

ZBA for 90 Main Street appeal

8/24/2021 – at Town Hall offices

Attendees: Appellants, counsel, Ned Baldwin, full ZBA board

- Received letter from abutter McCarthy saying they support the fence being the way it is
- Nick Arienti counsel for the Lutners
 - With regard to what is a clarification – information about the bylaw (618 and 3rd clause) saying the criteria is 30' setback and 4' maximum height for a front yard fence
 - If more than 30' setback, height can be 6' (for other than front yard fence)
 - Consider that height relative to the sidewalk is less, and could be considered in our review
 - Grounds for approving an appeal:
 - Soil conditions, shape, topography
 - Shape and topo are considered different from most other locations
 - Literal enforcement would create a hardship
 - Say that the hardship is the proximity to road,
 - Volume of traffic is increasing, and has an impact – visual and sound
 - Could accept this appeal without being a substantial detriment to the public good
 - Regarding aesthetic benefits – abutters have been supportive of the fence, but there was a complaint that caused the building inspector to make the violation determination
- Decided at meeting that determination should be made as to where the fence is installed relative to the property lines of the appellants' property
- Extension was granted to allow the appellants time to perform a survey of the property

Continuation of the hearing – September 28, 2021

- ZBA board members met at the home site and viewed the location of the fence relative to the property line mark-outs
- Later at the hearing at Town Hall
 - Attorney Arienti restated the grounds for the appeal
 - ZBA member Buck Smith noted that the fence appears to be partially located off the property line, and therefore within the property of the State highway
 - Jim Murray stated that the zoning law regarding front yard fence height limitations were developed with safety in mind – a fence taller than 4' could limit the line of site when exiting the property, making safety an issue. He further stated that the hardship that the homeowners are appealing to the board for consideration appears to be caused by the homeowners themselves by allowing the fence to be installed in the manner it was.
 - Miles Moffatt stated that Murray described the safety concerns relating to front yard fence heights very well, and that is the main concern that he himself has regarding this appeal.

- Tom Schuler noted that these points made by the other ZBA members are worthy noting when the members deliberate on the appeal. He asked the members to vote either yes to grant the appeal, or no to deny the appeal
- The board members all voted no