



MAYFIELD VILLAGE

MAYOR BRENDA T. BODNAR
mayfieldvillage.com

BUILDING DEPARTMENT
Daniel T. Russell, Building Commissioner
6622 Wilson Mills Road
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July 20, 2022

To: Mr. & Mrs. Waradzyn
6920 Wilson Mills Rd.
Mayfield Village, Ohio 44040

Case #2022-05


Dear Mr. & Mrs. Waradzyn,

At the Board of Zoning Appeals meeting on Tuesday, July 19, 2022, your variance requests are as noted;

1. A request for a 1' height variance from Section 1157.08 (b) to allow for construction of a 5' high chain link fence side and rear of property was **denied**.
2. A variance request from Section 1157.08 (b) to allow for a 6' high solid vinyl fence at the front return to the house was **approved**.

You, or any interested party, can make a written appeal to Council within ten (10) days from the date of the decision. Such appeal should be directed to: Mrs. Mary Beth Betsa, Clerk of Council at 6622 Wilson Mills Rd., Mayfield Village, Ohio 44143. Ph: 440.461.0862 or Fax: 440.461.0552.

Very Truly Yours,


Daniel Russell
Building Commissioner
Mayfield Village
DR/dmg

cc: Mayor Bodnar, Director of Admin, Council, Clerk of Council, Finance Director, Law Director, Economic Development Manager & Members of the BZA.

On The Fence, Inc
Ron Hawkins
sales@weareonthefence.com

**BOARD OF ZONING APPEALS
MEETING MINUTES
Mayfield Village
July 19, 2022**

The Board of Zoning Appeals met in regular meeting session on Tues, July 19, 2022 at 6:00 p.m. at the Mayfield Village Civic Center, Main Conference Room. Chairman Pro Tem DiFranco presided.

ROLL CALL

Present: Mr. Stivo DiFranco Chairman Pro Tem
Ms. Alexandra Jeanblanc
Mr. John Michalko

Also Present: Ms. Kathryn Weber Law Department
Mr. Daniel Russell Building Commissioner
Ms. Deborah Garbo Secretary

Absent: Mr. Vetus Syracuse Chairman
Mr. Joseph Prcela

CONSIDERATION OF MEETING MINUTES: May 24, 2022

Mr. Michalko, seconded by Ms. Jeanblanc, made a motion to approve the minutes of May 24, 2022.

ROLL CALL

Ayes: Mr. DiFranco, Ms. Jeanblanc, Mr. Michalko

Nays: None

Motion Carried

Minutes Approved as Written.

CONSIDERATION OF CASE NUMBER 2022-05

Applicant: Danuta & Stefan Waradzyn
6920 Wilson Mills Rd. 44040
PP # 831-39-046
On the Fence, Inc

1. A request for a 1' height variance from Section 1157.08 (b) to allow for construction of a 5' high chain link fence side and rear of property.
2. A variance request from Section 1157.08 (b) to allow for a 6' high solid vinyl fence at the front return to the house.

Abutting Property Owners:

Wilson Mills Rd: 6928, 6918, 6888, 6864, 6884, 6933, 6917, 6899, 6885, 6875

OPEN PORTION

Chairman Pro Tem DiFranco stated, this is the Board of Zoning Appeals meeting of Mayfield Village, Tues, July 19, 2022, it's 6:00 p.m.. Chairman Syracuse is not with us tonight so I will preside in his absence.

Case #2022-05

Chairman Pro Tem DiFranco stated, we have one applicant before us tonight, case #2022-05. The applicant is Danuta & Stefan Waradzyn at 6920 Wilson Mills Rd, permanent parcel number 831-39-046. The contractor is On the Fence, Inc. All the abutting property owners on Wilson Mills Rd. have all been notified. I think we'll do the Oath all together for anyone that would like to speak.

OATH

Chairman Pro Tem DiFranco stated, because we are a Quasi-Judicial Body, anyone wishing to speak must be sworn in. Chairman Pro Tem DiFranco administered the oath to Mr. & Mrs. Waradzyn, Ron Hawkins with On the Fence and abutting property owner Ronald Clines.

Chairman Pro Tem DiFranco asked the applicant at this time to state their case. Let us know why you're requesting the variances and how you're meeting the practical difficulties associated with the code in asking for the requests.

