

MINUTES OF THE ZONING BOARD OF APPEALS
August 11, 2008

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

Members present: Chairman Mark Moore, William Cotey, Kurt Hezner, Howard Jaffe, and Andy Robinson.

Members absent: Terry Howard and Walter Oakley.

A quorum was established.

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

Board Member Hezner moved, seconded by Board Member Jaffe, to approve the July 14, 2008, Zoning Board of Appeals meeting minutes.

Motion carried 5 - 0.

OLD BUSINESS:

ZBA 08-12 River Trail Properties, LLC, Applicant
162 Broadway

Request is for variations to: 1) reduce the minimum required front yard setback from 30 feet to approximately 20 feet ; and 2) reduce the minimum required corner side yard setback from 30 feet to approximately 20 feet in order to construct a single family home in an R-8, Single Family Residential District.

The applicant requested that this item be continued to the September 8, 2008, Zoning Board of Appeals meeting.

In the matter of ZBA 08-12, Board Member Hezner moved, seconded by Board Member Cotey, to continue this item to the September 8, 2008, Zoning Board of Appeals meeting.

Motion carried 5 - 0.

NEW BUSINESS:

ZBA 08-09 Brent Griffin, Applicant
1515 Sunnyview Road

Request is for variations to: 1) increase the maximum permitted linear length of a fence from 80.5 feet to approximately 241 feet in the front yard; 2) increase the maximum permitted height of a fence from 4 feet to approximately 6.5 feet in the front yard; and 3) increase the maximum permitted amount in which a fence may be opaque in the front yard to exceed 1/3 for property in an R-4, Single-Family Residential District.

Mr. David Smith, Senior Planner, stated that the petitioners, Frank and Megan Thomas, are requesting variations to increase the maximum permitted linear length of a fence in the front yard, to increase the maximum permitted height of a fence in the front yard, and to increase the maximum permitted amount in which a fence may be opaque in the front yard in order to install a fence in an R-4, Single Family Residential District at 1515 Sunnyview Road.

Mr. Smith stated that the Zoning Code states that fences may be installed in the front yard, provided the fence is no more than one third (1/3) opaque, and further provided that the total length of fence in a front yard shall not exceed one third (1/3) the length of the frontage of the front yard in a Residential District, and that no fence shall exceed a height of four (4') feet in any front yard.

Mr. Smith stated that in this case the petitioner is proposing to construct a six foot, six inch (6.5') wood fence along the rear and side property lines. Mr. Smith stated that the front yard extends between the side lot lines and between the front lot line and the front yard line. Mr. Smith stated that the front yard line is setback from the front property line 30 feet. Mr. Smith stated that the proposed 6.5' wood fence will encroach into the front yard along the side property lines. He stated that the portion of the wood fence that encroaches into the front yard shall exceed the maximum permitted height and opaqueness. Mr. Smith stated that the petitioner is also proposing to install a gated metal rail picket fence with stone pillars at a height of approximately six foot six inch (6.5') along the front property line. Mr. Smith stated that the proposed fencing, both the wood portion and the metal picket portion in the front yard exceeds the maximum linear length that a fence permitted to be in the front yard.

Mr. Brent Griffin, Griffin Design Build, agent for the homeowner, stated that the steel fencing in the front yard is 6 feet in height and that there are stone pillars that are 6 feet and 6 inches in height. He stated that the wood portion of the fence will not be seen from the street. He stated that the intent is to blend the design of the fence with the appearance of the house. He stated that the fence in the front yard is proposed to be setback approximately 20 feet from the curb of the street.

Mr. Doug Buier, 1512 Sunnyview Road, stated that he is concerned that the proposed fence would take away the sense of openness by enclosing the front yard. He stated that the petitioner's property is adjacent to the Wineberry subdivision, but it does not have the same fence restriction that Wineberry has.

Board Member Robinson asked if the front yard slopes down as depicted in the petitioners' front elevation rendering.

Minutes of the August 11, 2008, Zoning Board of Appeals Meeting
Page 3 of 5

Board Member Jaffe asked why the front yard steel fence needs to be 6 feet in height. Mr. Griffin stated that the proposed metal fence height is in keeping with the proposed height for the rest of the fence.

Ms. Kim Rutkowski, Griffin Design Build, stated that the column height would not be as effective if the fence were to be moved back towards the house.

Board Member Hezner, stated that the wood fence in the front yard should be more opaque.

