

Minutes of the meeting of the Village of Williamsville Zoning Board of Appeals held on Wednesday, January 20, 2021, at 7:00 p.m. This meeting was held virtually due to the NYS Covid-19 lockdown regulations in place at the time.

Present via Zoom: Richard Andrews, Chairman
James Celeste, Member
William Tuyn, Member
Joseph Frese, Member
Patricia Fulwiler, Member

Also present via Zoom: Deborah A. Habes, P/T Clerk
Charles Grieco, Village Attorney
Matthew Etu, Trustee Liaison to ZBA
Tim Masters, Code Enforcement Officer

Absent: Timothy Boyle, Alternate member

Chairman Andrews led the meeting with the Pledge of Allegiance.

Mr. Andrews asked for a motion to approve the minutes of the ZBA meeting of October 21, 2020.

ON MOTION by Mr. Celeste, seconded by Ms. Fulwiler, it was moved to approve the minutes of the October 21, 2020 meeting as submitted.

Motion carried. 5 – 0.

**PUBLIC HEARING
24 Pasadena Pl. (R-3)**

**Request for relief from Section 25-4 A (1),
which limits the maximum height of a fence in a residential rear yard to no higher than 6
feet. Owner wishes to erect a fence in the rear yard at a height of 7 feet.**

Mr. Andrews opened the public hearing for 24 Pasadena Place at 7:05 p.m.

Mr. Edward Zaphel, the applicant, was not in attendance.

Mr. Andrews asked if the ZBA could still conduct the public hearing even though the applicant was not present. Although desirable, Mr. Grieco stated it is not required that the applicant be present for the Zoning Board to consider the evidence as presented by the applicant in the application. The members chose to proceed with the hearing.

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VILLAGE OF WILLIAMSVILLE

Mr. Andrews asked Mr. Masters to read aloud the items in the file. Legal notice of this public hearing was duly published in the Amherst Bee on January 13, 2021.

Referring to the applicant's answers to the five criteria for an area variance request in his application, Mr. Andrews proceeded to present them as written.

According to the applicant's application:

1. No undesirable change will be made to the neighborhood with a 7' high rear fence. The fence is deemed needed to allow for privacy between the applicant's property and that of his neighbor directly behind his house. The applicant recently removed a line of large evergreen trees along his rear lot line, and now, there remains no privacy between the neighbors.
2. It will not be a detriment to nearby properties. It will provide needed privacy and will deter the neighborhood deer population from passing through the properties.
3. It will be substantial because they will plant a number of large trees along the rear lot line in front of the new fence.
4. It won't have an adverse impact on the environment since it will deter the deer and protect everyone's shrubbery.
5. It is not a self-created hardship or difficulty. The property to the rear of the applicant's property sits at a higher elevation than the applicant's property so a 7 ft. high fence will provide more privacy than the 6 feet maximum allowed by code.

There were no public comments either in favor of the variance or in opposition to the variance request.

Mr. Andrews asked the members for their comments:

Mr. Frese – Did not think that one added foot in fence height would make any difference in privacy nor provide a deterrence for the deer. Concerned that applicant was not present since there were many questions that cannot be answered without him present.

Ms. Fulwiler – Doesn't know if the proposed new fence would be going all around the backyard since the survey that was submitted does not show the location of the proposed new fence. Does not believe that the addition of one mere foot in height would deter deer from jumping over the fence.

Mr. Celeste – The nuisances caused by the current deer population in the Village seem to be becoming a wide-spread problem and area of concern for the Village residents. He is reluctant for the ZBA to start regulating the movement of the deer population in the Village.

Mr. Tuyn – Unfortunately, the applicant did not provide enough evidence for the ZBA to properly address the request. He believes that an increase of one foot in height would not make any difference in privacy or the deer jumping over it. For these reasons he is inclined to deny the variance request.

Mr. Grieco offered several options for the ZBA members to consider with respect to this application this evening:

1. As long as the applicant received notice of the hearing tonight, the ZBA could close it and proceed to deliberate and make a decision this evening. (Mr. Masters added that he had spoken to the applicant just last week about tonight's public hearing, so the applicant was aware of the meeting tonight.)
2. The ZBA could keep the public hearing open.

ON MOTION by Mr. Frese, seconded by Ms. Fulwiler, it was moved to make a decision this evening.

Unanimously carried. 5 – 0.

With no further questions, Mr. Andrews closed the public hearing at 7:17 p.m.

Mr. Andrews asked if any member wished to make a motion.

ON MOTION by Mr. Frese, seconded by Ms. Fulwiler, it was moved to deny the variance as proposed.

On the question:

Mr. Grieco noted that the more common format for making a motion was to propose a motion to *approve* a variance as written rather than a motion to *deny* it, in case Mr. Frese wished to amend his motion and Ms. Fulwiler were to agree.

Mr. Frese agreed to amend his motion and Ms. Fulwiler agreed to second the amended motion as follows:

ON MOTION by Mr. Frese, seconded by Ms. Fulwiler, it was moved to approve the variance from Section 25-4 A (1), as proposed, that is, to allow a rear yard fence height of 7 ft. instead of the maximum height of 6 ft. as allowed by code.

Roll call:	Mr. Tuyn	No
	Mr. Celeste	No
	Mr. Andrews	No
	Ms. Fulwiler	No
	Mr. Frese	No

Motion DENIED. 5 – 0. Area variance for a 7' high rear fence height DENIED.

In other business, there was a brief discussion on the future status of zoom meetings vs in-person meetings. Mr. Grieco stated that the ZBA could legally meet in person. Mr. Etu added that the Village Board has elected to continue meeting via Zoom, but the ZBA could do as they wish. Mr. Etu added that there seems to be a problem with the audio when a meeting is both virtual and in-person. The sound is general better in an all Zoom format.

It was decided to continue ZBA meetings in the Zoom format.

Mr. Frese made a request that all pertinent file paperwork for future ZBA hearings be either mailed via regular USPS to each member's home or dropped off at each member's home in advance of the schedule meetings. Mr. Masters agreed to this request.

There being no further comments or discussion, Mr. Andrews asked for a motion to adjourn.

ON MOTION by Ms. Fulwiler seconded by Mr. Celeste, it was moved to adjourn the meeting at 7:30 p.m.

Motion carried. 5 – 0.

Submitted by:

Deborah A. Habes

Deborah A. Habes
Clerk, P/T

**Next regularly scheduled ZBA meeting will be held on February 17, 2021 at 7:00 p.m.
Please check the Village website for the latest agenda and Zoom link at
www.walkablewilliamsville.com**