

# **TOWN OF STOCKBRIDGE, MASSACHUSETTS**

## **NOTICE OF DECISION**

### **ZONING BOARD OF APPEALS**

**APPLICANT**                      Lawrence Lutner & Karen Levy Lutner

**PREMISES AFFECTED:**    90 East Main Street, Stockbridge, MA.

**REFERRING**                      The applicant is requesting an appeal pursuant to MGL, Chapter 40A, Section 8 and the Stockbridge Zoning Bylaws, Section 7.2.1, requesting an Appeal of Notice of Violation from the Building Inspector with regard to property at 90 East Main Street, and a variance from the Zoning Bylaw 6.18 section C requirements with respect to fence height.

**DATE OF DECISION**            September 28, 2021

Lutner decision: On August 10, 2021, August 24, 2021 and September 28, 2021, public hearings were held on the notice filed by Lawrence Lutner and Karen Levy Lutner, pursuant to MGL Chapter 40A, Section 8 and the Stockbridge Zoning Bylaws, Section 7.2, request an appeal of notice of violation from the building inspector with regard of property at 90 East Main Street with the request of a variance from the zoning bylaw 6.18 sec C requirements with respect to fence height.

Findings: The ZBA reviewed a land survey which documented that the fence in question was on substantially on property owned by the Commonwealth of Massachusetts. The ZBA , upon advice of counsel determined that it could rule on the Lutner's application for a variance. After hearing ,the ZBA by a vote of 5-0 denied the Lutner's request for a variance. Member Murray stated that the Lutners did not satisfy the requirement of substantial hardship. Murray noted that the applicants created the hardship by erecting the fence. Members Smith, Hyson, Schuler and Moffatt agreed with Murray's statement. Member Schuler also noted that granting this variance was not consistent with the intent and purpose of the zoning bylaw. Moffatt noted that a fence in excess of 4 feet would create a safety hazard as it would block the view of motorist travelling on East Main Street.

**VOTED:**                              The request for variance was denied  
There were five (5) votes to deny the variance.

Thomas Schuler, James Murray, John Hyson, Buck Smith, Miles Moffatt