

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

DATE: JUNE 17, 2009

CASE NO.: 6/17/2009-3

APPLICANT: JOHN L. AND RACHEL M. WETSON
119 ROCKINGHAM ROAD
LONDONDERRY, NH 03053

LOCATION: 119 ROCKINGHAM ROAD, 16-87, AR-I

BOARD MEMBERS PRESENT: VICKI KEENAN, CHAIR
JIM SMITH, VOTING ALTERNATE
MICHAEL GALLAGHER, VOTING ALTERNATE
MATTHEW NEUMAN, VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/
ZONING OFFICER

REQUEST: AREA VARIANCE TO ALLOW A 6-FOOT HIGH FENCE TO
BE LESS THAN 40 FEET FROM THE FRONT PROPERTY
LINE AS REQUIRED BY SECTION 3.14.

PRESENTATION:

RACHEL WETSON: I have multiple pictures that I'd like to hand out to each of you. It'll help explain all of the questions.

VICKI KEENAN: Great.

RICHARD CANUEL: Yeah, you can just give those to the Board.

RACHEL WETSON: Oh, okay.

RICHARD CANUEL: Thanks.

LARRY O'SULLIVAN: Yeah, he's not voting.

[laughter]

RACHEL WETSON: What's that?

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LARRY O'SULLIVAN: He's not voting.

RACHEL WETSON: Oh. On the back, there's numbers, just so you can refer to them when I talk about certain questions.

MATT NEUMAN: Wonderful.

RACHEL WETSON: I'm not a photographer. I tried.

JIM SMITH: Thanks.

VICKI KEENAN: Thank you.

Case No. 6/17/2009-3 was read into the record with no previous cases listed.

VICKI KEENAN: So if you could start by telling us who you area and then presenting your case, that'd be great.

RACHEL WETSON: Sure. I'm Rachel Wetson. My husband is not here, which is why you probably thought he was [referring to audience member], he's not sitting with me. He's my neighbor. So, I'm Rachel Wetson and I live at 119 Rockingham Road, which is Route 28 in Londonderry and my husband and I are trying to put a six (6) foot fence up closer to the front property line than forty (40) feet. And I'll explain further when you look at the pictures as to why I want it closer to the front property line than forty (40) feet. Do you want me to go through the questions now or...?

VICKI KEENAN: Actually, why don't you talk about why you want to put it up and then we'll...

RACHEL WETSON: Okay. The main reason that we would like the six (6) foot fence is for privacy. My husband and I moved in about seven (7) years ago and since then, the area has really become more overpopulated. Route 28 is a very busy road. You guys probably drive down it. So we have many cars driving at all times of the day. It's a very busy road, a loud road, so we would like to increase our privacy, increase our property value and hopefully take away some of the noise that we can hear in our house. Make it more of a home environment.

LARRY O'SULLIVAN: Had you considered shrubbage [sic] or trees or something along those lines?

RACHEL WETSON: We haven't, actually, we really wanted a fence. We actually do have a lot of trees in the front of our yard. You can kind of see that in the picture. But we really would like the look of a fence better.

90 LARRY O'SULLIVAN: One of the reasons why the Town requires a distance between the front
91 of a parcel...

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93 RACHEL WETSON: Mm-hmm.

94

95 LARRY O'SULLIVAN: ...and a side is because it more greatly affects the traffic and your
96 neighbors across the street. Can you address that?

97

98 RACHEL WETSON: Okay. Well, by traffic, I guess I can explain my road. It's a very straight
99 road. Having the fence very close to our front property line is not gonna obstruct the view of
100 motorists in any way. It's not gonna obstruct the view of the road ahead for them. Also, as you
101 can see from the picture, I guess I'll refer to it now, picture two (2) [see exhibit "B"], picture two
102 (2) is a picture I took right from where we would be pulling out of our driveway. The fence is
103 actually gonna be behind those trees. So, it would not obstruct the view of motorists seeing us
104 pull out of our driveway in any way and we would still be able to see motorists driving down
105 the road when we pull out of our driveway. So I don't see it's gonna increase any danger in any
106 way.