- **Chain Link Fence**

Danuta Waradzyn, 6920 Wilson Mills Rd stated, the reason why we want 1' higher is because we have a deer problem, they eat everything, they chase my dog. We really have a problem with them. I like them, I like to look at them, not feed them. I've had to replace all my bushes. We have woods behind us, another 1/2 acre, there's a creek in the back (demonstrating on site plan).

Chairman Pro Tem DiFranco stated, the fence is going to run the entire length, we're looking for a 1' high variance on that. The current code allows for 4' and you want 5' instead of 4', is that correct?

Danuta Waradzyn replied yes, for the chain link. The other request for the solid vinyl fence will match the siding.

- **Solid Vinyl Fence**

Chairman Pro Tem DiFranco stated, on the topic of the front one there, you're asking for a variance for a solid vinyl type of fence. In Mayfield Village the requirement is that it be board on board so there would be some separation.

Danuta Waradzyn replied, I'm okay with that.

Ms. Jeanblanc stated, it's a wind pattern, not an aesthetics thing.

Chairman Pro Tem DiFranco replied right, but that's what's in the code. The code doesn't allow for a solid fence.

Ron Hawkins with On the Fence stated, every city allows it. Mayfield Hts says you can only do solid if it's vinyl. The solid vinyl is your cheapest option. The other stuff is way too much work and more of a headache to be installed.

Chairman Pro Tem DiFranco asked, is there any other reason why you want to go with that other than it's cheaper?

Ron Hawkins replied, for the privacy if you're living on Wilson Mills, plus Robley is right there, Robley comes right into their yard.

Mr. Michalko replied no, Robley comes right into the center of the front of the house. She's not looking down the driveway, not looking down the west side of the house. What's your width on the driveway side and what's your width on the north side?

Ron Hawkins replied, I think 17' on the north side.

Mr. Michalko stated, living on Wilson Mills for 43 years, you deal with the deer. There's nothing you can do about them, they're there all the time. There could be 12 – 15 deer in our yard at a time.

Ron Hawkins stated, you guys allow a 6' tall wood fence. We're asking for a 5' tall chain link fence down the side. They still want to be able to see but yet try to keep the deer out. I don't see why a 5' would even be a problem at all. The 4' tall chain link maximum in your ordinance I think needs to be changed, revised.

Mr. Michalko replied, I agree with you but we're not here to change the Ordinance.

Ron Hawkins replied, I get that, I'm just saying. You guys allow a 6' tall board on board fence, I don't see what the problem would be allowing a 5' tall chain link fence.

Mr. Michalko asked Ms. Garbo, have we heard anything from the neighbors?

Ms. Garbo replied, no.

Ron Clines, 6928 Wilson Mills Rd stated, my property is just to the left of theirs. My property would probably have the biggest impact of the other abutting properties on the notice that came out, I'm right next door. My opinion, nobody else showed up and quite frankly, I'm the one that would be the most impacted by the fence. I can say that they take a lot of pride in their property, they're just trying to put a chain link fence around the back. I know for a fact they have small gardens in their backyard that they're working in every night. They're out there in their vegetable garden, planting bushes, planting trees. Their property looks so much better than the previous

guy, that property was a dump before. They've gone above and beyond to make improvements to that property, they have a beautiful home there. I put a 4' chain link fence in the back of my property, I got a permit for it. I can't see the fence barely from my garage where I built a little area for my dog to play. Four feet (4') literally, you have to look for it, it's hard to see. One foot (1') is not going to make a difference. I agree with the gentleman here, if they put a 6' solid fence up which to me is an eyesore, it makes you look like you're living in Cleveland. There's a board on board along my driveway in the back that looks like hell, it's weathered, the boards are starting to warp. The solid fence looks way better, it lasts better, the vinyl fence. I have no problem with that, I think it's a minor thing.

Mr. Michalko asked, is the chain link black vinyl?

Mrs. Waradzyn replied, black vinyl coating, yes.

Ron Hawkins stated, the solid vinyl will be a sand color.

Chairman Pro Tem DiFranco asked Dan, do you have any concerns?

Mr. Russell replied, I have no concerns.

Chairman Pro Tem DiFranco asked, any thoughts or concerns from the Board?

