

**MINUTES OF MEETING  
ZONING BOARD OF ADJUSTMENT  
DECEMBER 3, 2019 4:00 P.M.**

DOCKET 1281

3 WILLOW HILL

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, December 3, 2019 at City Hall.

The following members of the Board were present:

Chairman Liza Forshaw  
Ms. Laura Long  
Ms. Elizabeth Panke  
Mr. Lee Rottmann  
Mr. Dan Welsh

Also present were: Erin Seele, City Attorney; Anne Lamitola, Director of Public Works; Roger Stewart, Building Commissioner; Councilman John Fox; Mayor Spewak; and Lori Wrobel, Administrative Assistant.

Chairman Forshaw called the meeting to order at 4:00 P.M.

**Approval and Adoption of the Agenda**

Chairman Forshaw explained that Docket 1279 would not be presented to the Board at this time. Ms. Panke made a motion to adopt the agenda as amended. Ms. Long seconded the motion. All those present were in favor.

**Approval of the Minutes from the January 8, 2018 meeting**

Ms. Long made a motion to approve the minutes as submitted. Mr. Rottmann seconded the motion. All those present were in favor; the minutes were approved.

**Docket 1281** Petition is submitted by Patrick Bader for the property at 3 Willow Hill Road. Petitioner is requesting relief from the Building Commissioner denying a fence in the front yard, said fence is taller than 42" and not 40% open. This is in violation of Ordinance 1175, Section IV-C (1)(a).

Mr. Stewart stated the applicant requests a variance for a fence in a front yard. By Ordinance, fences in required front yards or yards abutting a street or private road may not be taller than 42" and must be 40% open. The constructed panel fence is 6' tall and solid.

Chairman Forshaw introduced the following exhibits to be entered into the record:

- Exhibit A – Zoning Ordinance 1175, as amended;
- Exhibit B – Public Notice of the Hearing;
- Exhibit C – Letter of Denial dated November 8, 2019;

Exhibit D – List of Residents sent notice of meeting;

Exhibit E – Letter from the resident requesting the variance dated November 7, 2019;

Exhibit F – Entire file relating to the application

Exhibit G – Letter of support presented by the applicant

Patrick Bader was given the oath and addressed the Board. He disputes the need for a variance as the fence is behind his home and is not in what he considers his front yard. He does not believe his yard abuts a street or private road. Lorenzo Lane subdivision owns a fence that runs perpendicular to his fence between the petitioner's property and Lorenzo Lane. The petitioner applied for a fence permit and was denied. He proceeded to erect the fence without a permit. He has support from neighbors at 2 and 38 Willow Hill. A shorter, more open fence is not needed for reasons of traffic safety. If the Board believes the variance is needed, the petitioner asserts that having two front yards is a hardship. There are other comparable lots with solid 6-foot-tall solid privacy fences abutting Lorenzo Lane.

The Board explained that a portion of the new fence is in fact located in a front yard abutting a street or private road, as shown by the petitioner's own survey; that one of the purposes of the fence ordinance is to maintain a relatively open view from the street, as opposed to a tall solid wall which is visually unattractive; and that the fence ordinance has been updated through the years and there are older fences that do not comply with the current ordinance but are grandfathered.

Dr. Dehner, 26 Lorenzo Lane, was given the oath and addressed the Board. He stated a Lorenzo Lane subdivision fence has been in place for over 70 years, including a replacement that was done with a permit. The petitioner's taller fence, which runs up to the Lorenzo Lane fence, is very noticeable from Lorenzo Lane and does not look in compliance with the zoning code. Due to its height it will be visible even with greenery.

Kimberly Bader was given the oath and shared that green arbor vitae shrubs have been planted around the fence in order to conceal it.

After discussion of the facts presented, including the denial of the fence permit prior to construction and the lack of a hardship justifying a conspicuous violation of the height and openness requirements, Ms. Panke made the motion to overturn the decision of the Building Commissioner and grant the variance. Mr. Rottmann seconded the motion. The vote was as follows:

Chairman Liza Forshaw	"not in favor"
Ms. Laura Long	"not in favor"
Ms. Elizabeth Panke	"not in favor"
Mr. Lee Rottmann	"not in favor"
Mr. Dan Welsh	"not in favor"

With zero (0) votes in favor and five (5) against, the motion failed, the variance was not granted, and the ruling of the Building Commissioner stands.

### **Adjournment**

At 5:21 p.m. Ms. Panke made a motion to Adjourn the meeting. Mr. Welsh seconded the motion. A unanimous vote in favor was taken.

DOCKET 1281

DATE OF HEARING December 3, 2019

NAME Patrick Bader

DESCRIPTION OF PROPERTY 3 Willow Hill Road

CAUSE FOR APPEAL Petitioner is requesting relief from the Building Commissioner denying a fence in the front yard, said fence is taller than 42" and not 40% open. This is in violation of Ordinance 1175, Section IV-C (1)(a).

RULING OF THE BOARD After discussion, based on the evidence presented, the Board upholds the decision of the Building Commissioner and the variance is denied.

A handwritten signature in cursive script, appearing to read "Liza Forshaw", is written over a horizontal line.

Ms. Liza Forshaw, Chairman