

May 3, 2017

Zoning Board of Appeals

Proceedings by Authority

State of New York,
City of Jamestown, ss:
Council Chambers

The regular meeting of the Zoning Board of Appeals of the City of Jamestown, New York, was held on Wednesday, May 3, 2017 at 3:30 p.m.

Members Present: Ellen Ditonto, Richard Hanson, Sally Martinez, Judith Sandson, Patricia Calanni

Members Absent: Robert Karbacka

Others Present: Larry Scalise

Mrs. Ditonto called the meeting to order.

Mrs. Ditonto: We have five petitions, so we have a rather busy agenda. There are some housekeeping items that I like to announce at the beginning of each meeting. We will have the petition read and then at that time we ask the person who's representing the petitioner to come to the center here at this table. You must state your name and your home address each time you wish to speak. The petitioner or a representative has a couple of minutes to discuss in any detail they would like; the reason for the request. We do have time for the public to speak either for or against any petition and anyone from the public must go to the microphone that's to my left and your right. You must state your name and home address and limit your remarks to five minutes and it must be related to the petition; the request for the variance. We do have five members of the zoning board here today. It takes four affirmative votes to approve any variance request and it would be the same for – you have to have four in affirmative in order to get any of those variance requests in. Again, we will have each petition read individually and we'll start with petition one.

JAMES FRENCH 105 FOREST AVE., 387.15-1-34

The petition of James French, 105 Forest Ave., Jamestown, New York 14701 for an area variance to install a 5' wrought iron fence in the front yard at 105 Forest Ave., parcel 387.15-1-34, owned by James and Monica French in a R-2 Zone. (Section 300-0206, the maximum allowable fence height in a front yard is 3'6", the proposed is 5').

Mrs. Ditonto: Thank you. Would you like to identify yourself, your name and home address please?

Mr. French: Yes, my name is Jim French. I am the owner of 105 Forest Avenue in Jamestown.

May 3, 2017

Mrs. Ditonto: Thank you. Mr. French, do you want to talk a little bit about your reason for the request?

Mr. French: Yes. My wife and I, for the last several years, have been involved with the Renaissance Center and the Grow Jamestown project and we have been planting front gardens in front of our house. We have an 1896 Queen Victorian house on Forest Avenue and we have a problem that we need some help with and we're hoping you can help us. We've been inundated with deer. They're eating all our perennials that we spent a lot of money on. We thought a beautiful, decorative, wrought iron fence would be the solution, but the city allows only 42" and the fence contractor that I've been talking with says that probably we'd want to go at least a 52"-60". I can and I would consider below the 60"; 5' if that's okay with you folks. But, we need it not only for beautification; it's going to have gates and everything. But, we need it for our gardens that are being ravaged by the beautiful deer that come to visit us. And I appreciate you're meeting today to consider this. It's important to us as homeowners and I would appreciate your consideration, especially if you could be in the favorable realm of things. So, it's a wrought iron fence, no higher than 60". If you could then I would appreciate it. Thank you.

Mrs. Ditonto: Thank you Mr. French. At this time, we open this to the members of the zoning board to ask any further questions. Are there any questions?

Ms. Martinez: Will it really have spikes on top of it?

Mr. French: It will have ornamentation on top of it, but they'll have like a round ball on top.

Ms. Martinez: Just a round ball and not the spikes that are on here?

Ms. Sandson: So it's like a finial.

Mr. French: A finial, yes.

Ms. Sandson: So, it's a rounded finish, it's not an actual – so even if the deer were to jump it wouldn't – it's not a piercing.

Ms. Sandson: Okay. Because deer can clear a 5' fence with no problem.

Mr. French: I'm sorry?

Ms. Martinez: Deer can clear a 5' fence with no problem whatsoever.

Mr. French: Well, the fence is going to sit up on a –

Ms. Martinez: I saw it. You've got a hill I know. I went there today.

Mr. French: So how high should I make it?

May 3, 2017

Ms. Martinez: If you put fencing across the top of it; across the top of the gardens, you'll probably be fine, put them in a conservatory or something like that, you'd probably be fine because otherwise they can get in.

Mr. French: It should act as some deterrence to the animals.

Ms. Martinez: It might. Until they decide to jump it. You do have a raised area so it's not really going to be 5'. In essence, it's going to be about 8' high because you have a 3' bank. So, it's going to be about 8' high.

Mr. French: Exactly. And it's 20' in from the curb, so it's not right on the sidewalk.

