

Virtual Regular Meeting of the Haworth
Zoning Board of Adjustment on March 3,
2021, via Zoom.

PRESENT: Dennis Posen, Chairman
Jeffrey Lester, Vice Chairman
Richard Ehrenberg
Joseph Panzella
Michael Pilsbury
Lawrence Ross
Alexander Vierheilig, Alternate 1

Alexander West, Board Attorney
Andrew Rosenberg, Council Liaison

ABSENT: Jennifer Eby, Alternate 2

Mr. Posen called the meeting to order and upon roll call, the above Members were present.

Due notice of this meeting was given in accordance with the New Jersey Open Public Meetings Act.

In essence, the following transpired.

ACCEPTANCE OF THE MINUTES

The minutes of the November 2020 meeting were reviewed.

Mr. Ehrenberg moved to accept the minutes as presented, subject to the rights of absent members to correct statements directly attributed to them.

Seconded by Mr. Pilsbury and unanimously carried.

CORRESPONDENCE

There was no correspondence available to discuss at this time.

FENCE REPORT AND ACTIVITY

The Fence Report was reviewed.

Mr. Posen talked about various communications to and from property owners and Borough officials. They included the following:

- A note was sent to property owners at 375 Hennessy Street relating to their fence. They responded saying that the Police Department had told them to construct a wall. Chief Gracey got back to Councilman Rosenberg and advised him that the Police Department did not make that recommendation. A follow-up with the home owners will be made. There is a question about whether a variance will be required.

There was discussion on whether or not a paper street was involved.

- An email asking when the home owners of 204 Brook Street will comply with the variance issued by the Zoning Board and move their fence.
- A note asking if the home owners of 307 Myrtle Street were issued a permit for an elevated patio/deck in front of the house. It was noted that the wall had not been restored to its original height.
- -An inquiry was made asking how long should the Zoning Officer wait for getting a response from the home owner to produce a pre-Fence Ordinance permit.
- An inquiry about a property on Myrtle Street whose owner said that the retaining wall was lowered. It was found not to be true and was actually erected higher and longer.
- How much longer will we permit the matter at 114 Maple Street to drag on? An inquiry on whether their fence, as well as another one off of Maple Street, should be called a "fence" since it was ornamental and only about 1 ft. high. There was also discussion about this type fence being a safety hazard.

There was discussion and it was suggested that the home owners apply for a variance and it would be decided.

Councilman Rosenberg said that if there was not a formal objection to a fence, the Borough would not forfeit.

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Mr. West noted that someone would have to raise an objection in order for the Borough Official to go out and look at the subject property.

There was additional discussion about the size and type of fence. It was pointed out that it was dangerous to let one different type fence slide but not the other ones. It should be more formal.

Councilman Rosenberg said he felt the Board had to look at this problem and clarify it with another definition and Ordinance.

There was discussion about how to interface to resolve all of the issues and who should do it so the problem could be resolved faster. It was agreed that the Board was open to suggestions.

Mr. Posen then reviewed issues which have gone on for one year – some being troublesome - and he felt should be dealt with.

It was agreed that these matters should not be ignored, however, the Board was being ignored. If something like this matter was not properly resolved, there would be one more after the other to deal with.

Mr. Ehrenberg noted for the record that the Building Official should attend the Zoning Board meetings and that he used to attend the meetings on a regular basis. Then Mayor DeRienzo decided that there was no need for the Borough Official to attend the meetings any more. They were never told if it was a financial issue.

There was discussion and it was noted that the Zoning Board has a budget, which they do not use. There are general and line items for fees for the attorney and other temporary work like this fence list.

Mr. West pointed out that the Zoning Official is an employee of the Municipality and should be covered under their budget.

There was discussion on what they wanted to happen and how to go forward.

Mr. Posen pointed out that there were 5 pages of fence violations each month. He said that until the list shrinks and becomes an afterthought, he would like to make it this year's focus and make the problem go away.

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Mr. West told the Board that they should make a suggestion to the Mayor and Council about what they would like to have done and it will be undertaken by them. He said that if it was deemed that this 14 inch ornamental fence was indeed a fence under the Fence Ordinance, the property owners would have to remove it or apply to be heard by the Board.

Councilman Rosenberg then read the Borough's definition of a fence.

There was discussion about this fence most likely being an open fence. Since it would be classified as a fence, it would, therefore, not be allowed in a front yard.

There was additional discussion.

Mr. Posen said that he agreed with what Mr. Ehrenberg had stated. That is, the Board is being ignored by everyone, but he is not passing judgment. He felt that the Building Official should contact the Board.

Mr. Posen suggested that every decorative fence be brought to the table to be reviewed by the Borough Official. He said they were not there to overrule the Zoning Official – they were there to work collaboratively. Mr. Posen said that it might be on the Zoning Board to re-define a fence.

Councilman Rosenberg stated that it was not this Board's role to define – it was their role to enforce the Ordinances. He said that this was a discussion they should have and the Building Official will need to have to identify the other decorative fences in town.

Councilman Rosenberg talked about what could happen going forward.

Mr. Ehrenberg asked for the record, if there was anything the Board wanted to recommend.

Councilman Rosenberg said that if everyone was in agreement, he would come back with some kind of parameters. He said that he did not hear any clear-cut recommendations from the Board and they had to crystalize where they wanted this to go.

There was additional discussion about doing some research on decorative and other such types of fences; and then go forward to avoid any problems.

A suggestion was made to look into the possibility of having the Fence Ordinance define decorative fences to see if they would be permitted.

