

**Village of Pittsford
Zoning Board of Appeals**

Special Meeting – November 17, 2003 at 4:30 PM at Pittsford Village Hall, 21 North Main Street.

Present: Ted Weniger, Acting Chairperson
Remegia Mitchell
Harold Danko
Sally Chamberlin
Linda Lanphear
Jennifer Latshaw, Recording Secretary
John Osborn, Attorney

Purpose: Chairperson Weniger explained that this meeting was a continuation of the Public Hearing held on October 27, 2003 regarding an appeal made by Wilma Beaty as a result of an APRB decision that denied approval for a six-foot chain link fence in the rear of her property located at 17 West Jefferson Road. At the last meeting, the Zoning Board met on the site to determine whether this fence can be seen from Village Grove.

Discussion: Chairperson Weniger opened the meeting at 4:30 P.M.

Chairperson Weniger began the meeting by reviewing the site visit that was completed on November 7, 2003 in which the Board members viewed the fence and its visibility from the Village Grove side at the rear of the Beaty's property. He summarized the Board's findings from that site visit with the following:

1. The fence is visible from Village Grove.
2. The extension that is yet to be built would also be visible.
3. The fence is not visible if moved 100 feet in from the property line.

Chairperson Weniger then made the point that this fence is unfinished and an alternative needs to be reached in order for the Beaty's to build the rest of this fence if that is what is decided. He offered the following alternatives that were collectively gathered from all Board Members as a result of the site visit. They are:

1. Move the rear fence line in 100 feet on the property. A six foot fence can still be installed because it would not be visible at this point and the APRB would therefore not have purview over this.
2. Decrease the height of the fence. If the fence is built at four feet at the back of the property, it could be extended further out before it becomes visible.
3. Screening – shrubs, ivy or a hedge would mitigate the look of the six foot chain link and would therefore look more like landscaping than a fence.
4. Use two types of material and create a transition between fences. For example, use board on board wooden fencing in areas of visibility and then chain link in areas where it is not visible.
5. Possibly look into compensation for the property by the neighbors so that the property line would change and not affect the neighbor's line of site.

Chairperson Weniger then addressed Mrs. Beaty for her input as to whether any of these would be a suitable alternative for them. He stated that if not, the hearing would be closed and the Board would make their decision accordingly. Mrs. Beaty stated that she would not be averse to using some type of screening to lessen the visibility for the neighbors. However, the Board pointed out that because the fence is directly on the property line in most places, it may have to be moved in approximately six feet in order to accommodate plantings on the Beaty's property. She does not agree with the four foot fence option because her dog can jump this size fence and with a pool, it creates liability issues. The option of stepping the fence down to four feet and adding screening did not appeal to Mrs. Beaty due to the cost involved to remove the chain link and adjust the poles. This could mean extensive labor charges on fencing that is already in place. Mrs. Beaty is also not inclined to move the fence in by 100 feet due to possible encroachment issues.

Chairperson Weniger then opened the Public Hearing.

Don Anderson – 1 Village Grove:

Mr. Anderson addressed the board concerning how visible this fence is from Jefferson Road. The board did look at this and told him that they felt it was only marginally visible and therefore not an issue.

David Lent – 2 Village Grove:

He felt that moving the fence in by 100 feet is the best option. He believes that it would solve the issue of visibility. He also feels that the fence could easily be cut and moved back and that the posts are not set in concrete, even though Mrs. Beaty stated that they are.

Pat Anderson – 1 Village Grove:

Mrs. Anderson asked if screening were to be used as an option, who would be in charge of the upkeep, especially in the case of the Beaty's ever moving someday? The Board answered this by stating that if the fence is moved in, the Beaty's would be responsible for it. If the fence is not moved, then the neighbors could plant along it and maintain it.

