

**Village of Cazenovia
Zoning Board of Appeals
May 27, 2014**

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Members Present: Phil Byrnes, Chair; Howard Hart; Sally Ryan; and William Keiser.

Absent: Jane Nicholson-Dourdas.

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

P. Byrnes called the meeting to order at 7:00 p.m.

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P. Byrnes asked if anyone had any additions or corrections to the minutes of March 24, 2014. There were none. S. Ryan made the motion to approve the minutes as drafted. P. Byrnes seconded. The motion carried unanimously.

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

Gerard and Ellen Romagnoli came forward.

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P. Byrnes said that two new drawings of the proposed fence dated 4/28/14 giving details of the fence sections were received. It appears that all fence caps will exceed the 6-foot height limit by 5 or 6 inches.

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Mr. Romagnoli said that the fence contractor explained that the nominal height of the wall panels is 6 feet high. The posts will be on his side of the fence.

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Mr. Stokes recalled a recent situation where the posts were included in the fence height. He suggested that if the Board grants a variance, they could include language stating that posts can be 6 inches higher than the fence.

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P. Byrnes wondered if start and end dimensions could be outlined and the variance addressed in lineal feet.

S. Ryan noted that in one place the fence gets up to 8 feet high and basically the whole fence would need a variance.

H. Hart stated that it was made clear to the applicant at the last meeting that fence post caps were to be considered the top of the fence—not the fence panels.

45 S. Ryan asked if there is some advantage to have the fence start at 6 feet rather than 5 feet.
Mr. Romagnoli answered, “Personal preference.”

S. Ryan inquired if the neighbors had any complaints about the fence. Mrs. Romagnoli said the
50 fence does not affect the neighbors. The Sellers responded and asked about the color of the
fence. Mr. Romagnoli stated that the fence will be natural cedar and they want it to weather
naturally.

H. Hart objected to waiving the whole fence with a variance. He believes the fence could meet
the 6-foot height limit under the Code. He continued that there is a Code for a reason and it
55 applies to all of the properties in the Village and the applicant does not have a compelling reason
for a variance.

P. Byrnes pointed out that this fence is going to be in a wooded area, will be on commonly
owned property, and there are no complaints from the neighbors. In his opinion, having the caps
60 6 inches above the fence is not a problem and he does not perceive it as trend setting.

H. Hart mentioned that if a neighboring property gets sold, then the neighbors may object.

S. Ryan said that it may be a concern if a neighbor wants to continue the fence beyond the
65 Romagnoli property, then they might need to start their fence higher. W. Keiser added that they
would need to apply for a variance. H. Hart reasoned that if the same logic is applied, then their
fence would be higher too and this opens a bag of worms. Things change over time. This fence
could have implications around the Village. Other people may want to put up taller fences.

70 S. Ryan commented that one decision does not necessarily mean all decisions going forward are
going to be the same. H. Hart said that as Mr. Stokes has pointed out before, once a variance is
given, it sets a precedent to the extent that next time you do not want to grant a variance, then the
Board needs to explain the reasons for not giving the variance, which puts the onus on the ZBA,
not the Code.

75 W. Keiser asked what the fence at the higher level would shield. Mr. Romagnoli explained that
his property abuts the condo parking lot on the east end. Mrs. Romagnoli added that there are
nine condo units and it gets busy with dogs, landscapers, and residents. She is hoping the fence
will prevent some crossing onto her property.

80 W. Keiser wondered if the Romagnolis had received any comments from the condo association.
Mr. Romagnoli replied no.

S. Ryan posed to the Romagnolis: If the Board adheres strictly to the Code, would the fence be
85 totally worthless to you? Mrs. Romagnoli said that it was explained to her that at certain points,
the fence would appear to be only 4 feet high, basically a waist high fence. Anybody could see
over it and it would not shield much. They do not want to look at cars and trucks.
Mr. Romagnoli said the reason for the taller fence is for aesthetics and to go with the topography.

90 H. Hart suggested that the first 96 feet be brought into Code, then deal with the rest of it.

S. Ryan questioned how the fence would look, or if it would make a big difference, if all of the caps were moved lower and the higher section is kept as proposed. Mrs. Romagnoli said that it would not look as nice.

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S. Ryan expressed her opinion that 5 or 6 inches should not make much difference in how the fence looks. In that case, there would be no variance, except for one section.

100 Mr. Stokes proposed that the Board could say that the posts should be no more than 5 inches above the face of the fence.

P. Byrnes was thinking that the fence itself would not exceed 6 feet in height for a distance of 96 feet, but allow the caps to exceed 6 feet. H. Hart continued that a second variance would be needed for the height of the panels and another variance for the height of the caps.

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Mr. Stokes suggested a variance just for all of the caps and that it would be appropriate at this time to go through the balance test: The benefit to the applicant versus any detriment to the community, taking into account the context and the location of the fence.

110 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? All members present, except H. Hart, agreed that no undesirable change would be produced.

115 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 was no other method. Mrs. Romagnoli commented that they had planted trees for screening and they all died, plus trees will not keep out dogs.

120 3. Is the requested area variance substantial? All agreed that it is substantial, considering that the length of fence over 6 feet high is 52 feet, plus the height of the caps on the posts.

125 4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? All agreed, except H. Hart, there would not be any impact.

5. Is the alleged difficulty self-created? All agreed it is self-created because the applicants are choosing to construct the fence.

130 P. Byrnes continued reading from the Code book: The Board, in granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

135 P. Byrnes made the motion to allow 6-foot fence panels for the first 96 feet, with the next section
of fence panels (22 feet) being between 6 and 7 feet high, and the last section of fence panels
(30 feet) being 7 to 8 feet high. Posts for the entire length of the fence may include top caps that
may extend above the panel heights up to but not more than 6 inches. S. Ryan seconded.
P. Byrnes called for a vote with the following results: H. Hart, nay; W. Keiser, aye; S. Ryan,
aye; P. Byrnes, aye. The motion carried 3 in favor, 1 opposed, 1 member absent.

140 Mr. Stokes instructed the applicants to get a building permit from the Zoning Enforcement
Officer.

145 H. Hart made the motion to adjourn the meeting. S. Ryan seconded. The motion carried
unanimously. The meeting was adjourned at 7:37 p.m.

Respectfully submitted,

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Marlene A. Westcott
Recording Secretary