

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
TOWN OF NEW HARTFORD MUNICIPAL BUILDING  
AUGUST 19, 2019**

The Regular Meeting was called to order at approximately 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Taras Tesak, Byron Elias, Lenora Murad, Karen Stanislaus and Fred Kiehm. Also in attendance were Councilmen David Reynolds; Richard Lenart; Town Attorney Herbert Cully; Code Officers Joseph Booth and Lary Gell; and Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting.

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The application of **Mr. David DeBlois, 9464 Sessions Road, Sauquoit, New York**. The applicant is located in an RA zone, which allows a residential fence to extend to within 2 feet of the front property line, provided they are open in style, i.e., picket or split rail, and shall not exceed 4 feet in height. The applicant is asking for a 6 foot tall privacy fence (solid wood) 40 feet in front of his home. The proposed fence will extend 2' taller and be a privacy type of fence. Thus, the request for a 2' height Area Variance as well as a solid privacy fence in the front yard area setback. Tax Map #350.000-1-25.1; Lot Size: 221' x 220'; Zoning: RA Residential/Agricultural. Mr. & Mrs. DeBlois appeared before the Board.

Mr. DeBlois read from a prepared statement as to why he is requesting this variance, for privacy and for keeping the neighbor's dogs from entering his premises (this has been made a part of the file). He explained that the existing trees had to be removed due to a fungus and those trees provided privacy from the neighbor, but they aren't there any longer. If he plants trees, they take too long to grow. Mr. DeBlois elaborated as to what has been an existing problem for years. Further, the neighbor's dog came into his yard while his wife was outside and she was frightened about how the dog was reacting. The neighbor's dog(s) are unleashed.

At this time, Board Member Elias mentioned that he received a letter from the neighbor/attorney and he received this as a Zoning Board member. He sent this to our Town Attorney and to the Zoning Board Chair. He knows Mr. Spath (the neighbor) but they don't meet socially. He doesn't feel he has a problem reviewing this application and wanted it noted.

Discussion ensued regarding the location of the fence on the property. Board Member Tesak asked if this could be accomplished any other way – Mr. DeBlois stated no – the neighbor's property is much higher and he needs the taller fence. A 4' fence could keep the dogs out, but no privacy. Mr. DeBlois presented photos of the property. A 6' fence would give him the privacy he wants. Further discussion ensued regarding an open fence compared to a solid built fence.

Mr. DeBlois was asked if he contacted the Animal Control Officer regarding the problems with the dog(s). He said at one time he called the Police, but he still has a problem.

Town Attorney Cully explained that it is unlawful for dogs to run at large or unaccompanied, and also a barking law. He suggested that Mr. DeBlois contact Animal Control. Mr. DeBlois was given some choices as to the height and placement of a fence.

Chairman Bogar asked if there was anyone present to address this application:

-Mr. Fran Suppa, 9445 Sessions Road. He is opposed to the fence. He walks his dog on Sessions Road and there is too much traffic and poor visibility. A fence would add to this. He referred to an incident in the area and strongly feels a fence would add to an existing problem on this road. Further, with snow accumulation on the road, visibility would be poor. Codes are in place for a reason. Public safety is his concern.

-Mr. Jack Spath, 9462 Sessions Road. He also referred to impaired vision on this road and mentioned a couple of incidents. He owns the dog(s) and didn't know about the problem Mrs. DeBlois had. He feels his dogs are well-behaved. He is concerned about safety and a fence wouldn't help. He tries to keep the dog(s) on his property and he is usually with them. He further explained the routine of his dog(s) on his parcel.

Discussion ensued regarding options for a fence, privacy vs. dog issue. Comments were made between the applicant and neighbors.

There being no further input, the Public Hearing closed at approximately 6:50 P.M.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response; yes, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response; yes, 6' fence would be undesirable; all in agreement;
- The requested variance is substantial – response: yes, could be open to something less in height; two board members agree;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, Board Member Murad abstained from this part of the discussion; Chairman Bogar and Board Member Elias are no – the rest are yes;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, four Board Members are yes, Two members no (Chairman Bogar and Board member Murad).

Motion was made by Board Member Fred Kiehm to deny the application as submitted; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar - yes  
Board Member John Montrose – yes  
Board Member Karen Stanislaus – yes  
Board Member Byron Elias - yes

Board Member Fred Kiehm - yes  
Board Member Taras Tesak - yes  
Board Member Lenora Murad – yes

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Motion was **denied** by a vote of 7 – 0.

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Minutes of the June 15, 2019 meeting were approved by motion of Board Member Byron Elias seconded by Board Member John Montrose. All in favor.

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There being no further business, the meeting adjourned at approximately 7:05 P.M.

Respectfully submitted,

Dolores Shaw, Secretary  
Zoning Board of Appeals

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