

**Zoning Board of Appeals
Minutes
July 19, 2018**

Present

Chairman Dole
Michael Flavin
Dale Kellerson
Mark Unvericht

Absent

Diana Powell Keery

Also Present

Zoning Board Attorney Eric Stowe
Zoning Board Secretary Pam Gilbert
Building Inspector Patrick Smith
Carol Nellis-Ewell
Timothy Johnson
Jane Maitland-Moran
Bob Songn (sp)
Cliff Short
Joyce Thompson
Liz Finnegan
Jarod Soper
Scott Corey
Joan Quigley

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Timothy Johnson, 154 Coleman Avenue, Spencerport, New York 14559, for an area variance for a proposed side setback of 2.1 feet for garage addition, whereas, the minimum side setback for this property should be 7.4 feet, pursuant to 340-12 B(1). This is in an R-1 Residential District.

Timothy Johnson: What we would like to do is to take the back wall of the garage and extended back about 12 feet. Put a gable roof on it for more storage.

Chairman Dole: That is all you are going to use it for is storage?

Timothy Johnson: Yes, and it will have concrete floors and wood construction.

At this time Chairman Dole closed the Public Hearing.

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Chairman Dole then asked Attorney Stowe, Building Inspector Smith and the board if they have any comments.

Dale Kellerson: The current garage has the setback of 2.1 feet on the side?

Timothy Johnson: Yes.

Michael Flavin: You are just using it for storage not a shop.

Timothy Johnson: Yes, no shop.

RESOLUTION

374/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application From Timothy Johnson for an area variance to allow a side setback of two and one-tenth feet (2.1') on property located at 154 Coleman Avenue, Spencerport, New York 14559, whereas the minimum side setback shall be seven and four-tenths feet (7.4').

WHEREAS, an application for this type of area variance is a Type II Action pursuant to the New York State Environmental Quality Review Act (SEQRA), and is subject to no further review; and

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Timothy Johnson for an area variance to allow a side setback of two and one-tenth feet (2.1') on property located at 154 Coleman Avenue, Spencerport, New York 14559, is a Type II Action and is therefore subject to no further review.

Motion: Chairman Dole

Second: Michael Flavin

Vote of the Board:

Ayes: Dole, Flavin, Kellerson, Unvericht

Nays: None

RESOLUTION

375/2018

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Timothy Johnson, for an area variance at 154 Coleman Avenue in the Village of Spencerport, to allow to allow a side setback of two and one-tenth feet (2.1') on said property, whereas the

minimum side setback shall be seven and four-tenths feet (7.4'), having considered, among other things:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variances;
3. Whether the requested area variances are substantial;
4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and
5. Whether the alleged difficulty was self-created

AND, the Zoning Board of Appeals of the Village of Spencerport makes the following findings of fact:

1. An undesirable change in the neighborhood will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting the area variances because:
 - i. _____
 - ii. _____
2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than an area variance because:
 - i. _____
 - ii. _____
3. The area variance are not substantial because:
 - i. _____
 - ii. _____
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:
 - i. _____
 - ii. _____
5. The alleged difficulty was self-created, however, the self-created difficulty is not a reason for the board to deny the variance.

The Zoning Board of Appeals further determines that the variance requested are the minimum variance necessary and adequate and preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

The Zoning Board of Appeals further determines that the following conditions/restrictions shall be placed on the variance:

- i. _____
- ii. _____

Said conditions/restrictions being consistent with the spirit and intent of the zoning local law and are being imposed for the purpose of minimizing any adverse impact said variance may have on the neighborhood or community.

The application for the area variance is hereby GRANTED.

Motion: Chairman Dole
Second: Mark Unvericht

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Unvericht
Nays: None

The application of Jarod Soper, 9 Village Trial, Spencerport, New York 14559, for a special permit and two (2) area variances to install approximately 270' privacy fence on the property lot line, on property located at same, whereas, a special permit from the Zoning Board of Appeals shall be required for a privacy fence; and whereas, any privacy fence shall not exceed a total length of 65 feet on one lot and shall not be nearer to the side line or rear line than the required setback, which on this property is 4.8', respectively pursuant to 342-32 A (4)(a), 340-32 A(4)(b) and 340-32 A (4)(b) in a Residential District.

