

The RACOG Cooperative ZBA met in regular session on Wednesday, November 4, 2020. Present were T. Kight (7:11), D. Austin, R. Blank, B. Fetterly and T. Heagle. Vice Chairperson Austin called the meeting to order at 7:00pm.

Motion by R. Blank, seconded by T. Heagle to dispense with the reading of the October 7, 2020 minutes and to approve the minutes as presented. Ayes-4, Nays-0. Motion carried.

Proof of notice having been furnished, the public hearing on the application for an area variance received from Jessica Anderson, 16 North Jefferson Street, West Carthage (parcel no. 86.48-1-26) was called to order at 7:02pm. No one addressed the Board.

Chairperson Kight summarized the area variance application for parcel no. 86.48-1-26 stating that the applicant installed a fence without applying for a permit. A subsequent zoning permit application was denied because the fence does not comply with the following sections of the V/West Carthage zoning law:

- 91-16C; Subsection 3: No fence or wall shall be more than 6 feet in height in the rear or side yards nor more than 42 inches in front yards.
- 91-16C; Subsection 4: A fence or wall shall be located at least 6 inches from any adjoining property line and at least 3 feet from any sidewalk or street line.

The subject fence is 71" tall in the front yard and abuts to a fence on the adjoining property.

All persons desiring to be heard, having been heard, the hearing was closed at 7:15pm.

The following resolution was offered by D. Austin and seconded by T. Heagle, to wit:

WHEREAS, the RACOG Cooperative ZBA has received an application from Jessica Anderson for parcel number 86.48-1-26 for a variance of the V/West Carthage Zoning Law, Article 4; Section 91-16C; Subsection 3 and Article 4; Section 91-16C; Subsection 4, and

WHEREAS, in connection with such application, the Zoning Board of Appeals has received and reviewed an application and environmental assessment form, held a public hearing and received comments thereat; and

WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

- A. The Board concludes the fence would produce an undesirable change in the character of the neighborhood or detriment to nearby properties.
- B. The Board concludes that the benefit sought by the applicant could be achieved by some method, feasible for the applicant to pursue, other than a variance.
- C. The Board concludes that the variance is substantial.
- D. The Board concludes that the variance would have an adverse visual impact on the physical conditions of the neighborhood.
- E. The Board concludes that the alleged difficulty is self-created.

NOW, THEREFORE BE IT RESOLVED that the application from Jessica Anderson, parcel number 86.48-1-26, for a variance of Article 4; Section 91-16C; Subsection 3 and Article 4; Section 91-16C; Subsection 4 of the V/ West Carthage Zoning Law is hereby denied.

The foregoing resolution was duly put to a vote as follows:

- D. Austin.....aye
- R. Blank.....aye
- B. Fetterly.....aye
- T. Heagle.....aye
- T. Kight.....aye

Resolution adopted.

Chairperson Kight presented an area variance application for parcel no. 88.33-2-3 owned by Michael and Julie DeGan and located at 878 State Street, Carthage. The applicants are seeking a variance to install a fence on the boundary line separating their driveway from the neighbor located at 872 State Street. J. DeGan stated that the zoning permit was approved by the Village Code Enforcement Officer. Consequently, the Town of Wilna Cooperative Planning Board reviewed the permit following a complaint by the neighbor, conducted a site plan review, and denied the construction of a fence to separate the adjoining driveways. The planning board's findings were communicated in a letter to the enforcement officer dated September 15, 2020 as follows:

- 1) The fence causes a safety issue, by denying access for First Responders to the rear of the property at 872 State Street.
- 2) The fence causes property maintenance issues for both properties, 878 cannot maintain fence and 872 cannot maintain the side of house.
- 3) The fence may cause a snow removal problem for both properties because of the piece of the fence that extends past the house at 872 State Street.

Board members R. Blank and D. Austin questioned why the Planning Board conducted a site plan review for an accessory use requiring only a zoning

permit application and the RACOG Cooperative ZBA's authority to consider a variance without a denial from the Code Enforcement Officer. Board members agreed, by consensus, to request an opinion from the village attorney.

Motion by D. Austin, seconded by T. Heagle to adjourn. The meeting adjourned at 7:36pm.

Christina Vargulick
RACOG Cooperative ZBA, Secretary