Ms. Martinez: And it'll be beautiful. Are you fencing the whole area then?

Mr. French: We're fencing in, straight across to the northern corner and then we're going to go east along the side and then it's going to come south to connect to the house. There's going to be a gate there. We have a sidewalk that goes along the northern side of the house. So, there will be a gate there and there will be a gate on the main stairway coming up from the street.

Ms. Martinez: It will be beautiful, there's no question it'll be beautiful and the house is beautiful itself.

Mr. French: Thank you.

Ms. Martinez: I'm not sure that it'll deter the deer, but you can try.

Mr. French: Well, that's what we're going to do. I don't have a rifle. I don't want to shoot them.

Ms. Martinez: No, we don't shoot deer in the city. They live in my backyard. I live on Durant and it's all forest from my house to the expressway, but they do not eat my stuff. My garden got eaten by groundhogs. It did not get eaten by deer.

Mr. French: We have little piles of deer droppings all over our side yard. We did the back. We fenced in the whole back, so they figured out well we can't get that way so we'll go around the neighbor's house and come up around the front. That's what they do.

Mrs. Ditonto: Are there other questions from members of the board? Seeing none, this is the time when we allow members of the public to speak in favor or in opposition. This is a request for an up to a 5' fence on the property at 105 Forest Avenue and it's an area variance request. If there's anyone who would like to speak in favor or in opposition to that request, they need to go to the microphone to my left and your right. State your name and home address and state your remarks in five minutes or less.

May 3, 2017

Ms. Stearns: Marilyn Stearns. I live across the street; 102 Forest Avenue and I approve. Their lawn is beautiful and they have it well kept up so I'm sure with a fence it will look beautiful also. Thank you.

Mrs. Ditonto: Thank you very much Ms. Stearns. Is there anyone else in the audience that would like to speak on this request? 105 Forest Avenue. One more time. Is there anyone who would like to speak in favor or in opposition to the request? Seeing none, I will ask the clerk if there is any correspondence.

Mr. Olson: No.

Mrs. Ditonto: No correspondence on this request. At this point we would be looking then for a motion on the petition of James French of 105 Forest Avenue for an area variance to erect up to a 5' wrought iron fence on the property.

Ms. Calanni moved, seconded by Mr. Hanson.

Carried 5-0

Mrs. Ditonto: The variance request has been approved, Mr. French. You may move forward with your project. Make sure you talk to Mr. Scalise. Thank you very much.

MARY JANE SMITH 48 LIVINGSTON AVE., 387.05-3-17

The petition of Mary Jane Smith, 48 Livingston Ave., Jamestown, New York 14701 for a use variance to install a 21' x 18' carport on parcel 387.05-3-17 located on Osmer Street, owned by Mary Jane Smith in an R-1 Zone. (Section 300-0317, a carport is an accessory structure and is not permitted without a permitted primary use, such as a residence).

Mrs. Ditonto: Thank you. Would you like to have a seat? Please identify yourself, your name and your home address.

Ms. Nixon: I'm Penny Nixon and I'm speaking on behalf of my grandmother who is right behind me. My home address is actually not in the city, but she's 48 Livingston Avenue.

Mrs. Ditonto: And yours is?

Ms. Nixon: Panama, New York.

Mrs. Ditonto: Ms. Nixon, do you want to explain a little bit more about this request for a use variance.

Ms. Nixon: Yes. I brought pictures, but I'm afraid I may not have been as prepared as the last gentleman. He looked really on it. What she would like to do, basically, is she has bought this abandoned lot a few years ago and she has cleaned it up and turned it into a place for us to have picnics. So, the carport is basically – we weren't sure which way you would prefer us to go,

May 3, 2017

so I have these photos. We're willing to do just about anything that would be usable for that space. What she would like to do is use it as a gazebo in the summer to have shelter for picnics out of the rain and then in the winter, just put her picnic tables and whatnot underneath it. I've picked out a few that we could do, whether it just be a carport with just a roof that is cemented in, or it could be made more portable. However is deemed acceptable. So, I guess that's really what we're asking for is what do you deem acceptable.

Ms. Calanni: So, what are these other two pictures? The different structures?

Ms. Nixon: The different styles of structures that would could build for the purposes. We could put a gazebo on a skid or we could put in the carport, which is what she's asking for. She would like to put in a carport.

Ms. Sandson: But then, these are the other two options.

