

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

**In Council Chambers @ 5:30 P.M.**

**Wednesday, June 4, 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, Matt Raska, Matt Reed and Dino Pallotta were present. Zoning Administrator for the Village, Meg Leatherman, was also present.

**COMMUNICATIONS**

Jennifer Berman re: Request for Variance  
Susanne Ordonez re: Request for Variance  
Ross Behnfeldt re: HOA Approval for Variance (Spring Meadows)  
Jay Smithberger re: Conditions for Glenview Variance

**REVIEW OF AGENDA**

There were no changes made.

**REVIEW OF MINUTES**

Minutes for BZA Meeting of May 7, 2025 were reviewed. Raska MOVED and Osterholm SECONDED a MOTION TO APPROVE THE MINUTES AS WRITTEN. The MOTION PASSED 4-0 on a VOICE VOTE, with Reed abstaining.

**PUBLIC HEARINGS**

The Chair swore in those present intending to speak.

1. Variance – Tammy Fox has submitted a Variance application seeking relief from fence height at 145 Kenneth Hamilton Way – Chapter 1260.01(a)(1) Fence Height of corner lots, Chapter 1278.04 Variances – Moderate Density Residential District (R-B) - Greene County Parcel #F19000100020019700.

Leatherman explained the request as follows: Tammy Fox, property owner, submitted a Variance application seeking relief from Chapter 1260.01(a)(1), for allowance of fence height of six feet in the front yard. The property is a corner lot and VC section 1260.01(a) requires that corner lots have two front yards and fences are only allowed to be a height of four (4) feet in a front yard.

The property is located in the Spring Meadows subdivision at 145 Kenneth Hamilton Way in the Medium Density Residential (R-B) District. The front entrance of the home faces Kenneth Hamilton Way or west, while the side yard facing north has frontage along Snowdrop Drive. The applicant requests a six foot fence in the front yard that has frontage on Snowdrop Drive.

The fence would be set back from the corner by more than 20 feet. Public Works has determined that no utility access would be affected if the fence were constructed.

Raska received confirmation that the fence would not interfere with any form of service delivery or maintenance.

Ms. Fox stated that she desires a six-foot fence so that her fence will align with the neighboring rear-yard fence so that the yards present a visually level appearance. The neighboring fence has not yet been constructed, she said, but is planned.

Pallotta received confirmation that the HOA is agreeable to a six-foot front yard fence despite a condition listed in the HOA agreement that bars front yard fences of any height.

Fox noted that the HOA requires a 1.5-inch gap between boards to lessen the barrier effect of the fence.

Salmonson OPENED THE PUBLIC HEARING.

There being no comment, Salmonson 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; Raska: Y; Reed Y
- (2) Whether the variance is substantial; Salmonson: Y; Osterholm: N; Pallotta Y; Raska: N; Reed: 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; Raska: N; Reed: 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; Raska: N; Reed: N
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Osterholm: Y; Pallotta Y; Raska: Y; Reed: Y
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Osterholm: N; Pallotta Y; Raska: N; Reed: N
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Osterholm: Y; Pallotta Y; Raska: Y; Reed: 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; Raska: Y; Reed: Y

Raska MOVED and Pallotta SECONDED a MOTION TO APPROVE A VARIANCE REQUEST OF TWO (2) FEET, TO ALLOW A SIX (6) FOOT FENCE IN THE FRONT YARD AS REQUESTED. The MOTION PASSED 5-0, ON A ROLL CALL VOTE.

2. Variance – Jennifer Berman has submitted a Variance application seeking relief from number of Transient Guest Lodging Units within 500 ft at 309 W. Whiteman St. – Chapter 1262.08(e)(7)(B) TGL Location, Chapter 1278.04 Variances – Moderate Density Residential District (R-B) - Greene County Parcel #F19000100040007500.

Leatherman listed compliant noticing actions taken. She then explained that Jennifer Berman and Matt Minde, property owners, submitted a Variance application seeking relief from number of Transient Guest Lodging units within 500 ft, Code Section 1262.08(7)(B). The property is located at 309 West Whiteman Street in the Medium Density Residential (R-B) District. The owners would like to operate a Transient Guest Lodging Unit, which is Conditional Use in the R-B zone.

There are several Transient Guest Lodging Units operating in the vicinity. The closest one to the subject property is 128 feet away and is located at 324 West Davis Street. Leatherman noted that most, if not all, of the existing TGLs in that area pre-date the 500 foot minimum distance requirement.

Pallotta RECUSED from the hearing and left the dias.

Jennifer Berman stated that she and Matt Minde purchased the home about 14 years ago, and while she had intended to use the additional space as a studio, but increasing costs have dictated the need to use the space to earn additional income.

Reed asked whether they had considered renting the space long-term.

Berman stated that they had attempted this and had met with numerous problems. She added that she would like to use the spot as a studio at some point, making long term rental less desirable.

Berman explained that there are two off-street parking spots available.

Salmonson OPENED THE PUBLIC HEARING.

There being no comment, Salmonson CLOSED THE PUBLIC HEARING.

