

Present: David Blakeley, Chairperson
Jerome Collins
Narletta Kaul
Adam Dickman
Stephen Delzer
Michael E. Stegmeier, ZBA Secretary
Jeff Simme, Building Inspector

Daniel and Kathryn Nevinger 52 Erie Street Lancaster, NY RE: 52 Erie Street
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Absent: Jeff Stribing, Community Development Director

Documents: Petition 8/23/12
Notice published in Lancaster Bee
Correspondence from Property Owners and Neighbors
Survey
Photos Submitted by Property Owners

Meeting was called to order at 7:22 p.m. by Chairman Blakeley in the Council Chambers of the Lancaster Municipal Building, 5423 Broadway, Lancaster, New York.

The following excerpt is the public notice as published in the Lancaster Bee:

Please take notice that the Zoning Board of Appeals of the Village of Lancaster, New York will hold a public hearing in the Council Chambers of the Municipal Building at 5423 Broadway, Lancaster, New York, on Thursday, September 27, 2012, at 7:30 p.m.

The purpose of this hearing is to consider the request from Daniel and Kathryn Nevinger, petitioners and property owners of 52 Erie Street, Lancaster, NY 14086. The petitioners are seeking relief from the following Village codes with respect to the installation of a vinyl picket fence.

Section 76-4 Fences – Height limitations

No fence shall be more than six feet in height at the rear of homes or buildings situated in a residentially zoned district, which fence shall not extend forward of the rear building line of any existing or proposed building. No other fence or portions of a fence shall be higher than 36 inches (3 feet) in any front yard or 48 inches (4 feet) in any side yard.

Section 76-6 Fences – Obstructions affecting public safety

Any fence, wall or similar structure, as well as shrubbery, which unduly cuts off light or air, which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction to combating fires or an obstruction to men and equipment for combating fires, which may affect public safety, is hereby expressly prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than 50% solid.

Petitioners are seeking relief from the Village Code to allow the installation of a 3.5 ft to 4 ft high vinyl picket concaved fence in a required front yard on a corner lot which is considered to have a front yard along each street. The proposed fence exceeds the three foot maximum height allowed by Village Code for a length of eighty-nine feet (89'). The proposed vinyl picket fence (3.5 inch spacing) is also more than 50% solid which is the maximum allowed by Village Code in a front yard.

At said hearing, all persons so desiring shall have the opportunity to be heard.

*Michael E. Stegmeier
Village Clerk*

Chairman Blakeley informed those present that the Zoning Board of Appeals was established by the Village of Lancaster and shall hear and decide appeals and requests for variances from the requirements of the zoning laws. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

Daniel & Kathryn Nevinger – Petitioners & Property Owners: They are requesting the variance to install a fence to increase their property value and enclose dogs within the yard. Pictures were presented to show an example of the styles of fence they are considering for installation. The proposed fence would be slightly more than 50% solid and there would be a curve at the top whereas the height would be 3.6 feet in the middle with a gradual increase up to 4.0 feet at the ends of each section.

Mr. Nevinger showed an additional photo of his property and commented regarding the corner of his yard near the driveway. He indicated that the size of the driveway requires a person to access the car near the sidewalk which provides him with a view down the sidewalk each time he enters his car. They are willing to angle the fence if necessary, but they would prefer not to include an angle.

David Blakeley: He indicated that the view down the sidewalk with a fence must be considered for the safety of pedestrians including children.

Stephen Delzer: He clarified that the fence was actually a convex fence rather than a concave fence as indicated on the application. He also commented that the normal expectation is to add an angle at the corner of the fence near a driveway to address concerns in that immediate area.

David Blakeley: He stated his concerns regarding the garage area and the need for an angle at the corner of the fence.

Narletta Kaul: She recommended an angle at the corner of the fence which she feels would also provide additional room for access in and out of a vehicle.

Daniel Nevinger: He has spoken with the contractor and confirmed that he would be able to add an angle to the fence if it was required.

Stephen Delzer: He questioned whether there was adequate distance to create an angle based upon an 8 foot section which is the length of fence being proposed by the owners.

Jeff Simme: He explained the process for creating an angle at the corner of a fence. The actual placement of the angle is determined by the available room and may differ for each property.

Audience Participation:

-none-

MOTIONS:

Motion made by **Jerome Collins** and seconded by **Stephen Delzer** to adjourn the hearing at 7:37 p.m.

Ayes: D. Blakeley, J. Collins, N. Kaul, A. Dickman, and S. Delzer

Nays: -none-

Motion Carried (5-0)

Motion made by **Adam Dickman** and seconded by **Stephen Delzer** to approve the request for variance as presented with the condition that an angle must be included at the corner of the fence near the driveway, and further with clarification that it will be a convex fence that will be more than 50% solid.

Ayes: D. Blakeley, J. Collins, N. Kaul, A. Dickman, and S. Delzer

Nays: -none-

Motion Carried (5-0)

Respectfully submitted,



Michael E. Stegmeier
Village Clerk & Treasurer
Secretary to Zoning Board of Appeals

- c: Village Board of Trustees
Zoning Board of Appeals
Arthur A. Herdzyk, Village Attorney
Jeff Simme, Building Inspector
Jeff Stribing, Community Development Director
Daniel & Kathryn Nevinger, Property Owners & Petitioners