

ZONING BOARD OF APPEALS

**Town of Salina
May 16, 2022
Final Minutes**

1 A regular meeting of the Zoning Board of Appeals was held on Monday, May 16, 2022
2 the Salina Town Hall, 201 School Road, and Liverpool at 7:00 P.M. Those present
3 were:

- 4 Chairman Mike Gunther
 - 5 Member Edward Puma - Excused
 - 6 Member Richard Hunter
 - 7 Member John Muldoon
 - 8 Member Bill Tassone - Excused
 - 9 Member Michael Brigandi
 - 10 Member Bill McGillivray - Excused
 - 11 Attorney Joseph Frateschi Esq.
 - 12 Secretary Denise Wilhelm
 - 13 Code Enforcement Officer Peter Mitchell
- Zoning Board Engineer Cosmo Pagano III

Mr. Gunther welcomed those in attendance and explained the purpose of our meeting tonight is to hear the cases before the Zoning Board of Appeals for Area and Use Variances. We will also, render interpretation of zoning laws, consider all Planning and Subdivisions and if needed to consider all Special Use Permits. For each case, Mr. Gunther will announce each case. He will read for the record the Staff Reports from the Director of Planning and Development, the affidavit of mailings to the neighbors and submitted exhibits for tonight's cases. The person asking for the variance or project will come to the podium. We ask that you speak clearly into the microphone, giving your name and address as this is being recorded for the purpose of the minutes we are required to file. Mr. Gunther acknowledged that Mr. Tim Frateschi was present as our attorney in the absence of Joseph Frateschi for tonight's meeting. Mr. Gunther went on to state that the first matter before the board is to approve the minutes from the May 2, 2022 meeting.

14
15 **APPROVAL OF MINUTES**

16
17 Mr. Gunther entertained a motion to approve the minutes of May 2, 2022. Mr. Muldoon
18 made the motion and the motion was seconded by Michael Brigandi. It was unanimously
19 carried by the remaining board members.

20
21 **SEQR RESOLUTION:**

22 Mr. Gunther stated that for the Zoning Board Cases before us tonight, the Board has
23 declared itself the lead agency for these actions. Mr. Gunther declared the proposed
24 actions to be Type II actions under the New York State Environmental Quality Review
25 Act and requiring no further action by the Zoning Board.

26
27 **NEW BUSINESS**

28
29 **063.-24-06.0 MAULIK PATEL, 305 GORDON AVE**
30 **ZONED R-1A, 3RD WARD**

31
32 **CASE 22-8 Applicant is requesting an Area Variance from Zoning**
33 **Ordinance 235-33A (3) to construct a second shed on the**
34 **property where only one shed is permitted on a residential**
35 **lot containing one or two family dwelling.**

36
37
38 Maulik Patel provided the Burden of Proof. Mr. Patel stated that the benefit sought could
39 not be achieved by other feasible means because he is converting the existing shed into a
40 playhouse. He stated the requested variance will not produce an undesirable change

41 because his proposed playhouse that's going to remain in his backyard will not cause any
42 disturbances with his neighbors. It is not substantial because the existing shed will be
43 converted into a playhouse will be within the rear and side line setbacks. It will not have
44 an adverse physical or environmental effect on the neighborhood because the existing
45 shed will be a playhouse. The alleged difficulty was not self-created because the existing
46 shed was here when we purchased the house. Mr. Gunther stated that the shed will be
47 located on the right side of the property and asked what purpose the shed will be used for.
48 Mr. Patel responded he'll put his lawnmower in it along with toys and other things.
49

50 Mr. Gunther asked for questions from the Zoning Board Members.
51

52 Mr. Hunter stated that along the back corner you will need gutters so the runoff doesn't go
53 on his neighbors. Mr. Brigandi stated so the smaller shed has already been moved. Mr.
54 Patel answered yes to make space for the new one. Mr. Frateschi for Zoning Board
55 purposes, clarified the 1st one was a shed even though it will be now used as a playhouse,
56 is still a shed.
57

58 Mr. Gunther noted there was no one in the audience to speak for or against this.
59

60 Mr. Gunther closed the Public Hearing and asked for determination.
61

62 Mr. Hunter summarized Case 22-8 Maulik Patel, 305 Gordon Ave, Tax Map
63 063.-24-06, R-1A, 3rd Ward

64 The applicant is asking for area variances from the Zoning Ordinance 235-33A (3) to
65 construct a second shed on the property. Based upon the testimony given in this matter
66 and the exhibits offered, it is hereby resolved the applicant has met the requirements by
67 providing the following: an undesirable change will not be produced in the character of the
68 neighborhood or a detriment to nearby properties. He needs more storage space. The
69 benefit sought by the applicant cannot be achieved by some other method feasible for the
70 applicant to pursue other than area variances. The requested variances are not
71 substantial. It's only a 10' x 12'. The proposed variances will not have an adverse physical
72 or environmental effect on the neighborhood or district. The alleged difficulty is self-
73 created. If there is a problem with rainwater off your shed to the neighbors, you will be
74 required to put gutters on. I therefore move based upon the forgoing that the variance
75 applied for be granted. Of granting the above variance is conditioned upon the following:
76 1) All improvements to be constructed and located in accordance with the exhibits
77 submitted herewith in support of the application. 2) That the building permit must be
78 obtained within 30 days of the date of the variance approval. 3) That all work must be
79 completed within the time that the permit is granted for. 4) Unless these conditions are
80 complied with, the variance shall expire.

