

**ZONING BOARD OF APPEALS  
TOWN OF CANADICE**

Canadice Town Hall

March 1, 2023

Present: Linda Moorhouse  
Diane Horning, Vice Chairperson  
Ed Bott  
Jesse Hallett

Guest: Walt Matyjas  
MaryAnn Matyjas  
Peter Grant  
Beth Grant  
Joel Smith

Kris Singer - Absent

**PUBLIC HEARING – Walter Matyjas & MaryAnn Matyjas - House Variance**

Chairperson, Linda Moorhouse called the meeting to order at 7:30 p.m.  
The criteria, which the Zoning Board of Appeals uses to make decisions regarding an area variance are as follows:

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance.
- Whether the requested area variance is substantial.
- Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- Whether the alleged difficulty was self-created, in which consideration shall be relevant to the decision to the Board of Appeals but shall not necessarily preclude the granting of the area variance.

L. Moorhouse stated that since she was not present at the February 8th meeting, she has asked Ed Bott to run the meeting.

E. Bott - Unfortunately, I did not get to go on the field trip, since I had covid. Are there any updates from the field trip discussion?

J. Hallett - Everything is pretty much as they represented it. There were no surprises.

E. Bott - So, we had three areas of concern, there was safety, ice coming off the house and going on the other. We had privacy and drainage.

J. Hallett - So, for privacy, the windows are right across from each other. A lot of windows line

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up with each other, but they are pretty close. There were other windows across from each other before, but they were farther away.

E. Bott - What about drainage?

J. Hallett - It is not finished right now and I don't see how drainage is supposed to work. Only options are to put in a sump and let it percolate into the ground and let it run across the ground or dig a ditch through the lower part of the property.

J. Smith - There is an existing sleeve there, which we can hook back into that 4" sleeve.

P. Grant - The sleeve is going to where?

J. Smith - Where it goes now, down to the lake.

E. Bott - So, that was pre existing?

W. Matyjas - There would actually be less service area of roof now, than there was before. That is the way it was before. It used to drain into that sleeve.

E. Bott - If it was pre existing, we were wondering about the runoff. You like to have stuff run off into a grassy area. If that is pre existing, you don't have to change anything.

P. Grant - The sleeve runs all the way to the lake?

W. Matyjas - The water runs to the lake, the sleeve ends close to the edge of the property line.

P. Grant - So, where that sleeve ends, the water is still going to flow across the Association property.

J. Smith - Right, but that is the way it has been.

P. Grant - But, you are connecting other things to that sleeve.

J. Smith - No, we are not. We are hooking the gutters to a drain that was already there. There is no additional water going into it.

P. Grant - The roof gutters were not connected to that before.

J. Miller - What was connected to it before?

W. Matyjas - The roof gutters.

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L. Moorhouse - So, this drain is pre existing, it has been there, it is nothing that you have added?

W. Matyjas - Yes, and there is actually less square footage.

E. Bott - Ok, so those are the three issues. Did you guys come to any agreement on these things?

J. Hallett - The other thing we talked about was a fence.

L. Moorhouse - The fence in between the two houses.

J. Smith - And closing in the deck so it wasn't visible.

E. Bott - That is for the next variance. I am just trying to keep them separate. I have something here from, I'm guessing it is from you guys, 6025 house variance, privacy fence.

P. Grant - Those are the concessions we are asking for, we wanted to document them.

E. Bott - Ok, it doesn't say who it's from.

P. Grant - I put it all together, I saw Rich put a note on it.

E. Bott - Ok, so we have ice jams or snow guards, we talked about that. That is pretty straight forward there. And the drain, you already have an existing drain. Bahama shutter for bathroom window, so that is going to be on what building?

B. Grant - 6019, on our house.

E. Bott - On your place?

B. Grant - Over our bathroom window.

E. Bott - Ok.

B. Grant - I had originally joked about it with Joel, when he brought it up last Saturday. I am more amenable to that than frosting my brand new windows.

L. Moorhouse - What is a Bahama shutter?

E. Bott - It opens at an angle.

L. Moorhouse - Ok.

B. Grant - So, when I have guests, if they forget to shut the blinds. I have grandchildren.

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E. Bott - That seems reasonable. The fence, now you are talking about 84ft. from where?

P. Grant - It would be from the north west corner. So, basically where our existing fence was before. Where the house is now pushed back, it would go from the corner of the house, the north west corner to 84ft., where it ended before. Which would basically go to their deck.

E. Bott - So, you are talking down by the lake?

B. Grant - No, between the two houses.

D. Horning - Just the length of the house.

E. Bott - The house isn't 84ft. long. The house is only 44ft.

B. Grant - That will cover the deck area.

There was discussion with Peter Grant and the Board members regarding placement of the deck.

