

DRAFT ZONING BOARD OF APPEALS

Regular Meeting

July 22, 2014

Maurice McCormick, Chairman	Kelly Best, Secretary
Kate Provencher, Board member	Kyle Haines, Applicant
Stewart Linendoll, Board member	Kerry Dineen, Village Trustee
John Huber, Board member	
Danny Ramirez, Acting Alt. Board member	
Michael LaMountain, Board member	

Chairman McCormick opened the meeting at 7:05 pm.

Chairman McCormick noted that this evening's public hearing is a continuation from the hearing which started on July 8, 2014 for the request of Kyle Haines for a variance of the regulations under the Zoning Law to permit the installation of a 4' high chain link fence in a front yard. 3' high is permitted, a 1' variance is requested pursuant to Article IV Section 355-24 for property owned by Kyle Haines for property located at 2 Whipple Way, Altamont, NY 12009 TMN 37.14-5-14 and zoned R20. Plans were open for public inspection at the village offices during regular business hours.

Chairman McCormick acknowledges that no one from the general public was present at the meeting. He read into the record the letter received from Mrs. Sprague, a neighbor of the Haines. The letter was originally addressed to the Planning Board. Chairman McCormick read the notes from the Village Superintendent of DPW, one dated 7/22/2014 and the other dated 7/8/2014.

Board member Provencher questioned if the bushes will be planted far from the fence. Mr. Haines stated that the trunk will be planted approximately 1 ½ feet from the fence.

Board member Huber stated that the Village should get something in writing that the Village is not responsible for any damages to the bushes.

Chairman McCormick stated that he did a site visit and also did a neighborhood visit. He reported to the Board that there are 6 corner lots with fences in that neighborhood. He reported the addresses, height of fences and the footage of each fence from the road. The Chairman reported that the Board was trying to work with the applicant. Board member Linendoll asked Mr. Haines if he would agree not to hold the Village liable for damages to bushes. Mr. Haines stated that he would agree.

The Board stated that they would only wish for landscaping along Sanford Place, trying to soften the visual impact of the fence. The Board asked Mr. Haines if a full planting would be possible by this fall. Mr. Haines stated it was possible. Mr. Haines also stated that he planned on installing an irrigation hose hoping it will help landscape.

The Board discussed what provisions are in place if the plants were to die or be badly damage. Chairman McCormick stated that the Zoning Administrator would have to contact applicant since the landscaping is required as part of the variance approval. Mr. Haines would have to replace the dead or dying bushes.

Chairman McCormick made a motion to close the public hearing. Board member LaMountain seconded the motion. All in favor.

The Board discussed with the applicant holding the Village harmless if damage due to snow removal, street repair, etc. The Board informed the applicant that the Zoning Enforcement/Building Inspector would require applicant to replace any dead bushes. The Board indicated if found the following: That landscaping is needed to soften or mitigate the visual impact of the fence which should satisfies the neighbor who wrote the letter; that the fence was needed due to the dogs and a three foot fence would not help retain the dogs; that most of the corner lots in the neighborhood have fences at least 4 feet in height; the installation of the fence causes no adverse affect to the neighborhood or environment and that it is self created because the applicant bought a corner lot but that finding alone does not outweigh the factors the ZBA is required to consider when granting a variance. The Board found that it is a four foot fence, blends into the neighbors fencing, that it is similar fencing as many others in the neighborhood and that some of those fences have landscaping and others do not.

Board member Provencher reminded Board that the Planning Board has not yet approved the fence and will not continue the Public Hearing until September 22, 2014 so this Board should not ask to have landscaping complete until at least mid November if the Special Use Permit is granted. Applicant was reminded also to call utility company hotline before he plants.

Chairman McCormick made a motion to grant Mr. Haines a 1 ft variance to allow a 4 ft chain link fence in the front yard of a corner lot contingent upon obtaining a Special Use Permit from the Planning Board and Mr. Haines implements the landscaping plan provide to this Board on July 22, 2014, plantings will consist of the minimum of 39 arborvitaes, they will be installed no later than November 30, 2014 and Mr. Haines agreed to hold the Village harmless of any damages to plantings due to snow plowing. The Board made the following findings: Found that many of the corner homes had some sort of fencing, that by installing the fence there will be no impact of the environment, that the request of a 1 ft. variance is not substantial and is in line with fencing in that neighborhood, there is documentation from Village DPW stating that the fence will have no adverse affect regarding snow removal and it has been found not to be in Village Right of Way, Mr. Haines will mitigate the sight of the fence by installing landscaping per approved plan and that although by purchasing a corner lot, it would be considered a self created situation which would not outweigh the other findings of the Board. Board member Linendoll seconded the motion. Board member LaMountain – in favor, Board member Linendoll – In favor, Board member Huber – Opposed, Board member Provencher – in favor but not happy that fence was install without following required procedures, Chairman McCormick – in favor. Passed 4 to 1.

Board member Provencher made a motion to accept the minute of June 10, 2014. Board member Huber seconded the motion. All in favor.

Chairman McCormick informed the Board that the next meeting of the ZBA will take place on September 9, 2014. The Board must meet to at least review and adopt minutes from tonight so applicant can be heard by Planning Board.

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Board member Linendoll made a motion to accept the minutes of July 8, 2014 as amended. Board member LaMountain seconded the motion. All in favor.

The Board discussed the fact that they were not happy with the determination that Town of Guilderland Building Inspector will interpret the Village Code and its applications.

Chairman McCormick made a motion to adjourn the meeting at 8:07pm. Board member Linendoll seconded the motion. All present in favor.

Respectfully Submitted,

Kelly Best
Secretary