

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, August 4, 2014 at the LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Paul Bisceglia called the meeting to order. Board members Nancy Swanson, Mark Christenson, and Sandra Lane were present. Christian Rohrbach and alternate Leana Cropp were absent. Janis Gomez Anderson Esq. of the firm of Van DeWater & Van DeWater was also present.

Mr. Christenson made a motion to accept the minutes of July 7, 2014 as corrected. Ms. Swanson seconded and the motion carried unanimously.

OLD BUSINESS:

7-14-01 AREA VARIANCE: CRAIG HERNANDEZ, 38 KEVIN HEIGHTS,  
POUGHKEEPSIE, NEW YORK Grid No. 6260-04-820139

Amend variance application seeking either relief of 10' from the property line in order to erect a 10' x 20' accessory structure or a second 10' x 12' accessory structure with a proposed setback of 5' from the property line, per Chapter 240-29 G.(1).

Erica Hernandez was present.

Ms. Hernandez said that they were proposing to erect a 10' x 20' shed.

Ms. Swanson asked for clarification as to what side of the property the shed would be built. Ms. Hernandez referred to a drawing drawn up by her husband indicating where on the property the shed would be located. It would be in the upper left corner, which is where the existing shed is now. The new shed would replace the existing shed.

Mr. Bisceglia looked at the plans and said it looked like the height of the shed would be approximately 8' plus the peak of the roof. Ms. Hernandez said that was correct.

There being no further questions from the board, Mr. Christenson made a motion to open and re-open the public hearing. Ms. Lane seconded and the motion carried unanimously.

Michael De Lorenzo, 34 Kevin Heights said his property is adjacent to where the shed is going. He said that Mr. & Mrs. Hernandez have done a beautiful job with their property with landscaping and flowers and he was 100% behind their proposal.

There being no further comments from the public, Mr. Bisceglia made a motion to close the public hearing. Mr. Christenson seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Bisceglia then proceeded to go through the Record of Findings:

**Character of the Neighborhood and Detriment to Nearby Properties**

This is a larger shed than was initially proposed. However, the neighbor had positive comments and the shed will enhance the property. The house sits up on a hill and the shed will not be visible from the road.

**Alternative Methods for Achieving Benefit Sought by Applicant**

The shed could be put further into the yard, however the applicants are trying to reduce the encroachment onto the land and this appears to be a feasible proposal.

**Substantiality of Variance Requested**

This is not tremendous and does not appear to be an issue.

**Effect or Impact on Physical or Environmental Conditions in the Neighborhood**

The shed will not be requiring footings and the topography will not be changed. The run-off from the storm water will not change. The shed will match the house and will be an enhancement to the neighborhood.

**Self-Creation of Difficulty**

This is self-created but additional space is needed.

Ms. Swanson said that at the last meeting it was mentioned that the house sits up on a hill and the shed at the end of the back yard will not be visible from the road. This point was added to the Character of the Neighborhood and Detriment to Nearby Properties.

Based upon the Record of Findings, Mr. Bisceglia made a motion to grant Craig Hernandez of 38 Keving Heights relief of 15' from the property line in order to construct a 10' x 20' accessory structure with a setback of 5 feet. Ms. Swanson seconded and the motion carried unanimously. AREA VARIANCE GRANTED

3-12-01 AREA VARIANCE: MYLES LANDSTEIN, 16 VELIE ROAD,  
LAGRANGEVILLE, NEW YORK Grid No. 6560-01-138549

Seeking relief from Chapter 240-28 Schedule B that states that the maximum height of a building or structure in an R-120 zoning district is 35' and seeking relief from Chapter 240-31 F.(4)(f) Ridgeline Protection Overlay Zone which states that the proposed yard setbacks from the property line must be no less than 1.5 times the height of the proposed structure or the setback requirements in the existing zoning regulations, whichever are greater in order to construct a ham radio tower with boom antenna with a proposed height of 70' and a boom width of 23 feet and proposed setbacks of 40' and 70' from the side and rear yards.

At the consent of the applicant, and with agreement of the Town, this application has been postponed to the following meeting.

8-14-01 AREA VARIANCE: NANCY SELIG, 102 KING DRIVE, POUGHKEEPSIE,  
NEW YORK Grid No. 6260-02-876757

Seeking relief from Chapter 240-26 L.(4) that states that a fence in a required yard shall not exceed six feet in height above the adjoining grade in order to legalize a fence with a height of 9'±.

Deborah Liveli was present to represent the applicant. Nancy Selig was also present and she informed the board that Ms. Liveli had Ms. Selig's authority to represent her.

