

**Zoning Board of Appeals
Minutes
August 16, 2018**

Present

Chairman Dole
Michael Flavin
Dale Kellerson
Diana Powell Keery
Mark Unvericht

Absent

Also Present

Zoning Board Secretary Pam Gilbert
Building Inspector Patrick Smith
Carol Nellis-Ewell
Sam & Denise Lana
Todd Stevenson, Monroe County DEJ
John & Mariel Male
Joan Quigley

Chairman Dole led the Pledge of Allegiance.

Chairman Dole stated that our Deputy Mayor would like to make a brief statement.

Comment submitted by Deputy Mayor Nellis-Ewell

I am Carol Nellis-Ewell, assigned as Liaison to the Village Board.

Purpose: I attend/document/summarize meetings to inform the Village of Spencerport Board. Accurate notes are important. At times it is difficult to hear, even from the tape. Please comment clearly and share details and drawings with the audience. Thank you.

Public Hearing

The application of Sam & Denise Lana, 122 Coleman Avenue, Spencerport, New York 14559, for a special permit and two (2) area variances to install approximately 100' 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 sideline or rear line than the required setback, which on this property is 6', respectively pursuant to 340-32 A (4)(a), 340-32 A (4)(b) and 340-32 A (4)(b) in a Residential District.

Sam Lana: Thank you for having us. Last October we purchased the house. On the side of our house on the corner is actually a house that is apartments. We did not realize that when we bought it so at some

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Sam Lana continued: point in time we want to put in a sliding door in and have a patio there. But we would like some privacy. Right now, the apartments are looking into are kitchen, dining room, and living room.

Denise Lana: The last guy that was there had a lot of police there. That kind of made are decision to put in the fence.

Sam Lana: Also apparently that property has been sold and who knows what the new owner is going to do so we want to put up a fence there.

Denise Lana: We want to feel comfortable in our own yard. We also have two dogs.

Joan Quigley: What about shrubbery and invisible fence?

Denise Lana: We tried that and our one dog she won't do it and the other dog went right through it.

Sam Lana: It is just for the side.

Denise Lana: It will be a short fence in the front.

Chairman Dole: The other fence, the picket fence close to the house is coming down?

Denise Lana: Yes, we are going to make it one continuous.

Sam Lana: The chain link and picket was done by previous owners and that will all come down. We don't want three separate fences. We just want it to all look nice.

At this time Chairman Dole closed the Public Hearing.

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

Dale Kellerson: I agree their head lights will shine right into you home when they pull in. I like the fact that you will have the 4ft in the front and the look of the fence is a nice looking fence.

Michael Flavin: I live across the street so I will be looking at it. Are you going to put a gate in the front?

Denise Lana: Yes.

Michael Flavin: Are you going to be taking down the chain link fence in the back?

Sam Lana: That fence is staying. It is only the fence on the south side of our property.

RESOLUTION
380/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Sam & Denise Lana, 122 Coleman Avenue, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 122 Coleman Avenue, Spencerport, New York 14559; and for an area variance to erect one hundred (100') linear feet of privacy fence on property at 122 Coleman Avenue, 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 Sam & Denise Lana, 122 Coleman Avenue, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 122 Coleman Avenue, 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, Powell Keery
Nays: None

RESOLUTION
381/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from Sam & Denise Lana, 122 Coleman Avenue, Spencerport, New York 14559 for a special permit to allow the installation of privacy fence on property located at 122 Coleman Avenue, Spencerport, New York 14559 and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 16th day of August, 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 Sam & Denise Lana, 122 Coleman Avenue, Spencerport, New York 14559 to allow the installation of privacy fence on property located at 122 Coleman Avenue, Spencerport, New York 14559.