Ms. Nixon: Yes, we could do something like that if that was more acceptable and put it on a skidded, you know how they do the Amish sheds? Where they're skid able and movable. We could do that if that's more suitable.

Ms. Calanni: The purpose of it is not for a car.

Ms. Nixon: Oh no, it's just a picnic pavilion really.

Ms. Calanni: For shelter.

Ms. Nixon: Yes. She spends a lot of time there with family and the grandkids and things like that. It's kind of a diagonal from her house, so the neighbors use it for picnicking and whatnot as well.

Mr. Olson: I believe that's it's been advertised as a carport and so you would not be able to amend that. Unless the other two items are identified, or could be identified as a carport, then you wouldn't be able to consider the other two because that's how it was identified in the legal notice.

Ms. Nixon: And the carport is what she wants. I just brought those to kind of figure out what would be an acceptable solution I guess.

Mrs. Ditonto: If the carport was not approved; I just want to ask Mr. Scalise, would a gazebo be an acceptable structure without a variance request?

Mr. Scalise: If you could get a car under it, not saying you have to, but if you could get a car under it, I can call it a carport. There are a variety of ways to build a carport. A carport is something that has open sides and a roof above. So, it would meet the definition of a carport as far as I was concerned.

Ms. Nixon: And we're not asking to change the size that she submitted.

May 3, 2017

- Mrs. Ditonto: Okay. The size was 18' x 21" is was what was requested.
- Ms. Sandson: So, really, they're looking to a gazebo in reality, yes? I would imagine?
- Mr. Scalise: That's what she said. When I was in discussion with Ms. Smith, we talked carport the whole time. First time I've heard gazebo thrown out.
- Ms. Nixon: And I'm the one that probably just confused that because that picture of the carport is what she'd like to put in; the metal carport with the open sides.
- Ms. Martinez: It's hideous.
- Ms. Nixon: It's what?
- Ms. Martinez: Hideous.
- Mrs. Ditonto: Are there other questions from members of the board?
- Ms. Martinez: Larry, you're saying there is a way to do this?
- Mr. Scalise: Yes. They could build a wood frame that would look similar to the gazebo picture and it still would meet the definition as far as the concerns being that it is a carport.
- Ms. Martinez: So if there is a wooden floor and there's a way to bring a car into it. It's not 5" or 5' ...
- Mr. Scalise: I don't know if she's necessarily said a wooden floor. I think she'd be fine if she put in posts and the roof on top of it.
- Ms. Martinez: That could just be grass, right?
- Ms. Nixon: Right.
- Ms. Martinez: And then it would have an open side, at least one open side...
- Mr. Scalise: You have to have at least two open sides to make it a carport.
- Ms. Martinez: Okay. Two open sides. So, it could be a carport, but it would not look like a carport.
- Mr. Scalise: Yes. It would meet the definition of a carport. If you think it looks like a gazebo, then call it a gazebo, but I wouldn't, by the regulations I have, it would be a carport.
- Ms. Martinez: And we can't call it a gazebo in our vote for it.

May 3, 2017

Mrs. Ditonto: No.

Ms. Martinez: We have to call it a carport.

Mrs. Ditonto: The request was for a carport.

Ms. Calanni: And this carport is legal, if the residence was on the same property. She wouldn't even be here.

Mr. Scalise: No. And I looked at it; if you look at the tax map there, we were very close. If we could've somehow joined the two parcels, she could have made it into one and then we wouldn't be here.

Ms. Calanni: Right.

Mrs. Ditonto: Can I ask a question of either you or your grandmother. These parcels that are owned by your grandmother would be sold together or are you thinking that you would sell them separately if you ever had to sell them?

Ms. Nixon: They would go together. She's not looking to ever sell them. She loves that lot.

Mrs. Ditonto: Any other questions at this point from members of the board?

Ms. Martinez: Do you garden on that lot too? Do you plant...

Ms. Nixon: There are flowers and there's fences. The neighbors' fences are all up around it, so she has flower pots and things of that nature. The deer – they love that area as well. We're not looking to block them out because they're part of the ambiance, but she's real careful about what she plants there because they'll eat it. But, yes, it's turned into a nice little picnic area, it's all mowed and she was allowed to put power in, so there are places for her to set up roasters for buffets and things like that. It's pretty back there.

Mrs. Ditonto: Is the intent then, not to store vehicles of any type on this property?

