


APPROVAL OF MINUTES DATED June 28, 2023

Charles Gilbert- Fence


Due to minutes of above meeting being mailed to all members of the Zoning Board of Appeals
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed 

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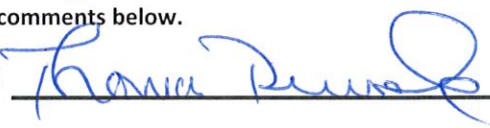
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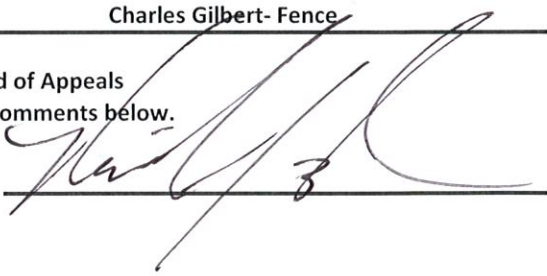
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**MEETING OF THE ZONING BOARD OF APPEALS
TOWN OF DUNKIRK JUNE 28, 2023
CHARLES GILBERT (GILBERT'S COLLISION)– ARE VARIANCE- FENCE**

The Town of Dunkirk Zoning Board of Appeals held a Zoning meeting at 5:30 p.m. on Wednesday June 28, 2023 at the Town Hall, 4737 Willow Road, Town of Dunkirk with Scott Pagano presiding as Chairman.

PRESENT: Scott Pagano, Thomas Tarnowski, Michael Miller, Michael Bohn and Kenny Tarnowski.

ALSO, PRESENT: Supervisor Pagan, Kyle Coughlin, Zoning Clerk, Charles Gilbert, Stan Tyma, Diane Tyma, and Richelle Tyma.

The Meeting was opened at 5:32 P.M, roll call was taken previously and all Members were in attendance.

Chairman Scott Pagano read the legal notice that was posted on June 16, 2023:

“NOTICE IS HERBY GIVEN that a public hearing before the Zoning Board of Appeals of the Town of Dunkirk will be held, June 28, 2023 at 5:30 p.m. at the Dunkirk Town Hall, 4737 Willow Road to consider the following application:

In the matter of the application of Charles Gilbert (Gilbert’s Collision) for property located at 3865 Williams Street, Town of Dunkirk. Tax Map No. 96.02-2-32 for an area variance for a fence. This is in violation of Article XXI – Supplemental Regulations Section 161-6 Fencing and Walls; no fence or wall, other than a necessary retaining wall, over three feet in height shall extend into the front yard of any lot.

Any person may appear in person, agent or attorney. All interested persons shall be heard at said public hearing. If you have any questions regarding the above, please contact me at the Town Clerk’s Office at (716) 366-3967.

An affidavit of this posting is available in the clerk’s office.

Chairman Pagano asked Mr. Gilbert if the fence will be 6 feet on all sides.

Mr. Gilbert stated that it was and handed out a picture/diagram showing the location of the proposed fence.

Members discussed the location and determined that it would not be located around the entire building because on one side there is natural vegetation that acts as a fence.

Member Tom Tarnowski asked if Mr. Gilbert had experienced any recent trespassing or break-ins.

Mr. Gilbert said he had in the past, it had been quiet lately. Had mostly dealt with converters being stolen off of cars.

Chairman Pagano asked what type of fence he proposed.

Mr. Gilbert stated that it would be chain-link.

Member Tom Tarnowski asked Mr. Gilbert if he was doing the work himself.

Mr. Gilbert stated that he was not, a local contractor would be doing it.

Member Ken Tarnowski asked if it would be a privacy fence or just chain link.

Mr. Gilbert stated that it would be just a chain-link.

There were no other questions from the Board.

Chairman Pagano asked if there were any public comment.

Supervisor Pagan stated that Mr. Gilbert had done business in the Town for the last 10 years and has done a good job. He felt that if this fence is necessary for his business to be successful then he is in favor of it.

PART 2

With no further discussion from the Zoning Board, they began reviewing the area variance application.

1. Whether undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties. The Board agreed with the applicants answer of no because the fence will not be visible form the road due to the trees in that area.
2. Whether benefit sought by the applicant can be achieved by a feasible alternative. The Board agreed with the applicants answer of no a 36-inch fence does not protect from theft, it must be at least 72 inches.
3. Whether the variance request was substantial. The Board agreed that it was not a substantial request because it is to protect the business from theft.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood. The Board agreed with the applicants answer of no because the fence will hardly be visible.
5. Whether the alleged difficulty was self-created. The Board stated that the issue was not self-created because theft in the area is out of his control.

It was determined by the ZBA, based on the factors above that the benefit to the applicant does outweigh the detriment to the neighborhood or community. The ZBA felt that they could approve the fence variance.

Member Ken Tarnowski made a motion to approve the area variance for a 6-foot fence in the front yard. The motion was second by Chairman Pagano and carried.

A roll call vote was taken.

AYE:
Member Miller
Member Tarnowski
Chairman Pagano
Member Tarnowski
Member Bohn

NAY:

ADJOURNMENT:

A motion was made by Member Miller to adjourn the meeting. The motion was seconded by Member Ken Tarnowski and carried. The meeting was adjourned at 5:40 P.M.

Respectfully submitted,

Kyle Coughlin
Secretary to Zoning