclosure in addition to the interior remodeling to accommodate their car wash service.

Mr. Smith stated that upon completion of the site improvements, Village Staff inspections identified that the required refuse enclosure was constructed closer than 10 feet to the west side

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property line and in a location not in accordance to the approved plan. Mr. Smith stated that in lieu of moving the structure to be compliant with the approved plan, the applicant opted to apply for a variation for the encroachment.

Ms. Vivian Roman, petitioner, stated that they hope to keep the trash enclosure where they constructed it because it helps to allow for traffic flow on the site.

Mr. George Roman, petitioner, stated that the location that it is in now helps to allow for snow removal. He stated that any other location would block the snow. He stated that the neighboring property has a building right up to the property line next to their property.

Mr. Phillip Cavicchia, 1716 Cedar Glen Court, stated that he has a concern for the noise coming from the car wash facility. He stated that the Zoning Board of Appeals should reconsider the variation request and require that the applicant be compliant with the Zoning Code. He stated that he has tried to work with the Village regarding the noise issue, but has not had any success.

Ms. Christine Cavicchia, 1716 Cedar Glen Court, stated that the car wash has not been adherent to the Zoning Code which has caused a problem for them to sell their home.

Board Member Flores asked if moving the refuse enclosure will change the noise issue. Mr. Roman stated that they have tried to work with the neighbors. He stated that they have tried to keep the car wash entrance door closed. He stated that the trash enclosure can't be seen from neighboring properties.

Mr. Cavicchia presented photos to the Zoning Board of Appeals of the subject site. He stated that the car wash door has been open all weekend.

Board Member Schultz asked for additional clarification from the petitioner as to why they cannot move the trash enclosure. Mr. Roman stated that he was concerned about putting the enclosure further to the rear in the swale and impacting the water detention that the swale provides. He stated that if it was moved further to the east, it would impede on-site traffic flow.

Board Member Schultz asked if the current location that it was in was approved by Village Staff. Mr. Roman stated that it was not approved by Staff, but the engineers thought that it was the best location. He stated that Village Staff was on site when they poured the concrete for the enclosure.

Board Member Schultz stated that it appears that the petitioner consciously installed it in the location it is in. He stated that the proposed hardship was self-created.

Mr. Roman stated that the first approved location wasn't going to work. He stated that two (2) feet of snow has to go somewhere.

Chairman Oakley asked for clarification of the detention area. He asked for additional information regarding the noise issue. Mr. Roman stated that the swale is towards the rear of the property next to the rear fence.

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Mr. John Spoden, Director of Community Development, stated that Staff has been out many times to take noise readings. He stated that the results are not conclusive due to how the Village regulations read and the noise meter instrument is applied.

Chairman Oakley asked the applicant to respond to the Staff review comments found in the DRC Staff Report.

Mrs. Roman stated that the property owner, Steve Martin, will talk to the Village about the required curb installation.

Mr. Fred Chung, Senior Project Engineer, stated that the required incomplete parking lot improvements includes the installation of a curb along the western edge of the western driveway.

Board Member Schultz requested further clarification from Mr. Cavicchia if he felt that there is a relationship between the noise nuisance and the location of the refuse enclosure. Mr. Cavicchia stated that the noise readings have been inconclusive, but have read up to 69 decibels from his rear deck. He stated that he is concerned that the Village has passed regulations, but cannot enforce them. He stated that garbage trucks make noise as well. He stated that there is evidence that the noise nuisance is substantial.

Board Member Schultz stated that the noise issue is not what is in front of the Zoning Board of Appeals tonight, but it is about the location of the refuse enclosure.

Mr. Cavicchia asked how the drawings got approved.

Board Member Semmelman stated that the noise issue is a separate issue.

Board Member Flores asked for further clarification of the requested location for the enclosure. Mr. Spoden stated that the Village Board has the authority to grant a 50% variation for the location within the Perimeter Landscaped Open Space which would still require a five (5) foot setback.

Mr. Roman stated that he has never needed to shut the car wash door before. He stated that it doesn't make sense to shut the door and it is not fair.

Chairman Oakley stated that there appears to be complaints from residents about the noise.

Mr. Roman stated that the frequent opening and closing of the door will require substantial repairs.

Mr. Roman stated that they will move their refuse container indoors and remove the enclosure. He stated that he will withdraw the variation request.

**COMMUNICATIONS AND DISCUSSION:** None.

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Board Member Semmelman moved, seconded by Board Member Schultz, to adjourn the Zoning Board of Appeals meeting.

Motion carried 4 - 0.

Meeting adjourned at 7:45 p.m.