Ms. Rutkowski stated that the full 6 foot wood fence height provides a more aesthetic appearance and would be more consistent all the way around.

Board Member Cotey asked if the gates are electronically operated. Mr. Griffin stated that the gates are electronically operated.

Board Member Cotey asked what the hardship is that justifies the variation requests. Mr. Griffin stated that security for the residents is a significant factor and that they want to be able to keep dogs in the yard.

Board Member Hezner stated that the hardship is self-created and that the property is not encumbered with any unique physical features.

Chairman Moore stated that the fence looks nice, but does not meet any of the Standards for a Variation.

Board Member Hezner stated that the petitioner may consider polling the Board to see where they stand prior to them giving their final recommendation to the Village Board. He stated that he would be against granting the variation requests.

Ms. Rutkowski stated that the fence as proposed is also very aesthetically pleasing.

Board Member Jaffe stated that he would not support the variation requests as proposed.

Board Member Robinson stated that he would not support the variation requests as proposed.

Mr. Griffin stated that he would like to continue this petition to next month's Zoning Board of Appeals meeting.

In the matter of ZBA 08-09, Board Member Robinson moved, seconded by Board Member Jaffe, to continue this item to the September 8, 2008, Zoning Board of Appeals meeting.

Motion carried 5 - 0.

**Minutes of the August 11, 2008, Zoning Board of Appeals Meeting
Page 4 of 5**

**ZBA 08-17 Michael and Tamara Buscemi, Applicants
609 Lange Court**

Request is for a variation to install a fence in the corner side yard that abuts the front yard of an adjacent lot in an R-6, Single Family Residential District.

**ZBA 08-17 Michael and Tamara Buscemi, Applicants
609 Lange Court**

Request is for a variation to install a fence in the corner side yard that abuts the front yard of an adjacent lot in an R-6, Single Family Residential District.

Mr. David Smith, Senior Planner, stated that the petitioners, Michael and Tamara Buscemi, filed a request for a fence variation, sent letters to the surrounding property owners within 250 feet, and appeared before the Zoning Board of Appeals at their July 14, 2008 meeting. Mr. Smith stated that at this meeting, Board Member Hezner moved, seconded by Board Member Howard, to recommend the Village Board of Trustees approve the variation to install a fence in the corner side yard that abuts the front yard of an adjacent lot in an R-6, Single Family Residential District for property located at 609 Lange Court. Mr. Smith stated that the motion carried 5 - 0.

Mr. Smith stated that unfortunately, due to misconstruing the instruction regarding the placement of the public notice signs on their property prior to the public hearing, the Buscemi's had to re-notice for the variation request and again appear before the Zoning Board of Appeals for the August 11, 2008 meeting.

Mr. Smith stated that the previous DRC Staff report for the July 14, 2008 Zoning Board of Appeals meeting is in the Board Members packet for the August 11, 2008 Zoning Board of Appeals meeting.

Mr. Buscemi, petitioner, stated that he mis-noticed the public by not placing the public notice sign on his property. He stated that he is seeking approval for the fence in his corner side yard. He stated that his rear yard and corner side yard abuts the front yard of his neighbors property and this is why he needs the fence variation.

Mr. Bill Connall, 314 West Lake Street, stated that the fence is already up. He stated that he has no objection to the fence. He stated that there is a lot of traffic during the July 4th holiday. He stated that he is concerned about a precedence being set.

Mr. John Spoden, Director of Community Development, stated that each variation will be looked at for their own merits and responded to on a case by case basis.

In the matter of ZBA 08-17, Board Member Hezner moved, seconded by Board Member Howard, to recommend the Village Board of Trustees approve a variation to install a fence in the corner side yard that abuts the front yard of an adjacent lot in an R-6, Single Family Residential District.

Minutes of the August 11, 2008, Zoning Board of Appeals Meeting
Page 5 of 5

Motion carried 5 - 0.

COMMUNICATIONS AND DISCUSSION:

Mr. Bill Connall, 314 West Lake Street, stated that he is concerned that the vacant house located at 230 West Lake Street has become a haven for transients.

Mr. Spoden stated that permits have been applied for to demolish the structure.

Board Member Robinson moved, seconded by Board Member Hezner, to adjourn the Zoning Board of Appeals meeting.

Motion carried 5 - 0.

Meeting adjourned at 7:43 p.m.