Reed stated that he had pushed Council to limit the number of short-term rentals out of concern regarding decreasing housing options in the village. He noted that preventing homeowners from renting

space in their homes to be more able to remain in the village was not an outcome desired in coming up with the 500-foot rule.

Osterholm added that the rule was meant to prevent loss of housing, not to prevent resident homeowners from additional income.

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; Raska: Y; Reed: Y
- (2) Whether the variance is substantial; Salmonson: Y; Osterholm: Y; Reed Y; Raska: 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: Y; Osterholm: N; Reed N; Raska: 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: Y; Osterholm: N; Reed N; Raska: N
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: N; Osterholm: Y; Reed N; Raska: Y
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; Salmonson: Y; Osterholm: Y; Reed Y; Raska: Y
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: Y; Osterholm: Y; Reed Y; Raska: 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; Reed Y; Raska: Y

Osterholm MOVED and Raska SECONDED a MOTION TO APPROVE A VARIANCE TO THE 500 FOOT MINIMUM DISTANCE REQUIREMENT BETWEEN TGLs FOR A VARIANCE OF 372 FEET AS REQUESTED. The MOTION PASSED 3-1, ON A ROLL CALL VOTE, with Salmonson voting against.

3. Variance – Suzanne Ordonez has submitted a Variance application seeking relief from rear yard fence height at 1436 Glen View Rd. – Chapter 1260.01(a)(4) Fence Height, Chapter 1278.04 Variances – Low Density Residential District (R-A) - Greene County Parcel #F19000100170003100.

Leatherman noted compliance with noticing requirements.

Susanne Ordonez, property owner, submitted a Variance application seeking relief from rear yard fence height, Code Section 1260.01(A)(4). The property is located at 1436 Glen View Rd. in the Low Density Residential (R-A) District. The owner would like to construct 8-foot fencing in the rear to prevent deer from coming into the yard.

The rear of the subject property adjoins a lot that includes the Birch III stormwater retention area that includes a berm. The berm makes the grade higher than the subject property and allows easier access for the deer to enter the subject property.

Raska received confirmation that the irregular shape of the rear lot line would not pose a problem in constructing a fence.

Pallotta received information that neighboring yards do have fences.

Reed asked whether the type of fence could be conditioned.

Susanne Ordonez explained that the deer became accustomed to their four-foot fence after a year or so. She described the ease with which deer jump the current fence due to the berm. She commented that she and her partner are trying to grow new trees in the yard but they are eaten by the deer.

Ordonez described the fence they would like to construct, with see-through rectangles and posts. She stated that she is not interested in obstructing the view in either direction.

Pallotta stressed the difference in neighborhood feel if there is a visually obstructive fence.

Raul Ordonez commented that they have been trying to rebuild the yard, which has been visited by several episodes of destruction and stripped of older vegetation.

Salmonson OPENED THE PUBLIC HEARING.

Jay Smithberger stated that his property has a view across to the Ordonez property. He commented that while he has no doubt of the Ordonez' good intentions, he wondered what might occur if a subsequent property owner wanted to replace the fence with an eight-foot stockade type fence. Given that concern, he said, he would like a condition added regarding permissible fencing material.

Leatherman stated that a replacement fence would require another fence permit, and since eight-foot fences are not permitted, another hearing would need to be held.

Shelly Smithberger stated that she wanted the fence to have structural integrity. She noted an abandoned utility pole on the property.

There being no further comment, Salmonson CLOSED THE PUBLIC HEARING.

Reed commented that he would like to condition the materials.

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; Raska: Y; Reed: Y
- (2) Whether the variance is substantial; Salmonson: Y; Osterholm: N; Pallotta Y; Raska: N; Reed: 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: Y; Osterholm: N; Pallotta N; Raska: N; Reed: 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; Raska: N; Reed: N
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction; Salmonson: Y; Osterholm: Y; Pallotta Y; Raska: Y; Reed: 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; Raska: N; Reed: Y
- (7) Whether the existing conditions from which a variance is being sought were self-created; Salmonson: N; Osterholm: Y; Pallotta Y; Raska: Y; Reed: 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; Raska: Y; Reed: Y

Pallotta MOVED and Raska SECONDED a MOTION TO APPROVE A VARIANCE REQUEST OF TWO (2) FEET, TO ALLOW AN EIGHT (8) FOOT FENCE IN THE REAR YARD, WITH THE CONDITION THAT THE FENCE BE CONSTRUCTED OF POST AND MESH MATERIAL AND IS NOT VISUALLY OBSTRUCTIVE. The MOTION PASSED 5-0, ON A ROLL CALL VOTE.

#### **AGENDA PLANNING**

Leatherman stated that there may be another variance hearing in late June for Millworks expansion.

**ADJOURNMENT**

There being no further business, Osterholm MOVED and Raska SECONDED a MOTION to adjourn. The MOTION PASSED 5-0 on a voice vote. Meeting ADJOURNED at 6:27PM.

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Anthony Salmonson: Chair

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Attest: Judy Kintner, Clerk