Jarod Soper: I have a 4ft chain link fence right now and I want to replace it with a 6ft vinyl fence. On the south side I have already started putting up arborvitaes for privacy. On the other side I have a three foot drop off so it is hard to plant anything that would sustain any kind of privacy. I do have kids.

Liz Finnegan: I live at 60 Village Walk behind Jarod. Will this fence go in the same place as the existing one?

Jarod Soper: Correct.

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Joyce Thompson: I live at 11 Village Trail next door neighbors to Jarod on the south side. What is a vinyl fence, what is it made of wood? You won't see through it?

Jarod Soper: No it is made of vinyl. Yes you can't see through it and it will be 2ft higher.

Ms. Thompson was shown the picture submitted of the vinyl fence.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Building Inspector Smith and the board if they have any comments.

Building Inspector Smith: There is a 10ft wide easement shown on the back of the property and I would not allow them to build in the easement unless Tom West approved it.

Attorney Stowe: The Teleprompter Corp was divided up so I was unable to see who the easement belongs to. It is one of these Westinghouse or Comcast are the two primary owners of Teleprompter assets. My only recommendation is it subject to any terms and conditions of the easement as a condition of any approval. All we can approve is the linear footage and the privacy nature is all we have control over.

Dale Kellerson: What would be your recommendation?

Attorney Stowe: It is important to clarify that this is a map with where that applicate desires to put it. We don't determine where they put it, we grant the linear footage and the height and how they choose to use that portion is their prerogative. They don't have to use all of it and they can put it outside the easement. They can use all of it. They are not bound to that this is exactly where it's going. That is why the resolutions say the length and the height.

Chairman Dole: My question is that if he does put in the easement and when they go for the C of C?

Building Inspector Smith: I will list this on the building permit, so that if the telephone company comes and says I didn't give you permission to put in the easement. I will have this listed on the permit telling him that is subject to their terms. I don't have to enforce the terms of the telephone company. So I protect whoever has the easement.

Discussion ensued regarding the easement.

Michael Flavin: You say that it drops off. Who is going to maintain that? Who is cutting the grass?

Jarod Soper: I am.

Dale Kellerson: The picture shows a gate are you planning on putting in a gate?

Jarod Soper: Yes from the house on the eastside. It will be a little 10ft section.

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RESOLUTION
376/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Jarod Soper, 9 Village Trail, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 9 village Trail, Spencerport, New York 14559; and for an area variance to erect two hundred seventy (270') linear feet of privacy fence on property at 9 Village Trail, Spencerport, New York 14559; and for an area variance to install said privacy fence on the property boundary line at said property.

WHEREAS, an application for a special use permit is an unlisted action, requiring review under SEQRA; and

WHEREAS, an application for an area variance for a single-family residence is a Type II Action not requiring review under SEQRA;

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Jarod Soper, 9 Village Trail, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 9 Village Trail, Spencerport, New York 14559, is an Unlisted Action, further, that the Zoning Board of Appeals declares their status as lead agency, and based upon the information contained in the Short Form Environmental Assessment Form and evidenced supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Michael Flavin

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Unvericht
Nays: None

RESOLUTION
377/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application From Jarod Soper, 9 Village Trail, Spencerport, New York 14559 for a special permit to allow two hundred seventy feet (270') of privacy fence on property located at 9 Village Trail, Spencerport, New York 14559 and

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WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 19th day of July, 2018, and

Whereas, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a special permit to Jarod Soper, 9 Village Trail, Spencerport, New York 14559 to allow the installation of privacy fence on property located at 9 Village Trail, Spencerport, New York 14559.