Ms. Liveli said there was an existing fence with lattice work. Ms. Swanson said she had visited the site.

Mr. Bisceglia asked the location of the fence and how long was it. Ms. Liveli showed photographs taken during last fall showing the fence and lattice work. The fence has been there for ten years. Mr. Bisceglia said he saw two different fences in the photograph. Ms.

Liveli said one of the fences belonged to the next door neighbor and the lattices belonging to Ms. Selig were in front of that. Ms. Swanson asked if the next door neighbor's fence was wooden. Ms. Liveli said it was. Ms. Swanson said there was another fence. Ms. Liveli said that also was the next door neighbor's. It was clarified that the next door neighbors referred to were the Tompkins.

Ms. Swanson said, so there is a shorter, wooden fence and then a much higher wooden fence belonging to the neighbors. Mr. Bisceglia indicated the property line. Ms. Selig indicated the shorter wooden fence that belonged to the next door neighbors. She said that was the fence that the neighbors were told to take down because it was taller, and which was taken down. Mr. Bisceglia asked about the lattice and how was it supported? He asked if there were 4" x 4"s in the ground that were 4 feet high and with lattice protruding above that? Ms. Selig said she believed so. Ms. Liveli said the lattices are anywhere from 7" to a foot off the ground. Mr. Bisceglia said, since there is already a fence between the two properties what is the purpose of this? Ms. Liveli said the fence has been up for ten years and they have established vines on them and they provide Ms. Selig with privacy. They also provide a bird habitat and they are a memorial for her mother and father since she is not permitted to bring flowers to where they are interned.

Ms. Swanson asked whether the neighbors' or the Selig fence was put up first? Ms. Liveli said the Tompkins fence was put up first.

Mr. Christenson asked if this was a denial of an application or was it citing of a violation . Mr. Bisceglia referred to the Building Inspector's letter which stated it was a violation letter. Ms. Selig was before the board to try to legalize the fence.

Mr. Christenson made a motion to open the public hearing. Ms. Swanson seconded and the motion carried unanimously.

Michael Tompkins, 98 King Drive said he wanted to speak out against the fence. He said he did not see the pictures that had been presented but he had an accurate photo of what exists today. His fence is 6 feet high. Ms. Selig's fence is not 7' to 10' off the ground. It starts at three feet high and extends to roughly ten or eleven feet high. He presented pictures he had taken to the board so they could see how the base of the fence is and what Ms. Selig has done by draping a plastic tablecloth along the fence. There are also tarps so she can hide her back yard where she is still raising 3 goats. The picture shows the lattice. Mr. Tompkins said he took his fence down at the order of the building inspector. His fence is now 6 feet high and Mr. Tompkins indicated in the picture that the other fence sticks up 4 feet above his fence. He said there are not vines growing there, but weeds that are growing up and choking his trees. Mr. Tompkins said the fence is an eyesore and is a detriment to his property. Mr. Tompkins added his concerns about the goats that remained on the property and the smell that they caused.

Carol Tompkins, 98 King Drive said her first complaint regarding the fence was in 2004. She produced a second complaint letter in 2005 that included pictures. The Town told her they would take care of it but nothing was done regarding the fence. After they were ignored they put up the extra part. When they first put up the fence Ms. Selig bullied them into putting it up 2 feet off the property line. After that Ms. Selig put up a metal fence with jagged edges on

the property line so they could not maintain their fence without worrying about cutting themselves on the metal. When nothing was done about her fence, they ended up putting up the second fence that the board saw in the Selig pictures, just to give them a little privacy. They did not find out until recently that she had written a letter years ago stating that she was growing the vines. These vines are choking their trees. They cannot reach them on their side of the fence to trim them. In the front yard they put up a 4 foot fence so that they could see down the road and allow the Seligs a view to get out onto the road OK. Now the vines are choking the bushes in the front yard. The reason the plastic has been put up was in order to hide the goats. Mr. Bisceglia reminded Ms. Tompkins that the application before them concerned a fence. He understood there was a goat issue but they were here that night to discuss the height of a fence. Ms. Tompkins said she understood and continued that vines have been interwoven into the fence and fake flowers have been put in there too, and it has become an eyesore. She said it is not a well supported fence.

Ms. Tompkins added that she thought other neighbors had sent letters of complaint to the town. The board had received letters from Laraine Hetzer, Trustee of 97 King Drive and Vincent Vicari of 109 King Drive.

Ms. Tomkins added that Ms. Selig has taken down portions of the fence, so she can do it.

