

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
BOARD OF ZONING APPEALS/PLANNING COMMISSION
HELD AT THE AMBERLEY VILLAGE HALL
MONDAY, JUNE 2, 2014

Chairperson Richard Bardach called to order a regular meeting of the Amberley Village Board of Zoning Appeals/Planning Commission held at the Amberley Municipal Building on Monday, June 2, 2014, at 7:00 P.M.

Roll was called: PRESENT: Richard Bardach, Chairperson
 Larry McGraw
 Susan Rissover
 Scott Wolf

 ALSO PRESENT: Scot Lahrmer, Village Manager
 Kevin Frank, Esq., Solicitor
 Nicole Browder, Clerk

 ABSENT: Rick Lauer

Mr. Bardach welcomed everyone to the meeting and led them through the pledge of allegiance.

Mr. Bardach asked if there were any additions or corrections to the minutes of the April 7, 2014, meeting that had been distributed. Mr. Wolf moved to approve the minutes as submitted. Seconded by Ms. Rissover and the motion carried unanimously.

Case No. 1079

Mr. Lahrmer presented the staff report for the case submitted by Janet and Ken Cohen, property owners at 7615 French Park Place. The homeowners requested a variance for a front yard fence to enclose an area of the yard for safety reasons and to prevent people from passing through their yard from Ambercreek Drive to French Park Place. The rear yard fence has been extended north to the north property line and west along the north property line to the existing front yard fence (a portion of the old farm fence). It was noted that the fence was in compliance with the height requirement

The applicant's letter to the Board mentioned issues of vandalism to their home and property as well as trespassing. The letter states that the Village's Police Department advised the owners to put up surveillance cameras and fence the property.

The existing front yard fence was a part of old farm fence which surrounded the pond and would be considered grandfathered under the Village Code since it existed prior to the fencing regulations.

Mr. Bardach invited the applicant to address the Board. Mr. and Mrs. Cohen provided the Board with letters of support from the neighboring properties and apologized for not submitting the variance prior to construction of the fence. Ms. Cohen reiterated the safety reasons for seeking the fence and commented that her immediate neighbor, Mr. Little, likes the fence.

Ms. Rissover commented that dividing properties was of concern to her when it comes to setting a precedent. The Board discussed the grandfathered provision as well as the criteria for reviewing variances. Solicitor Frank listed the seven factors (included but not limited to) for a practical difficulty—whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; whether the variance is substantial; whether the

essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; whether the variance would adversely affect the delivery of governmental services, that is water, sewer, garbage; whether the property owner purchased the property with knowledge of the zoning restriction; whether the property owner's predicament feasibly can be obviated through some method other than a variance; or whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

The Board held additional discussion and Mr. Wolf commented that this variance is unique because the fence existed prior to the fencing regulations. He and Mr. Bardach agreed that the fence had been in place for many years, dating back to the original farm that existed. Mr. Wolf stated that for this reason, the fence fits this particular neighborhood. Ms. Rissover commented she did not believe the owner's justifications for wanting the variance were substantiated or justified, including that the fence would help prevent vandalism and deter people from crossing their property to reach French Park, or that the fence would help mark the property boundary or that it would be beneficial under the Zoning Code.

Mr. Bardach asked if there were any interested persons to speak. None were present. Mr. Lahrmer read a letter received from Mike Clemen, adjacent resident at 7615 French Park Place, suggesting the fence variance be denied.

Mr. Wolf moved to approve the variance as submitted, citing that the existing fence was grandfathered, it does fit the neighborhood because a fence has always been there and neighboring property owners are in support of the fence. Seconded by Mr. McGraw and the motion carried 3-1 with one no vote—Ms. Rissover.

There being no further business, Mr. Wolf moved to adjourn, seconded by Ms. Rissover.

Nicole Browder, Clerk

Richard Bardach, Chairperson