Ms. Jeanblanc stated, we've approved similar vinyl fences. There was one on SOM in particular for privacy reasons, the Highland and SOM corner house.

Mr. Michalko replied, that was the backyard.

Chairman Pro Tem DiFranco asked, any other thoughts or comments?

There was none.

Chairman Pro Tem DiFranco stated, let me read to you the conditions upon which we as a Board have to consider;

In granting an Area Variance, the Board shall determine that one or both of the following factors are met by the request:

- a. The conditions upon which an application for a Variance is based are particular to the subject property with respect to the physical size, shape or other characteristics of the premises or adjoining premises, differentiating it from other premises in the same district:
or
- b. The Variance would result in an improvement of the property that is more appropriate and more beneficial to the community than would be the case without granting of the Variance.

Chairman Pro Tem DiFranco stated, if there are no further comments, I'd like to entertain a motion.

DECISION

#1 Chain Link Fence Height

Mr. Michalko, seconded by Ms. Jeanblanc made a motion to approve the request for a 1' height variance from Section 1157.08 (b) to allow for construction of a 5' high chain link fence side and rear of property as proposed.

ROLL CALL

Ayes: Mr. DiFranco, Mr. Michalko

Nays: Ms. Jeanblanc

**Motion Carried
Variance Denied**

#2 Solid Vinyl Fence

Ms. Jeanblanc, seconded by Mr. Michalko made a motion to approve the variance request from Section 1157.08 (b) to allow for a 6' high solid vinyl fence at the front return to the house as proposed.

ROLL CALL

Ayes: Mr. DiFranco, Ms. Jeanblanc, Mr. Michalko

Nays: None

**Motion Carried
Variance Approved**

Right to Appeal

Chairman Pro Tem DiFranco stated, you or any interested party has the right to appeal the decision within ten (10) days to Council.

Ron Hawkins asked, are you saying the chain link was not approved?

Chairman Pro Tem DiFranco replied, that's correct.

Ms. Jeanblanc stated, we don't have the authority to say the Ordinance is wrong. We can only say if this property is different than all the other properties around it, and there aren't specific conditions to this property, everybody has deer.

Ron Hawkins asked, what do you do with the people that have these fences up and they didn't pull a permit?

Mr. Russell replied, if we see it, we would cite them.

Mrs. Waradzyn asked, if I decide to have a pool, 4' is okay?

Mr. Russell replied, 4' is okay for a pool.

Mrs. Waradzyn stated, there was an existing fence, neighbor's, you took down, was 6', so this could be grandfathered?

Mr. Russell replied, no.

Ms. Jeanblanc stated, we can't change the Ordinance.

Mrs. Waradzyn asked, so basically Ron lives in Mayfield Village, his business is in Mayfield Village, but he cannot do the work because I will not do 4'?

Ron Hawkins asked, why will it allow you to have a 6' tall board on board fence and not a 5' tall chain link fence to where you can obviously see through?

Chairman Pro Tem DiFranco replied, we can't give you the reasons why the codes were put together. What we're here to do is if you're not meeting the conditions of the code, you can come here and ask for a variance from the code. The objective of this Board is to either say yes, you meet the conditions that I described earlier that yes, this subject property or this variance is acceptable because of those conditions. What the Board voted on was no on the first and yes on the second. You do have a right to an appeal and that would go in front of Council to appeal this Board's decision. Am I correct?

Ms. Weber replied, that's correct. In order for them to be able to grant a variance they need to find what's called a practical difficulty. I believe the Board here found that you have a unique circumstance with regard to the privacy fence because you're on a main road. That's been a lot of times where they've granted the relief in order to have a full privacy fence. But in this case, they did not find there was a unique circumstance or practical difficulty that would allow for a variance for a 5' tall chain link fence. You'll be getting a letter with this decision that provides that you can appeal to Council and then Council can decide to vary with what the BZA has done and potentially grant the variance.

Chairman Pro Tem DiFranco stated, I will say and I would like this in the record, that the fence situation comes up routinely and it does need to be modified, this is not the place for these fence situations to continue to come up. If we continually have to deal with fence discussions, then we need a change to the code.

Mr. Michalko stated, these have been brought up routinely.