W. Matyjas - It seems rather excessive.

E. Bott - We talked about the fence there, but what we don't want to do is go across the easement.

J. Smith - It should be about 50ft.

B. Grant - It's replacing the existing fence that was there and knocked down by Diversified and then having it extend to the back corner, north west corner of the house. Just to shield all the windows.

E. Bott - I get that part. I'm not going to allow the fence to go all the way to the lake and completely block the lake.

B. Grant - No, where it starts now, the back corner of the house.

There was more discussion of the fence length. Ed Bott and Joel Smith discussed the drawings and distances for the fence. It was decided that it would be 50ft. for the length of the fence.

B. Grant - I think it is 14ft. forward from where the house is, because they moved it back 14ft. The original fence started where the house used to be.

J. Smith - The sewer line easement is there, that was the whole problem. The whole thing got moved 14ft. The fence started down here and it was 5 or 6ft. into the right of way.

E. Bott - We don't want stuff in the right of way.

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J. Smith - If you do 55ft. from the north west corner of the house, it has got to be really close.

B. Grant - So, the north west corner of the house to the edge of the sewer easement.

E. Bott - We can make it from the north west corner of the house to wherever the end of the deck is, or the edge of the right of way. Whichever is first. Actually the right of way is going to end before the corner of the deck. That is going to be somewhere in the 55ft. range. Does that sound ok?

P. Grant - Yes, so I was off 29ft.

E. Bott - Until we make the determination on the deck, we will have a ruling on that later. If it goes through, then there will be a set point on the deck. And it looks like it is going to be the right of way. It goes from the right of way to the north west corner of your house and that won't block anybody's view any more than things were or are now.

J. Smith - If you are putting a fence up that tall, why are you doing a shutter at all?

B. Grant - If you ever stood inside their house and looked at our house, I can see in their house and it peers down over it. The fence will not block the window at that height.

E. Bott - So, we really need the 8ft. fence?

B. Grant - For privacy and there was an existing fence there. There has always been a stockade privacy fence between the two houses until Diversified's team undermined it and dug under on our property.

L. Moorhouse - How tall was the existing fence.

P. Grant - 6ft.

E. Bott - 6ft., but they raised the house 3ft. on the other side.

L. Moorhouse - So, we need an 8ft.?

D. Horning - Do we need a variance for an 8ft. fence?

J. Miller - No, but you can't exceed 8ft.

E. Bott - I thought it was 6ft.

J. Miller - I believe it is 8. I will have to look up the code for that.

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E. Bott - If we agree to this, then that is our right to change it. We can do that. Now, for your case, these have to be put in place before you can get a certificate of occupancy.

J. Miller - They don't need a permit for the fence.

E. Bott - They don't need a permit, but it has to be installed. I want to put a timeline on this. I don't want to say that we agree to this and leave it open ended with no timeline.

J. Smith - As long as it is done before the certificate of occupancy is issued?

E. Bott - Yes.

W. Matyjas - Do we need a new permit?

D. Horning - No. If the variance is issued, it will be issued under these conditions, or stipulations.

E. Bott - As it stands now, a new privacy fence that would run from the west side of the sewer right of way to the north west corner of the house is to be installed. Ice jams, snow guards to be installed on the north roof line. The Bahama shutter to be installed on the bathroom window of 6019 West Willow Point. The downspout is going to the existing drain pipe.

D. Horning - Shall we vote on it now?

E. Bott - I am satisfied with everything as long as everyone is in agreement. Ed asked the board if they had any other questions. Jesse?

J. Hallett - I don't think so.

L. Moorhouse - We are really dealing with the house right now?

E. Bott - Not the deck.

D. Horning - We have another variance application for that.

E. Bott - We wanted to separate the house and the deck, because if the variance got denied, then they would not be able to do anything with the house.

J. Hallett - As for the snow guards, do we have to specify what type? There are ones that screw on top of the ridges, there are ones that go in between the ridges.

B. Grant - Whatever they want to do.

J. Miller - There are three different types that we use in this state anyway. They would all work in

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this situation.

J. Smith - It is just a matter of looks.

E. Bott - Anyone else?

D. Horning - No, I have no questions.

S. Seeley - Do you want to go ahead and vote on the variance?

E. Bott - With the stipulation of a new privacy fence installed from the west edge of the sewer right of way to the north west corner of the house, 8ft. tall. Install ice jams, snow guards that meet code along the north lower roof line. All drainage coming off the house is going to be connected to an existing 4" drain. The Bahama shutters installed on the Grant house, on the bathroom window.

B. Grant - And this will all be taken care of by the Matyjas.

E. Bott - Yes, they have to do that. When you make a change to the neighborhood, you are responsible for the adjustments. So, I agree to the variance.

D. Horning - Don't we have to close the discussion before we vote?

W. Matyjas - Can I ask a question?

E. Bott - Yes.

W. Matyjas - On the last item, so if that is at our expense, is there a not to exceed? I don't want it gold plated.

E. Bott - They actually have it here.

W. Matyjas - I don't have a copy of that.

E. Bott - Oh, I'm sorry.

J. Hallett - It says on here that the kit comes to \$555.91 plus installation at \$65.00 with a total of \$721.91.

L. Moorhouse - That is just for the shutter.

B. Grant - The fence can be a wood fence, what they want to look at.

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P. Grant - The good side can be towards their property.

