

Village of Bartlett
Zoning Board of Appeals
Minutes

March 3, 2016

Chairman Werden called the meeting to order at 7:00 pm.

Roll Call

Present: M. Werden, G. Koziol, B. Bucaro, P. Hanson, L. Hanson, J. Banno

Absent: None

Also Present: J. Plonczynski, CD Director, R. Grill, Asst. CD Director, A. Zubko, Planner

Approval of Minutes

A motion was made to approve the minutes of the November 5, 2015 meeting.

Motioned by: P. Hanson

Seconded by: B. Bucaro

Roll Call

Ayes: M. Werden, G. Koziol, B. Bucaro, L. Hanson, P. Hanson

Nays: None

Abstain: J. Banno

The motion carried.

Case # 16-02 2007 Ridgemore Drive – Variation – Fence Height

PUBLIC HEARING

The petitioners, Jennifer and Daniel Cox, were present and sworn in. They resides at 2007 Ridgemore Drive, Bartlett, IL.

The following Exhibits were presented:

- Exhibit A - Picture of Sign**
- Exhibit B - Mail Affidavit**
- Exhibit C - Notification of Publication**

M. Werden: Go ahead and present your case

J. Cox: My name is Jennifer Cox and this is my husband Dan Cox. We are here to ask to build a 6 foot fence that will be ten feet back from our property line. As you can see the existing fence is at the sidewalk at our property line. We are asking to come back ten feet. We would build a 6 foot privacy fence. There are several reasons we are asking for this. The main reason is we have had a lot of damage done to our property over this past summer. The police were out several times because there were neighborhood kids frequently in our subdivision that were destroying property. Not only on our property but others also. They come in to my backyard, cutting my landscaping lights on the right side that go around my house that are on the ground. They have actually came on our deck and cut the tie out for my dog. My dog can actually jump my fence that's the reason we have the tie out. The last time the cops were at my house in the summer is because they had come into my yard and cut the tie out. I let my dog out on the tie out and she was running all over the yard. They have come into my back yard and ruined my Christmas decorations, they have come in and taken our pumpkins off of our deck and smashed them all outside on the street. They come on my deck and were banging on back windows, actually on my deck off my living room. My husband is a Fireman so he is gone every third day for 24 hours at a time. This always happens at night, it has happened when he is there. I'm scared. It does not make me feel safe when they are coming right up on my property and can see me through the deck windows. Kids are constantly walking back and forth since it is a very busy subdivision. There is always garbage in our yard, pop cans, fast food bags, beer bottles, any number of things that are constantly on the fence line from people walking by all day. One other reason is because I have a 60 pound dog that can and has jumped the fence. We are on a busy intersection and we would like her to be safe in our yard without having to use the tie out. A couple of weeks ago there was a coyote that was standing on our sidewalk when I let me dogs out at about 10:30 pm. The coyote was standing at the fence line looking over my fence into my yard within a foot of my little Jack Russell terrier. That was extremely scary. Our main reason is I'm scared at night, it happened all summer long. We are not the only one. Westridge has a Facebook site that we all talk on. The destruction of property was happening to multiple people. I think it is very brazen of whom ever these kids are that they literally just walk up on my deck and destroy my property. It's just not the outskirts of the property, they are actually coming into my yard.

D. Cox: With a three foot fence they jump it like it's not even there. They are gone before you get to the door to even see them. This has happened a couple of times when I was home and I couldn't even see who it was because they were over that fence and down the block.

J. Cox: Between keeping my dog and myself safe that is why we are petitioning to have a 6 foot fence put up.

M. Werden: Do any of these people ever get caught?

P. Hanson: These juvenile delinquents have never been caught?

J. Cox: From what I understand on the Facebook site, no one has caught them, I don't know if the police have been able to catch these people. I know a lot of the people in the subdivision have cameras. No one has said if they saw the kids on the cameras but it was happening the entire summer.

D. Cox: Into the winter with the Christmas lights and decorations was very frequent. The people's big blow up decorations were getting cut and it's common in our subdivision.

