

**TOWN OF SULLIVAN
ZONING BOARD OF APPEALS
AUGUST 10, 2017
7:00 P.M.**

A regular meeting of the Zoning Board of Appeals of the Town of Sullivan was convened at the Town Office Building by Chairman Steve Durfee at 7:00 P.M.

Those in attendance for the meeting were: Chairman Steve Durfee, Members Michael Keville, Terry Manning, Cecilia Berean, Clifford Reals, and Attorney for the Board John Langey.

Absent: Secretary Jeri Rowlingson and Philip Costanzo, Building/Codes Administrator

PUBLIC HEARING

7:00 P.M. – EDWARD FRIES III: AREA VARIANCE (8806 BRIDGEPORT KIRKVILLE RD., 8.-2-23.34) INSTALL SIX FOOT FENCE UP SIDE FROM REAR SOUTH PROPERTY LINE

Mr. Edward Fries appeared before the Board to request an area variance to install a 6 foot fence extending 45 feet up side of garage from the rear South property line.

The Madison County Planning Board returned the application for Local Determination.

No one else spoke for or against the application and the public hearing was closed.

LOUIS R. BOSTON: AREA VARIANCE (1802 CHESTNUT RIDGE RD., 25.-1-46) INSTALL SIX FOOT FENCE WEST SIDE PROPERTY LINE

Mr. and Mrs. Louis Boston appeared before the Board to request an area variance to install a 6 foot fence on the West side property line where only 4 foot is allowed. Mr. Boston explained where he wants to put the fence as it was difficult to know from the map he supplied. It will be back from road 10 to 15 feet and extend 96 feet on West property line. This will be for privacy and barrier as everything blows into their yard from the neighbors. Attorney John Langey explained the Zoning Code and the reason for the Zoning Board versus the decisions from the Building/Codes Administrator for permits.

The Madison County Planning Board returned the application for Local Determination.

No one spoke for or against the application and the public hearing was closed.

WILLIAM QUILTY: AREA VARIANCE (1260 TYLER RD., 9.25-1-23) TO ALLOW A FENCE TWO INCHES FROM THE PROPERTY LINE

Mr. William Quilty appeared before the Board to request an area variance to install a 3 foot fence 2 inches from property line. Mr. Quilty explained that he replaced a fence in 2009 and there was no problem. Now he wants to put steel poles with plastic chain going pole-to-pole. Mr. Quilty stated he owns the 8 foot right of way. Mr. Quilty has done a lot of work to make the property look better.

Mr. Dale Heagle spoke, lives East of the property line in question, 1261 Tyler Rd. He had his property surveyed a couple months ago as he wanted to install a picket fence for privacy and boundaries. He was told it would have to be 1 foot off property line and no higher than 4 foot otherwise would need a variance. He was told he could only have a chain link or split rail fence. Discussion was held in regards to blocking views.

Mr. Thayer Matzke, neighbor on the East side, 1257 Tyler Rd., disagrees with the variance as he believes there is no current survey on file. If the 2 inch variance is approved the fence will be 4 inches into his property according to his survey. Mr. Quilty is basing his measurements off the Heagle's survey. Attorney John Langey stated the survey he has is dated 2006 by Doug Lehr and does not know if this is an accurate survey or not. Member Keville stated it is not up to Board to figure out surveys but can put conditions on the decision that requires it to be done clearly. Mr. Matzke wants the zoning law followed as it had to be for him.

The Madison County Planning Board returned the application for Local Determination.

No one else spoke for or against the application and the public hearing was closed.

WILLIAM AND LINDA COTTER: AREA VARIANCE (1015 FYLER RD., 24.-1-57.213) INSTALL SIX FOOT FENCE EAST SIDE PROPERTY LINE

Mr. and Mrs. William Cotter appeared before the Board to request an area variance to install a 6 foot fence raised 1 foot above grade on the East side property line. Mr. Cotter referenced and read Article 4, Section 3, Paragraph F of the Town of Sullivan Ordinance. He wants to construct a fence because of the neighbor fence recently installed which is an undesirable change to his property. He states the neighbors fence discourages the develop of his property and discourages potential tenants. The reasons he is requesting to raise the fence 1 foot above grade are (1) to block the view of the undesirable fence and (2) to be able to maintain the grass with his trimmer on the underside of fence. Mr. Cotter presented photographs of what he would like to do and stated his fence will be adjacent to the neighbors fence. It will be a white vinyl fence with good side on both sides.

Mrs. Edith Figie, 1021 Fyler Rd., said this is actually a 7 foot fence. She explained that the reason for her unsightly fence is when they (introduced her husband Steve) started the fence, which was approved by this Board last November, Mr. Cotter put up rope and signs 1 foot from property line. She started reading the resolution of May 2016 regarding the natural tree barrier which was never put up by the Cotter's. She stated she never wanted a fence, lived there 33 years, and the tree barrier would have made it so they would never see the duplexes.

She also discussed the start of the other duplexes and Planning Board Resolution. She is tired of Mr. Cotter doing whatever he wants to. Steve Figie said they just want privacy and nothing was ever mentioned about time frame for the tree barriers. Mr. Figie also mentioned they are not building what the plans were presented in front of the Planning Board and he is out of compliance. If he gets approved for a 7 foot fence she will put a 1 foot extension on her fence so she can have a 7 foot fence. Member Berean asked Mrs. Figie what color her fence will be, she stated white or brown and only did the orange because her husband was almost hit by a rock from Mrs. Cotter's mower. Chairman Durfee stated the Board was getting side tracked as there is a lot going on besides the reason they are here.

