

**VILLAGE OF PERRY
ZONING BOARD OF APPEALS MEETING
MAY 2, 2023**

Present:	John Czyryca	Chairman
	Zach Kowasz	Member
	Bethany Zerbe	Member
	Don Roberts	ZEO
	Christina Slusser	Zoning Secretary

Also Present:	Joe Kowasz	Applicant
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Absent:	Meggan Quartz	Member
	Joe Rebisz	Member
	George Smith	Alternate

John Czyryca called the meeting to order at 6:35 pm and led in the Pledge of Allegiance.

CHAIRPERSON AND SECRETARY APPOINTMENT

The discussion on the appointment of a chairperson was tabled due to attendance. Zach Kowasz made a motion to reappoint Christina Slusser as the secretary for the ZBA which was seconded by Bethany Zerbe and carried with the following vote:

Ayes	3
Nays	0
Abstain	0

MINUTES

Bethany Zerbe made a motion to approve the minutes from November 8, 2022 which was seconded by John Czyryca and carried with the following vote:

Ayes	3
Nays	0
Abstain	0

Bethany Zerbe made a motion to approve the minutes from April 4, 2023 which was seconded by Zach Kowasz and carried with the following vote:

Ayes	3
Nays	0
Abstain	0

PRELIMINARY REVIEW – AREA VARIANCE 9 ANDRUS AVENUE

An application was submitted by Joseph Kowasz of 9 Andrus Ave. for a 6' tall fence in the side and back yard. The applicant's original plan has already been revised to be more accommodating for visibility. There are 2 sides that are restricted because the property is on a corner lot.

Previously, a variance was granted to an applicant on Spring Street where the start of the fence was backed up and angled a bit so you can see by the sidewalk. This current applicant has made an effort to make those changes as well. Don Roberts confirmed that the proposed fence meets the minimum setback of 25' from the center of the road.

The applicant stated that a 6' tall fence is requested for privacy and safety for large dogs and 2 kids. With the street being on a slope, visibility is not affected as much due to the elevation coming down the street from the park. There is some concern for the character of the neighborhood but there is a fence on a corner lot at the top of the street. The applicant has mentioned his plan to the neighbors and they are supportive. The next step will be to schedule a public hearing and have the applicant send notification to the neighbors within 200 feet. No county referral is needed.

Bethany Zerbe made a motion to schedule a public hearing for the requested variance for a fence at 9 Andrus Ave. on June 6th at 6:30 pm which was seconded by Zach Kowasz and carried with the following vote:

Ayes	3
Nays	0
Abstain	0

UPDATE ON PROPOSED LOCAL LAW ENTITLED "AMENDING 490-72 'SIGN REGULATIONS' OF THE ZONING CODE OF THE VILLAGE OF PERRY"

The Village Board held a public hearing on May 1, 2023 where the board adopted the sign law amendments. No action is needed from the ZBA.

PROPOSED LOCAL LAW ENTITLED "AMENDING 490-15 'NONCONFORMING LOTS, USES, AND STRUCTURES' TO ALLOW FOR AMORTIZATION"

The ZBA was asked to provide comments on the proposed local law regarding amortization for Village Board review. Amortization is a schedule meant to bring properties into compliance with the current law. The ZBA needs to consider how to make a legal path to get nonconforming properties into compliance. The vision for the law is for the ZBA to be the deciding factor on what the timeframe would be to conform.

One of the biggest problems is that as the proposed law is written, it would affect all properties in the village and not just those in the C-1 district as intended. In the C-1 district alone, 9 properties would be affected by amortization because this district does not allow single family homes, meaning single family homes near the Village Hall would not be allowed to exist.

Another example of a property that would be affected is the Vets Club because it is in the R-2 district and would need to follow the same guidelines for compliance.

An initial thought is that the ZBA would need to meet more than once a month and be required to go through a lot of calculations and considerations. The ZBA understands wanting properties to conform but the law as is would do more harm than good. If property owners are unable to conform, they could walk away from a building leaving it vacant, which would be worse than where things are starting out.

The ZBA feels they would need to hire outside consultants to do an analysis of properties because of all the factors involved in deciding on an appropriate timeline for compliance, making the Village responsible for payment of these services. The ZBA would want experts to perform a financial analysis and public hearings held as a way for anyone affected to challenge the fact-finding.

The focus needs to be district specific but the ZBA is concerned about pre-existing residential homes being affected. The board discussed the possibility of rezoning the existing residential properties or redefining where the C-1 district starts. With there already being a housing shortage, the Village is trying to encourage growth but this would eliminate multiple housing units, being counterproductive. The ZBA would like to find ways to make up for that if this moves forward.

From an enforcement perspective, the law needs to be district specific to narrow the focus. The question is how to limit the specifications without the vulnerability of a lawsuit. Other sections of the law would also need to be reviewed as a result because it would directly conflict with the new law. Intent is thrown out the window when areas of a law conflict.

The ZBA requested another work session on this after the public hearing at the next meeting on June 6, 2023. The ZBA wishes to pass along the comment of "please don't approve this yet" as there are a lot of considerations and the ZBA wishes for all members to be present for a more thorough discussion.

Motion to adjourn was made by Bethany Zerbe at 7:49pm which was seconded by Zach Kowasz and carried.

Respectfully submitted,
Christina Slusser, Zoning Secretary