J. Cox: Stealing stuff, they took our pumpkins off of our deck that were on the steps, they actually came into our yard. They smashed the pumpkins all over the sidewalk and the street. It is multiple times of them coming into our yard. Constantly coming into our yard. I was sitting in our living room in the dark with the blinds open, they have had to of seen me! It makes me feel extremely vulnerable and I'm home alone all the time with him gone working at night. The night they cut the tie out it was 11 at night when they came on our deck to cut it. We hang it on our light next to the door and it was cut just 2 feet off the light which means they were standing at my patio door when they were doing this. They had to be looking right at me, I'm shaking talking about this.

D. Cox: It seems what they are doing is just escalating, and we just want a safety measure when I'm gone. I'm gone for 24 hours at a time and she is home alone. It would be nice to have that security blanket because they aren't jumping a six foot fence. They would have to try pretty hard, especially since it is graduating, starting off by breaking little things to cutting line, repeatedly hitting the same houses, jumping on the decks. It getting worse. Banging on the windows. It is just getting worse. As they get older they are just going to get more courage and who knows what they are going to do. We are trying to put a little safety measure for my wife while I'm at work. There are some times that I'm gone 72 hours, three days straight and she's head of the house when I'm gone. There is nothing I can do since I work 20 minutes away in Cook County, so it will take me a while to get back home if something happens.

M. Werden: I took a look there today and it looks very congested right now with all the fencing that is already there. With you being on the corner and your side yard, being what is like a front yard to the neighbors to the south, 6 feet would look congested. They could still throw trash over that. I can appreciate the need for feeling safe and we do have a coyote problem, but this could present a little bit of a problem with 6 feet right there on the corner.

D. Cox: We thought about that, and it's the reason we brought the fence 10 feet off of our property line, if they are going to throw trash or do anything they would have to actually walk onto our property to throw anything over the fence or anything that they are going to do they would need to get off the sidewalk.

P. Hanson: Then they are actually on your property.

D. Cox: We are not putting it on the side walk as you can see we want it 10 feet off to give us a little break.

P. Hanson: I think that's really important that you already have proposed that. If you'd proposed to the sidewalk I can tell you I don't think that would have happened, ever.

J. Cox: We don't want to pose a safety issue for our neighbors either. We have talked to our neighbors that live at Cedarfield, the driveway right there. We have talked to them about this, we had them out there, and we were measuring, we were showing them what we wanted to do. They are the ones that wrote the letter that said it was ok. All aesthetics aside it would not pose a safety problem for them. We are not be selfish here, we are not just being in it for what we want out of it. I would never put the fence there and compromise someone else's safety. It wouldn't even make sense.

D. Cox: We discussed it on multiple occasions, and they were fine enough with it to write the note.

P. Hanson: What is the actual type or style of the fence? I know you are putting up a wood fence.

J. Cox: Same type of fence only taller.

D. Cox: It's going to match it, same company that installed the other one.

J. Cox: It will be the exact same thing. We understand that they get ratty looking and look run down after 3 or 4 years and a lot of people let it go and we are taking on the responsibility of the upkeep. We don't have any problem with that. We are not going to let boards fall off and rot and hanging half way over into our yard and then the wind blows it down. We are going to take care of it and up keep it. Just like we do now.

