

**Zoning Board Meeting
June 13, 2006**

Present

Chairman John Dole
Michael Flavin
Barbara Strine
George Fellows

Others Present

Donna Stassen, Secretary Zoning Board
Jack Crooks, Building Inspector
Thomas West, Superintendent Dept. Public Works

Mr. Fairbrother	8 No Union Street
Kate Fairbrother	8 No Union Street
James P. Sformo	32 Thorncliff Road
Jesse & Jen DeSanto	40 Thorncliff Road
Nancy & Bob Garlick	2824 Nichols Street
Andy & Cathi Squier	26 Pinecrest Drive
Bonnie And Jack Brodie	83 Nichols Street
Mrs. Dow	113 Coleman Ave
Bonita Caton	111 Coleman Ave
Brenon Caton	111 Coleman Ave
Mark & Patti Unvericht	36 Pinecrest Drive

Chairman Dole led the Pledge of Allegiance.

Public Hearings

The application of Philip and Evelyn Dow of 113 Coleman Avenue for an area variance for the proposed reconstruction and expansion of an existing garage; with a side setback of 2 feet to be located on property at 113 Coleman Avenue. Whereas the minimum side setback allowed is 8% of the frontage or 4.24” pursuant to Chapter 140-12 B (1).

Mrs. Dow stated to the board that the existing garage has cosmetic issues but it also has some structural problems and some rot on the supports. It also has the classic suburban problem of not enough space. In order to expand it has to stay on that side lot line, otherwise if we were to move it to satisfy the code we wouldn’t be able to access the garage door from the driveway.

Barbara Strine: It will be real close to the lot line.

Chairman Dole: It is now that is a pattern in that neighborhood.

George Fellow: I agree that all of the houses are close to the property lines.

Michael Flavin: I just know that any improvements they have made to their home are first class.

Jack Crooks: As long as the neighbors are not fighting, there is room for a ladder to paint or any other maintenance.

Jack Crooks: The board should consider as a condition to any approvals that the near wall to the property line be covered with 5/8 type x drywall. Should there be a fire that drywall would slow the spread down until the firefighters arrive.

After board discussion, the following resolution was offered.

Resolution 157
June 13, 2006

Introduced by George Fellows
Seconded by John Dole

Resolved that the application of Philip and Mrs. Dow, 113 Coleman Ave for an area variance for the proposed reconstruction and expansion of an existing garage with a side setback of 2' located on property at above address be approved conditional upon the following conditions set forth by the Spencerport Zoning Board of Appeals:

5/8 Type X drywall to be used on the wall facing the adjacent garage.

Approval based on the boards finding that such garage fits the character of the neighborhood.

Nor will such garage have a negative environmental impact on the neighborhood.

Such variance is a Type 2 action and no further environmental review is required.

Ayes: Dole, Fellows, Strine

Nays: none

Abstain: Flavin

Next on the agenda is the application of Thomas Fairbrother, 8 No Union Street, for an area variance for a proposed 4' open construction fence in the front setback area of property located at 8 No Union Street. Whereas, the maximum height shall not exceed three (3) feet in height if erected at any point on the lot nearer the street than the front yard setback, pursuant to Chapter 140-31-A (1).

Mr. Fairbrother stated that he is looking to replace two gates and associated fencing that were on the property when they bought it 20 years ago and needs replacing.

The best design that could be used for this property is four- foot aluminum, which simulates wrought iron, which represents the kind of design that our house has. I would like to run the four foot open aluminum fencing along the areas as described on the tape map.

George Fellows: The only question I have is looking at the tape map it looks like the fence will be placed right alongside the road, which it isn't. Will the new fence be placed where the existing fence is now inside the shrubbery?

Mr. Fairbrother: Yes, it will actually be inside the ROW about 14 ft. off the road.

Jack Crooks: I visited the property and I certainly think this fence will be an improvement to the fence that is there now, which is just a grade above chicken wire. This type of fencing enhances the style of the home.

After board discussion, the following resolution was offered.

Resolution 158
June 13, 2006

Introduced by George Fellows
Seconded by John Dole

Resolved that the application of Thomas Fairbrother, 8 N Union Street for an area variance for a proposed 4' open construction fence in the front setback area of the above address be approved conditional upon the following conditions set forth by the Spencerport Zoning Board of Appeals.

Fencing to be installed professionally.
Fencing to be maintained by homeowner.

Such variance is a Type 2 action and no further environmental review is required.

Ayes: Dole, Fellows, Flavin, Strine
Nays: none

Next on the agenda is the application of Andy and Cathi Squier, 26 Pinecrest Drive for an area variance for a proposed 6' x 140' open construction fence and a 6' x 65' arborvitae fence located on property at 26 Pinecrest Drive. Whereas the maximum height allowed is three (3) feet in height if erected at any point on the lot nearer the street than the front yard setback and shall not exceed four (4) feet in height if erected elsewhere on the lot pursuant to Chapter 140-31-A(1).