Ms. Nixon: No, there would be no reason. She has a garage on her property. It's just simply a picnic area is what she's looking to do. The carport was simply a nice shelter option and she wanted it big enough so it would be more like a carport. But, she's using it as a picnic space. Whether we make it out of wood or that metal structure, we hadn't even gotten there yet. We just knew that because it was a carport essentially, she was calling it, we needed to come here and present.

Ms. Martinez: Can we specify wooden?

Mrs. Ditonto: I think we need a little assistance, Larry on this one. If it's a carport...

May 3, 2017

Mr. Scalise: We're not here because of the construction of it. We're here because of the use and the placement on a vacant lot.

Ms. Sandson: But, it's not being used as a carport.

Mr. Scalise: When we had this discussion; when Ms. Smith – I don't remember talking about using it as a gazebo type deal, but it still would meet the definition of a carport. I don't know if you call it a gazebo or a carport – you could call the metal one a gazebo too I suppose. It's more on how she's using it, not the fact that the structure is there itself.

Ms. Sandson: Do you need a variance to put up a gazebo? That's what I'm trying to figure out.

Mr. Scalise: Yes, if she was calling it a gazebo or a carport when we started, she'd still be here.

Ms. Martinez: If it were on her lot, then there'd be no problem.

Ms. Nixon: And that's essentially because it doesn't connect to her primary residence, right?

Mr. Scalise: A gazebo or a carport is an accessory structure and you need to have a primary use which in a neighborhood, would be a single-family home which isn't on there and unfortunately, we couldn't connect her two lots together, physically. If we had, we wouldn't be here.

Ms. Nixon: That's how I understood it too. I just wanted to make sure.

Mrs. Ditonto: Other questions? At this time, we would allow members of the public who would like to speak either in favor or in opposition to the request for a use variance on the property on Osmer Street, which is owned by Mary Jane Smith to be used for a carport or a structure that has at least two open sides on it and if you have any comments, you would need to go to the microphone, state your name and home address and speak in five minutes or less on the use variance. Anyone in the audience who would like to speak on the request for a carport on Osmer Street for the property owned by Mary Jane Smith, this is your opportunity. Seeing no one, we would move to any correspondence. Is there any correspondence?

Mr. Olson: No.

Mrs. Ditonto: No correspondence on this request. At this point, it would be a time for the zoning board to either make a motion or further discuss this.

Mr. Hanson moved, seconded by Ms. Calanni.

Carried 5-0

May 3, 2017

Mrs. Ditonto: You need to work with Mr. Scalise to make sure you have what you need. Your variance request has been approved.

DOUGLAS NORDWALL 8 ELLIS AVE., 387.09-8-59

The petition of Douglas Nordwall, 8 Ellis Ave., Jamestown, New York 14701 for a use variance to construct a 480-square foot garage 1' from east property line on parcel 387.09-8-59, owned by Douglas Nordwall in an R-1 Zone. (Section 300-0317, the required side yard setback for an accessory structure is 5', the proposed is 1').

Mrs. Ditonto: Please have a seat. State your name and home address and you can tell us a little bit more about your request.

Mr. Nordwall: Good afternoon. My name is Douglas Nordwall and I live at 8 Ellis Avenue. I'm very excited to start construction on a garage. There are several houses in my neighborhood that don't have any sort of garage set up. I do a lot of my own work. I work for the city. I've been doing home restoration, renovation for several years and I'm just looking for a place to be able to park one car and the rest of the building will be used mainly for storage for children's bikes, lawnmowers, snow blowers, ladders and things like that so aesthetically, I want to clean up my backyard and that's my main goal of creating this project.

Mrs. Ditonto: Okay. Questions?

Ms. Martinez: There are a couple of sheds in the back. Will those go?

Mr. Nordwall: Yes. The shed that I have right now, it started out as a playhouse for my daughters and when they grew up it turned into a storage shed and it's hopefully going to be gone. I have a bunch of raspberry bushes back there that will be glad that it's out of the way as well.

Ms. Martinez: What's the roof structure going to be like?

Mr. Nordwall: It's going to be a – I'm actually going to have it match the structure...

Ms. Martinez: Of the house.

Mr. Nordwall: Of my house. I'm going to have a dormer above the garage door. I want it to be a pleasant looking garage.

Ms. Martinez: It's a beautiful house.

Mr. Nordwall: Hopefully it's going – it's not going to have the same pitch. It's going to have a 9/12 pitch. But, it's still going to have a substantial pitch.