Chairman Pro Tem DiFranco asked, any other discussion or topics from the Board Members?

There was none.

ADJOURNMENT

Ms. Jeanblanc, seconded by Mr. Michalko made a motion to adjourn the meeting.

ROLL CALL

Ayes: All
Nays: None

Motion Carried
Meeting adjourned at 6:25 p.m.

Chairman

Secretary

MAYFIELD VILLAGE CHARTER
ARTICLE V, SECTION 12. BOARD OF ZONING APPEALS.

(A) Creation, Powers and Duties.

The Council shall provide by ordinance for a Board of Zoning Appeals to hear appeals for exceptions to, and variances in, the application of resolutions, ordinances, regulations, building codes, measures and orders of administrative officials or agencies governing zoning and building in the Municipality. The Board of Zoning Appeals shall have such other powers and duties, and shall follow such procedures as may be prescribed by ordinances of Council; provided, however, that the Board of Zoning Appeals shall have no power or authority to grant any change of or variance in any residential district from the existing zoning ordinances or the zoning map of the Municipality, or to permit any land use to become nonconforming therewith. The Board of Zoning Appeals shall have the authority to grant "Use" variances in non-residential districts, providing that same is approved by Council pursuant to [Article III, Sections 10, 11, and 12](#) of this Charter. All decisions of the Board of Zoning Appeals shall be appealable by any interested person or entity to the Village Council. Council may review the minutes or records, or have a rehearing, at its discretion, and may affirm, modify, or reverse any decision of the Board of Zoning Appeals by a two-thirds vote of all members elected.

(Amended 11-3-15; 11-3-20.)

(B) Composition and Terms.

The Board of Zoning Appeals shall consist of five (5) electors of the Municipality. Four of such members shall be appointed for terms of four years by the Mayor, subject to confirmation by a vote of a majority of the members of Council; except that, of the four members initially appointed for terms beginning January 1, 1975, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. The fifth member of the Board of Zoning Appeals shall be one of the five appointed elector members of the Planning and Zoning Commission, who shall be elected annually to the Board of Zoning Appeals by vote of at least four members of the Planning and Zoning Commission, prior to or at such Commission's first meeting each year. Such fifth member of the Board of Zoning Appeals shall serve for a term of one year, and shall be so elected by the Planning and Zoning Commission each year. No elected official of the Municipality or other member of the Planning and Zoning Commission shall be appointed to the Board of Zoning Appeals, but other appointed officials of the Municipality shall not be disqualified from serving as members thereof. The term of office of the present members of the Board of Zoning Appeals and the present members of the Board of Building Code Appeals, heretofore established by ordinance of Council, shall terminate upon the appointment and qualification of the members of the Board of Zoning Appeals created by this Charter. (Amended 5-8-84; 11-3-20.)

(C) Vacancies and Removal.

A vacancy occurring during the term of any member of the Board of Zoning Appeals shall be filled for the unexpired term in the manner authorized for an original appointment. The Mayor may at any time remove any member of the Board of Zoning Appeals for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office, incapacity or incompetency, provided, however, that such removal from office shall become final only after being confirmed by the affirmative vote of a majority of the members of Council. (Amended 5-8-84; 11-3-20.)

(D) Officers, Rules, Quorum and Compensation.

The Board of Zoning Appeals shall elect a Chairman of the Board of Zoning Appeals from among the four appointed electors members of the Board of Zoning Appeals. The Board of Zoning Appeals shall appoint a Secretary to the Board of Zoning Appeals, who need not be a member of the Board of Zoning Appeals and who may hold other municipal office or appointment. The Board of Zoning Appeals may appoint such other officers as it shall deem necessary, shall make its own rules and regulations and shall keep a journal of its proceedings. The officers of the Board of Zoning Appeals shall be elected by the Board of Zoning Appeals at or prior to its first meeting each year. The Board of Zoning Appeals shall meet upon call of the Chairman or any two members. A majority of the members of the Board of Zoning Appeals shall constitute a quorum for the transaction of business, and the affirmative vote of three members of the Board of Zoning Appeals shall be necessary for any official action. No variance shall be considered by the Board of Zoning Appeals until notice of the request has been sent to all property owners within 300 feet and all adjoining and facing property owners. Lack of service on any random property will not nullify any variance granted hereunder.

