

MINUTES OF A REGULAR MEETING OF THE
VILLAGE OF NEW LENOX ZONING BOARD OF APPEALS

Held in the New Lenox Village Hall, 1 Veterans Parkway

Tuesday, August 6, 2013 7:00 p.m.

#13-08-A ZBA

CALL TO ORDER

A regular meeting of the Village of New Lenox Zoning Board of Appeals was called to order at 7:31 p.m., by Chairman Mark Muehlnickel, with a quorum present.

ROLL CALL

Upon roll call, the following were present: Chairman Mark Muehlnickel, Commissioners Rob Moss, Annette Boyd, and Joan Byerley.

The following were absent: Commissioners Terry Schultz, Gary Berner, and John Kuchler.

Also present were: Senior Planner Jeff Smith and Secretary Lorrie Sowko.

REQUEST FOR APPROVAL OF MINUTES OF A REGULAR ZONING BOARD OF APPEALS MEETING OF JULY 2, 2013

Chairman Muehlnickel entertained a motion to approve the minutes of the July 2, 2013, Zoning Board of Appeals meeting. Commissioner Boyd made a motion, seconded by Commissioner Byerley. Voice vote was taken. Motion carried.

REQUEST FOR VARIANCE (Public Hearing)
1421 West Maple Road/Route 6
Cecylia Mscisz - Petitioner

Chairman Muehlnickel entertained a motion to open the public hearing at 7:32 p.m. Commissioner Boyd made a motion, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

Attorney Christine Piesiecki, was present along with the property owner, Cecylia Mscisz, to request a fence variance for the property located at 1421 West Maple Road/Route 6.

Ms. Piesiecki mentioned that some nearby neighbors were also present and supports the variance request. Ms. Mscisz spoke to property owner Lawrence Williams, at 1411 West Maple Road/Route 6, and he indicated that he was not opposed to the variance request, but was unavailable to attend the meeting.

The reason Ms. Mscisz is requesting the variance is because the speed limit on West Maple Road/Route 6 is 50 mph, to protect the property from increasing traffic from Silver Cross

Hospital, the safety of her grandchildren, and keeping deer from entering the property. Ms. Mscisz feels that a 3-foot or 4-foot fence would not be adequate because her grandchildren would be able to climb a small fence. She mentioned that her daughter would not be able to get a job and allow her to babysit because the children would need to be in a yard with a taller fence. Also, a realtor told Ms. Mscisz that a 3-foot would be a safety issue and affect the marketability of the property.

Ms. Piesiecki added that the proposed fence is compatible with the home, is aesthetically pleasing, and would not affect the character of the neighborhood.

Senior Planner Jeff Smith began the Staff Report.

Jeff displayed aerial views of the property on the overhead projector.

In 2012, a decorative driveway was installed in addition to attractive landscaping, along the property frontage.

The north side of Maple Road/Route 6 is zoned R Single Family Zoning District which has a larger minimum lot size of 40,000 square feet and requires a 40-foot front yard setback. Approximately 10 nearby lots along the north of this the street are zoned R District and are similar with driveways that have direct access unto Maple Road/Route 6.

There is attractive landscaping across the frontage of the site that includes 3-foot to 4-foot evergreens, deciduous shrubs, and mature trees along the frontage of Route 6.

The owner applied for a fence permit with the Building Department in order to build a fence around the perimeter of the property. The owner is proposing a 5-foot tall aluminum fence which is allowed by the Zoning Ordinance, and only in the side and rear yards beyond the front yard setback. A maximum 6-foot fence height is allowed in these areas. Within the front yard setback, a maximum 3-foot fence height is allowed, with the exception of a corner front yards which can have a 4-foot fence, subject to visibility requirements.

The petitioner is seeking a 2-foot fence height variance from the maximum 3-foot fence height requirement to a 5-foot fence height. The Zoning Ordinance has three criteria that must be satisfied for the variance to be approved.

1. The property could not achieve a reasonable return if it had to comply with the Zoning Ordinance.

In this case, the Zoning Ordinance requires a maximum of a 3-foot tall fence. There are concerns of cars entering the driveway and/or using it for a turn around. A 3-foot tall fence and gate can be installed which will stop traffic from entering the property.

It is Staff's opinion that the petitioner could install a 3-foot fence and still achieve a reasonable return on the property.

2. There must be a unique circumstance to this property that is not evident for other properties in the area.

This is not the only property that has driveway access to Route 6. It is a busy roadway and there are legitimate safety concerns, but a 3-foot gate can be installed at the driveway entrance that would prevent vehicles from entering the property.

