

VILLAGE OF SPRINGVILLE
MINUTES OF THE MEETING OF ZONING BOARD OF APPEALS

October 13, 2021

7:00 P.M.

A meeting of the Zoning Board of Appeals of the Village of Springville was held virtually at the above date and time.

Present were:

Chairman:	Joe Wolniewicz
Members:	Kate Moody Jamie Raynor Kimberly Krzemien
Also Present:	Mark Willibey, Applicant Terry Skelton, Trustee (absent)
Clerk:	Kellie Grube (absent)

Chairman Wolniewicz called the meeting to order at 7:03 p.m. to hear the petition of Mark and Amanda Willibey, 89 North Central Avenue, Springville, New York, **File #9677** for an Area Variance for setback. The applicant has placed a 6' high 10' x 20' dog kennel/fence in his front yard.

Due to the applicant's property being located within an R-6 District, the applicable section for File #9677 of the Village Code is:

§ 200-17 Permitted fences and walls.

A. In a residence district:

(1) No fence or wall within a front yard shall have a height greater than 4'.

200 Attachment 4-side yard setback 16', side minimum for one is 10'.

At 7:03 pm, Chairman Wolniewicz opened the Public Hearing.

Mr. Mark Willibey addressed the Zoning Board of Appeals explaining the circumstances. He stated that the first issue he had was that they contacted the Town of Concord Code Enforcement officer, therefore receiving incorrect information as to what they could do and that a permit was not necessary. The second issue that Mr. Willibey has is that his wife has physical difficulties walking so it is necessary to have the kennel (fence) close to the ramp from the front door. Another point Mr. Willibey wanted to point out also that as the dogs got bigger, they were able to get over the permitted 4' high fence from permit #9210.

The Zoning Board of Appeals then discussed if the dog kennel was actually a fence. Mr. Kaleta then looked up the definition of a fence.

FENCE A structure bounding an area of land designed either to limit access to the area or to screen such area from view, or both.

Then the definition of structure was given.

STRUCTURE Anything constructed or erected which requires temporary or permanent support or attachment to the ground, beneath the ground or to do something having permanent location on the ground, including gasoline, oil or liquid storage tanks, buildings, manufactured homes, recreational vehicles, travel trailers, fences and billboards.

After considering the definitions the ZBA agreed that this kennel was a fence.

With there being no further questions, Chairman Wolniewicz declared the SEQR for File #9615 a Type II requiring no further action; therefore a negative declaration was determined.

At this time, the Zoning Board of Appeals went over the factors considered in their decision:

FACTORS CONSIDERED:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Yes x(4) No _____
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes x(4) No _____
3. Whether the requested variance is substantial: Yes x(2) No x(2)
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Yes x(1) No x(3)
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance: Yes x(3) No x(1)

DETERMINATION OF THE ZONING BOARD of APPEALS BASED ON THE ABOVE FACTORS:

The benefit to the applicant DOES NOT outweigh the detriment to the neighborhood or community. With keeping in mind that the Variance is within the character of the neighborhood and doesn't impact the environment, the variance request is **DENIED.** By definition of a fence and structure, the kennel is a fence. The Zoning Board of Appeals does not want to establish precedence.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	NO VOTE
JOE WOLNIEWICZ	_____	<u> x </u>	_____
KATE MOODY	_____	<u> x </u>	_____
JAMIE RAYNOR	_____	<u> x </u>	_____
KIM KRZEMIEN	_____	<u> x </u>	_____

Mr. Willibey was given a suggestion of how to move the kennel to a location that may take care of most of his concerns and be within Code for a fence. Mr. Willibey will take a look and discuss it with his wife to see if it will work.

Mr Willibey also made it clear that he disagrees with the Board's decision. He reiterated that the kennel is not a fence.

With there being no other Public Hearings this evening, Chairman Wolniewicz asked the Members if there were any changes or concerns with the September 8, 2021 meeting minutes.

With there being none, Chairman Wolniewicz made the motion to approve the minutes. All in favor, none opposed.

At 8:00 p.m., Chairman Wolniewicz made a motion to adjourn the meeting. All in favor, none opposed. Meeting adjourned.

Respectfully Submitted,

Kellie R. Grube