81 Mr. Hunter made a motion. Mr. Muldoon seconded it. Mr. Gunther polled the board
82 members.

83 Mr. Brigandi	Yes
84 Mr. Muldoon	Yes
85 Mr. Hunter	Yes
86 Mr. Gunther	Yes

87

88 Mr. Gunther stated it is adopted and passed.
89

90 **NEW BUSINESS**

91

92 **061.-08-07.0 JOHN DIMARTINO, 301 PLYMOUTH AVE**
93 **ZONED R-1A, 3rd WARD**

94

95 **CASE 22-9 Applicant is requesting an Area Variance from Zoning**
96 **Ordinance 115-6D to construct a 6' privacy fence in the front yard**
97 **where a maximum height of 4' of an open-composition fence**
98 **is allowed.**

99

100 Mr. John DiMartino of 4211 Inverrary Dr Liverpool, NY provided Burden of Proof for the
101 homeowners, Mr. and Mrs. Kneer. Mr. DiMartino stated that the benefit sought cannot be
102 achieved by other feasible means as there is not adjacent land to purchase and the yard
area would not be secure and private for the care of children. Mr. DiMartino stated that the

103 granting of the variance will not produce an undesirable change in the character of the
104 neighborhood or a detriment to nearby properties because it would fall in line with many of
105 the neighbor's fences and yards. The variance is substantial. It is an upgrade of an
106 existing fence. The variance will not have an adverse physical or environmental effect on
107 the neighborhood or district because it's in line with other variances granted and the same
108 look as many of the neighbors in the area. The alleged difficulty was self-created as the
109 existing fence was there when they bought the home but they wanted to upgrade it to
110 provide a more eye pleasing aesthetic. The current fence is old and needs to be replaced.
111 Mr. Gunther stated that this is a replacement for an old fence that's already there and you
112 will be improving it 100 percent. Mr. DiMartino answers yes.

113
114 Mr. Gunther asked for questions from the Zoning Board Members.

115
116 Mr. Brigandi asked if the fence is going to be a stockade fence. Mr. DiMartino responds
117 it's a dog ear picket. Mr. Brigandi asked if any neighbors had any problems with the
118 existing fence. The homeowner Ms. Kneer responded no. Mr. Mitchell stated that the
119 existing fence is off their property. Mr. Gunther asked Mr. Frateschi if the Zoning Board
120 could decide this case. Mr. Frateschi states that the Zoning Board can decide on a 6'
121 privacy fence in the front yard but it is up to the Planning & Development department to
122 direct where the fence is placed.

123
124 Mr. Gunther noted there was no one in the audience to speak for or against this.

125
126 Mr. Gunther closed the Public Hearing and asked for determination.

127
128 Mr. Hunter summarized Case 22-9 John DiMartino, 301 Plymouth Dr, Tax Map
129 061.-08-07.0, R-1A, 3rd Ward

130 The applicant is asking for area variances from the Zoning Ordinance 115-6D to construct
131 a 6' tall privacy fence in the front yard. Based upon the testimony given in this matter and
132 the exhibits offered, it is hereby resolved the applicant has met the requirements by
133 providing the following: an undesirable change will not be produced in the character of the
134 neighborhood or a detriment to nearby properties. They are replacing what is already
135 there. The benefit sought by the applicant cannot be achieved by some other method
136 feasible for the applicant to pursue other than area variances. They are looking for
137 security. The requested variances are not substantial. The proposed variances will not
138 have an adverse physical or environmental effect on the neighborhood or district. The
139 alleged difficulty is not self-created because there is an existing fence in disrepair. I
140 therefore move based upon the forgoing that the variance applied for be granted. Of
141 granting the above variance is conditioned upon the following: 1) All improvements to be
142 constructed and located in accordance with the exhibits submitted herewith in support of
143 the application. 2) That the building permit must be obtained within 30 days of the date of
144 the variance approval. 3) That all work must be completed within the time that the permit
145 is granted for. 4) Unless these conditions are complied with, the variance shall expire.

146 The variance must go to the Planning & Development Department to make a condition to
147 be sure the fence is placed in the right area.

148 Mr. Hunter made a motion. Mr. Gunther seconded it. Mr. Gunther polled the board
149 members.

150 Mr. Brigandi Yes
151 Mr. Muldoon Yes
152 Mr. Hunter Yes
153 Mr. Gunther Yes

154
155 Mr. Gunther stated it is adopted and passed.

156
157 Mr. Gunther stated that he would like to continue with the pre-agenda meeting.

158
159
160
161 **ADJOURNMENT**

162 Mr. Gunther made the motion to close the Zoning Board of Appeals at 7:40 pm. It was
163 seconded by Mr. Brigandi and it was unanimously carried. The meeting was adjourned.

164

165
166
167
168

Prepared By: Denise Wilhelm
Denise Wilhelm, Secretary