May 3, 2017

Ms. Martinez: But, it won't be dripping or sliding onto the Lind parking lot.

Mr. Nordwall: No, I have 5' from their fence line and I'm going to put gravel back there and that would probably be the spot that I will wish I had more room.

Ms. Martinez: It's a very unique design in terms of how you want to put it. And it's a unique property that lends itself to that.

Mrs. Ditonto: Any other questions from members of the zoning board? I just have one and that is on the construction timeframe. I take it you plan to do that this season?

Mr. Nordwall: Absolutely. I already have contractors for the excavation. I will be doing the building of it and I've already talked with the credit union for a loan so I should be all set to go.

Mrs. Ditonto: And I think we had a question from Ms. Martinez about the drainage. I take it you're going to have proper drainage on that garage?

Mr. Nordwall: Yes.

Mrs. Ditonto: Eavestroughs or appropriate drainage.

Mr. Nordwall: I'll have eavestroughs and downspouts, yes.

Mrs. Ditonto: At this time, we will have members of the public who would like to comment on the use variance at 8 Ellis Avenue for a garage that will sit 1' from the east property line, rather than the required 5'. Is there anyone in the audience who would like to speak either for or against this request? One more time. Anyone who would like to speak for or against the request for a use variance at 8 Ellis Avenue, Jamestown. Seeing none, we would be looking for correspondence.

Mr. Olson: There are just two. One was in your packet from Evelyn Russell.

Letter dated March 19, 2017:

My neighbor, Doug Nordwall is intending to build a garage in his back yard. He let me know that the structure cannot be located any closer than 5 feet from our mutual property line without my consent. With this letter I acknowledge that Mr. Nordwall plans to build his garage with a 1' offset from our property line and I give my consent for him to do so.

Yours Truly, Evelyn Russell 4 Ellis Avenue, Jamestown, New York 14701

A note was submitted on a copy of the legal notice that was mailed to property owners within 100' of the petitioner's property. It read: I approve. Nick Ingrao, 20 Ellis Avenue.

May 3, 2017

Mrs. Ditonto: Those pieces of correspondence are from the neighbor who would abut the property that resides at 4 Ellis and they're within the... Okay. And the 20 Ellis Avenue. At this point, we would be looking for a motion on the request at 8 Ellis Avenue for Mr. Nordwall for a use variance.

Mrs. Martinez moved, seconded by Ms. Sandson.

Carried 5-0

DAVID BROWN 316 ALLEN STREET, 387.12-2-53

The petition of David Brown, 316 Allen Street, Jamestown, New York 14701 for a use variance to allow for Eight (8) Chihuahua dogs (3 are owned by applicant, 2 owned by mother, 3 owned by spouse) to remain at 316 Allen Street on parcel 387.12-2-53, owned by David Brown in an R-2 Zone. (Section 300-0214, Keeping of Dogs in a residential district: The maximum allowed number of dogs in a single –family residence is 3, proposed is 8).

Mrs. Ditonto: Thank you. Please state your name and home address.

Mr. Brown: My name is David Brown, 316 Allen.

Mrs. Ditonto: Thank you Mr. Brown. Do you want to tell us a little bit more about the reason for your request because you do know the regulation about allowing only three dogs?

Mr. Brown: They're all like my children. It's hard just turning them all away.

Mrs. Ditonto: Can you tell us a little bit more about the dogs. I think on here it said there are 8 chihuahua dogs. Are they all chihuahua dogs?

Mr. Brown: Yes. They're all small dogs.

Mrs. Ditonto: They're all small dogs, but they're not all the same breed. Is that correct?

Mr. Brown: There are a couple that are like chihuahuas, but they're a little bit different.

Mrs. Ditonto: And can you tell me if all of these dogs have been licensed by the City of Jamestown?

Mr. Brown: All of them except for two at the moment.

Mrs. Ditonto: Two are not licensed. I think your request said that they weren't all your dogs. Is that correct?

Mr. Brown: I have three of them.

May 3, 2017

Mrs. Ditonto: Three are yours and are the owners of the other dogs living at 316 Allen Street?

Mr. Brown: Yes.

Mrs. Ditonto: At this time, we'll open it up to questions from members of the board.

Ms. Martinez: What are the ages of the dogs?

Mr. Brown: The oldest one is five years old. The youngest one is a year old now.

Mrs. Ditonto: Any other questions?

