

Village of Black River
Zoning Board of Appeals Agenda
September 28, 2016

1. Call to Order
2. Review of Agenda
3. Review & Approval of Minutes for Public Hearing on (Oct. 27, 2015)
4. Public Comments
5. Board Comments
6. Review of Correspondence
7. New Business:
 - Finding an alternate ZBA Board Member
 - Review Training DVD's from Jefferson CO. Planning Department
8. Adjournment

Please Note:

If you are unable to attend a scheduled Zoning Board of Appeals Meeting, please contact the Village Office at 773-5721.

Village of Black River
Zoning Board of Appeals
Special Meeting
October 27, 2015

DRAFT

Chairman Mark Wonderly called the meeting to order at 6:30 p.m.

Present:

Chairman Mark Wonderly
Board Member William Reichard
Board Member Michael Zecher
Board Member Russell Stegemoller
Board Member Ronald Palmer
Code Enforcement Officer Dave Lachenauer
Attorney Mark Gebo

The Board reviewed the agenda.

A motion was made by Board Member Stegemoller, seconded by Board Member Reichard to approve the minutes of the August 25, 2015 special meeting. The motion was carried.

A motion was made by Board Member Zecher, seconded by Board Member Reichard to approve the minutes of the October 13, 2015 special meeting. The motion was carried.

New Business: Chairman Wonderly opened the public hearing at 6:32 p.m. for area variance requests for Lee Carpenter and Zachary Bender.

Lee Carpenter, 159 N. Main St., tax parcel #75.56-2-12 stated that he would like to put up a fence on the property line between him and his neighbor Zachary Bender, 161 N. Main St., tax parcel #75.56-2-11 who would like a fence as well. Mr. Carpenter stated that his dogs run through his underground fence. He stated that if he avoids the property line he will have to remove some trees. Mr. Carpenter stated that he would construct a four foot tall rubber coated chain link fence stating that he would pay for the construction and maintenance. Chairman Wonderly stated that a variance goes with the property. Board Member Zecher stated that a child may put their fingers through fence and get bit or that neighboring dogs may bite each other. Attorney Mark Gebo stated that a variance goes with the land not the property owner. He stated that there should be a property owners agreement to allow each on the other's property for fence maintenance. Attorney Gebo stated that this agreement should be filed with the County Clerk. Board Member Reichard stated that he has concern about what happens when the current owners leave the property. Code Enforcement Officer Lachenauer read some letters from

neighbors into the record. Chairman Wonderly read a letter from Michael Montigelli.

Mr. Carpenter responded to the five criteria for an area variance as follows:

- 1) No undesirable change will be produced in the character of the neighborhood it will be a four foot high chain link fence the neighbors will have the same visibility.
- 2) The benefit cannot be achieved by means other than a variance.
- 3) The requested variance is not substantial it is only two feet for one hundred forty six feet.
- 4) The proposed variance will not have an adverse effect on the neighborhood.
- 5) Yes, the difficulty is self-created.

Mr. Bender responded to the five criteria as follows:

- 1) No undesirable change will be produced in the character of the neighborhood it removes the four foot gap that would be between fences.
- 2) The benefit cannot be achieved by means other than a variance.
- 3) No, the requested variance is not substantial.
- 4) The proposed variance will not have an adverse effect on the neighborhood.
- 5) Yes, the difficulty is self- created.

A motion was made by Board Member palmer seconded by Board Member Zecher to declare the Black River Zoning Board of Appeals as lead agency for the purpose of reviewing the Short Environmental Assessment Form (EAF). The motion was carried.

The Board reviewed and answered the questions on the EAF.

A motion was made by Board Member Stegemoller, seconded by Board Member Reichard to make a negative declaration for the EAF regarding property owned by Lee Carpenter, 159 N. Main St. The motion was carried.

A motion was made by Board Member Palmer, seconded by Board Member Stegemoller to make a negative declaration for the EAF regarding property owned by Zachary Bender, 161 N. Main St. The motion was carried.

Board Member Palmer abstained from the vote on the area variance based on his responses to the five criteria as follows:

- 1) No undesirable change will be produced in the character of the neighborhood.

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- 2) Yes, the benefit can be sought by a means other than a variance by each property owner having their own fence.
- 3) The requested variance is not substantial.
- 4) The proposed variance will not have an adverse effect on the neighborhood.
- 5) Yes, the difficulty is self-created.

Board Member Reichard voted no to the variance based on his responses to the five criteria as follows:

- 1) No undesirable change will be produced in the character of the neighborhood.
- 2) The benefit cannot be achieved by means other than a variance.
- 3) The requested variance is not substantial for the two foot portion but is for the 146 foot portion.
- 4) The proposed variance may have an adverse effect on the neighborhood, if variances keep getting granted the two foot law should be removed.
- 5) Yes, the difficulty is self-created.

Board Member Zecher voted no to the variance based on his responses to the five criteria as follows:

- 1) No undesirable change will be produced in the character of the neighborhood.
- 2) Yes, the benefit can be achieved by means other than a variance.
- 3) The requested variance is not substantial.
- 4) The proposed variance will not have an adverse effect on the neighborhood.
- 5) Absolutely yes the difficulty is self-created the separation between fences takes the stress out of maintenance.

Board Member Stegemoller voted no to the variance based on his responses to the five criteria as follows:

- 1) No undesirable change will be produced in the character of the neighborhood.
- 2) Yes, the benefit can be achieved by means other than a variance the fences can be built individually with no question regarding maintenance and no issue if there is a new owner.
- 3) Yes, the requested variance is substantial.
- 4) The proposed variance will not have an adverse effect on the neighborhood.
- 5) Yes, the difficulty is self-created.

Chairman Wonderly voted yes to the variance based on his responses to the five criteria as follows:

- 1) No undesirable change will be produced in the character of the neighborhood.
- 2) The benefit cannot be achieved by means other than a variance.
- 3) The requested variance is not substantial.
- 4) The proposed variance will not have an adverse effect on the neighborhood.
- 5) Yes, the variance is self-created.

Due to three no votes the variance request for Lee Carpenter was denied.

Zachary Bender withdrew his variance request.

A motion was made by Board Member Zecher, seconded by Board Member Reichard to close the public hearing at 8:01 p.m.

Chairman Wonderly adjourned the meeting at 8:02 p.m.

Respectfully submitted,

Kristin Burroughs
Recording secretary