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- Subject to the terms and conditions of any easements;
- _____;
- _____;

Motion: Chairman Dole

Second: Dale Kellerson

Vote of the Board:

Ayes: Dole, Flavin, Kellerson, Unvericht

Nays: None

RESOLUTION

378/2018

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Jarod Soper, 9 Village Trail, Spencerport, New York 14559, for an area variance at 9 Village Trail in the Village of Spencerport, to allow two hundred seventy (270) linear feet of privacy fence on said property, whereas said variance is required to construct more than sixty-five (65) linear feet of privacy fence on any lot; and for an area variance to allow said privacy fence to be installed on the property boundary line, whereas said privacy fence shall not be installed nearer to the property boundary line than the required setback, having considered, among other things:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variances;

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variances;
3. Whether the requested area variances are substantial;
4. Whether the proposed variances will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and
5. Whether the alleged difficulty was self-created

AND, the Zoning Board of Appeals of the Village of Spencerport makes the following findings of fact:

1. An undesirable change in the neighborhood will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting the area variances because:
 - i. _____
 - i. _____
2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than an area variances because:
 - i. _____
 - ii. _____
3. The area variances are not substantial because:
 - i. _____
 - ii. _____
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because:
 - i. _____
 - ii. _____
5. The alleged difficulty was self-created, however, the self-created difficulty is not a reason for the board to deny the variance.

The Zoning Board of Appeals further determines that the variances requested are the minimum variance necessary and adequate and preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

The Zoning Board of Appeals further determines that the following conditions/restrictions shall be placed on the variances:

- i. Subject to the terms and conditions of any easements
- ii. _____

Said conditions/restrictions being consistent with the spirit and intent of the zoning local law and are being imposed for the purpose of minimizing any adverse impact said variance may have on the neighborhood or community.

The application for the area variance is hereby GRANTED.

Motion: Chairman Dole
Second: Michael Flavin

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Unvericht
Nays: None

The application of Spencerport Masonic Temple Inc., represented by Scott Corey for a Special Permit to operate a deli/pizza shop in a Commercial B-1 district located at 131 Union Street, Spencerport, New York, 14559, whereas, this use may be permitted after a public hearing as provided by Article VI, Chapter 340-21 B(1).

Chairman Dole: Any changes from the last meeting?

Scott Corey: The request is still the same. I heard there was a question regarding if it was approved by the Board of Directors. We did have a meeting on May 3rd a vote was taking by the board and go ahead with the application and permit process to go with a food type service.

Chairman Dole: Yes we did receive a copy of minutes and resolution.

At this time Chairman Dole closed the Public Hearing.

Chairman Dole then asked Attorney Stowe, Building Inspector Smith and the board if they have any comments.

RESOLUTION
370/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Spencerport Masonic Temple Inc. for a special permit to operate a deli/pizza store at property located at 131 Union Street, Spencerport, New York 14559.

WHEREAS, an application for a special use permit is an unlisted action, requiring review under SEQRA; and

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals declares that the application of Spencerport Masonic Temple Inc. for a special permit to operate a deli/pizza store at property located at 131 Union Street, Spencerport, New York 14559 is an Unlisted Action, further, that the Zoning Board of Appeals declares their status as lead agency, and based upon the information contained in the Short Form Environmental Assessment Form and evidenced supplied by the applicant, and having considered the comments from the public hearing, the Zoning Board of Appeals makes a finding that the application will have no significant environmental impact and issues a Negative Declaration.

Motion: Chairman Dole
Second: Michael Flavin

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Unvericht
Nays: None

RESOLUTION
379/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Spencerport Masonic Temple Inc. for a special permit to operate a deli/pizza store at property located at 131 Union Street, Spencerport, New York 14559 and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 19th day of July, 2018, and

Whereas, the Village of Spencerport Zoning Board of Appeals has previously issued a negative declaration pursuant to the New York State Environmental Quality Review Act,

NOW THEREFORE BE IT RESOLVED, that the Village of Spencerport Zoning Board of Appeals does hereby grant a special permit to Spencerport Masonic Temple Inc. to operate a deli/pizza store at property located at 131 Union Street, Spencerport, New York 14559.

BE IT FURTHER RESOLVED that the following conditions are imposed on this special permit:

- _____;
- _____;
- _____;

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Motion: Chairman Dole
Second: Mark Unvericht

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Unvericht
Nays: None

Unfinished Business

Nothing requiring Board action

New Business

Nothing requiring Board action

Approval of Minutes

Motion made by Chairman Dole Seconded by Michael Flavin carried unanimously to approve the June 21, 2018 minutes.

Adjournment

Motion made by Chairman Dole seconded by Dale Kellerson and carried unanimously to adjourn the meeting at 7:20 pm.