Ms. Sandson: Are they neutered or spayed, all the dogs?

Mr. Brown: There are three males. Two of them are spayed. We're waiting to get the other one in to get him spayed. The other ones are females.

Ms. Sandson: And are the females, are they fixed?

Mr. Brown: No. The females haven't been fixed. We've been fixing the males.

Ms. Sandson: These eight dogs, have any litters come out of them?

Mr. Brown: Yes. One of them just had a litter. We're going to get rid of those puppies.

Ms. Sandson: So is it the eight grown dogs, plus a litter?

Mr. Brown: Yes.

Ms. Sandson: So, how many are in the litter?

Mr. Brown: There was four in the litter.

Ms. Sandson: And how old are the pups now?

Mr. Brown: About two weeks old.

Ms. Sandson: So we're actually talking about twelve dogs in reality then.

Mr. Brown: Yes.

Mr. Olson: Judy, could you move the microphone back in front of you please? Thank you.

Ms. Sandson: I apologize. So, in actuality we're talking twelve dogs, not just eight.

May 3, 2017

Mr. Brown: Yes.

Ms. Sandson: Okay.

Mrs. Ditonto: What do you plan to do with the litter of four, Mr. Brown?

Mr. Brown: We're probably going to give them away. Advertise them on Facebook or something.

Mrs. Ditonto: Any other questions from members of the board? At this point in time we have the opportunity for members of the public to either speak for or against the use variance request that's been put forth by David Brown of 316 Allen Street to house up to eight dogs. The city variance allows only for three. Is there anyone in the audience who would like to speak either for or against that petition? Please go the microphone on my left. Is there anyone who would like to speak for or against the petition of Mr. Brown at 316 Allen Street? Seeing none, we would move to correspondence.

Mr. Olson: We have two letters.

Dear City Zoning Board,

As a support and resource of people and animals of our area and in our ongoing efforts to reduce companion animal over population, the Chautauqua County Humane Society is extending an offer of assistance to the residents of 316 Allen Street and their dogs. If the dogs are not already spayed or neutered, we would like to work with the residents at this location through our low-cost spay/neuter clinic to provide this service for their pets. This would include a spay or neuter surgery as well as a rabies vaccine which is required by law. Depending on our funding at the time an appointment is made, we may be able to offer some of these services at no cost. Access to the low-cost clinic is available to them whether or not the variance request is granted and to make an appointment, they can call me directly. One of our goals at CCHS is to keep animals in their homes if possible, while at the same time helping our neighbors take the best possible care of their pets. Please make our offer known to the residents and if the variance is granted with the caveat that the dogs are altered and become vaccinated against the rabies virus, we would be happy to work with the city to meet this expectation. Sincerely, Kellie Roberts, Executive Director of the Humane Society.

The next letter:

I appreciate how we can love our pets, but properly caring for even one or two pets properly is expensive and time consuming. The city code limit of three is there for a reason. Housing more than three gets into a kennel situation. You may recall a few years ago when dogs on Prospect Street, who were not spayed or neutered, turned into thirty-three dogs who were not licensed, vetted or spayed or neutered or socialized or cared for in any fashion. The owner became overwhelmed and abandoned the dogs and the house, thus creating an expensive and time consuming burden for the city and the Humane Society. You may recall that the house had to be torn down at the taxpayers' expense and the dogs had to be housed, medically treated and socialized. A great expense and over a long period of time by the humane society. While I do not

May 3, 2017

know if the dogs owned by the petitioner are spayed or neutered, it is still a huge and expensive ordeal to own and properly care for more than one or two dogs. I think the city code limit of three is fair and reasonable. I urge the board to deny the request. Signed, Roberta Thompson.

Mrs. Ditonto: Any other questions from members of the board?

Ms. Martinez: Are they all up on their shots and everything?

Mr. Brown: Yes.

Ms. Martinez: You take them to the vet or to the clinics?

Mr. Brown: Yes.

Ms. Calanni: Jim, I'm just curious; how did these two letters come to being, since neither of these people are on the list?

Mr. Olson: I believe Mrs. Thompson used to be a member of the Humane Society Board and the other person might have read the legal notice or talked to Mrs. Thompson. I'm not really sure. She didn't specify.

Mrs. Ditonto: At this time, we would be looking for a motion from the board on the request by David Brown at 316 Allen Street for a use variance to house up to eight dogs. Not all chihuahuas as stated in the original request, but small dogs at the residence at 316 Allen Street. We would need a motion to either approve or deny the request.

