

**Regular meeting of the Planning Board of the Village of Brockport was held in the Conference Room, Municipal Building, 49 State Street, Brockport, New York, Tuesday, May 26, 2009 at 6:30pm.**

**PRESENT:** Chair Charles Switzer, Member Annette Locke, Member Arthur Appleby, Member Kent Blair, Clerk Pamela W. Krahe

**ABSENT:** Member R. Scott Winner

**EXCUSED:** Building/Zoning Officer Scott C. Zarnstorff

**ALSO PRESENT:** Village Attorney David F. Mayer, Jim Hamlin

**CALL TO ORDER:** Chair Switzer called the meeting to order and led the Pledge of Allegiance.

**REVIEW OF MEETING MINUTES:** Chair Switzer called for a motion to approve the minutes of the previous meeting.

➔ Member Locke moved, Member Appleby seconded, unanimously carried by those members in attendance to approve the minutes of the meeting held May 11, 2009 as written.

**CORRESPONDENCE:** None

**PUBLIC HEARINGS:** None

**OLD BUSINESS:**

1. Application of:	Name:	Janice Seever
	Address:	128 Barry Street
	Tax Map #:	069.09-4-20
	Zoning:	Residential
	Parcel Size:	84' x 154.73
	Property Class:	210
	Purpose:	approval for front yard fence

**Applicant Presentation:**

Ms. Seever was not required to be present.

**Continued Board discussion on application:**

Chair Switzer acknowledged receipt of several e-mails regarding this application and asked Village Attorney David F. Mayer to elaborate. Attorney Mayer reiterated the code is very clear in that a fence in the front yard cannot be any higher than 3' and that this board cannot give a conditional use permit for a fence over 3' without approval from the Zoning Board of Appeals for a height variance. He stated the Board may approve a conditional use permit for the application on the condition the applicant obtain approval from the ZBA.

Member Appleby asked what happens if this board approves a conditional use permit but the Zoning Board does not approve the height variance and Chair Switzer voiced that scenario is of no concern as this board will have made a decision on the application presented to this board. Member Locke opined that the applicant should have been told to go before the ZBA initially and Attorney Mayer responded that different villages do have different procedures and Brockport's procedure is not unique. Member Blair noted that based on what the board has learned, they cannot approve the fence, but they could approve a conditional use permit for a fence with the condition that the applicant go to the ZBA for a height variance.

From the audience, Jim Hamlin asked if the ZBA could grant the variance even if it is not in the Zoning section of the Code and Attorney Mayer replied yes. There was a brief discussion concerning bringing something like this before the Board of Trustees and Village Attorney Mayer clarified that this would not be a subject for the Village Board.

⇒ Member Blair moved, Member Appleby seconded, unanimously carried by those members present to grant a Conditional Use Permit pending Zoning Board of Appeals approval on the height variance.

Chair Switzer mentioned picket fences previously approved that were 4' high and wondered if the Code Review Committee should be looking at that and possibly changing it. Member Appleby, who is a member of the CRC, opined it would behoove the CRC to look at that section of the code, as many fences are now manufactured at the height of 42" or greater. He also suggested the CRC might look at a section in Chapter 6, which would give the Planning Board some discretion to vary that height restriction. Chair Switzer pointed out that any other similar applications should be referred to the ZBA to be safe, until the code is revised. The board discussed the 5' stockade fence that was put up on

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Street before approval was obtained, concluding that did not make it right. Member Appleby stated he would try to get this topic moved up on the list at CRC.

**NEW BUSINESS:** None

**NEXT REGULAR MEETING:** Monday, June 8, 2009, 7:00pm; Application materials due by Noon  
Tuesday, June 2, 2009

**ADJOURNMENT:**

➔ Member Locke moved, Member Appleby seconded, unanimously carried that the meeting be adjourned at 6:40pm.

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Pamela W. Krahe, Clerk