

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE  
BOARD OF ZONING APPEALS HELD AT THE AMBERLEY VILLAGE HALL  
MONDAY, DECEMBER 1, 2008

Chairperson Jon Chaiken called to order a regular meeting of the Amberley Village Board of Zoning Appeals held at the Amberley Village Hall on Monday, December 1, at 7:00 P.M.  
The Clerk called the roll:

PRESENT: Jon Chaiken, Chairperson  
Larry McGraw  
Susan Rissover  
Scott Wolf  
Elinor Ziv

ALSO PRESENT: Bernard Boraten, Village Manager  
Stephen Cohen, Village Solicitor  
Nicole Browder, Clerk

ABSENT:

Mr. Chaiken asked if there were any additions or corrections to the minutes of the November 3, 2008 meeting that had been distributed. Mrs. Ziv moved to approve the minutes as submitted. Seconded by Mr. McGraw and the motion carried unanimously.

Board of Zoning Appeals Case No. 1032

Mr. Chaiken announced that the Board would consider a request from Mr. Paul Calligandes who constructed a new shed in the side yard of his property, prior to obtaining a building permit and zoning approval from the Village, which would require a variance from the zoning regulation that accessory buildings may be built in a required rear yard not nearer to the rear or side lot than the side yard requirement for such lot. Mr. Chaiken invited the applicant to present his case to the Board.

Mr. Calligandes explained to the Board that he visited the Amberley Village website and read the Shed Planning Tips article. He stated that the article referenced that there were specific guidelines as to the distance away from the lot line which was referenced in detail in Code Section 154. He stated that he clicked on the link to read Section 154 and the link was inoperable. He stated that he then called the Village office and spoke to an unnamed employee who informed him that he did not need a permit and the side setback was two feet.

Mr. Boraten informed the Board that a check was conducted with all staff members and no person on staff informed any caller of a two foot side setback. All staff members are aware that sheds require a permit and that the side setback is twenty feet.

Mr. Calligandes stated that he felt that he had performed his due diligence to inquire about whether or not he needed a permit, therefore, he proceeded with the construction of a concrete pad and shed. The shed is located about 6.5 to 7 feet from the property line. He also informed the Board that he sought and received signed letters in support of the shed from his surrounding

neighbors. He then provided the Board with photos of sheds in the area that appear to be in violation of the code.

Mr. Chaiken explained to Mr. Calligandes that the Board is charged with upholding the integrity of the code and that is why, from time to time, sheds and fences are ordered to be brought into compliance with the code. Mr. Chaiken stated that this particular case was brought to the attention of the Village by a complainant, thus prompting violation notice from the Village. Mr. Chaiken explained that most shed variances pose a hardship such as topography; however, he did not feel that this property posed a location hardship.

Mr. Calligandes stated that it would now be a financial hardship to relocate the shed since a concrete pad has been poured and the shed is bolted to the concrete. Mr. Chaiken explained that the current hardship was self-imposed by the act of constructing the shed in a location prior to receipt of the necessary variance, and technically not a hardship the Board should consider.

The Board then discussed with Mr. Calligandes the location of the old shed.

Mr. McGraw stated that typically he would vote to order the shed to be relocated, however, because the concrete pad exists, he would be agreeable to granting the variance.

Mrs. Rissover stated that because there are other sheds in the area which are in violation, it becomes difficult to approve the request unless the entire area is forced into compliance.

Mr. McGraw then moved to approve the shed as submitted with the requirement that landscaping screening be installed on the side and back of the shed to provide a visual buffer from the street view. Seconded by Mrs. Rissover and the roll call showed the following vote:

AYE: MCGRAW, RISOVER, WOLF (3)

NAY: CHAIKEN, ZIV (2)

#### Board of Zoning Appeals Case No. 1033

Mr. Chaiken announced that the Board would consider a request from Beatrice Rosedale for approval to replace her existing stockade fencing along the rear property line with 96-inch high stockade fencing for the purpose of providing a visual and audible buffer from the higher density properties across the corporation line. This request would require a variance from the zoning regulation that fences may not exceed four and a half feet in height in any required side or rear yard. Mr. Chaiken invited the applicant to present their case to the Board.

Mr. John Korra introduced himself as a representative of Ms. Rosedale, who was also present. Mr. Korra explained that as depicted in the photos previously distributed to the Board, the new fence would match the height of a neighboring fence, which was approved by the Village, and provide for additional screening from the apartment buildings located behind the applicant's property.

Mr. Chaiken stated that he understood this property to be located along the Village's southern corporation line. Mr. Boraten then explained that it has been typical of the Board of Appeals to

approve higher fencing along the corporation line to prevent invasive views. Mr. Chaiken then pointed out that the neighboring property did receive approval of an eight foot fence in 2003.

Mr. Wolf then moved to approve the variance as submitted. Seconded by Mr. McGraw and the motion carried with one abstention by Mrs. Ziv.

Mr. Chaiken then asked the Clerk to convey to the Public Outreach Committee the need for the language in the shed article on the website to be revised to include clear and concise permit instructions. Mrs. Browder acknowledged such and agreed to follow-up with the committee.

There being no other business to discuss, Mrs. Rissover moved to adjourn. Seconded by Mr. McGraw and the motion carried unanimously.

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Nicole Browder, Clerk

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Jon Chaiken, Chairperson