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108 MICHAEL GALLAGHER: Actually, how far is that back from that tree line that's on the road
109 there? On Rockingham Road.

110

111 RACHEL WETSON: Okay, so you see the road on the right and then the trees begin. There's a
112 black line I drew in. Again, I'm not a photographer...

113

114 MICHAEL GALLAGHER: I see that on here.

115

116 RACHEL WETSON: ...but I drew the black line and that's where we would like to put the
117 fence. That's about fifteen (15) feet from the property line.

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119 MICHAEL GALLAGHER: Fifteen (15)?

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121 RACHEL WETSON: Yup.

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123 LARRY O'SULLIVAN: From the property line or from that tree line?

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125 RACHEL WETSON: From the property line. The property line begins a little bit closer to our
126 house. It's kind of in the middle of those trees is where our property line actually begins.

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128 LARRY O'SULLIVAN: Okay, so you're aware that the Town has access to the first, what is it,
129 ten (10) feet, Richard?

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131 RACHEL WETSON: Yes...

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133 RICHARD CANUEL: Well, that varies. You can't really go by the...

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LARRY O'SULLIVAN: On Route 28?

RICHARD CANUEL: Yeah. Customarily, it's usually about a ten (10) foot distance from the paved section of the road to the actual front...

RACHEL WETSON: Right, see how there's like...it's hard to see in the picture, but there's actually the paved road and there's a little bit of, like, a dirt area before the trees begin. But I actually did go, 'cause I live on a State road, I went to the DOT to ensure that they weren't going to be moving our road back where we would be putting our fence and they actually are not planning on doing that. And they don't own the property where we would be putting the fence. The State does not own that area. So there's no plans...you probably know they're planning on expanding Route 28. It doesn't include where my house is at. So, it wouldn't affect where I'm putting the fence.

LARRY O'SULLIVAN: Do any of your neighbors have a fence?

RACHEL WETSON: Not to my left or right.

JAMES DUNN: If you wanna call my post and rail [inaudible] a fence. That's about...

RACHEL WETSON: Not a six (6) foot fence.

JAMES DUNN: ...eight (8) feet from the road, if that.

MICHAEL GALLAGHER: I took a ride by there. I didn't notice anyone else with, you know...

LARRY O'SULLIVAN: I took a ride by it. I didn't see anybody at all, so...with a fence, that is.

RACHEL WETSON: If you look at...I want to explain why we don't want to put it forty (40) feet from our front property line. If you look at picture one (1) [see exhibit "A"], it's showing you...I'm standing on my driveway. It's a side view. The bold black line is where we want to put the fence. Again, that's fifteen (15) feet from the property line. The dashed line would be forty (40) feet from our property line. And as you can see, our house is right there. So if we were to put our fence up forty (40) feet from our front property line, when we walked outside of our door, our fence would be right there and we'd be cutting off our lot. We wouldn't have any front lawn.

VICKI KEENAN: How close to the driveway do you plan on putting the fence?

RACHEL WETSON: We plan on having, probably, about four (4) or five (5) feet from the driveway until when our fence begins.

LARRY O'SULLIVAN: No gate?

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179 RACHEL WETSON: No, I'm not planning on that. If we do, it wouldn't be six (6) feet tall.

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181 LARRY O'SULLIVAN: Had you considered a four (4) foot fence?

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183 RACHEL WETSON: We had. We actually were trying to look from the house to see how that
184 would change the view of the road and we would still be able to see cars passing by. It
185 wouldn't increase the privacy to the way that we would want it to.

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187 MICHAEL GALLAGHER: So, you're kind of...you don't want to view the road if you're...

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189 RACHEL WETSON: We would like to obstruct it to, again, make it more of a home
190 environment than living on a main road.

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192 MICHAEL GALLAGHER: It looked like there were a lot of trees there, you know, and...