L. Moorhouse - Who is in charge of maintaining that?

J. Miller - The property owner.

E. Bott - So, you guys would have to maintain it after it is installed.

J. Miller - The good side actually has to face the neighbors at 6025.

There were no other questions.

D. Horning made a motion to close the public part of the hearing, seconded by L. Moorhouse, all in favor.

Roll Call Vote to accept or deny:

L. Moorhouse, **YES**, D. Horning, **YES**, E. Bott, **YES**, J. Hallett, **YES**

L. Moorhouse - 1. Yes, 2. No, 3. Yes, 4. No, 5. Yes - **YES**

D. Horning - 1. Yes, 2. No, 3. Yes, 4. No, 5. Yes - **YES**

E. Bott - 1. Yes, 2. No, 3. Yes, 4. No, 5. Yes - **YES**

J. Hallett - 1. Yes, 2. No, 3. Yes, 4. No, 5. Yes - **YES**

The Zoning Board of Appeals approved this variance under the following conditions:

1. An 8ft. privacy fence will be installed from the west corner of the sewer right of way to the north west corner of the house. The good side of the fence will be facing 6025 West Willow Point. The fence will be maintained by the property owner at 6019 West Willow Point.
2. Ice jams/snow guards that meet code will be installed on the north lower roof line.
3. All drainage coming off the house will be connected to an existing 4” drain.
4. Bahama shutter will be installed on the bathroom window at 6019 West Willow Point.  
The cost not to exceed the estimate of \$721.91.

L. Moorhouse - Ok, so we have granted the variance on the house. Now, we have to review the variance application for the deck.

**PUBLIC HEARING - Walter and MaryAnn Matyjas - Deck Variance**

L. Moorhouse - So, we are talking about the deck that is on the north side?

D. Horning - East side.



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E. Bott - The deck was on...

J. Smith - The east and south side.

J. Miller - The deck was similar to what it is now, wasn't it?

E. Bott - No, actually the tab of the deck stuck out towards West Willow.

B. Grant - There were just little entrance steps on the north side. I wasn't really a deck.

E. Bott - So, now what you are proposing is to have...

J. Smith - There are two proposals. One is to have it match the house and the other is to slide it over. Sliding it over, we would need a variance on the south side, because there is not enough distance to the right of way.

J. Smith and W. Matyjas went over the proposals with the board members.

W. Matyjas - At the meeting on the 18th, it was brought up about the privacy concern, so option one is to put a deck on the south side, roughly the same square footage that we lost removing the existing deck, option one, if you will would be to put some kind of privacy screen on the north side. The same side where we are putting the fence.

E. Bott - The other side would be just 3ft. wide, just for access?

W. Matyjas - Correct. We have doors in the air, it would be quite a jump.

J. Hallett - Which option would you prefer, one or two?

W. Matyjas - Either one needs a variance, as Joel mentioned. To be honest with everything that has been going on, I think we are leaning towards option two. Just to move further away from the neighbor and enjoy our privacy. But, it would put this south side close to the road.

J. Smith - That's why Steve had us move it over, because we couldn't put the walkway in and then have a clearance to the road.

E. Bott - My first concern is, on either one of these...

J. Hallett - It puts the upper corner 1.4ft. from the road.

E. Bott - Because it goes the full length of the house.

D. Horning - That's existing, that was on the house.

There was extensive discussion on the location of the deck, walkway and the right of way.

E. Bott - The landing from the stairs, bottom of the stringer, has to be a minimum of 10ft. from the south west corner of the house. The south west and south east corner of the deck has to be at least 5ft. from the right of way. As long as the south corners of the deck maintain no less than 5ft. from the right of way, then it is fine.

E. Bott made a motion to accept the application, seconded by J. Hallett, all in favor.

Roll Call Vote to accept or deny:

L. Moorhouse, **YES**, D. Horning, **YES**, E. Bott, **YES**, J. Hallett, **YES**

L. Moorhouse - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

D. Horning - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

E. Bott - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

J. Hallett - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

The Zoning Board of Appeals approved this variance under the following conditions:

1. The bottom of the stringer has to be a minimum of 10ft. from the south west corner of the house.
2. The corners of the extended deck are to be no less than 5ft. from the right of way.

Public Hearing concluded at 8:35 p.m.

### **Old Business**

L. Moorhouse made a motion to approve the minutes from the February 8, 2023 meeting, seconded D. Horning, all in favor.

L. Moorhouse made a motion to adjourn the meeting, seconded by D. Horning, all in favor.

Meeting adjourned at 9:00 p.m.

Respectfully,

Stephanie Seeley, Secretary

