

Village of Caledonia Zoning Board of Appeals
Meeting Minutes for Steven Mance Public Hearing
August 15, 2018

Members Present:

Steve McIlwaine, Bob Middleton, Patrick Talty, Sarah Santora, William Hughes

Others Present:

Colleen Mance
Stephen Mance
Sandy Ancker
Vickie Lauffer
Mary E. Sterling
Jonathan R. McColl

Steve McIlwaine called the meeting to order at 7:00 with the Pledge of Allegiance.

Mr. McIlwaine stated the purpose of meeting, which is a Public Hearing for application for a use variance to the Zoning Board of Appeals by Stephen Mance. Mr. Mance, 3039 Ida's Lane, would like to construct an 8' tall fence in his yard, for the purpose of enclosing a garden. This meeting is to get neighbors' input/feelings about this project.

Questions and Discussion About the Fence

Mary Sterling asked how big the fence would be, and Sandy Ancker asked if the entire backyard would be enclosed.

Mr. Mance answered that the fence is 50' x 90'. This is not the entire backyard.

Sarah Santora asked what the fence is made of.

Steve Mance stated that it would be steel wire fence, with 6" x 6" squares; this type of fence is often seen in orchards to keep deer away from trees. This is not a privacy fence; you can see through it.

Vickie Lauffer asked why the proposed height is 8' instead of 6'.

Mr. Mance stated that it's a deer trail along the back hedge. Needs to have height to keep deer out.

Mary Sterling asked if there is another fence like this in the village.

Patrick Talty stated that in the time he has served on the Zoning Board of Appeals, we have not had a similar request. He then explained the variance process.

Neighbors present all stated that they cannot see the fence from their property, and since it's for a garden, they don't have a problem with its construction.

Jon McColl, 3041 Ida's Lane, stated that he has no problem of Mr. Mance putting up 8' fence. He can attest to the deer and other animals who come through there, and understands why they would want to install the fence.

Patrick Talty confirmed that Mr. McColl is closest neighbor who would be affected.

Sarah Santora asked if the fence come down in the off-season.

Mr. Mance stated that no, it's a permanent fence.

Steve McIlwaine stated that the Board must look at this project with a viewpoint from the entire Village. He does understand the Mance's concern, as he has a neighbor whose garden has been destroyed by deer. But he also stated that he is concerned about setting a precedent, and that anyone in the village could come to the ZBA to request an 8' fence because deer are destroying garden, whether they actually are or not.

Mary Sterling asked if Mances can put a topper on a 6' fence? (Kind of a netted cover.)

Mr. Mance replied that no, that wouldn't work. He is 6' tall and would hit his head.

Additionally, if a deer jumped the fence and landed on the cover, how would you get it out?

Sarah Santora stated that this is a unique situation. That Mances are on the outskirts of the Village, and their home backs up to a field. How does this affect other requests?

Patrick Talty stated that we don't know for sure that a 6' fence won't deter the deer.

But due to the cost – if a 6' fence is installed and does not work, redoing it into an 8' isn't reasonable.

Steve McIlwaine asked if using a 6' fence and planting deterrents around the perimeter would work.

Mr. Mance stated he plans to plant deterrents even with an 8' fence.

Bob Middleton asked that since a 6' fence hasn't been tried, how do we know it will fail?

Mr. Mance stated that based on his research, an 8' fence is most successful.

Steve McIlwaine stated that at a recent Village Board meeting, there was discussion of allowing 8' fencing in the village.

Steve McIlwaine asked Mr. Mance when he is hoping to start construction.

Mr. Mance replied that he would schedule the work with a contractor. He will stake it out and start tilling soon if the Variance is approved.

Mr. Mance clarified:

If a 6' fence fails, next step is returning to ZBA? He doesn't want to invest the money in a 6' fence to have to redo it to an 8' fence. He will have spent \$3k on the fence and have to spend it again to fix it.

Steve McIlwaine stated that if Mances were denied with ZBA, their next step would be to go to a State Appeals court. The ZBA has 62 days to make a decision after tonight's

hearing. Steve will talk with Ed Russell to see about extending the 62 days in hopes of a better outcome and decision with Village Board.

Mary Sterling asked what an extension of final decision would accomplish.

Steve McIlwaine replied that with an extension, we might have a decision from Village Board that would allow 8' fence.

Steve McIlwaine suggested the Board not make a decision tonight; he thinks it is wiser to postpone than make a "no" decision and be able to make a more informed decision.

Patrick Talty stated that if the ZBA makes a "no" decision tonight, Mances are out of luck. If the ZBA postpones, there might be a chance of Village will allow. He also stated that Mances are welcome to install a 6' fence; it meets the setback requirements.

Mr. Mance asked if he could attend the Village Board meeting.

Yes, but he needs to be on the agenda with Ann Marie to speak at the meeting.

If a vote was taken tonight the board would vote:

Bill Hughes: no

Sarah Santora: yes

Bob Middleton: no

Patrick Talty: no

Steve McIlwaine: no

The Board feels the need to further research and discuss.

Sandy Ancker asked if there were strict guidelines, would this be easier?

Mrs. Mance added, like homeowners had a certain amount of land to allow this big of a fence?

Bob Middleton expressed concern about other residents.

Vickie Lauffer asked if the DEC recommend a certain height fence?

Bill Hughes asked Mr. Mance how big his property is.

.92 acre

Motion by Bob Middleton to meet on October 10 instead of October 17. Seconded by Sarah Santora.

Aye: Steve McIlwaine, Bob Middleton, Patrick Talty, Sarah Santora, William Hughes

Nay: none

Abstention: none

Sarah Santora said she needs to further understand purpose of our job, and what our role is. If she is reading guidelines correctly, it is not to worry about precedence, but to take it on a case by case basis. Are we supposed to deny based on what may come in the future? If we have to deny, can we explain why?

The Board discussed how the criteria and precedence may affect decision.

Patrick Talty said that in the Mance's favor:

- 1: This is less than 20% of Mance's property.
- 2: Neighbors fully in support
- 3: This fence does not use an excessive amount of green space in the yard.

The Board discussed how this case meets the required criteria for a Use Variance.

Undesirable Change:

Patrick – neighbors don't care

Steve – 6' is allowed

Bob:

The way we handle this situation is how we need to handle this next time.

It may not affect the outcome, but it needs to affect the procedure.

Feasible Alternate to Variance

6' fence

Patrick Talty: Not reasonable to spend \$3k on a 6' fence and the possibility that it won't work. What about a 6' fence with some plantings to keep deer at a distance?

Patrick Talty:

Removing precedence from the equation, where do we stand on the merit of the request?

Action items:

Bob: Contact DEC

Steve: Talk with attorney and mayor

Liz: Send minutes to attorney for review and advice; ask Mike if material they're using is within code

Motion by Patrick Talty, seconded by Sarah Santora, to adjourn at 8:10 pm.

Aye: Steve McIlwaine, Bob Middleton, Patrick Talty, Sarah Santora, William Hughes

Nay: none

Abstention: none

Elizabeth Dietrich

Secretary, Zoning Board of Appeals