

Zoning Board of Appeals Meeting

Frederick Mitchell, 12960 Main St. SBL #108.18-2-1.11

November 20, 2024

The Zoning Board meeting was called to order by Chair Mike DeWitt at 6:30 pm.

Present: Michael DeWitt, Michael Manicki, Charlie Gaffney, Tom Kirszenstein, , Chris Trapp, Joe Czechowski, Chris Twaragowski, Bruce LeRoy, Fred Mitchell, Dennis Radder, Stephen Esler, Debbie Armstrong, Paul Marzec, and Max Marzec.

Absent: Brian Schumacher

The purpose of this public hearing: There one area variance being addressed at this meeting.

#1) Section 210-26(7)(c) of the code of the Village of Alden, as it pertains to the requirements for maximum height of a fence in a R-1 District. More specifically, a request to erect a twelve (12) foot high fence, in contradiction of the code requirements that a fence no more than seven (7) feet high is allowed.

At this point Chair DeWitt opened the Public Hearing to the audience.

Fred Mitchell, who has been an Alden resident for over 70 years, has never seen a deer problem like it has been the past two years. At one point there were over 26 deer on his compost pile. It has cost him over \$100,000 from his business, as deer have eaten his inventory. He would like to construct a fence on his two-acre plot behind the green houses. Going north 350 feet, 150 feet across the back and on the east side behind the houses on Homecourt. It will be black iron steel pipes, semi-permanent, with a plastic see-through mesh. Tried snow fencing but deer just jumped over it. The DEC recommended a height of at least 10 feet high.

The following comments were asked from the audience. Deb Armstrong – 1604 Homecourt – questioned the position of the fencing from the lot line.

Bruce LeRoy – who owns 5 properties in Alden, has also been having devastating issues with the large deer population. Feels Mr. Mitchell has a non-invasive solution, and the board should approve it. There are not enough hunters to keep the deer population under control.

Attorney Trapp – the out-of-control deer situation is all over WNY. He has been the village attorney for over 42 years and has never seen any issues or concerns with Mr. Mitchell or his business.

Michael Manicki – board member – this is also an issue with his residents. The deer are now bolder and jumping the fence to eat the plantings in his fenced in backyard.

Two neighbors replied. 1630 Homecourt were not in support of the variance request, would rather see a 7-foot fence. 1552 Homecourt was not opposed to granting the variance.

MOTION by Tom Kirszenstein and seconded by Michael Manicki, to close the Public Hearing. 6:48 pm Carried.

At this time Chair DeWitt proceeded to review the six criteria for the requested area Variance for the required set back.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the requested area variance? **No, although there are black stakes, the fence itself is see through.**
2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue other than an area variance? **No, he cannot control the deer population, or where they wander.**
3. Whether the requested area variance is substantial? **Yes, the height of the fence is 5 feet higher than allowed by code.**
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district? **No. it is only on his property and does not affect the neighboring parcels.**
5. Whether the alleged difficulty was self-created: which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance? **No, he cannot control nature and the excessive number of deer present.**
6. Whether it will create a hazard to health, safety, or general welfare? **No. will help keep deer and the parasites they carry away from his business and staff.**

MOTION by Tom Kirszenstein and seconded by Charlie Gaffney, to grant the requested variances. Unanimous, Carried.

Respectfully submitted,

Sue Galbraith, ZBA Secretary

