

VILLAGE OF SPRINGVILLE
MINUTES OF THE MEETING OF ZONING BOARD OF APPEALS

March 8, 2023

7:00 P.M.

A meeting of the Zoning Board of Appeals of the Village of Springville was held virtually at the above date and time.

Present were:

Chairman:	Joe Wolniewicz
Members:	Kate Moody (absent) Jamie Raynor Kimberly Krzemien Bob Laskowski
Also Present:	Brittney Rehrauer Dave Call
Building Inspector/CEO:	Mike Kaleta
Clerk:	Kellie Grube

Chairman Wolniewicz called the meeting to order at 7:00 p.m. for a continuation of petition for Brittney Rehrauer, 178 East Hill Run, Springville, New York, SBL 336.18-2-15, **File #9727** for an Area Variance for fence height. In a R8.5 no fence or wall within a rear or side yard shall have a height greater than six feet. Ms. Rehrauer was before the Zoning Board on January 11, 2023 for her Public Hearing and at that time the Variance request was tabled at the applicant's request to come up with possible alternatives due to the request being so substantial.

Due to the applicant's property being located within a R8.5 District the applicable section for File #9727 of the Village Code is:

§ 200-17 Permitted Fences and walls.

A. In a residence district:

(2) No fence or wall within a rear or side yard shall have a height greater than 6 feet.

C. The height of a fence or wall shall be measured from the ground level at the base of the fence or wall; except that where there is a retaining wall, the height shall be measured from the average of the ground levels at each side of the retaining wall, and except further that any fence or wall on the uphill side of such a retaining wall may be at least four feet high, notwithstanding the provisions of Subsections A and B.

At 7:01 pm, Chairman Wolniewicz opened the Public Hearing.

Before calling the applicant up, Chairman Wolniewicz addressed the Zoning Board Members regarding similar past fence variance requests and indicated that per the Zoning Board of Appeals manual, that "a

board of appeals should follow its own precedent”. With that being said, he went on to discuss the need for consistency and past practices.

Member Bob Laskowski didn’t necessarily disagree with what Chairman Wolniewicz was saying but felt that the applicant’s request is more than significant than what has been done in the past and was responsible for inquiring and knowing what was allowed per the Code before erecting the fence. The Zoning Board of Appeals needs to now figure out where to draw the line regarding precedent.

At this time, Chairman Wolniewicz asked Ms. Rehrauer to come up and address the Members with any changes that has occurred since the January meeting. Ms. Rehrauer presented the Members with a letter from a neighbor stating that she is fine with the fence. Other than the letter, the applicant has not come up with any solution or alternative.

Building Inspector/CEO Mike Kaleta stated that he had concerns in that there were no residential fences that were over 6 feet high and the only other fences over 6 feet were in Commercial Districts.

After some more discussion and with there being no further questions, Chairman Wolniewicz asked for a motion to go into the factors considered. Member Jeremy Raynor made the motion, all in favor, none opposed.

At this time, the Zoning Board of Appeals went over the factors considered in their decision:

FACTORS CONSIDERED:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Yes No (4)
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes (4) No
3. Whether the requested variance is substantial: Yes (3) No (1)
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Yes No (4)
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance: Yes (4) No

DETERMINATION OF THE ZONING BOARD of APPEALS *BASED ON THE ABOVE* FACTORS:

The Zoning Board of Appeals find that a variance of 2 feet additional height for a distance of no more than 40 feet from Section 200-17 of the Zoning Code is the minimum variance that should

be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because:

The desire of the applicant is to maintain a consistent fence height on a graded property.

STIPULATIONS: The Zoning Board of Appeals finds that the following stipulation is necessary in order to minimize the impact upon the neighborhood or community, for the reason following:

The extent of the fence in variance is not to exceed 40 feet.

The benefit to the applicant DOES outweigh the detriment to the neighborhood or community. With keeping in mind that the Variance is within the character of the neighborhood and doesn't impact the environment, the variance request is ***approved***.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	NO VOTE
JOE WOLNIEWICZ	<u> x </u>	<u> </u>	<u> </u>
BOB LASKOWSKI	<u> </u>	<u> x </u>	<u> </u>
KATE MOODY	<u> </u>	<u> </u>	<u> x </u>
JAMIE RAYNOR	<u> x </u>	<u> </u>	<u> </u>
KIM KRZEMIEN	<u> x </u>	<u> </u>	<u> </u>

With there being no other applications before them this evening, Chairman Wolniewicz asked if there were any changes or corrections to the January 8, 2023 minutes. With there being none, Chairman Wolniewicz asked for a motion to approve. Member Bob Laskowski made the motion, seconded by Member Kim Krzemien, all in favor, none opposed.

At 8:23 p.m., Chairman Wolniewicz made a motion to adjourn the meeting, all in favor, none opposed. Meeting adjourned.

Respectfully Submitted,

Kellie R. Grube