If the Village Board granted this variance, there could be precedence established for other nearby property owners. The variance process is set aside for unique circumstances.

If the Village Board would allow for taller fences in front yard setbacks, the normal process is to amend the Zoning Ordinance, which is a text amendment.

3. The variance, if granted, can alter the character/aesthetics of the neighborhood.

There is very attractive landscaping along the frontage of this property including 3 to 4-foot shrubs. As these shrubs get taller, there will be more privacy for the homeowner. A 3-foot tall fence can be installed and suffice, but a 5-foot fence could impact the character of the area by affecting the streetscape.

It is Staff's opinion that the requested variance does not satisfy each of the criteria. Therefore, Staff recommends denial of the variance to increase the fence and gate height in the front yard setback from 3 feet to 5 feet.

Chairman Muehlnickel questioned the potential location of the fence in relation to the existing landscaping.

Mar Cikul of 14530 Renmore Road replied that the fence would be behind the existing shrubs. He added that a car can easily pull up to the fence and gate since there is approximately 20 feet between the proposed fence/gate and the road. If the fence is 5 feet tall, the trees will eventually be 20 feet tall and the fence would be hidden.

Michael A. Jimenez of 1430 West Maple lives directly across the street and is not at all in opposition of a 5-foot fence being installed on the subject property.

Al Samuilis of 1451 West Maple Road does not see a reason why the petitioner should not have the proposed fence, if they so choose.

Commissioner Boyd asked if there is any reference in the Zoning Ordinance that refers to arterial roadways and fence restrictions.

Jeff Smith replied that there is nothing in the Zoning Ordinance that refers to arterial roadways and it would have to be amended to have special fence restrictions/allowances in the front yard setback along an arterial or collector roadway. It not typical to have driveways with direct

access to Route 6. New subdivisions typically have a street that leads to a subdivision, the rear lots abut the busy roadway, and the driveway accesses onto an interior street.

Commissioner Boyd expressed that she feels it would not be a bad idea to amend the Zoning Ordinance to provide safety for small children and wanted to know how long the process would take.

Jeff Smith responded that the process would take a couple of months.

Commissioner Boyd asked the petitioner if she could wait a couple of months. She also felt that the matter at hand is a safety issue. She does not want to deny the request if there are safety issues.

Jeff Smith reminded that the Zoning Board of Appeals (ZBA) is a recommending body and the Village Board makes the final decision on the variance request.

Commissioner Muehlnickel added that if the evergreen trees grow, the fence would not be visible and wanted to know if the evergreens in the frontage are on a berm.

Jeff Smith confirmed that the evergreen trees are on a small berm.

Commissioner Moss asked if the Village can dictate the type of fence and commented that he would not want to see a chainlink or cedar fence in the front yard of properties.

Commissioner Byerley reminded that the ZBA can grant a variance to allow for a 4-foot fence.

Chairman Muehlnickel added that the ZBA could recommend approval for a 5-foot fence and the Village Board can deny that request. Or, the ZBA can approve a 1-foot variance to allow for a 4-foot fence.

Jeff Smith stated that if the ZBA recommends granting a 1-foot variance, four concurring votes are necessary and there are only four ZBA members present. He would recommend not going that route. The petitioner in fact requested a 5-foot fence and would be required to request an amendment to their variance application.

The commissioners discussed options for a recommendation or decision.

The petitioner was adamant on requesting a 5-foot fence.

Commissioner Moss expressed that he has no issue with this property having a 5-foot fence in the front yard setback, but would not want to set precedence for other properties.

Jeff Smith reminded that other requests could involve having a 5-foot cedar or chainlink fence in the front yard setback and this should be considered.

Chairman Muehlnickel also suggested a 5-foot fence around the perimeter and a 4-foot fence for the frontage.

Jeff Smith explained the Village Board process for the variance request.

Chairman Muehlnickel entertained a motion to close the public hearing at 8:07 p.m. Commissioner Moss made a motion, seconded by Commissioner Boyd. Voice vote was taken. Motion carried.

Chairman Muehlnickel entertained a motion to recommend that the Village Board approve the variance to increase the height of the proposed fence and entry gate located within the front yard setback of the R Single-Family Residence (Medium Density Estate) District from 3 feet to a maximum peak height of 5 feet, for property located at 1421 West Maple Road. Commissioner Moss made a motion, seconded by Commissioner Boyd. Roll call vote was taken. Motion carried unanimously.

OLD BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

Chairman Muehlnickel entertained a motion to adjourn the meeting at 8:09 p.m. Motion was made by Commissioner Byerley, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

Lorrie M. Sowko – Secretary