



**Decision filed, and draft minutes approved on June 23, 2021.**

**I. CALL TO ORDER**

Chairperson Dickman called the meeting to order at 6:00pm via remote teleconferencing.

**II. ROLL CALL**

Chair: Max Dickman  
Members: Darren Fisher  
Amy Krier  
Ben Minkin  
Eido Walny-1<sup>st</sup> alternate  
Dan Rosenfeld-2<sup>nd</sup> alternate  
Barry Chaet

Also Present: Village Manager Andy Pederson  
Assistant to the Village Manager Leah Hofer  
Police Chief Doug Larsson  
Administrative Services Director Lynn Galyardt  
There were nine people in the audience.

**III. PUBLIC HEARING**

**A. The purpose of the public hearing is to consider the request for a variance by Jeffrey and Elizabeth Billings, for the property located at 9377 N Regent Road, to allow the recently installed fence to remain in place, contrary to Section 104-125(c).**

Chairperson Dickman read the above meeting notice and called for public discussion at 6:01pm.

Attorney Jaekels stated the submittal from the Billings will require four affirmative votes to be approved and noted the incorrect form had been used to submit the request for a variance as this is an area variance. The form stated it was a use variance.

**1. Public Discussion**

Jeffrey Billings provided a statement regarding a letter they received from Attorney Jaekels which informed the Billings the fence project that was completed in the fall of 2020 was in noncompliance of Section 104-125(c) of the Municipal Code and stated the fence needed to be moved to the original fence footprint, remove it entirely or obtain a variance or special exception under Section 62.23 of the Wisconsin Statutes to allow the fence to remain in place. Mr. Billings noted they had spent five months preparing and planning their fence project, as well as going back to the fence manufacturer to request they build a fence that complied with the 25% openness requirement. It was noted the only concerns brought forward during the process regarding the fence project were the openness and the drainage and that the SAFEbuilt documentation provided at the Architectural Review Committee meeting stated the fence complied with municipal code. At no time was the issue of the fence exceeding the 50% limit of the horizontal linear footage of the property brought up.

Mr. Billings stated the option of removing the fence was not an option due to code stating their

pool needed to have a fence surrounding it. The option of putting the fence back to the original footprint was not possible as the original fence was installed on their neighbor's property and therefore would encroach on the neighbors' properties.

Paul Gondek stated his objections to the fence positioning, the layout, the scope of work of the fence project and the maintenance of the fence.

Ken Force stated he objected to granting the area variance.

Jon and Melissa Dorf stated they objected to granting the area variance.

Jeff Billings stated that at approximately 9:25am on December 29, 2020 SAFEbuilt, the Village's contracted building inspector spent 20-30 minutes on their property with Paul and Ken and at 10:16am on December 29, he emailed Andy Pederson to ask if the Village was aware of the visit and questioned if there was anything they needed to be aware of. Monday, January 4, Andy responded that Paul Gondek had requested a meeting to express his concerns and that the building inspector opined and reiterated that the project meets the spirit and the intent of Municipal Code.

Paul Gondek stated they had talked to SAFEbuilt regarding the drainage issues and the height of the fence and were not discussing the variance or the linear footage of the fence.

Motion by Ben Minkin, seconded by Darren Fisher to close the public discussion of the public hearing at 6:23pm. Motion carried unanimously.

## **2. Board Discussion**

Attorney Jaekels stated the area variance requires the applicant to show unnecessary hardship when compliance would prevent the owner from using the property for permanent purpose or would render conformity unnecessarily burdensome or if there are unique characteristics for the property or no reasonable harm to the public to enforce the code going forward.

The Board discussed the area variance procedure.

Chairperson Dickman stated the option's he believes available are the applicant is to tear down the fence, build another fence around the pool which then creates a hardship to the applicant, or apply for a variance or special exception.

Ben Minkin questioned if the hardship is at the present point with the fence already being built. Attorney Jaekels stated the hardship is at the present point in time due to the fact the fence was built in reliance from the building inspector.

Barry Chaet questioned if the fact that the building inspector made a mistake is grounds to consider the variance. Attorney Jaekels stated it is a grounds to consider if this creates a hardship.

Chairperson Dickman closed the Public Hearing at 6:39pm.

## **IV. APPROVAL OF MINUTES**

### **A. May 5, 2021 Board of Zoning Appeals Public Hearing and Meeting.**

Motion by Ben Minkin, seconded by Amy Krier, to approve the May 5, 2021, Board of Zoning Appeals Public Hearing and Meeting minutes. Motion carried unanimously.

## **V. BUSINESS**

**A. Discussion/recommendation on the request for a variance by Jeffrey and Elizabeth Billings, for the property located at 9377 N Regent Road, to allow the recently installed fence to remain in place, contrary to Section 104-125(c).**

Motion by Ben Minkin, seconded by Amy Krier, to approve the request for an area variance by Jeffrey and Elizabeth Billings, for the property located at 9377 N Regent Road, to allow the recently installed fence to remain in place, contrary to Section 104-125(c) based on the fact there is unnecessary hardship because a literal compliance would render conformity unnecessarily burdensome and due to unique physical property limitations coming from the building inspectors mistake and not being contrary to public interest. Motion carried unanimously by roll call vote.

**VI. ANY OTHER BUSINESS AS MAY PROPERLY COME BEFORE THE BOARD**

None

**VII. ADJOURNMENT**

Motion by Darren Fisher, seconded by Amy Krier, to adjourn the meeting at 6:42pm. Motion carried unanimously.

Respectfully submitted,

Lynn Galyardt  
Administrative Services Director