193

194 RACHEL WETSON: Yeah. It is a side view, too, so they are kind of scattered.

195

196 MICHAEL GALLAGHER: Yeah.

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198 VICKI KEENAN: Any other questions from the Board? Why don't we...

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200 RACHEL WETSON: I actually do want to add one thing...

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202 VICKI KEENAN: Sure.

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204 RACHEL WETSON: I have dogs, and my neighbor knows that, but they can be kind of loud.
205 The fence would actually help to keep my house quieter. My dogs do like to bark whenever
206 anybody drives by or slows down and this would obstruct their view of people, whether they're
207 jogging or driving by, so it would actually make my house a little quieter and probably make
208 my neighbor a little happier.

209

210 LARRY O'SULLIVAN: Well, fences typically echo sound and they'll keep sound to the side
211 where it was created...

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213 RACHEL WETSON: Hmmm.

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215 LARRY O'SULLIVAN: ...as opposed to the side where it wasn't created.

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217 RACHEL WETSON: Mm-hmm.

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219 LARRY O'SULLIVAN: That's why you have barriers on highways and the like. One of the
220 things we try to do, especially in the scenic areas, is to eliminate any of the excess noise that
221 something like this would be creating because this magnifies and doubles the reflective sound

222 to your neighbors. A four (4) foot fence is acceptable in town up to, what fifteen (15) feet? I
223 don't know if it's fifteen (15) feet in the front yard, Richard?

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225 RICHARD CANUEL: Well, by our ordinance, the front yard is considered that portion from
226 the front property line back to the forty (40) foot setback line. That's considered the front yard.

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228 LARRY O'SULLIVAN: "Fences located in the front yard of residential properties may not
229 exceed four (4) feet in height...The front yard, for the purpose of this section, shall be that
230 portion of the property encompassing the area from the front property line to the forty (40) foot
231 setback line."

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233 VICKI KEENAN: So even at four (4) feet, they would still require the forty (40) foot setback.
234 Can you take us through your application?

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236 RACHEL WETSON: Sure. Okay, so, I'll begin at question four (4). A variance is requested of
237 the zoning ordinance to permit an installation of a six (6) foot fence fifteen (15) back from our
238 front property line. Facts supporting this request. The proposed use would not diminish
239 surrounding property values because this fence will be elegant, it will be picket style and we
240 would like it to be of cedar wood. It will add style and elegance to our neighborhood and street,
241 to our home. It'll add value to our home and hopefully improve the value of our neighboring
242 homes also. (B), granting the variance would not be contrary to the public interest because this
243 fence would not obstruct the public's view of the road since we are not on a corner lot. This
244 fence will be placed far enough away from our driveway entrance so motorists will have the
245 ability to see us pulling out of our driveway and we will see motorists when we are pulling out
246 of our driveway. (C), special conditions exist such that literal enforcement of the ordinance
247 results in unnecessary hardship: one (1), an area variance is needed to enable the applicant's
248 proposed use of the property, given the following special conditions of the property. And I can
249 refer you to picture one (1), so you can see what I'm talking about. Our home lies fifty five (55)
250 feet back from our front property line. If we built the fence forty (40) feet back from our front
251 property line, we would only have fifteen (15) feet of land between our home and the fence.
252 Building the fence fifteen (15) back from our front line of property allows us to have a front yard
253 and will still allow motorists to see us pulling out of our driveway and will allow us to view
254 motorists before pulling out of our driveway. Two (2), the benefit sought by the applicant
255 cannot be achieved by some other method reasonably feasible for the applicant to pursue other
256 than an area variance because the only way to place a fence forty (40) feet back from our front
257 line of property while maintaining a front yard would be to move our house back and this is, of
258 course, not feasible. (D), granting the variance would do substantial justice because we have
259 two (2) boxer dogs and, of course, at times, they can get off the leash and our dogs have actually
260 run into Route 28 and have been in danger of getting hit and also causing accidents. Again, it's
261 a very busy road. The fence would improve the safety of our dogs and also make it a little
262 quieter for our neighbors when they don't see the cars driving by and stopping and people
263 running down the road. And also we hope this fence will buffer some of the noise from vehicles
264 passing by our house since we live on Route 28, again, a main State road. And lastly, this fence
265 will add elegance, privacy and value to our home. (E), the use is not contrary to the spirit of the
266 ordinance because we live on a part of Route 28 that is straight. You can refer to picture two (2)