G. Koziol: As I always do, I drive out to look at property and the neighborhoods and try to use that information to help me come to a decision. All of the cases like this we are challenged with a number of points that we need to look at to consider. I am going to address several of them that I'm concerned with. One is point B: In our recommendations list it says conditions upon which the petition for variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties within the same zoning classifications. As I drove the neighborhood looking for other situations where it's a side to a front. They are many homes like this. I also have to say that there are many 3 foot fences like yours. Some go to the property line and some are set back, but I did not see any 6 foot fences in the side yards. I did see 6 foot fences that are within the side site line of the house so if you came straight off the house, I have seen 6 foot fences there, but not into the side. There might be but I didn't check every home in the development, but I did drive around quite a bit to see if there were any. Also item E that says granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhoods in which the property is located. What I saw were numerous side yards with 3 foot fences to the sidewalk or set back. Again I saw no 6 foot fences in the side yards. Our ordinance about fences was recently changed for side yards for 3 feet to 4 feet to address problems like this where the 3 foot fence was just too low. Typically I would say many if not most fences that are installed here in town are of the 4 foot variety. Our item F that the proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the adjacent neighborhood. I feel this proposed fence blocks part of the visibility off the driveway of the property at 220 Cedarfield. It obstructs the view approaching the property from the south along Cedarfield. As you are heading north on Cedarfield what you will see will be this, for lack of a better term, sort of a box, a stockade fortress that is sticking outside of the property line of the house into the side yard. If you look to the north I saw no side yards that have any sort of obstruction in them. I feel this is not in keeping with the other properties in the neighborhood, and might possibly be an impairment of their home values. Item G granting of the variance requested will not confer on the applicant any special privilege that is denied by the provision of this title to other lands structures or buildings in the same district. My comment is do we need to give a special privilege when others throughout the neighborhood have abided by, in this case, the old ordinances of 3 feet. The recent change of our ordinance to allow 4 foot fences in side yards is intended to address requests such as this. My question to you is why isn't a four foot fence being considered?

J. Cox: We have considered a 4 foot fence. Another 12 inches onto the fence that is already there is not going to resolve any of the issues that we have. My dog can still jump it and we will still have to use a tie out for her which is extremely inconvenient. Any one over the age of 10 is still taller than a 4 foot fence and they will still be able to jump it, still be able to see into the yard, and still be able to see any of our decorations and our pumpkins. All the things that I listed as to why we are getting a fence, the 4 foot fence isn't going to change any of that. They are still going to see in, still be able to jump it, the dog will still be able to jump it. I don't see the 12 extra inches resolving any of the issues that we are having with the 3 foot fence now, we have considered it. We are looking for privacy and safety and putting a 4 foot fence in place of a 3 foot fence will not change any of my issues.

D. Cox: We noticed you added the 4 foot fence variance that would be on the existing fence now that's why we brought it back 10 feet hoping we can get the 6 foot fence. There are multiple houses in our subdivision that have a 6 foot fence that don't follow the house line, they are brought out. It's been done in our subdivision, not sure if it grandfathered in, not sure I didn't look at each house and ask about it. We know that it was 4 feet that's why we backed it up 10 feet, hoping to get a 6 foot fence.

J. Cox: I'm sure by driving around that people are getting around this is by putting up 6 to 8 foot Boxwoods. Leaving that fence there and putting up 6 foot trees does not seem to have any push back from the Village about doing that. If we put six foot Boxwood up against that fence that is already there we will be obstructing their view for my neighbors and there will be a green wall instead of a wood wall. Our neighbors van will be in the street before they can see if they have clearance. Bringing the fence back 10 feet it is actually taking the safety concern away from our neighbors, instead of putting the tree line there. There are a few houses in our subdivision that you cannot see past the sidewalk because the trees create a wall.

D. Cox: Even in the winter without leaves you cannot see through the trees.

G. Koziol: In my travels through that area I don't remember seeing more than a couple that were that way that had some kind of vegetation of some sort. I do have a question for staff. Have there been requests for 6 foot fences in side yards for situations like this?

A. Zubko: No, this has been the first variance request.

G. Koziol: Like I said when I drove the neighborhood I saw many structured situations like this but many of them had no fence, some had 3 foot like you do or set back. I'm having a problem with a 6 foot stockade fence in a side yard because when I look north on this street I'm going to see this thing sticking out that is not consistent with the homes to the north. When I look to the north I see nothing but open space, now I'm going to see a six foot stockade fence. When I look at the property at 220 Cedarfield it looks like they are getting is a 6 foot fence in their front yard.

J. Cox: It's their side yard and we have discussed it with them already and they are the ones that wrote a letter. They have no problems, we have told them exactly what we are doing and showed them our plans to put up the same fence that is already there but 6 foot instead of 3 foot. They have no issue with it I did not beg them. I showed them what we are going to do and they were fine with it. I get that it will look different but I don't have any comment on that.