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

- _____;
- _____;
- _____;

Motion: Chairman Dole
Second: Mark Unvericht

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

RESOLUTION
382/2018

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of Sam & Denise Lana, 122 Coleman Avenue, Spencerport, New York 14559, for an area variance at 122 Coleman Avenue in the Village of Spencerport, to allow one hundred (100) 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 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 area variances because:
 - i. _____
 - ii. _____
3. The area variances are not substantial because:
 - i. _____
 - ii. _____
4. The proposed variances will/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:

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- 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 variances may have on the neighborhood or community.

The application for the area variances is hereby GRANTED.

Motion: Chairman Dole
Second: Dale Kellerson

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

The application of John Male, 161 Nichols Street, Spencerport, New York 14559, for a special permit and an area variance to install approximately 260 linear feet of privacy fence, 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, respectively pursuant to 340-32 A(4)(a) and 34—32 A(4)(b) in a Residential District.

John Male: We are going to be taking down a 4ft fence that is in bad shape and would like to replace it. We have children and a pool in that back yard and would like to bring everything up to code.

Chairman Dole: You are doing some other work in the back yard now?

John Male: We are adding on a covered patio, pool and a new shed.

At this time Chairman Dole closed the Public Hearing.

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

Dale Kellerson: I know you are doing the work on the deck and house. Is this the type of fence you are going to use (referring to the picture submitted)?

John Male: Yes that is the fence that my wife picked out.

Dale Kellerson: That is a beautiful fence. It is one of the nicest ones seen.

Building Inspector Smith: I have just one question to be clear on. The application says 6ft tall shadow box fence. This appears to be 5ft of solid fence construction and a foot of open. Just to be clear are you approving the 5ft high of solid and 1ft of open or are you giving him 6ft high solid so he can do anything

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Building Inspector Smith continued: he wants up to six feet tall. That is the only thing I want you to be clear on because if you want him to do this then I need to make sure that's what he puts up.

Chairman Dole: Is that the fence you are going to put up?

John Male: Yes, the vinyl fence in that picture.

RESOLUTION 383/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from John Male, 161 Nichols Street, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 161 Nichols Street, Spencerport, New York 14559; and for an area variance to erect two hundred sixty (260) linear feet of privacy fence on property at 161 Nichols Street, Spencerport, New York 14559.

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 John Male, 161 Nichols Street, Spencerport, New York 14559 for a special permit to erect a privacy fence on property at 161 Nichols 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: Diana Powell Keery

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

RESOLUTION
384/2018

WHEREAS, the Village of Spencerport Zoning Board of Appeals has before it an application from John Male, 161 Nichols Street, Spencerport, New York 14559 for a special permit to allow the installation of privacy fence on property located at 161 Nichols Street, Spencerport, New York 14559 and

WHEREAS, the Village of Spencerport Zoning Board of Appeals has conducted a public hearing this 16th day of August, 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 John Male, 161 Nichols Street, Spencerport, New York 14559 to allow the installation of privacy fence on property located at 161 Nichols Street, Spencerport, New York 14559.

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

- _____;
- _____;
- _____;

Motion: Chairman Dole
Second: Dale Kellerson

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

RESOLUTION
385/2018

The Village of Spencerport Zoning Board of Appeals, in reviewing the application of John Male, 161 Nichols Street, Spencerport, New York 14559, for an area variance at 161 Nichols Street in the Village of Spencerport, to allow two hundred sixty (260) 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, 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 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 area variances because:
 - i. _____
 - ii. _____
3. The area variances are not substantial because:
 - i. _____
 - ii. _____
4. The proposed variances will/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. _____
- 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 variances may have on the neighborhood or community.

The application for the area variances is hereby GRANTED.

Motion: Chairman Dole
Second: Diana Powell Keery

Vote of the Board:
Ayes: Dole, Flavin, Kellerson, Powell Keery
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 July 19, 2018 minutes.

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Adjournment

Motion made by Chairman Dole seconded by Michael Flavin and carried unanimously to adjourn the regular meeting to workshop at 7:13 pm.

Motion made by Chairman Dole seconded by Mark Unvericht and carried unanimously to adjourn the workshop meeting at 8:25 pm.