

**Village of Cazenovia
Zoning Board of Appeals
March 10, 2014**

5 Members Present: Phil Byrnes, Chair; Howard Hart; Sally Ryan; William Keiser; and Jane Nicholson-Dourdas.

Others present: James Stokes, Village Attorney; Ellen Romagnoli.

10 P. Byrnes called the meeting to order at 6:45 p.m.

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15 P. Byrnes asked if anyone had any additions or corrections to the minutes of April 18, 2013. H. Hart made the motion to approve the minutes. S. Ryan seconded. The motion carried.

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20 **Gerard and Ellen Romagnoli, 61 Forman Street, Area Variance for Fence.**

The Board decided to discuss the fence even in the absence of a representative for the application. Members of the Board have seen the application and are familiar with it. P. Byrnes observed that the application states that the amount of footage less than 8 feet high is less than 10% of the total fence length. From the survey, it looks as if the fence would be 140.52 feet if it stretches between the property lines and that indicates it would be less than 14 feet. According to the drawing on the survey, there is a 20-foot sewer easement. Therefore, he suspects the length of the fence exceeding the 6-foot height limit would be more than 14 feet. The reason for the variance is that the applicant would like to keep the fence even across the top the full length of the property, even though there is a downhill slope. Therefore, some portion of the fence might be 8 feet high and the application states 10% or less. The taller portion of the fence would be across the northerly border, in the back yard, which would be toward the lake. It would be neighboring the Owahgena condos.

35 H. Hart believes the property to the north side is in a trust of the wife. The neighbor to the south is Jerry Edwards. The neighbor across the street is Charlie Davis. The neighbors to the west are Scott and Nancy Sellers.

40 W. Keiser inquired if Mr. and Mrs. Sellers agree with this fence concept. He continued that if Mr. and Mrs. Sellers, or any future owner, wanted to build a fence to match the height of this fence, they would need a variance in order to continue the 8-foot height or step it down to 6 feet to continue the fence westward. View of this fence would be by the people in the condos and the Romagnolis. It appears that this fence would be in a wooded area.

45 P. Byrnes was unsure of the reason for the angle of the fence in the corner.

Mr. Stokes observed that there is a circled portion starting at the sewer easement that indicates the fence would be 8 feet high. At the far east, it says the fence would be 6 feet high. He is presuming the fence will taper. He stated that a variance is required on any portion of the fence that exceeds 6 feet in height—not just where it is 8 feet high.

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P. Byrnes is guessing that the tapered portion of the fence would be more than 14 feet long. He pointed out that 6 feet would be measured at the top of the post and the fence sections probably would be less than 6 feet. He wondered how the Board would arrive at the amount of the variance.

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Mr. Stokes indicated that the Board could consider granting approval for a fence up to 14 feet in length on the western end of the property that would exceed 6 feet in height, but would not be more than 8 feet in height as measured at the top of the fence posts.

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H. Hart stated that the question could be resolved by keeping the fence at 6 feet and stepping it down. He voiced that a level fence across 140 feet is not necessarily aesthetically pleasing. He believes that stepped fences are more interesting and more attractive and this property lends itself to stepping. He posed the question: If the property to the north is sold, do those people have to look at an 8-foot fence? W. Keiser added that any adjoining fences to be built in the future would need to start at 8 feet.

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H. Hart expressed that the height limitation is for the benefit of the neighbors as they may not want to look at an 8-foot high fence.

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P. Byrnes said that he does not have a problem with letting the applicant step the fence down if they would like to.

S. Ryan commented that due to the steep grade, even an 8-foot high fence would still be unlevel.

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The Board went through the five points of criteria:

In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

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1. Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance? Four members agreed that no undesirable change would be produced. H. Hart believes that an 8-foot high fence would be a detriment.

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2. Could the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance? All agreed there were other methods such as stepping down of the fence or adding fill to the property.

- 90 3. Is the requested area variance substantial? The Board members agreed that a 14-foot length of fence between 6 feet and 8 feet in height is not substantial.
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? Four members agreed there would not be any. H. Hart believes the taller fence would have an adverse impact.
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5. Is the alleged difficulty self-created? All agreed it is self-created.

100 P. Byrnes declared this a Type II action under State Environmental Quality Review (SEQR).

P. Byrnes inquired if the Board had enough information to make a decision now or if they wanted to adjourn to another time when the applicant could be present.

105 H. Hart stated that he would be willing to wait for the applicant to be present, but he feels the Board has enough information to deny the variance.

S. Ryan commented there could be a possibility of getting the same effect without having an 8-foot fence. Also, she does not want to change the precedent.

110 H. Hart made the motion to adjourn the public hearing to 7:00 p.m., Monday, March 24, 2014, in order to afford the applicant an opportunity to come before the Board and propose alternatives to the application. S. Ryan seconded. The motion carried.

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115 P. Byrnes inquired if selecting a deputy chair is a formal process. Mr. Stokes advised that the Board could agree and designate one. The Board discussed it and agreed on H. Hart.

120 P. Byrnes made the motion to have H. Hart as the deputy chair for the Village of Cazenovia Zoning Board of Appeals. He would act as chair in the absence of P. Byrnes. Jane Nicholson-Dourdas seconded. The motion carried.

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125 H. Hart made the motion to adjourn the meeting. S. Ryan seconded. The motion carried. The meeting was adjourned at 7:16 p.m.

130 Ellen Romagnoli entered the room. The Board decided to reopen the hearing. S. Ryan made the motion to rescind the adjournment. H. Hart seconded. P. Byrnes called the meeting to order at 7:17 p.m.

Mr. Stokes summarized the Board’s discussion and said that the description on the application was vague. The application stated the variance would be for 10% of a 140-foot fence, which the

135 Board interpreted as 14 feet, but the circled variance area looks like more than 14 feet. The drainage area is 20 feet, plus there is a part west of there, and that would total more than 14 feet.

P. Byrnes stated that the height of the fence would be measured at the top of the fence posts. The Code says a fence cannot exceed 6 feet in height.

140 H. Hart noted that there seems to be more than 10% of the footage exceeding the 6-foot height limit. He voiced that the fence might be more aesthetically pleasing if it were stepped.

Ms. Romagnoli stated her understanding that the fence would be straight across the back because the ground slopes down.

145 Mr. Stokes reiterated that a variance is needed for any part of the fence that exceeds 6 feet. The Board needs to know how many linear feet of fence would be more than 6 feet high.

150 Ms. Romagnoli explained that she did not know all of the details of the fence and that her husband was not available for this meeting so she came instead. P. Byrnes offered that since Ms. Romagnoli was not comfortable discussing it, another representative could come to the meeting that had already been scheduled for 7:00 p.m. on March 24.

155 W. Keiser pointed out that there is still frost in the ground and the fence wouldn't be built any time soon anyway.

P. Byrnes asked if there was any other business to be brought before the Board. Hearing none, he made the motion to adjourn the meeting. S. Ryan seconded and the motion carried. The meeting was adjourned at 7:24 p.m.

160 Respectfully submitted,

165 Marlene A. Westcott
Recording Secretary