(Amended 11-7-95; 11-3-20.)

Codified Ordinance 1157.08 FENCES; PERMIT; FEE.

(a) In Front Yards. In front yards in Class U-1, U-2, U-3 and U-3AA Use Districts, the only fences permitted shall be open ornamental fences, which shall be placed adjacent to the front entrance of the dwelling, and not over forty-two inches in height. An ornamental split rail fence may be placed at a point not closer than twelve inches from the front property line.

(Ord. 74-41. Passed 10-21-74.)

(b) In Side and Rear Yards. In side yards and rear yards in Class U-1, U-2, U-3 and U-3AA Use Districts, the only fences permitted shall be as follows: Split rail, chain link, board on board and picket fences. Board on board fences are to be built so the horizontal space between the vertical boards is three and one-half inches, and not to exceed six-inch board width.

Chain link fences not over four feet in height shall be permitted along the side of rear yards and along the rear lot provided such fences shall have uniformly spaced openings aggregating twenty-five percent (25%) of their surface areas between residential properties.

Split rail, board on board, and picket fences not over six feet in height shall be permitted along the side of rear yards and along the rear lot, provided such fences shall have uniformly spaced openings aggregating twenty-five percent (25%) of their surface areas between residential properties.

However, an open or a closed fence not over eight feet in height may be placed along the rear or side line which separates residential properties from property used for nonresidential purposes, subject to the written approval of the Building Commissioner, who shall not give his approval if he finds that such proposed fence is unsafe or unsightly or that it obstructs necessary light and air from adjacent property or that in some manner it does not conform with ordinances of the Municipality.

On any side or rear yard fence, the supporting rails and posts shall face the interior of the property of the owner of the fence and shall not face the adjacent property; the finished side (as contrasted with the rough or unfinished side) of the fence shall face the property of the adjacent property owner.

(Ord. 2001-20. Passed 12-17-01.)

(c) Installation. All fence posts must be anchored securely in concrete.

(d) Permits. Application for a fence permit must be accompanied by a plot plan showing location of the fence.

(Ord. 74-41. Passed 10-21-74.)

(e) Fees. A fee for the erection of any fence within the Municipality shall be required as stated in Section [1309.05](#) of the Codified Ordinances.

(Ord. 79-10. Passed 3-19-79.)

(f) Fences on Corner Lots. A fence on a corner lot shall not be closer than fifteen feet from a secondary street side lot line, unless the main building is less than fifteen feet from that line, measured laterally. In such event, the fence may be located at the same distance from the secondary side lot line as such main building. The maximum height of an open fence along the secondary street side lot line shall be five feet. This provision shall not prohibit an open ornamental fence not nearer than one foot to the side yard at a height of not more than forty-two inches.

(Ord. 94-35. Passed 8-1-94.)



MAYFIELD
VILLAGE

MAYOR BRENDA T. BODNAR
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ADMINISTRATION

Diane Wolgamuth, Director
6622 Wilson Mills Road
Mayfield Village, OH 44143
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dwolgamuth@mayfieldvillage.com

August 3, 2022

Danuta & Stefan Waradzyn
6920 Wilson Mills Road
Mayfield Village, OH 44040

Re: **Case No. 2022-05 Appeal of Board of Zoning Appeals Decision dated July 19, 2022**

Dear Mr. and Mrs. Waradzyn,

Council has been advised of your appeal of the decision of the Board of Zoning Appeals (BZA) to deny your request for a fence height variance. Council has also been provided with a copy of the BZA meeting minutes of July 19, 2022. Pursuant to the Village Charter, Council may review the minutes or records from the BZA meeting, or have a rehearing, at its discretion, and may affirm, modify, or reverse any decision of the BZA by a two-thirds vote of all members elected.

This matter will be on the agenda at the Regular Meeting of Council scheduled for **Monday, August 15, 2022 at 7:00 p.m.** You are invited to attend to present your appeal at that time. Please contact me if you have any questions or to request a continuance to a future date.

Very truly yours,

Diane Wolgamuth
Director of Administration

DW/

cc: Mayor Bodnar, Members of Council, Department Heads, Members of the BZA
Mr. Ron Hawkins, On the Fence, Inc. via email to sales@weareonthefence.com