267 again to see this. No curves or corners. Therefore, this fence will not obstruct the public's view
268 of the road. Also, this fence will be placed fifteen (15) feet away from our driveway entrance,
269 behind the trees that you see in the picture, allowing motorists to see us pulling out of our
270 driveway and allowing us to view the road and motorists before pulling out of our driveway so
271 it wouldn't impose any danger to the public.

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273 VICKI KEENAN: A question. Have you contemplated additional landscaping? More shrubs
274 and trees?

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276 RACHEL WETSON: We haven't. Again, we really would like the look of the fence.

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278 MATT NEUMAN: How about fencing in the backyard?

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280 RACHEL WETSON: We wanna do that, too, but we don't need the area variance for that, so,
281 yeah, we'd like to have a full fenced...

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283 MATT NEUMAN: I know that's a big part of our reasoning for it is for the dogs...

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285 RACHEL WETSON: Yeah, I mean, we would like to fence in the whole yard. Have the front
286 yard and the backyard, everything fenced in. Yeah, to let the dogs run around, yeah.

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288 LARRY O'SULLIVAN: Is your pool fenced in now?

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290 RACHEL WETSON: We have a Gibraltar pool. We don't have any fence around our yard at all.
291 We have a Gibraltar pool, it's got its own little fence around it, of course, for safety but...

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293 JAMES DUNN: Above ground.

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295 RACHEL WETSON: Above ground, yeah. Thanks.

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297 VICKI KEENAN: Any other questions from the Board? Why don't we open it up to the public.
298 Is there anyone here to speak in favor of the application? Can you come up to the microphone
299 and introduce yourself.

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301 JAMES DUNN: We have the same problem with the noise.

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303 LARRY O'SULLIVAN: Could I get your name, please, for...?

304
305 JAMES DUNN: James Dunn, 117 Rockingham. The road is downhill. A lot of the truck drivers
306 downshift, creating a lot of noise. Like she said, road traffic. And I think, like her yard slopes
307 down, so a four (4) foot fence wouldn't do it. I mean, you'd be looking over and still seeing the
308 road. It would have to be a six (6) foot just to...I mean, I stand in my driveway and the road is
309 like up to here when I look out.

310

311 RACHEL WETSON: Our friends call our house "exit 119," not "number 119" Rockingham
312 Road. It's like we live on a highway.

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314 JAMES DUNN: Yeah.

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316 LARRY O'SULLIVAN: Are they directly across the street from you?

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318 JAMES DUNN: Next door.

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320 LARRY O'SULLIVAN: Are there people directly across the street from you?

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322 JAMES DUNN: Yes, their house is set back further and there's usually either, what, a florist
323 there or...

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325 RACHEL WETSON: Yeah, a pool place...

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327 JAMES DUNN: A pool place or...

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329 RACHEL WETSON: There's something commercial across the street. I don't know what they
330 are now.

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332 JAMES DUNN: I'm not sure what's there now.

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334 RACHEL WETSON: Yeah, me neither. It changes. It's been changing.

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336 VICKI KEENAN: Okay. Any other questions from the Board? Seeing that, we'll close the
337 public hearing and the Board will deliberate and discuss, okay?

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339 DELIBERATIONS:

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341 VICKI KEENAN: Want to walk through the five (5) points of law just like we did last time and
342 discuss each one?

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344 LARRY O'SULLIVAN: Sure.

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346 VICKI KEENAN: Okay. The proposed would not diminish surrounding property values?