G. Koziol: Isn't that driveway coming off the front of their house to the street? It's coming off the garage.

D. Cox: It's coming off the north side of their house. Their property line only goes out 8 feet.

G. Koziol: The van parked is parked in front of the garage. It kind of looks like it's their front yard, although it your side yard. I think it looks inappropriate there.

M. Werden: Another advantage is that when you have an open fence is that you can tell if someone is on the other side doing some mischief, or a coyote also. With a stockade fence you cannot tell if someone is there. It has the appeal of a barricade blocking the light and air.

J. Cox: If we put up 6 or 8 foot Boxwoods the exact same problems will still exist. They may look better but safety, light, air and blocking the driveway not seeing anyone around the corner, those issues will exist if we put Boxwoods.

P. Hanson: Let's be honest, if you drive down Prospect and you see where they put Boxwoods up they let them overgrow on the sidewalk and from a visibility standpoint they are worse than a 6 foot fence. No one maintains them.

J. Cox: They stick out of the fences. The blocking, safety, side yard all that stuff will still exist even worse with trees. There isn't a problem with that in the ordinance. That's why we are compromising, esthetically it looks worse than trees, and I totally get that.

P. Hanson: You have an association in that neighborhood also, what was their position regarding this? Have they had any comments on what you are proposing to do?

J. Cox: We have not discussed it with them.

D. Cox: We needed to get an approval through you before we even start that process. If you deny this we wouldn't even bother with the association. This past year when we got our first fence we went through you first, then the HOA.

G. Koziol: Question to staff, isn't the back page of the permit or application, must be presented to HOA stating the HOA is in agreement with what you are proposing?

P. Hanson: I have never signed one.

A. Zubko: It is just an affidavit saying that they are aware if there are any HOA rules that they will abide by them. It takes the burden off of what is ever more restrictive.

G. Koziol: But they could object.

P. Hanson: Of course they could but it would have to be in the by-laws and covenants.

J. Cox: I haven't looked recently but I can tell you when we bought the house in June 2014, we looked over the HOA rules and one of the reasons we bought the house is because at that time there were no fencing issues. If there were we would not have bought the house. When we got our fence put up and took the existing 6 foot fence down we dealt with the Village first then the HOA.

D. Cox: The HOA said as long as the Village approves it then the HOA will also.

M. Werden: Anyone else?

A. Zubko: The letter from the neighbor that is most effected is in your packet.

B. Bucaro: My problem is more with the type of fence. The stockades, while it achieves some of your objectives of privacy, ascetically looking down that street it looks like a stockade fence compared to a fence that would give you protection because they are not going to cross it. Wood on wood shadow box fence is more ascetically pleasing than the stockade fence. If it were a more appealing type of fence it would not be as obtrusive as a stockade fence.

J. Cox: We did discuss different fences but you can still see into our yard and our Jack Russell can walk right through them. Anything where people can still see into our yard, and whomever have been terrorizing our subdivision, the ability to see what we have in there and come into our yard if they want. Aesthetically, Shadow Box fences looks nicer but we will resort to putting trees up if that is the type of fence we need to put up. Rod Iron and Shadow Box fences still allow people to see in our yard and that makes me feel extremely insecure. It was a very bad summer for me.

P. Hanson: Do you intend on putting a gate up on that far side?

J. Cox: There will be 2 gates. There will also be a 3rd gate for the utility box so they will have access to the boxes.

G. Koziol: I understand that your situation is somewhat unique, you have people coming on your property, as well as coyotes. I lived in my community for 25 years and it's a wooded community no fences and I'm on my third dog. We handle it by putting my dog on a leash and we go out for a walk, 365 days a year. It can be done.

J. Cox: Yes, but I would also like to go out and enjoy my property and yard with my animals. We walk them now, we walk them every day. We keep our dog tethered, we cannot even play with them knowing they can get out or jump the fence. The dog doesn't have a lot of room to run. Kids walk by and tease the dogs, they have never bitten before but we don't want to take a chance of something bad happening. Safety issues are number one concern.