She also commented that she would like to be sure that the Board considers the letter by the APRB regarding the appropriateness of the material used and whether it will set future precedents. Chairperson Weniger reminded Mrs. Anderson that the APRB requested Mr. Sigrist of the Landmark Society to review the appropriateness of this for them and he wrote a letter in full support of this fence and how appropriate it is for the house.

Lois Lent – 2 Village Grove:

Mrs. Lent addressed the issue of the APRB's decision in regards to the fact that they stopped the entire fence, not just the portion that will be visible. The board addressed this by stating that the APRB has no right to tell you what you can do on the back of your house, only where there is visibility from the public right of way. One question that needs to be looked at is whether they have purview over the whole fence or not.

Mrs. Lent continued her comments by asking if the Zoning Board has discretion over which plants would be used for screening so that they would be year round instead of only ten months out of the year. The Board stated that they can make the screenings conditional on those types of things.

Don Anderson – 1 Village Grove:

He asked the Board if they are overruling the decision of the APRB and looking at other options. Chairperson Weniger stated that they are looking at the decision and either affirming it or modifying it. It cannot be sent back to the APRB for future review. The decision made by the Planning and Zoning Board is final.

David Lent – 2 Village Grove:

Mr. Lent addressed the letter written by Mr. Sigrist from the Landmark Society. He had a lengthy conversation with him and said that Mr. Sigrist felt that Village Code was not up to date. He told Mr. Lent that he does not feel that the fence is appropriate for the area, but that he had to look at the code as it exists and write the letter according to code. Member Mitchell commented that the decision can only be based on the code as it is currently written.

Member Lanphear raised a question regarding the decision by the APRB in terms of using transition materials on the fence. The APRB made a ruling that they would not be happy with the look of two types of fencing used together. A fence that changes styles from chain link for instance to wood would not be appropriate.

Pat Anderson – 1 Village Grove:

Mrs. Anderson made the comment that the type and height of the fence has always been the problem.

Don Anderson – 1 Village Grove:

Mr. Anderson returned to the issue of visibility from Jefferson Road. Is it visible or not? How can the board state that it is somewhat visible and rule that out as a concern? The Board clarified for Mr. Anderson the purpose of the Board. If it is visible, it falls in the purview of the Board. The Zoning Board agrees with Jefferson Road and Green Hills Lane residents that the fence is not any more visible than other fences in the area.

Mrs. Beaty discussed the option of using a transition material. She is open to this idea and would consider a board on board or stockade style fencing and screening to reduce the visibility of the fence. If the fence needs to be moved in for screening, Mrs. Beaty again stated that she is unsure of the cost involved with doing so and whether they would be able to do this.

Chairperson Weniger asked the neighbors what they prefer and Mr. Lent stated that he would prefer a board on board fence. Another neighbor on the other side of the fence preferred screening. The Board members reminded Mr. Lent that a solid, wood fence would be much more visible than an open chain link fence.

Chairperson Weniger closed the Public Hearing at this time.

The Board members collectively reviewed the three questions that are important to answer at this time:

1. Did they APRB have the right to evaluate the whole fence versus only the visible portion?
2. Did they have the right to revoke the permit or not?
3. Are the materials of the fence appropriate?

Board members discussed in depth the possibility of using board on board fencing over the existing chain link. They all agree that this style fencing will be much more visible than using chain link. It was agreed that some areas could possibly remain chain link and would not be visible. Discussion also included the fact that if the back and west portion of the fence was built, it would remove visibility of the western portion of the fence. A question was raised what EXACTLY would be visible from Village Grove if the rest of the fence was built.

Member Mitchell recommended that another site visit take place before the regularly scheduled meeting on November 24, 2003 so that board members could review this site in light of neighbor concerns and visibility issues. Due to the fact that the neighbors want different solutions, it will be difficult to make a decision that keeps everyone happy.

John Osborn reminded the board members that the public hearing is now closed and that they have 62 days to make a decision.

There being no further business, Chairperson Weniger adjourned the meeting at 6:20 P.M.

Jennifer Latshaw, Recording Secretary