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348 LARRY O'SULLIVAN: I would take exception to that as well. Because the folks to the left and
349 right aren't gonna be the ones who we need to protect, as a Board. It's the people on the
350 opposite side and the drivers and our issue...there's a couple of issues here. One of them is the
351 six (6) foot and the other one is the fifteen (15) feet. What you're doing is, you're building an
352 echo chamber. The people who live to the rear of her property now, probably you'd cut a lot of
353 the noise by the trees and they do, too. Because the road is busy, it's the noise that usually is the
354 annoyance. Safety on a stretch that, as straight as this, isn't the major issue. It's gonna be the

355 noise pollution that's created. I believe it's gonna be amplified by this. I think that's why we
356 have the zoning. I think that's to the detriment of the people across the street.

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358 VICKI KEENAN: But they could encircle their backyard with a six (6) foot fence and not need a
359 variance and create the same issue, right?

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361 LARRY O'SULLIVAN: Right.

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363 VICKI KEENAN: By right.

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365 LARRY O'SULLIVAN: No. There's no issue if it's fifteen (15) feet from the road. I mean, fifteen
366 (15) feet from the road is really what the issue is. Fifteen (15) feet, six (6) feet high. That's an
367 echo chamber that you're building. Move it forty (40) feet away, it's not such an issue. But
368 having it right next to the road is like somebody yelling in your ear. That's why they do this on
369 highways. That's why when you see 93, you see the buffers and the walls that they put up.
370 That's to keep the sound reflected back on the drivers. That's cool, that's fine when you have it
371 on both sides. And where all the complaints happen are on the residential side that's opposite
372 it. The sound is gonna go a lot further amplified and that's what that reflection that echoes is
373 gonna give. So, I have a problem with that close to the road. I think that's why our ordinances
374 are the way they are, so we eliminate this situation.

375
376 JIM SMITH: I think my reading on it, with the tree line and brush and so forth in front of it, I
377 think that's gonna mitigate that effect.

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379 VICKI KEENAN: [inaudible] for that.

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381 JIM SMITH: Because they're gonna have the fence behind the trees.

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383 LARRY O'SULLIVAN: Jim, if you have any restrictions that we place on an approval on it, you
384 then need to require that the trees be there because you can cut these trees down just like, you
385 know, as easy as can be. Once the fence is up, what's the purpose of the trees? I mean, I
386 understand there's other reasons to have trees but at the same time, right now they act as a
387 buffer. I think that's why they should be considering the landscaping because I also believe that
388 that's a less expensive, less intrusive solution. Everybody else up and down that street's gonna
389 put up a six (6) foot fence fifteen (15) feet from the road.

390
391 VICKI KEENAN: I mean, I would argue that I don't see any diminishment of the surrounding
392 property values because it sounds, from an aesthetic standpoint, what they're gonna put in is
393 going to be good and I'm having a hard time sort of thinking that an echo chamber is going to
394 be created by it because of the tree buffer. And because of the short distance of the fence. But
395 what I have a problem with is...

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397 LARRY O'SULLIVAN: The short distance of the fence? I missed that.

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399 VICKI KEENAN: The length of the fence.

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401 LARRY O'SULLIVAN: A hundred and fifty (150) feet long?

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403 VICKI KEENAN: Yeah, I just, when you look at that in comparison to the length of the road, I
404 just...just with the tree line, I don't see it creating a big echo. But what I do have a problem with
405 is the area variance, section one (1), two (2), three (3), I'm having a hard time with that. How
406 about granting the variance would be contrary to the public interest?

407

408 LARRY O'SULLIVAN: That's what I think I was addressing in my comments as well.

409

410 VICKI KEENAN: Mm-hmm. I'm having a hard time understanding the special conditions of
411 the property that are unique to anybody else who lives on that section of road.

412

413 LARRY O'SULLIVAN: Everybody on the road has the same scenario.

414

415 VICKI KEENAN: Right.

416

417 MATT NEUMAN: Right.

418

419 LARRY O'SULLIVAN: You can see the overheads of the houses. The houses are about the
420 same distance. I mean, this is requesting something that we've prohibited succinctly and
421 specifically two (2) different ways and you really have to have an outstanding reason to go and
422 allow a variance in these circumstances because everyone on this street has practically the same
423 scenario.

