

Zoning Board of Appeals
May 16, 2022

Present: Chairman Bill Nickal, John Ceresoli, Jason Tardio, Jeff Geer, Counsel Nadine Bell, Gary McDermott, Elizabeth Lin, Mr. & Mrs. Scott Williams, Mr. & Mrs. Doug Brown, Jill Doss

Excused: Dan Welker, Gene Dayton, Paul Adams
A quorum was recognized.

Chairman Nickal called the public hearing for area variance request of Gary McDermott to order at 7:03 p.m. He asked Mr. McDermott to explain the reason for his request. Mr. McDermott explained he was requesting a variance to install a 6 foot high solid white vinyl fence with less than the 25 foot front setback. As a note, the road setback for Route 5 is 55 feet as measured from the center line. The Village Code does allow for an 8' high fence if the fence is setback 25 feet in the front setback. Mr. McDermott wants to be able to use as much land as possible to plant trees and is proposing to set the fence closer than the 25 feet. If the fence is placed closer than a five foot fence is what is allowed in the Village Code. The proposed fence would run parallel to the sidewalk from the front corner of his home, going east to his neighbor's (Judd's), south or down the sideline to the top of the creek bed which borders on his neighbor's (Brown's) at the rear of the property and east or back to house. There would be a gate in the front and another gate in the back. His plan is to plant a small apple orchard in his side yard and the fence height is critical to slowing or stopping the deer population from traveling through his yard. Counsel Bell asked Mr. McDermott to explain the reason for his request. Mr. McDermott responded he is asking for 12 additional inches in height to the proposed fence as the Village Code allows for 5 feet. There are deer that use his yard to travel from Genesee Street to the area behind his home. He shared some statistical data on deer population and traveling habits of whitetail deer with the Board. Deer tend not to jump over a solid structure and six (6) feet, based on the studies he researched seems to be height difficult for deer to jump over. He also spoke of concern about ticks and data recently released from the NYSDOH in regard to ticks. Mr. McDermott commented that he and his wife are avid gardeners and ticks are a concern. Chairman Nickal asked if anyone has questions or comments. Scott Williams 124 W Genesee Street asked why six (6) feet in height if a deer won't jump over a solid structure, why not stay with five feet? Mr. McDermott commented that five feet might be alright but the statistical data he had all seemed to point to six (6) feet being a better deterrent. Doug Brown 108 Brinkerhoff Hill Road commented that the Board has already set a precedent by approving a six foot high fence for Sun Chevrolet - the request by Mr. McDermott is not unreasonable. He also commented that years ago there was a fence on the McDermott property by Judd's property in the same approximate location. Mr. McDermott says he is staying a foot off the property by the Judd's property and the fence in the back is at the top of creek bank which is quite a distance from the Brown's property boundary. John Ceresoli asked about screening of the fence. Mr. McDermott commented that his plan was to plant 3 or 4 Thuja Green Giant trees in front of the fence on the Genesee Street side to screen the solid white

vinyl fence and to also plant some peonies or other perennials to help screen the fence. The Thuja tree is fairly fast growing and would provide screening very rapidly. Chairman Nickal asked if there were any other questions from the audience or the Board. The Secretary noted that Madison County had responded to the referral. They are leaving it to Local Determination. There being no other questions, and upon the motion made by John Ceresoli, seconded by Jason Tardio, the Board unanimously closed the public hearing at 7:24 p.m.

Chairman Nickal called the regular meeting to order at 7:25 p.m.

Minutes

The Board members reviewed the minutes of April 18, 2022. Upon the motion made by John Ceresoli, seconded by Jason Tardio, the Board unanimously approved the April 18, 2022 minutes.

McDermott variance request 124 W Genesee Street

The Board members reviewed the area variance requirements.

Is there any other way to obtain the objective? Relocating the fence in further back in the yard would reduce the space planned for planting apple trees in the yard, the higher solid fence would deter the deer population from traveling through applicant's property. Is the 12" additional fence height the minimum necessary to achieve the goal? Yes. Is the situation self created? No, the deer population uses this area regularly to travel to and from areas nearby. Also, the lot is uniquely shaped and is bounded by a creek in the rear.

Is there practical difficult or special conditions or impacts? There is the location of the creek at the rear of the property, a larger than normal setback is required due to Route 5 (State highway) having a wider road setback; 55 feet as measured from the center line of the road. John Ceresoli asked Mr. McDermott what the front measurement setback of the fence will be. It is not noted on the drawing supplied. There is a measurement from the sidewalk to the house of 22' 1", but no dimensions are shown for the fence setback location. A long discussion took place. It was agreed that the fence would be located at 22' 1" from the sidewalk on W. Genesee Street. The question was raised, will the fence company require a survey. Mr. McDermott will confirm that. The Board members discussed the information presented this evening.

Upon the motion made by John Ceresoli, seconded by Jason Tardio, the Zoning Board of Appeals the Zoning Board of Appeals approves the requested area variance requested for Gary McDermott at 125 W Genesee Street to install a six (6) foot high solid white privacy vinyl fence 22' 1" from the edge of the sidewalk on W. Genesee Street, running parallel with the sidewalk for 60 feet which matches the front corner of the house at 125 W. Genesee Street in an easterly direction, then south along the side border (currently owned by Judd's) to the rear boundary (currently owned by Brown's) along the top of the creek bank and back to the house at the rear corner. Applicant will plant and maintain a minimum of 3 Thuja Green Giant trees in front of the fence on W. Genesee Street frontage. Applicant also agrees to plant flowering perennials for

additional screening along fence frontage such as peonies or azaleas. With no further discussion, a roll call vote was taken:

John Ceresoli	yes
Jason Tardio	yes
Bill Nickal	yes
Dan Welker	absent
Gene Dayton	absent
Paul Adams	absent

Motion carried.

The Board advised Mr. McDermott that he will need to see Mr. Geer for the permitting process.

Perry - 102 Lennox Lane update

Jeff Geer advised that he has been in touch with Attorney Perry who is working with the Perry family to relocate and reduce the height of the accessory structure. The Company that installed the structure is not willing to work on this change, so Attorney Perry is in the process of locating contractors willing and able to do the work. If the issue is not addressed in a timely manner, per Counsel Bell, the matter will end up in the Court system. There is nothing additional that the Zoning Board needs to do at this time. There will be a follow-up in the next two to four weeks to see what the progress is.

Randall - 201 Tobin Drive

Jeff Geer asked that minutes be located for a variance granted in 2006 for a variance granted for 201 Tobin Drive. The property owners are thinking of asking for a new variance for additional work at the property. Secretary will check the minutes for 2006.

Next meeting

The next meeting will be June 20.

With no further business, meeting adjourned at 7:50 p.m.

Respectfully submitted,

Jill A. Doss
Secretary to ZBA