

**-VILLAGE OF YELLOW SPRINGS
BOARD OF ZONING APPEALS
MINUTES**

In Council Chambers @ 5:30 P.M.

Wednesday, April 2, 2025

CALL TO ORDER

The meeting was called to order at 5:30 p.m. by Anthony Salmonson, Chair.

ROLL CALL

Anthony Salmonson, Chair, and members Scott Osterholm and Dino Pallotta were present. Zoning Administrator for the Village, Meg Leatherman was also present.

COMMUNICATIONS

There were no communications received.

REVIEW OF AGENDA

There were no changes made.

REVIEW OF MINUTES

Minutes for BZA Meeting of February 12, 2025 were reviewed. Pallotta MOVED and Osterholm SECONDED a MOTION TO APPROVE THE MINUTES AS WRITTEN. The MOTION PASSED 3-0 on a VOICE VOTE.

PUBLIC HEARINGS

Wayne Gulden and Bette Kelley, property owners, submitted a Variance application seeking relief from Chapter 1260.01(a)(1), for allowance of a fence height of five feet in the front yards. The property is located at 802 S. High St. in the Medium Density Residential (R-B) District.

This variance request has one component:

- 1) Variance request of one (1) foot, to allow a five (5) foot fence in both front yards.

The home was originally constructed in 1925 and was purchased by the present owners in 2024. Presently a 4 ft wire fence exists that is intertwined with trees and bushes. They would like to remove the existing fence and place a new wire fence in the same location to keep deer out of their yard. They are gardeners and dog owners and would like to keep the areas protected from deer.

The zoning code states that fences in front yards must not exceed four feet (VC 1260.01(a)(1)). The property is a corner lot and code section 1260.01(a) requires that corner lots have two front yards. The applicant requests a five-foot fence in the front yard for approximately 100 ft in the north front yard and 30 ft in the east front yard.

Leatherman noted that the fence is set back from the corner more than 20-feet, so will cause no vision issues for the intersection. She stated that staff support the application.

Wayne Gulden and Bette Kelley were both sworn in by the Chair.

Gulden advocated for the fence as described in the narrative provided by Leatherman. He stated that they like to plant pollinators, which the deer like to eat.

Kelley related a story involving a fawn, a doe and the couple's small dog, which resulted in the couple learning a great deal more about fawns and their dog learning a great deal more about deer hoofs. The experience has led the couple to desire a taller fence.

Pallotta noted a home a block away which has dogs and has a four-foot fence on a corner lot, commenting that there are methods to discourage deer from jumping which do not require a taller fence.

Pallotta asserted that he favors consistency regarding BZA decisions.

Salmonson OPENED THE PUBLIC HEARING. There being no comment, he CLOSED THE PUBLIC HEARING.

The Clerk then read the Duncan Standards as applicable to the variance of one foot, to allow a fence height of five feet in the front yards, calling roll on each standard:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Salmonson: Y; Osterholm: Y; Pallotta Y

- (2) Whether the variance is substantial; Salmonson: N; Osterholm: N; Pallotta N
- (3) 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; Salmonson: N; Osterholm: N; Pallotta N
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection; Salmonson: N; Osterholm: N; Pallotta N
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Osterholm: Y; Pallotta Y
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Osterholm: Y; Pallotta Y
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Osterholm: N; Pallotta Y
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Salmonson: Y; Osterholm: Y; Pallotta Y

Osterholm MOVED and Pallotta SECONDED a MOTION TO APPROVE A ONE FOOT VARIANCE TO FENCE HEIGHT AS REQUESTED. The MOTION PASSED 2-1, ON A ROLL CALL VOTE, with Pallotta voting against.

AGENDA PLANNING

There are no applications pending.

ADJOURNMENT

There being no further business, Pallotta MOVED and Osterholm SECONDED a MOTION to adjourn. The MOTION PASSED 3-0 on a voice vote. Meeting ADJOURNED at 5:48PM.

Anthony Salmonson: Chair

Attest: Judy Kintner, Clerk