424

425 VICKI KEENAN: The setbacks look very similar to the other homes.

426

427 LARRY O'SULLIVAN: So, you know, it's a tough thing to approve for one and not for others
428 but at the same time, if there was a significant difference between this property and any of the
429 surrounding properties, that would be the thing to look at. Most of the time, we do look for
430 that. As a matter of fact, we try to pull teeth to get it out of the applicants 'cause applicants
431 typically don't look at the uniqueness and this is really one of those scenarios where there's got
432 to be something unique and I can't find it.

433

434 VICKI KEENAN: I agree. I think it would be setting a precedent which would go against our
435 zoning about, sort of, open landscape. I worry, too, about the safety from exiting the driveway
436 around the fence on that side.

437

438 LARRY O'SULLIVAN: It's not so much the safety of the residence, although that is a
439 consideration. It is the safety of the drivers. I have all the sympathy in the world for somebody
440 who feels as if they have to have a fence in order to prevent the noise from coming in and to
441 keep their pets in the yard and I have to say that there are alternatives.

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443 VICKI KEENAN: Yeah, see, I...

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LARRY O'SULLIVAN: And all their neighbors have them. So...

VICKI KEENAN: I can't find a passing reason for (C.1) and (2), unless anybody else can convince me otherwise.

JIM SMITH: I think she could accomplish what she's trying to do by putting up the four (4) foot fence and additional landscaping and plantings which would address the noise issue, so I think that's a reasonable alternative to...

LARRY O'SULLIVAN: I think there's a less expensive, reasonable alternative to begin with. The neighbors have done them.

JIM SMITH: A four (4) foot fence would be, I would think, sufficient to contain the dogs and a lot heavier plantings would certainly, probably be more effective as far as the noise goes when you come right down to it.

VICKI KEENAN: Mike and Matt, do you have anything?

MATT NEUMAN: Yeah, I was having a real tough time with the fact that there are the alternatives and it is setting, I think, a really tough precedent in that area because like you said, Larry, everybody on that road is just gonna do the same thing and...

VICKI KEENAN: Mm-hmm.

MATT NEUMAN: Then where are we?

JIM SMITH: Yeah, when you look at that plan there that shows the three (3), four (4), five (5), six (6), seven (7) homes that are all...the distance back from the road is pretty much the same, so there's nothing really unique about this particular piece of property versus the rest of them.

VICKI KEENAN: You can measure some of them on the GIS and a lot of them are similar setback. Okay, how about granting the variance would do substantial justice? This was a no-pass for me. Okay, how about contrary to the spirit of the ordinance? This, too, was a no-pass for me.

LARRY O'SULLIVAN: This is a what?

VICKI KEENAN: This was no-pass for me.

LARRY O'SULLIVAN: Did not...[inaudible].

VICKI KEENAN: Any comments on those two (2)?

488 LARRY O'SULLIVAN: I think one of the things we see from applicants is that they talk about
489 their need as opposed to why the rules are on the books and why the ordinance exists and folks
490 don't address that part of the ordinance when they're supposed to be addressing it. Contrary to
491 the spirit of the ordinance and, you know, what is it we're trying to accomplish with an
492 ordinance and then how could it be against it? What we're trying to accomplish with an
493 ordinance in this instance is so that we don't wind up with walls and what you have close to the
494 road. So, the answer that was provided doesn't address that. It addresses the public's view of
495 the road when that's not what the issue is.

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497 VICKI KEENAN: Is there any further discussion? Is there a motion? Does anyone have any
498 more comments?

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500 LARRY O'SULLIVAN: I would suggest that in our findings that we make it clear that the
501 request will create an unnecessary detrimental situation in a residential area, given that there
502 are options that needed to be addressed at the very least and that it will change the integrity of
503 the neighborhood and I do mean the residential side of the neighborhood.

504
505 VICKI KEENAN: We should add that there are no special conditions.

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507 LARRY O'SULLIVAN: And there are no special conditions, right.