J. Banno: What about replacing the fence with something that you cannot see through something similar to what you have on that 3 foot fence that will keep coyotes out, kids out and protect the dogs.

D. Cox: We are not opposed to different styles but we would prefer the solid fence. It would have to be small because my Jack Russell can stick his head through. That's why we put up the solid fence on the one side because my neighbors dogs and my Jack Russell were going at it. Another time, My Jack Russell and a coyote were literally nose to nose through the fence.

P. Hanson: Been there.

J. Cox: The slats would have to be smaller than that to solve our problems. That's why we're saying if this is what we are going to be granted then we will just plant bushes to stop that problem from happening. The coyotes are crazy in our subdivision. On the subdivision website people post that they see them almost every night. We will stain the fence and we are fully aware of the upkeep that it will take.

P. Hanson: They walk down Stearns Road.

B. Bucaro: Question for staff: were there any phone calls in response to the notices from anybody? We have the one letter from the neighbor, but beyond that?

A.Zubko: I did not receive any phone calls.

B. Bucaro: So no comments what so ever.

A.Zubko: The sign was up actually early.

J. Cox: I sent out maybe 40 letters to the neighbors telling them what we intend to do with the fence. I know the whole subdivision saw the notice, it was pretty big. People were slamming on their brakes trying to read the sign.

A.Zubko: She included a map with the notice, to notify them of what they were planning to do as well.

J. Cox: I thought people were going to be at our door, or on the Westridge Facebook page, I was ready to talk to people.

B. Bucaro: The corner side yard is the issue, but just about every rear yard in that entire neighborhood is fenced. Almost every single one. On Google Earth you can see a lot of swimming pools in fenced in yards. I know this is a different issue but I think people are so used to fences that they come to accept it.

D. Cox: There are a lot of kids in the neighborhood and everyone likes the safety aspect of a fence.

M. Werden: Anything else? At this time we will open it up to the public. Anything else going on? Any further comments or motions?

P. Hanson: I would like to make a motion to send an approval to the Village Board for #16-02, 2007 Ridgemore Drive, variation fence height.

L. Hanson: I second that.

M. Werden: At this time we will close the Public Hearing portion, it has been moved by Patti seconded by Linda to recommend approval. Any further discussion?

G. Koziol: I have to make a comment, I was a strong advocate in the change in the ordinance from 3 feet to 4 feet. That is a strong issue to me. That stockade fence in a side yard and where I can't see any others is another issue.

M. Werden: I echo George's comments on that. Anyone else? Please call the Roll:

Yes

No

J. Banno

G. Koziol

B. Bucaro

M. Werden

P. Hanson

L. Hanson

M. Werden: you have the majority of the people so it will pass on a positive recommendation to the Village Board. Stay in touch with Angela as to when it will be on the agenda.

P. Hanson: Find out who those kids are that's terrible.

M. Werden: Tell them to go after the coyotes instead.

G. Koziol: Maybe you need one of those cameras they use for hunting, it takes pictures within a certain range. Share that with your neighbors.

P. Hanson: I back to 4 ½ acres of green space and I have a 3 foot fence. The coyotes run in packs through there. Air horns work really well, motion detector lights.

J. Plonczynski: Old Business, New Business is what you have in front of you are the Service Recognition for service to the Zoning Board and also treats for those of you who have been on for a little while. You are getting your mug and treats. Recognizing Mike Werden for 37 years of Service. George Koziol has 13 years of service. The Village appreciates that, as well as the staff. This was an idea from one of the Village Trustees to recognize those terms of longevity. The rest of you have something to look forward to.

G. Koziol: I have to say with my 13 years I'm trying like the dickens to catch up to Mike. I have to give a thank you to staff and the Village Board for doing something like this. It's nice to be recognized.

M. Werden: It is nice, thank you. I got the 25 year one when it was actually 26 years, that's when Julie researched and found it. I was appointed in March but the first meeting was in April. Anything else?

P. Hanson: I make a motion to adjourn the meeting. 7:45

All in favor Ayes!!!