Mr. Squier: The proposed fence is to shelter our dogs within our large back yard we want to be able to allow the dogs to run free in a larger area than what they have now.

Mr. Squier: The fence will be crossing the 20 ft easement that the village owns. We understand that the accessibility is very important to the village and we have no problem with allowing easy access to the fence.

When we purchased the house, we knew there was a shed on the easement and we knew when we purchased the house that the shed would have to come down someday. It has come down with help from the neighbors.

Robert Garlick demonstrated tools that would allow quick and easy access to remove the fence and allow access to the property.

Mr. Squier: The 6ft fence is actually going to go 45 feet across the easement in front of the telephone pole so that ease of access to that electrical pole is available, we will put up removable panels if necessary. We understand that mainly you are going to have issues with the manhole cover and the catch basins, those will be outside of the fence.

Chairman Dole: Is there other access to those without going through your property?

Robert Garlick: When Unvericht's built their house, there is a 20 ft. easement along their driveway from Pinecrest to the catch basin. On the drawing, it shows an easement all the way across the property to Martha Street on the right hand side of the catch basin.

Mark Unvericht: We just spent \$14,000.00 to install the catch basin to keep your property dry. My concern is with putting the fence in the easement. A fence may change the flow of drainage. I also have concerns with the arborvitae fencing along the property line and any damage the roots may cause.

Mr. Squier: The arborvitae fence will be set back far enough not to cause any issues, they are not big trees, it is a 6-foot bush and the roots usually go straight down.

Chairman Dole: Will the bushes be right on the property line?

Mr. Squier: No, probably two – three feet off the property line onto my property.

Mark Unvericht: How far down the driveway will they go?

Mr. Squier: To the back of my garage and than the wood fence will begin.

Mr. Garlick: The fence will be up a few inches it won't be flush with the ground.

George Fellows asked if Mr. Unvericht was satisfied with the answer regarding the arborvitaes.

Mark Unvericht: Yes

Barbara Strine: Would there be any reason for village trucks to go back in there?

Tom West: The problem being with a fence on the easement is if there is an emergency in the back or a power line is down which Mr. Unvericht's electric service goes from the back pole which is the far part of Mr. Squier's property goes underground along the easement and than up the pole. The hard part is if something happens back there whether it be the drainage, the sewer whatever we don't have time to be pulling anything off the easement. We are trying to get away from anything being on the easement. We don't want anything on the easement.

Chairman Dole read aloud a letter from Superintendent West in regards to his position on the subject of fences on easements. (file)

Chairman Dole read aloud a letter from Sue Vetter of 27 Pinecrest stating that she has no concerns with proposed fencing.

Chairman Dole read aloud a letter from Village Olson stating that fences should not be placed within the easement as referenced in the village code without permission from the Village Board.

Mr. Squier: With the ease of removing these panels it is a matter of minutes, I don't see where, this would be a hardship at all.

Michael Flavin: At 2:00 in the morning in the middle of January, you could just drive through the yard. I can sympathize with you but I understand where Mr. West is coming from.

Jack Crooks: I offered the same opinion prior to the Attorney's review that an easement is actually an agreement with the Village Board and this board does not have the authority to waive the terms of that agreement that is an act of legislation. My personal experience with Mr. West is that we spend a lot of time in the field on this issue. Easements are there for a reason and that is to provide health and safety issues to the entire village. I don't have a problem with the height of the fence.

Chairman Dole: Both the Village Attorney and the Building Inspector are advising this board not to allow this fence on the easement.

Mr. Garlick: I understand that but there is a history of fences allowed in the easement, I was granted approval to place my fence within the easement. There is a history in my opinion of allowing fences in an easement.

Jack Crooks: Respectfully I request that this board take each application upon its own merit and if there was an error in judgment made in the past that doesn't mean you continue to make the same error in the future.

After further board discussion, Chairman Dole asked Mr. Squier if he wanted the board to act on the fence this evening or if he intended to pursue locating the fence within the easement with the Village Board.

Mr. Squier requested that the Zoning Board act on his application.

At this time, the following resolution was offered.

Resolution 158
June 13, 2006

Introduced by George Fellows
Seconded by Barb Strine

Resolved that the application of Mr. and Cathi Squier, 26 Pinecrest Drive for an area variance for a proposed 6' X 140' open construction fence and 6' x 65' arborvitae fence located on property at above address be approved conditional upon the following placement of proposed fencing and conditions set forth by the Spencerport Zoning Board of Appeals.

The western property line shall include a 6ft. in height arborvitae fence from the right of way to the rear setback of the existing garage from there a 6ft. in height fence extending to the southern boundary of the existing utility easement continuing eastward and than extending southerly to the setback to the rear of the home.

Fence is not to extend into the easement.
Fence to be professionally installed.
Fence to be maintained by the homeowner.

Such variance is a Type 2 action and no further environmental review is required.

