



**BOARD OF ZONING APPEALS
MINUTES OF THE REGULAR MEETING
February 26, 2008**

Meeting was called to order at 7:30 P.M. by Acting Chairman Jim Mayer.

PRESENT: Board Members, Scott Fatzinger, Jim Mayer, Jeff Neverman, David Greenspan

ABSENT: John DesForges

ALSO PRESENT: Assistant Law Director William Huffman, Clerk of Commissions
Nicolette Sackman

Acting Chairman Mayer explained the Sunshine Laws and the procedures of the Board of Zoning Appeals.

ELECTION OF OFFICERS

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to elect Mr. Mayer as Chairman.

ROLL CALL:

Yeas: Fatzinger, Greenspan, Neverman

Abstain: Mayer

Nays: None, motion passed

Motion: Mr. Mayer moved, seconded by Mr. Fatzinger to elect Mr. Neverman as Vice Chairman.

ROLL CALL:

Yeas: Fatzinger, Mayer, Greenspan

Abstain: Neverman

Nays: None, motion passed

Motion: Mr. Mayer moved, seconded by Mr. Neverman to elect Mr. Fatzinger as Secretary.

ROLL CALL:

Yeas: Mayer, Greenspan, Neverman

Abstain: Fatzinger

Nays: None, motion passed

SELECTED CORRESPONDENCE - None

CALENDARS

Chairman Mayer explained that there were only four members present this evening and the applicant could request that his variance be tabled until five members are present. In order for the variance request to be approved three affirmative votes are necessary.

Calendar 2008-02

Applicant: Mrs. Elizabeth Tenaglia

Premises: 1253 Charter Oak Lane PP# 21404143

Request to construct an 8' high fence along the side yard at variance with 1211.04(b)(3) which limits fences along the side lot lines to a height of not more than 6' above the average finished grade; *a 2' height variance.*

Mrs. Elizabeth Tenaglia, sworn in by Mr. Huffman, explained they are seeking a variance to install three sections of fence at 8' in height for privacy. The fence will match the neighbor's existing fence and be 6' tall for the majority of the fence. Their property slopes downward toward the neighbor's property. They propose to have the fence 6' tall near their house and hot tub but down the slope of the property they wish to have a graduated fence (three sections of fence) at a maximum height of 8'. Mrs. Tenaglia did not want to fill in the slope of the property to make it the same grade as the rest of her property because that might cause drainage problems.

Members reiterated the location of the proposed taller sections of fence, which is shown on Mrs. Tenaglia's drawing submitted with her application. The fence will vary in height from 6' to 8'. Mr. Rich Tenaglia, sworn in by Mr. Huffman, explained the property in the proposed location is not very level due to the drainage slope. Members questioned if the neighbors were in support of their request, which there was one neighbor in the audience. Discussion ensued that if the fence were moved closer to the hot tub slab (off the property line and at the top of the drainage slope) that a variance would not be necessary, which Mr. Tenaglia agreed was correct. It was discussed that the hot tub slab is at the same grade as the majority of the property, other than the drainage slope. Mrs. Tenaglia added that if there were opposition to a solid 8' fence they could install a lattice section above the 6' height up to the 8' height. The lot is shallow and they would like to put the fence on the property line so they have full use of the yard and to keep the height line of the fence consistent.

Mr. Jack Laraway of 1237 Charter Oak Lane, sworn in by Mr. Huffman, explained he wants to be a good neighbor but he has concerns with the variance request and that an adjacent 8' fence could decrease the value of his property. He expressed the following: the city has been proactive in planning the development of the city and aesthetics; his fence is 2' off the property line at a height of 6'; the proposed location of the applicant's fence would mirror the look of his fence but at a height of 8' not 6' so it would be much taller; codes are put in place for reasons such as to maintain aesthetic features; landscape material such as arborvitae could be used for screening to provide privacy which would be better than an 8' fence; an 8' fence would be seen over the height of his fence from his yard and house; if privacy is the reason for the variance request couldn't everyone in the city say privacy is their hardship and overall he was not in support of an 8' fence. Mrs. Tenaglia noted that there is a tree in the location of the proposed 8' fence which would block any view Mr. Laraway would have, which Mr. Laraway commented was a young Maple tree and not an evergreen that would provide screening.

It was questioned if other neighbors were in favor or opposed to the fence, which Ms. Sackman advised no correspondence, opposed or in favor, was received relative to the variance request.

The board made the following findings of fact:

1. the applicant's property is located on Charter Oak Lane;
2. applicant wishes to construct a fence along the side lot line which would be 8' in height;
3. code limits height to be 6' above grade;
4. applicant states the hardship is due to the drop off of the property along the property line;
5. applicant showed evidence that the property drops off approximately 2' from their yard to the property line;
6. applicant states that they can build the fence at the top of the rise but wishes to utilize the entire lot down to the property line;
7. applicant stated that they could fill in the land to raise it but that may create a water run off problem due to the fact that they are close to Clague Park Pond and part of the drainage area for the creek;
8. applicant could place the fence on top of the slope at a 6' height and would not need a variance;
9. Board finds that applicant has not presented an undo hardship or that applicant can accomplish the request without securing a variance by placing the fence on top of the rise, that the granting of the variance would be detrimental to the neighborhood and would not be in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Fatzinger moved, seconded by Mr. Mayer to approve Calendar 2008-02

ROLL CALL:

Yeas: Mayer

Nays: Fatzinger, Neverman, Greenspan, motion failed

MISCELLANEOUS - none

APPROVAL OF MINUTES

A voting majority of the members at the last meeting were not present so the minutes will be placed on the next agenda.

FINDINGS OF FACTS

A voting majority of the members at the last meeting were not present so the findings will be placed on the next agenda.

ADJOURNMENT

Chairman Mayer adjourned the meeting at 8:05 P.M. The next regular meeting is scheduled for March 25, 2008.

James Mayer, Chairman

Nicolette A. Sackman, CMC
Clerk of Commissions