Mr. Hanson: We're talking almost three times the limit according to the law and I would propose that we limit him to the three dogs as required in the ordinance.

Mrs. Ditonto: Mr. Hanson, is that a motion?

Mr. Hanson: In other words, deny the petition.

Mrs. Ditonto: What I'm hearing on the floor is a motion to deny the petition for up to eight dogs and to retain the ordinance as stated; three dogs only in a city residence. Is that correct? Is that how you would state the motion?

Mr. Hanson: Yes.

Mr. Hanson moved, seconded by Mrs. Martinez to deny the petition.

Mrs. Ditonto: Are there questions on the motion? Seeing none, I just want - before we call the roll, that the understanding is a vote in favor of the motion is to deny the request for up to eight dogs at the residence.

Carried 5-0

May 3, 2017

Mrs. Ditonto: Please work with Mr. Scalise. We need to stay within the ordinance as stated. I think that there is help at the Humane Society. There's also help, I think, within the city. They can help you get the resources that you need to get those dogs placed. But, that's been denied for today. Thank you very much.

CHRISTINE PETERSON 83 EAST VIRGINIA BLVD., 387.20-1-39

The petition of Christine Peterson, 83 East Virginia Blvd., Jamestown, New York 14701 for an area variance to install a 5' wrought iron fence in the front yard at 83 East Virginia Blvd., parcel 387.20-1-39, owned by Christine Peterson in a R-1 Zone. (Section 300-0206, the maximum allowable fence height in a front yard is 3'6", the proposed is 5').

Mrs. Ditonto: Thank you. Please state your name and home address.

Ms. Peterson: My name is Christine Peterson and I live at 83 East Virginia Blvd.

Mrs. Ditonto: Do you want to tell us a little bit more about the reason for your request?

Ms. Peterson: Sure. I've lived in that house for ten years and just last year, the deer discovered my arborvitaes and Hosta as well. So, I erected a fence that I bought at Home Depot that was just for the winter and it was not effective and so then I went and bought burlap and I covered it with burlap and that seems to have deterred them somewhat. I know that 5' is not going to – you look online and you really need an 8' fence to deter the deer, but I too would like to have – it's an aluminum fence; metal aluminum. I have a picture of it too. The one that I want with the pickets, but it has a bar that goes across for the safety of children. I don't have children in my home, but for children and for the future I guess it would be a good thing. I have a picture of what it would look like.

Mr. Scalise: They do have a copy. It was included in the packet.

Ms. Peterson: Thank you.

Mrs. Ditonto: You also live on a slight incline, so the fence would actually be higher than the 5'. It looks like you have a stone retaining wall on the front of your property. I was there. And that would probably be at least another 3', if you were measuring, and then the 5' on top of that. Is that correct?

Ms. Peterson: Yes. The fence is in the front. I mean; not the fence. The stone wall is in the front on East Virginia and the fence would be on Parkview.

Mrs. Ditonto: Okay. So, on what we would call the side, but maybe that's your front.

Ms. Peterson: Like Mr. Scalise said, it's like two fronts when you live on the corner, but technically it's my side yard. I consider it the side.

May 3, 2017

Mrs. Ditonto: So it would only be along the Parkside portion of your property.

Ms. Peterson: Well, yes. In between my house and the yellow house on East Virginia; they already have an existing fence between the two properties, so there would just be two 6' sections that would kind of close that off because they've gotten to those arborvitaes as well and that separates – they're my arborvitaes, but they separate our properties and give both of us privacy and then the third section would be by the garage. Between the two garages. And again, that would connect to their existing fence and it would just go from the end of the arborvitaes over to the corner of my garage on East Virginia.

Mrs. Ditonto: Are there questions on the petition? Seeing none – let the record show there is no one left in the audience. There is no one in person, except for the reporter, but he's not going to speak for or against the petition. This is an area variance. Is there any correspondence on this request?

Mr. Olson: No.

Mrs. Ditonto: No correspondence. I think it's quite apparent we have a deer problem in the city. We're getting a number of people who want fences for that particular reason. At this point are there any further questions? Seeing none, we would be looking for a motion on the request for an area variance at 83 East Virginia Blvd?

Ms. Calanni moved, seconded by Ms. Sandson.

Carried 5-0

There being no further business, the meeting was adjourned.

James N. Olson, Secretary
Zoning Board of Appeals