

**Village of Cazenovia
Zoning Board of Appeals
August 25, 2015**

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

10 Others present: James Stokes, Village Attorney; Benjamin Cook; and Erin Cook.

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

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15 P. Byrnes asked for any corrections to the minutes of October 13, 2014. None were noted.
W. Keiser made the motion to approve the minutes as written. J. Nicholson-Dourdas seconded.
The motion carried 4 in favor, 0 opposed.

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20 **Benjamin and Erin Cook, 20 Forman Street, Area Variance, Fence**
Mr. Cook explained that there is an existing fence that is badly in need of repair. It is roughly
25 6 feet high, but varies a little bit in height. He wants to make it taller since it abuts the Brae Loch
restaurant where parking spaces and the dumpsters are located. There is a lot of traffic and
music. They would like to have it taller for a bit more privacy to keep people from looking in
and to help keep headlights from shining in. Although the Code says there should be a 25-foot
buffer between commercial and residential spaces, there is no room for a 25-foot buffer. The
Code does offer the option of having a taller section of fence on side and rear yards for screening
30 and security purposes. He would like to build a 9-foot high fence to increase privacy and
screening.

P. Byrnes noted that the front yard is only allowed a 4-foot fence and there is a section of fence
35 on Forman Street that is 6 feet high and solid. Mr. Cook said he wants to replace that section so
it matches the rest and is visually continuous and consistent.

Mr. Stokes commented that the Board may want to consider granting relief for the roughly 8-foot
long and 6-foot high fence on Forman Street.

40 Mrs. Cook observed that in terms of privacy, a 6-foot fence might be adequate for most people.
Some privacy is lost due to the slope of the property and the house being higher than the fence,
and a 6-foot high fence does not provide much privacy and that is why they are seeking to build
a 9-foot high fence. When standing on her backyard patio, she can see the customers next door
at the Brae Loch and they can see her.

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Mr. Cook said the fence will not run plumb, but will step down as needed.

P. Byrnes commented that if the fence is 9 feet tall some trees will need to be trimmed.

50 Mr. Cook stated that some of the trees are leaning on the fence. He wants to take out some or all of the trees and put in other types of trees more conducive to the look of the place and growing other things. The current trees make it hard for other things to grow and there is moss in there. The cedars have exceeded their lifespan and are tangling in the overhead wires.

55 P. Byrnes inquired if each section would be alternated. Mr. Cook said the pattern would be alternated from one side of the post to the other side of the post. There would be a couple of courses on one side, then a couple of courses on other side. P. Byrnes questioned why it would not be alternated with one whole section and then the other. Mr. Cook said it is a possibility.

60 P. Byrnes asked if the fence would be left natural. Mr. Cook said the fence will be cedar and will be left natural to weather.

65 P. Byrnes wondered if the neighbors had been notified and had any opinions. Mr. Cook said he had spoken with Jim Barr at the Brae Loch and he approves of the fence. He suggested making it 10 feet tall. Mr. Cook had not spoken to the neighbor on the other side, Stephanie. But he would be shocked if she put up a fuss. He is sure she will be on board with any improvement in aesthetics. P. Byrnes noted that her fence is about 6-½ feet high.

70 L. Hart asked if the catering trailer is parked along the fence. Mr. Cook answered yes. Also, people go to the fence to smoke.

J. Nicholson-Dourdas inquired if the fence will be solid. Mr. Cook replied yes, it will not be see through.

75 P. Byrnes said that the thought of a 9-foot fence is unappealing. J. Nicholson-Dourdas pointed out that there are a lot of car headlights coming straight at the house from the Brae Loch and the parking lot at the Gothic Cottage/Town Office, which also gets used for Brae Loch parking.

80 W. Keiser questioned if the section of fence on Forman Street would remain 6 feet high and then turn the corner and go to 9 feet high. Mr. Cook answered yes.

85 J. Nicholson-Dourdas inquired if any other vegetation would be planted. Mr. Cook replied that none would be planted on the Brae Loch side. But on his side he would replant pine trees, other coniferous trees, and some bushes. P. Byrnes noted that trees would act as a noise buffer and cedar trees do not shed.

Mrs. Cook said that they still want a natural buffer, especially coniferous trees so it is effective year round.

90 W. Keiser commented that the corner post of the fence on Forman Street is 7 feet in height.

Mrs. Cook stated that the previous property owners put up cement bollards to keep cars from damaging the fence.

95 J. Nicholson-Dourdas wondered if the Brae Loch piles snow against the fence. Mrs. Cook answered yes and Jim Barr of the Brae Loch has offered to pay for half of the fence. She continued that they have requested very little of the Brae Loch. They asked that the dumpster be kept closed because the smell from the dumpster wafts over to their house. Also, the fence would deflect sound.

100 P. Byrnes speculated that since the existing 8-foot section of 6-foot high fence is there on the front, it must predate the Code and therefore is technically grandfathered. Mr. Stokes added that would be the case if it was installed legally. J. Nicholson-Dourdas suggested allowing for that section of fence. Mr. Stokes said it is a unique situation and the Board can justify it.

105 P. Byrnes informally polled Board members about how they feel about a 9-foot high fence. L. Hart agreed that this is a unique situation and added that if this was next to a residential property, it would be different. All agreed that a 9-foot fence seems reasonable in these circumstances.

110 Mrs. Cook said it may be possible that if they start with a 9-foot fence and then they think it looks ridiculous, then they may want to reduce the height of the fence.

P. Byrnes said the Board may consider granting a variance for a fence not to exceed 9 feet. That way, it can always be less.

115 P. Byrnes made the motion to close the public hearing. J. Nicholson-Dourdas seconded. The motion carried with 4 in favor, 0 opposed.

120 P. Byrnes stated that the Board must consider five factors of criteria for a variance. 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. The Board went through the five factors of criteria:

125 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 four members answered no.

130 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 four members answered no.

3. *Is the requested area variance substantial?* All four members answered yes because the height of the fence will be increased by one-third over what the Code allows.

135 4. *Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* All four members answered no.

5. *Is the alleged difficulty self-created?* All four members answered no.

140 P. Byrnes declared this a Type II action under State Environmental Quality Review (SEQR) regulations. No other agency is involved.

145 P. Byrnes pointed out that Forman Street is possibly a County road and questioned if this application needs to be reviewed by Madison County Planning Department. Mr. Stokes noted that this property is within 500 feet of State Route 20 and should have been reviewed by the County. The County usually returns applications for local determination. The Board could grant the variance contingent upon County review.

150 P. Byrnes made the motion to grant the variance contingent upon County review. Based upon the Board’s findings that there is no detriment to the community and the benefits to the applicant outweigh the detriments. The Board grants the variance with the following conditions: The approximate 8-foot long section of fence on Forman Street shall be no higher than 6 feet. The fence running along the property line between the applicant’s property and the Brae Loch and Town Offices shall not exceed 9 feet in height. If the applicant wants to use a shorter height, that is permissible. Materials shall be of a horizontal design as approved by the Historic Preservation Committee (HPC). J. Nicholson-Dourdas seconded the motion. The roll call vote produced the following results: L. Hart aye, W. Keiser aye, J. Nicholson-Dourdas aye, P. Byrnes aye. The motion carried with 4 in favor, 0 opposed.

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J. Nicholson-Dourdas made the motion to adjourn the meeting. W. Keiser seconded. The motion carried with 4 in favor, 0 opposed. The meeting was adjourned at 7:31 p.m.

165 Respectfully submitted,

170 Marlene A. Westcott
Recording Secretary