Ms. Gomez Anderson said that if the board is considering granting the variance, they will need confirmation of the actual height of the fence because her request is 9 feet and the neighbors are saying 10 feet.

Ms. Swanson said the Building Inspector's memo says 9 feet plus.

Mr. Bisceglia said that they had had two people come up and talk about the fence. He asked Ms. Liveli if she had any response to what had been said regarding the condition or height of the fence or how it is being used. Ms. Liveli said it is being used for privacy for Ms. Selig. These people harass her continuously. There are pictures that say "keep out". They photograph her son driving his truck and they take videos. Ms. Selig keeps the things on the fence so that she can have privacy.

Mr. Bisceglia asked if the photographs that have been presented depict an accurate display of what actually exists on the property. Ms. Selig explained that she has the tarps up so that she is not spied upon, and has privacy. Ms. Selig said that the vines that the Tompkins talked about are wisteria, rose bushes, ivy and clematis and she does trim as much as she can out of the tree. Ms. Selig suggested that the Tompkins take a ladder and cut the vines out of their property. They also spy on her from their adult tree house. She just wants her privacy.

Mr. Bisceglia explained that they have a certain code to follow.

Michael Tompkins, 98 King Drive said there is obviously an issue between them as neighbors. He said he has no intention of watching Ms. Selig. He does not care what she does as long as it is in the confines of the law.

Carol Tompkins, 98 King Drive said they do not trespass on her property. She added that they cannot reach the vines as they are almost 20 feet in the air.

Ms. Swanson asked Ms. Tompkins if the fact that she has a 6 foot fence, doesn't that keep her from seeing the flags etc.? Ms. Tompkins said no, because it is all higher. She only put those flags up since they took their fencing down. She didn't put up lattice work between their houses so she can see into their dining room window. Ms. Tompkins said she put up her fence for protection, not for privacy.

Mr. Bisceglia made a motion to close the public hearing. Mr. Christenson seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Ms. Swanson said she felt that there needs to be a high fence between these two properties because of the animosity, however the fence as it now appears is unattractive and if it is falling apart then that is not the fence to have. The cloth and flags are unattractive and she could not be in favor of it if that's the way the fence is going to look.

Mr. Bisceglia asked Ms. Gomez Anderson what was the legal position regarding the fence height. Ms. Gomez Anderson said they would need to clarify the actual height. With respect to the fence, it is an area variance. There are a whole line of cases that variances are not supposed to be granted for personal convenience. It has to be an issue with the property. Other than that the board would need to go through the five criteria and weigh the benefit to the applicant versus the detriment to the neighborhood.

Ms. Swanson said probably the same benefit to the applicant could be achieved for privacy by plantings. Mr. Bisceglia agreed.

Mr. Bisceglia then addressed the Record of Findings:

**Character of the Neighborhood and Detriment to Nearby Properties**

This is not a beautiful fence and is not structurally sound. It is not installed the way a fence should be installed at that height. According to the neighbor, Ms. Tompkins the fence has been up since 2004. The lattice has a lot of holes in it and probably does not have a lot of lateral strength. The fence could blow down if there are tarps on it. The neighbors are upset with the height of the fence.

**Alternative Methods for Achieving Benefit Sought by Applicant**

Plantings are an alternative method, which could be expensive if large plantings are required. Another alternative would be to reduce the fence to 6 feet or make an application for a 10 foot fence since that might be the actual height, and have it engineered for that height. Even a 9 foot fence is a very tall fence.

**Substantiality of Variance Requested**

This is a substantial variance and is 30% or more additional to the code. The topography of the land does not change very much. Six feet should be adequate. It was noted by Ms. Swanson that there needs to be a high fence.

**Effect or Impact on Physical or Environmental Conditions in the Neighborhood**

It is physically unappealing. It is dangerous because it has not been installed correctly. It is safety issue.

**Self-Creation of Difficulty**

This is a self-creation of difficulty. It is not a necessity.

The ZBA noted that there is a lot of animosity between these two neighbors.

Mr. Bisceglia explained to Ms. Selig that, based on the Record of Findings, they did not have a good reason to grant the variance unless Ms. Selig could add anything stronger than what had been presented. Ms. Selig said she had a mortgage on her limited income as she is disabled and she does not have the money to buy large trees. The tarp would be taken down if the neighbors put their 2 six foot sections of fence back. Ms. Selig said the lattice was built by a contractor. It sits on 4 x4s and it has two rows of 2x4s and they are all screwed in together. It is not a weak lattice. It was done by a professional. Mr. Bisceglia asked how far the posts go into the ground. Ms. Selig said she thought they were 4, or 5 or 6 feet in the ground. Her property is up on a hill and that is the reason why they are nine feet tall.

