

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: APRIL 16, 2014

CASE NO.: 4/16/2014-3

APPLICANT: STEPHEN M. AND TRACY L. PARSONS
2 BUCKINGHAM DRIVE
LONDONDERRY, NH 03053

LOCATION: 2 BUCKINGHAM DRIVE; 12-84-67; AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR
NEIL DUNN, VICE CHAIR
JIM TIRABASSI, VOTING MEMBER
JACQUELINE BENARD, VOTING ALTERNATE
DAVID PAQUETTE, CLERK

REQUEST: VARIANCE TO ALLOW A FENCE LOCATED IN THE FRONTAGE TO EXCEED THE HEIGHT
LIMITATIONS OF SECTION 3.14.

PRESENTATION: Case No. 4/16/2014-3 was read into the record with no previous cases listed.

JIM SMITH: Who will be presenting?

STEPHEN PARSONS: Stephen Parsons, 2 Buckingham Drive.

JIM SMITH: The floor is yours...

STEPHEN PARSONS: The reason I am asking for this...I want to...there is an existing six foot stockade fence in the location, so I want to replace it with an eight foot fence. The reason being is that my backyard sits about two...two to two and a half feet lower than Mammoth Road. I provided, hopefully you can see them, several pictures of me standing on the deck and even passenger cars...at the level of the current fence can just drive by and see into the backyard. We have young children...in the summertime they're out in the backyard...we would like to make it more private. The six foot fence essentially is the equivalent of a three to four foot fence as it stands right now. I would like to bring that up a couple feet. It's not going to illuminate all passengers by...the eighteen wheelers, bigger pickup trucks and whatnot, but it will illuminate the majority of passersby and give us a little bit more privacy in the back yard... and...the fence I think it's picture twenty, I provided a stock photo of what I plan to put and actually there will be a...more esthetically pleasing fence than what's there...if you see I provided some photos at the end of Buckingham drive, if you were to come out and make a left which is my property, it's a left at the end of Buckingham, if you are turning out, the existing fence you can't even see as your turning out so...it would not obstruct any view of traffic. The only obstruction would be

45 from someone on Mammoth looking into our yard...so the traffic intersection...it wouldn't interfere with any
46 of that...at all.

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48 JIM SMITH: So the fence would start, even with the front of the house, going back?
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50 STEPHEN PARSONS: Yes sir...and it is ...the beginning of the fence is forty feet from the front of the property
51 line. So it's already...it already meets that requirement of being forty feet away from the intersection...and it
52 would start at...a...the...the front corner or the garage, even with that and extend backwards...so...north on...I
53 think it's north on Mammoth.
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55 NEIL DUNN: And the eight foot...if I may? The eight foot would only be for along the Mammoth Rd portion...
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57 STEPHEN PARSONS: Yes, sir...
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59 NEIL DUNN: You're not...
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61 STEPHEN PARSONS: That...that's the only place it would be.
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63 JIM SMITH: Ok...you want to address the five points?
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65 STEPHEN PARSONS: So the five points...the variance will not be contrary to the public interest. The requested
66 variance will have no adverse effects on the appearance of the area, nor will it affect any abutters, or their
67 property in any way. There is a preexisting six foot tall stockade fence in the...the same exact location where I
68 am requesting to put the new fence. [Clearing of throat]...if approved the request would add two feet in
69 height to illuminate passersby from looking into the backyard, see attached photographs...at the residence
70 and their guests while playing in the backyard... the new fence will not detract from the esthetics of the
71 surrounding area in any way. It will be no more detracting the previous fence...and like I said it would
72 be...probably more aesthetically pleasing...and made...and made of better material...it will...it will be more
73 heavily...heavily constructed, thicker wood. The second, the spirit of the ordinance is observed. If approved,
74 the variance will promote safety and general welfare for the community and maintain the spirit of the
75 ordinance, I stated above, the only difference with the eight foot fence would make...is in the surrounding
76 areas to limit the ability of passersby, to look into the backyard...therefore...providing the safety and general
77 welfare of the community, the drivers on Mammoth Road will be focused on Mammoth Road as opposed to
78 what's going on in my backyard. There is an intersection right there. A lot of traffic comes out of
79 Buckingham...and...the street strait across, I want to say it's Welch, but it's not Welch...but the street directly
80 across the intersection, a lot of traffic comes out of that...we have seen people drive by looking into the
81 backyard, honking horns and whatnot...so obviously not paying attention to that intersection, so it will actually
82 promote more safety because there will be less people who can actually view and see into our backyard. The
83 substantial justice is done. There is no injustice in this request in that there is already a fence in that area
84 and...and it would really just be raising the height by two feet. Justice is served in the fact that the family at
85 two Buckingham gains the increased safety of installing a higher face and gains more privacy. Additionally, the
86 preexisting fence is original to the property. We have only been in there for...just over two years...about three
87 years...so...and as far as I can tell, that fence was put up by the original owners so it's probably about sixteen
88 years old. I have already had to replace a couple posts that...because they have blown over and the areas it's
89 propped up so it's an increased safety. It will be a more stable fence. The third...the values of the surrounding