Ayes: Dole, Fellows, Flavin, Strine
Nays: none

Next on the agenda is the application of Jesse and Jennifer DeSanto of 40 Thorncliff Road for an area variance for a proposed 6' high closed construction fence approximately 88' long whereas the maximum height allowed is 3' if erected at any point on the lot nearer the street than the front yard setback and shall not exceed four (4) feet in height if erected elsewhere on the lot pursuant to Chapter 140-31-A (1) in a residential district.

Mr. DeSanto: Basically, we want to put a fence in the yard for the safety of our kids with Rt. 31 running behind our house and some of our neighbors have animals.

Mr. DeSanto asked the board to confirm that he has applied for the right variances because he is asking for a solid board on board fence.

Jack Crooks stated this application could be looked at in two ways as a privacy fence or just as easily looking at the height it doesn't matter, the outcome being the same.

Mr. Sformo: My question is the fence being 88'; will the fence be straight from the back only?

Mr. DeSanto: It will be 6 ft off our property line and in front of the telephone pole, there will be room for access and I will mow and maintain the area to keep it looking nice for the neighbors.

Mr. West: There has always been a drainage problem on his property and the other properties going to the east. Again, we have run into sheds, pools and other items in the easements now everyone has a drainage problem. Mr. DeSanto came to me and said that his yard was under water, we all worked together to relieve his yard, all the drainage from RT. 31 runs down into his property. I decided if he paid for the labor and the restoration I would pay for the catch basin and the pipe. Other than where the sheds, flowerbeds are in the easements and obstructing the flow the drainage is better in the backyard.

Mr. DeSanto: It is working great.

Mrs. Brodie: We do not have one bit of relief.

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Jack Crooks requested that the fence be placed 10 ft off the rear property line in order to access the utility poles in the back. Also, to help with Superintendent West's problem locate the west diagonal 8 ft run section 6 ft from the catch basin.

Mr. DeSanto: How about we don't even have that run.

Jack Crooks: That is fine I just thought you were looking for a visual barrier for your kids.

Mrs. DeSanto: Even though you can get to the pole from every other direction, you still want us to bring the fence in 10 ft from the rear property line.

Jack Crooks: Yes.

Mr. Sformo: How will he maintain the grass with that fence?

Tom West: He will be able to get around the garage and all the way around the back.

Mr. Sformo: Did you get rid of the angle part of the fence.

Jack Crooks: Yes.

Mr. Brodie: Our problem is I don't really like the idea of a 6 ft fence; I applaud the situation where you are moving away from the swale. What type of fence are you installing?

The DeSanto's shared drawings of the fence with the audience.

Mr. Brodie questioned if the DeSanto's needed a height variance or just a variance for the length of 88'.

Jack Crooks has determined the fence is a privacy fence; such privacy fence per code can be 6' in height.

Discussion ensued regarding the legal in the paper asking for a height variance.

Jack Crooks: How close will that corner post to the west be to that catch basin.

Mr. DeSanto: About two feet away

George Fellows stated that Mr. DeSanto is allowed a 6 ft fence up to 65 ft in length but is asking for 88ft and would need a variance. He asked Mr. Brodie if he still had an issue with the height.

Mr. Brodie: The few extra feet on each side is not worth starting a commotion over.

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Jack Crooks: I am still a little bit concerned with the extent of the fence as it goes to the west and getting access to the catch basin. I am thinking if we reduce the length in the back to 72 ft and bring those wings in that would allow us more room to get to the catch basins.

Mr. Sformo stated that the fence on the east property line would take away the sunlight on his garden.

Barbara Strine stated that the garden would still get late day sunlight.

After further board discussion, the following resolution was offered.

Resolution 159
June 13, 2006

Introduced by George Fellows
Seconded by Barb Strine

Resolved that the application of Jesse and Jennifer DeSanto, 40 Thorncliff Road for an area variance for a proposed 6' high closed construction fence approximately 88' long be approved conditional upon the following placement of proposed fencing and conditions set forth by the Spencerport Zoning Board of Appeals.

Fence to be constructed 10 ft. from the rear property line.
Fence to be placed 4 ft from the east and west side property lines.
Fence will be of a solid construction with two 90-degree right angle 8ft. wings.
Good side of fence to face the neighbors.
Fence to be installed to professional standards.
Fence to be well maintained.

Such variance is a Type 2 action and no further environmental review is required.

Furthermore stated height variance will not be required per Building Inspector Jack Crooks clarification that such fencing is considered a privacy fence and 6' high fences are allowed.

Ayes: Dole, Fellows, Flavin, Strine
Nays: none

Approval of Minutes

Motion made by John Dole seconded by Michael Flavin and carried unanimously to approve the minutes of November 22, 2005 as read.

Adjournment

Motion made by Chairman Dole seconded by Barbara Strine and carried unanimously to adjourn the meeting at 8:30 p.m.