Ms. Gomez Anderson said she believed Mr. Tompkins stated that the reason his fence was taken down was because he was also cited. Ms. Selig said the Building Inspector told her that a complaint had been made, he went out and saw that their additional 4 foot high fence was up and they were told that they had to remove their fence. He told her that she could also go for a variance to allow her lattices to stay on her property. The Building Inspector and Susan helped her to fill out her paperwork and now she is annoyed because she spent \$150 of her food money, and is not going to get a variance.

Ms. Gomez Anderson said her point was that their (the neighbors) fence being any higher than it is now would be illegal. Otherwise they would also need a variance for a higher fence.

Mr. Bisceglia said he understood Ms. Selig's position but the board would deliberate among themselves.

Mr. Bisceglia said the board went through the Record of Findings and asked the board if there was anything else they wanted to add for consideration. No additions were made.

Mr. Bisceglia made a motion to not grant the variance based upon the safety issue of the fence, the unsightly condition of the fence and the lack of it being to code in height per the Substantiality of the Variance Requested in the Record of Findings. Ms. Swanson seconded and the motion carried unanimously. AREA VARIANCE DENIED

Mr. Bisceglia said if Ms. Selig wanted to proceed with another avenue, she would have to find other means.

8-14-02 AREA VARIANCE: BARBARA & GEORGE ZITTEL, 176 OVERLOOK ROAD, POUGHKEEPSIE Grid No. 6261-02-988787

Seeking relief from Chapter 240-28 Schedule B that requires a 90' setback from the right of way of a county highway in order to construct an addition and side covered porch with a proposed setback of 56' and seeking relief from Chapter 240-29 G.(1) that states that any nonconforming building shall not be enlarged, extended, reconstructed or altered unless the enlargement, extension, reconstruction or alteration is conforming.

Joe Thomson with Michael Berta Architects was present to represent George & Barbara Zittel of 176 Overlook Road. Mr. Thomson said the Zittels have a home that they would like to improve with a relatively minor addition. He had a photograph of their existing home as it stands. They will be designing a new addition that will expand the kitchen and also provide wrap-around porches. They will also be re-siding and re-roofing the house and substantially improving the character and appearance of the house in the neighborhood. The nature of the two variances they are seeking are for the front yard setback and also to improve a structure that is currently nonconforming. The current front yard setback is 41'11". The requirement in the R-40/60/80 zoning district on a county road is a 90' setback. The house was originally constructed circa 1930. Their new proposed addition does not seek to encroach on the existing front yard setback. The new addition will be 56 feet off the front yard so they have attempted not to expand on that nonconformity.

Mr. Bisceglia reviewed the proposal and saw that they were seeking relief of 34 feet from the front line.

Mr. Christenson made a motion to open the public hearing. Ms. Lane seconded and the motion carried unanimously.

There being no comments from the public, Mr. Christenson made a motion to close the public hearing. Ms. Swanson seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Bisceglia then addressed the Record of Findings:

**Character of the Neighborhood and Detriment to Nearby Properties**

No negative comments have been received from the surrounding property owners. The improvements will enhance the property.

**Alternative Methods for Achieving Benefit Sought by Applicant**

The alternative method would be not to do anything or make it smaller, but this will be a nice addition to the house. In order to meet the setbacks the addition would not be able to be connected to the house.

**Substantiality of Variance Requested**

It is a substantial variance but will be an overall benefit to the property and the Town.

**Effect or Impact on Physical or Environmental Conditions in the Neighborhood**

It is a benefit physically. Environmentally, storm water issues and well and septic issues will be handled with the permit process.

**Self-Creation of Difficulty**

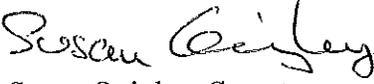
This is self-created but the applicants want to enhance the property and make the building larger.

Based on the Record of Findings, Mr. Bisceglia made a motion to grant Barbara & George Zittel relief of 34' from the right of way of Overlook Road in order to construct an addition and a side covered porch with a proposed setback of 56'; also to grant relief from §240-29 G.(1) that states that any nonconforming building shall not be enlarged, extended reconstructed or altered unless the enlargement, extension, reconstruction or alteration is

conforming. Ms. Lane seconded and the motion carried unanimously. AREA VARIANCES GRANTED

Mr. Bisceglia made a motion to close the meeting at 8:53 p.m. Mr. Christenson seconded and the motion carried unanimously.

Respectfully submitted

  
Susan Quigley, Secretary