90 properties are not diminished. This in no way will affect property values of the abutters. The only...again, the
91 only difference is the new fence will be two feet taller. It will be more aesthetically pleasing and if anything it
92 would add to the aesthetics of the area as opposed to decreasing it...from it. Provisions of ordinance would
93 result in unnecessary hardship...so...in...in subparagraphs 'A' and then 'I,' no fare substantial relationship exists
94 between general public purposes or this provision. This specific application of provision...so on and so
95 forth...literal enforcement of the ordinance is...would result in unnecessary hardship to us being that we...we
96 are asking to raise it two feet and we just want more privacy...try to...try to enjoy the backyard...so that...other
97 than that hardship, it is not going to affect anyone else. The existing fence doesn't affect any abutters or
98 passersby or that area. The proposed use is a reasonable one. The request is reasonable in that the residence
99 of two Buckingham Road are really trying to gain...a...privacy in their backyard...do you want me to read all of
100 these or do you have them in front of you?

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102 JIMS SMITH: No I got it.
103

104 STEPHEN PARSONS: Ok...so 2 Buckingham is different in that for other properties, and the fact that our
105 backyard, as I stated at the beginning, is about two and a half feet lower than the...as you drive down
106 Mammoth, so I can stand on Mammoth and the fence is probably about chest height...and look over into my
107 backyard...so...other...other properties are not that. They're the same height as the road...or the frontage road
108 at their property, so...we...we are at a...I guess a height disadvantage in my backyard, so we are just looking to
109 raise that to actually be a six foot privacy fence. The additional comments that I provided are essentially what
110 we have already discussed.
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112 NEIL DUNN: If I may, do we have a complete application in there, because in the computer I think we are
113 missing the last two points...aren't we?
114

115 JIM SMITH: Yeah I can't find it...
116

117 [Laughter]
118

119 NEIL DUNN: Yeah...[chuckling]
120

121 DAVID PAQUETTE: No, they're right here...
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123 NEIL DUNN: Oh, ok...I just...I mean you covered them it's just we weren't seeing the last two points and...
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125 STEPHEN PARSONS: You can have my copy if you would like...
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127 NEIL DUNN: Those are usually some of the tougher ones...no I...we have them in here I just wanted to make
128 sure we did.
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130 DAVID PAQUETTE: Yeah...
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132 NEIL DUNN: Good catch.
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134 [Chuckling]

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DAVID PAQUETTE: One, two, three, four...five...

NEIL DUNN: Ok...I thought I was losing it...

JIM SMITH: Somehow I didn't get a copy...at this point...anyone who is in favor of this? Anyone who has any opposition? Questions? Ok, then I will give it to the Board...kind of out of sequence but...

DAVID PAQUETTE: I think the request is a reasonable one...based on the...the variance and the grading.

JIM SMITH: I think the grading makes it someone unique...

DAVID PAQUETTE: Mmm.

JACKIE BERNARD: I agree...I agree

JIM SMITH: Having said that...any other comments?

NEIL DUNN: Well...well typically I think the...and maybe Richard can speak better to this...the height restriction is for safety and...and visibility for...Police and Fire and responders and in this case, I don't think that's impacted and that's why I was asking about making sure it's only going to be along Mammoth Road...where the land differential, or the uniqueness of the property kicks in.

RICHARD CANUEL: Yeah the intent of the ordinance...to limit the height of the fence in the front yard is to maintain proper site distance along the roadways, especially at the intersection...so you see in a situation like this...if you see by the photos that the...the applicants provided...you can see that there's certainly a clear site distance...if you just sat there at Buckingham Drive you would be able to see clearly...down Mammoth Road, so I think it meets the intent of the ordinance.

JIM SMITH: Ok.

NEIL DUNN: Good.

JIM SMITH: Anybody else have any questions? Comments? If not, we will...I will entertain a motion.

NEIL DUNN: Mr. Chairman, I would like to make a motion to grant Case 4/16/2014-3...with one restriction; that the eight foot height is for the Mammoth Road side for the property only...I do not feel I...think the five points are met and due to the special conditions of the property, being lower than the abutting road, that we are in compliance with the spirit, public interest and...substantial justice.

DAVID PAQUETTE: I second that motion.

JIM SMITH: Ok, Dave seconds. All those in favor?

JACKIE BERNARD: Aye.

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JIM SMITH: Aye.

NEIL DUNN: Aye.

JIM TIRABASSI: Aye.

DAVID PAQUETTE: Aye.

STEPHEN PARSONS: Thank you.

DAVID PAQUETTE: In regards to case 4-16-2014-3...the board has granted the variance on a vote of 5-0-0.

RESULT: THE MOTION TO GRANT CASE NO. 4/16/2014-3 WITH RESTRICITONS WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,



DAVID PAQUETTE, CLERK

TYPED AND TRANSCRIBED BY KIRBY WADE, EXECUTIVE ASSISTANT

APPROVED MAY 21, 2014 WITH A MOTION MADE BY NEIL DUNN, SECONDED BY JIM TIRABASSI AND APPROVED 4-0-1 (ANNETTE STOLLER ABSTAINED AS SHE HAD NOT ATTENDED THE MEETING).