

VILLAGE OF MINOA  
PUBLIC HEARING ZONING BOARD MINUTES

Application – Susan Eighmey

Upon due notice, a Public Hearing of the Village of Minoa Zoning Board of Appeals was held on Wednesday, August 21, 2019 at 7:00 pm, in the Municipal Building in the Village Board Room, 240 North Main Street, Minoa, New York.

Present: Chairman Chris Beers, ZBA Members Scott Parish, Gary Stoddard, and Nicole Stoffel, Attorney Courtney Hills

Absent: Adrienne Turbeville, and Secretary Barbara Sturick

Also present: Alyssa Eighmey, Susan Eighmey, Emma Eighmey, Robert Bleyle, Lee Wright, and Judy Carulli.

PLEASE TAKE NOTICE that a public hearing will be held by the Zoning Board of Appeals of the Village of Minoa, New York, on August 21, 2019, at 7:00 p.m., in the Municipal Building, located at 240 N. Main Street, Minoa, New York, on the request of Susan Eighmey, for a variance of the regulations of the Village of Minoa Zoning Code, specifically: §66-2(A) which requires fencing to no more than four feet high (above grade) in the front yard, and §66-2(E), which requires fencing or screening along both front lot lines of a corner lot to not exceed a height of 36 inches from grade for a distance of 20 feet from the point of intersection of such lot lines nearest the street corner. The applicant has removed an existing non-conforming six foot fence, and is proposing the installation of a new six foot fence in its place. The premises is located in a Residential B Zoning District at 502 Hulbert Street (Tax Parcel No. 003.-07-14.0).

Chairman Beers called the public hearing to order at 7:00 p.m.

Member Gary Stoddard moved to waive the reading of the published Public Hearing Legal Notice. Seconded by Nicole Stoffel. All in favor; Motion carried.

Attorney Hills advised Susan Eighmey that the ZBA must conduct a balancing test, weighting the benefit to the applicant if the relief was granted versus the burden to the health, safety and welfare that may be suffered by the community. She further advised in doing so they must consider the following five factors:

1. Whether an undesirable change will be produced in the character of neighborhood or whether a detriment to nearby properties will be created by granting of area variance;
2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance;
3. Whether the requested area variance is substantial;
4. Whether the proposed variance will have adverse effect on physical and environmental conditions in neighborhood or district; and

5. Whether the alleged difficulty was self-created, which consideration shall be relevant but not dispositive to issuance of area variance?

Attorney Hills summarized the requested relief, Attorney Hills requested the applicant present their request to the ZBA.

Alyssa Eighmey addressed the board as follows:

- She stated she removed an existing legal non-conforming 6' fence due to a state of deterioration, and was in the process of replacing the fencing in its exact location with the same type of fence at the same height. She was unaware that the Village zoning laws had changed since the installation of the original fencing, thus requiring the subject variances before installation of the new fencing.
- She opined that a 3' or even 4' would not be high enough to contain her dogs, provide enough security and safety for her child, and protect the community from an existing hole that was dug for a pool.
- She provided the board with pictures from the subject intersection, to show that even with the fencing in place there is no issue with visibility for traffic coming around the corner. She also provided the board with exact distances from the fencing to the point of intersection, and doesn't believe the 3' requirement would apply.
- She provided the board with a report prepared by the Town of DeWitt Police Department showing that there have only been 3 motor vehicle accidents on that road within the last 17 years... all while the prior fencing was up.
- She opined that there were no environmental issues with the prior fencing, so installing a similar fence in the exact same location would not create any new or unforeseen environmental issues.
- She indicated she was aware of an existing Village water line easement on her property and although not in the location where the fencing was being installed, she understood that the Village may need to remove the fencing to access their easement.
- She opined that she believes replacing the old fence with a 6' fence was more aesthetically pleasing than having fencing of mismatched height.

Robert Bleyle of 502 Hulbert Street addressed the board and advised that he believed the proposed 6' fencing would be an improvement to the neighborhood, and that the additional height was needed to protect the neighborhood from the applicant's dogs.

Lee Wright of 210 William Street addressed the board and advised that he had no issues with the requested height and believed there were no issues for traffic visibility around the corner.

Judy Carulli of 222 William Street addressed the board and advised she had serious concerns regarding the safety of herself, her own dog (as she walks her dog by), and the rest of the neighborhood should the applicant be restricted to only a 4' fence. She also opined that there were no traffic visibility issues with the prior 6' fence.

Member Scott Parish moved to close the public hearing and continue in regular session at 7:20 pm. Seconded Gary Stoddard. All in favor; Motion carried.

Attorney Hills confirmed for the record that the Legal Notice was submitted to Syracuse Media Group for publication order confirmation #0009283224-01; was posted at (6) six locations within the Village: Village Hall, Library, Trappers II, Post Office, Sunshine Mart and Scotty's Automotive, and was sent to neighbors located within 500 feet of the subject premises via first class mail.

Attorney Hills advised Secretary Sturick forwarded six letters received to the Board supporting the Variance application, true copies attached here and made a part hereof. In addition the Village received a call on August 6, 2019 from Ms. Ann Georgiade of 412 Hulbert Street advising she was in favor of the 6' fencing and that she believed it would be aesthetically pleasing to the neighborhood.

The Board then went through each criteria and determined the following:

1. Whether an undesirable change will be produced in the character of neighborhood or whether a detriment to nearby properties will be created by granting of area variance;
  - The Board determined, based on the numerous letters, calls and comments from those neighbors in attendance, that there would be no, or minimal, impacts on the character of the neighborhood or a detriment to nearby properties.
2. Whether the benefit sought by applicant can be achieved by an alternative method, feasible for applicant to pursue, other than area variance. The Board determined the alternative of
  - The alternative would be the 4' fencing. The Board determined based on the unique circumstances of the particular application (i.e., the police report, pictures, dogs, children, pool hole), that 4' fencing was not feasible.
3. The Board members determined the requested area variance was not substantial
  - The Board determined the request was substantial when looking at it from purely a numbers perspective, but not substantial when taking into consideration the unique circumstances of the application.
4. The Board determined the proposed variance would likely not have any adverse environmental effects taking;
  - The board determined that there would be no, or minimal at best, environmental impacts to permit the replacement of an existing 6' fence with a new 6' fence. There were no known environmental issues with the prior fencing.

5. The Board determined the alleged difficulty was self-created, which consideration shall be relevant but not dispositive to issuance of area variance.

- The board determined the alleged difficulty was self-created.

The Board identified the proposed action as a Type II Action pursuant to NY SEQRA, elected to designate itself as Lead Agency, and subsequent to discussion and review of the Short Form EAF, the Board completed the questions in Part 2 of the form, and upon an unanimous vote determined based on the information provided therein and upon the analysis thereof and all supporting documentation, that the proposed action would not result in any significant adverse environmental impacts, and therefore issued a Negative Declaration.

The ZBA, taking into consideration the above five factors, a motion was made by Member Scott Parish to approve the relief as requested; with the following conditions; that it be made clear on the record that the Village is not responsible for any damage to the fencing in the event the Village needs to remove same to access the easement area, and that the Village shall not be responsible for restoring the fencing in that case. The motion was seconded by Member Nicole Stoffel. All in favor. Motion carried.

A motion was made by Member Gary Stoddard to close the Regular meeting of the Village of Minoa Zoning Board of Appeals at 7:45 p.m. The motion was seconded by Member Nicole Stoffel, and all were in favor. The motion carried.

Respectfully submitted,

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Courtney M. Hills, Village Attorney