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509 VICKI KEENAN: I think that's the big one.

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511 LARRY O'SULLIVAN: I believe it'll increase traffic noise.

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513 VICKI KEENAN: Is someone writing these down on their sheet? Could someone? Mike, that's
514 great.

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516 MICHAEL GALLAGHER: I'll write it.

517
518 VICKI KEENAN: Does anyone want to make a motion or have any additional comments?

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520 LARRY O'SULLIVAN: Did you get it all down, Mike?

521
522 MICHAEL GALLAGHER: No, I didn't.

523
524 VICKI KEENAN: So there was no special condition of the property. We felt that there were
525 other feasible methods...

526
527 LARRY O'SULLIVAN: Yes.

528
529 VICKI KEENAN: ...to achieve what they were trying to achieve.

530
531 JIM SMITH: Yeah. I think that's the key thing. There's other reasonable means to
532 accomplish...

533
534 VICKI KEENAN: And we think it's contrary to the spirit of the ordinance. Do we need to be
535 more specific, you think, Larry? On each of those?
536
537 MICHAEL GALLAGHER: What about mentioning possibly setting a precedent? I think you're
538 right because I didn't see any fences because I had passed the property and I had to go up a
539 ways and...
540
541 LARRY O'SULLIVAN: But we really shouldn't be addressing the precedence here.
542
543 JIM SMITH: Yeah.
544
545 MICHAEL GALLAGHER: Yeah.
546
547 LARRY O'SULLIVAN: It's the case as presented, as is, bang.
548
549 JIM SMITH: Each case should be looked at...
550
551 LARRY O'SULLIVAN: I believe that part of my suggestion was to notate that the request, if
552 granted, would intensify or change the integrity of the neighborhood.
553
554 VICKI KEENAN: Mm-hmm.
555
556 LARRY O'SULLIVAN: And I do mean the residential part of it. That it negatively impacts the
557 surrounding areas and that's not necessarily just the real estate values. Did you get that, Mike?
558 Are you writing those down?
559
560 MICHAEL GALLAGHER: Yeah.
561
562 LARRY O'SULLIVAN: Okay, are you ready?
563
564 MICHAEL GALLAGHER: Yup.
565
566 LARRY O'SULLIVAN: Are you gonna make a motion?
567
568 MICHAEL GALLAGHER: Yes. A motion to deny this request based on those conditions we
569 just discussed: will increase the noise; we don't see that any special conditions exist; there are
570 other feasible methods available; and contrary to the spirit of the ordinance, which is to address
571 the issues, the noise and...
572
573 LARRY O'SULLIVAN: And the alternatives possible, right?
574
575 MICHAEL GALLAGHER: Excuse me?
576
577 LARRY O'SULLIVAN: And there are alternatives possible.

578

579 MICHAEL GALLAGHER: Yes.

580

581 VICKI KEENAN: Okay, there's a motion to deny...

582

583 JIM SMITH: I'll second.

584

585 VICKI KEENAN: Second...case 6/17/2009-3 and a second. Any discussion on the motion?

586 Seeing none, we'll take a vote. All those in favor of denying case 6/17/2009-3, signify by saying

587 'aye.'

588

589 JIM SMITH: Aye.

590

591 MICHAEL GALLAGHER: Aye.

592

593 MATT NEUMAN: Aye.

594

595 LARRY O'SULLIVAN: Aye.

596

597 VICKI KEENAN: Aye. Opposed? Abstentions?

598

599 [no response in opposition or to abstain]

600

601 RESULT: THE MOTION TO DENY THE AREA VARIANCE WAS APPROVED, 5-0-0.

602

603 RESPECTFULLY SUBMITTED,

604

605

606

607 LARRY O'SULLIVAN, CLERK

608 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

609

610 **APPROVED JULY 15, 2009** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED

611 BY JIM SMITH AND APPROVED 4-0-1 WITH YVES STEGER ABSTAINING AS HE DID NOT

612 ATTEND JUNE 17, 2009 THE MEETING.