Attorney Michael Armani representing Mr. and Mrs. Cotter, stated there are many things not relevant to the issue of the fence. Attorney Armani stated it sounds like the Figies are not against the proposal of what color the fence is if there are two fences, recommends allow the variance and give time for discussion between two parties to work out an agreement to allow the fence to be certain color acceptable to both parties. The Cotter's would not act on variance if both parties come to an agreement. Chairman Durfee said sounds like there is really no negotiating at this point.

The Madison County Planning Board returned the application for Local Determination.

No one else spoke for or against the application and all public hearings were closed.

NEW BUSINESS

No new business.

OLD BUSINESS

EDWARD FRIES III: AREA VARIANCE (8806 BRIDGEPORT KIRKVILLE RD., 8.-2-23.34) INSTALL SIX FOOT FENCE UP SIDE FROM REAR SOUTH PROPERTY LINE

The Board jointly reviewed and considered the legal criteria and a proposed resolution for the granting of the requested area variance addressing each of the legal criteria for approval or denial of the application. It was determined that the benefits to the applicant outweighed any harm to the neighborhood. The Board reasoned that the variance is not substantial, is self-created but not a determining factor and that the fence will provide a visible shield.

This application was declared by the Board to be a Type II Action for SEQR.

A motion was duly made by Member Manning, seconded by Member Keville and unanimously passed by the Board granting 2 feet of relief to install a 6 foot fence extending 45 feet up side of garage from the rear South property line. The fence is not to go past the front edge of the Northwest corner of the house and is to be installed at least 1 foot off the property line.

LOUIS R. BOSTON: AREA VARIANCE (1802 CHESTNUT RIDGE RD., 25.-1-46) INSTALL SIX FOOT FENCE WEST SIDE PROPERTY LINE

The Board jointly reviewed and considered the legal criteria and a proposed resolution for the granting of the requested area variance addressing each of the legal criteria for approval or denial of the application. The Board reasoned that the variance is substantial and that it would be an undesirable change to the neighborhood as 6 foot fence in front yard and to the road. The alleged difficulty is not self-created as the neighboring property is now a rental property and so close to the road. Attorney John Langey suggested that the applicant get a better survey before granting or denying the variance.

This application was declared by the Board to be a Type II Action for SEQR.

A motion was duly made by Member Reals, seconded by Member Manning and unanimously passed by the Board to table this matter to next month's meeting. The Board needs a clearer idea of the location of the fence. Member Keville will contact applicants.

WILLIAM QUILTY: AREA VARIANCE (1260 TYLER RD., 9.25-1-23) ALLOW A FENCE TWO INCHES AWAY FROM PROPERTY LINE

The Board jointly reviewed and considered the legal criteria and a proposed resolution for the granting of the requested area variance addressing each of the legal criteria for approval or denial of the application. It was determined that the benefits to the applicant outweighed any harm to the neighborhood as extenuating circumstances exist due to the pre-existing fence structure. The Board reasoned that the variance is not substantial or self-created as the fence is a replacement of pre-existing structure and zoning law changes. The new Zoning Law requires fences 1 foot off property lines thus creating a 6 foot wide lane. The original 8 foot parcel is owned by the applicant. The 8 foot strip was created that way to allow traffic, both foot and motor access to the lake.

This application was declared by the Board to be a Type II Action for SEQR.

A motion was duly made by Member Manning, seconded by Member Reals and unanimously passed by the Board granting the posts be placed 2 inches inside the property line to replace the existing chains between posts conditioned, however, upon the applicant obtaining an updated survey to properly locate the fence on this property.

WILLIAM AND LINDA COTTER: AREA VARIANCE (1015 FYLER RD., 24.-1-57.213) INSTALL SIX FOOT FENCE EAST SIDE PROPERTY LINE

The Board jointly reviewed and considered the legal criteria and a proposed resolution for the granting of the requested area variances addressing each of the legal criteria for approval or denial of the application. It was determined that the benefits to the applicant do not outweigh any harm to the neighborhood. The Board reasoned that the variance would produce

undesirable change to the neighborhood as 7 foot high fences do not exist currently in this neighborhood and would be out of character. The variance is substantial and self-created as a plan exists to establish a visible buffer without the fence by planting trees as originally planned in site plan. The Board reasoned that the variance would have an adverse impact on the physical and environmental conditions in the neighborhood as it would create a 2 foot gap "tunnel" and an undesirable 7 foot height.

This application was declared by the Board to be a Type II Action for SEQR.

A motion was duly made by Member Keville, seconded by Member Manning and unanimously passed by the Board to deny the fence variance.

APPROVAL OF MINUTES

A motion was duly made by Member Manning, seconded by Member Berean and unanimously passed by the Board approving the minutes of July13, 2017.

ADJOURNMENT

A motion was duly made by Member Manning, seconded by Member Berean and unanimously passed by the Board to adjourn the meeting at 9:30 P.M.

Respectfully Submitted
Jeri Rowlingson, Secretary