

ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF MANSFIELD

RESOLUTION NO. 2017– 01-04

**CONCERNING THE APPLICATION OF
SHARON IRICK
VARIANCE APPROVAL**

WHEREAS, Sharon Irick has applied to the Zoning Board of Adjustment of the Township of Mansfield for variance approval for property located at 2218 Old York Road, known as Block 54.02, Lot 4.03, on the Official Tax Map of the Township of Mansfield, for the purpose of installing a fence within the front yard setback area of the Property; and

WHEREAS, a variance pursuant to N.J.S.A. 40:55D-70(c) is required because Section 65-102(C)(1) of the Mansfield Zoning Ordinance prohibits the construction of fences within the front or side yard setbacks when adjacent to a street; and

WHEREAS, the Application was deemed complete by the Zoning Board on January 4, 2017; and

WHEREAS, the Applicant presented evidence to the Zoning Board of Adjustment through testimony, plans and other evidence; and

WHEREAS, a Public Hearing to consider the Application for Variance Approval was held by the Zoning Board on January 4, 2017, after appropriate public and personal notice was provided to all property owners within 200 feet of the Property and published in the Official Newspaper of the Township, as required by the land development regulations of the Township of Mansfield and the Statutes of the State of New Jersey;

WHEREAS, the Applicant introduced the following Exhibit during the January 4, 2017 Public Hearing:

A-1 - Hi-lighted survey of the front yard area of the Property; and

WHEREAS, the Zoning Board of Adjustment after carefully considering the evidence presented by the Applicant in support of her application for variance approval, and after the meeting was opened to the public for their questions, comments and input, has made the following findings of fact:

1. The Applicant is an owner of Block 54.02, Lot 4.03, a 2.20 acre lot located at 2218 Old York Road in the Residential – 1 (R-1) Zoning District of the Township (the

“Property”). The Property is improved with a one-story single-family detached residential dwelling, a detached frame garage building and two (2) wooden sheds.

2. The Applicant has submitted an application for a variance from the ordinance requirement pertaining to the installation of fences in the front yard setback area.

3. The taxes on the subject property are current.

4. The Applicant has paid and/or posted all required fees and agreed to keep her review escrow current.

5. Proper notice of the application for variance approval has been given, as based upon the certified list of property owners provided to the Applicant by the Township Tax Assessor.

6. The Applicant is proposing to construct a post and rail fence with welded wire within the 50 foot front yard setback area of the Property, contrary to Section 65-102(C)(1) of the Zoning Ordinance of the Township of Mansfield.

7. After being duly sworn, the Applicant testified at the January 4, 2017 Public Hearing as follows:

- a. She and her husband own the Property;
- b. The proposed fence is for the containment of her pet dogs;
- c. The proposed fence will be 4.5 feet in height, with the post and rail being pressure treated lumber, natural in color;
- d. The welded wire will be galvanized;
- e. An existing chain link fence attached to the existing dwelling and adjacent to Lot 4.02 will be removed;
- f. The location of the proposed post and rail fence will be as shown highlighted in yellow on Exhibit A-1, a portion of the survey enlarged to show the front yard area of the Property;
- g. The existing mailboxes along Old York Road are setback approximately 2 feet from the Road and the proposed fence will be setback 35 feet from the mailboxes; the fence will be 35-40 feet from Old York Road but within the required 50 foot front yard setback;

- h. The post and rail fence that Google Maps shows on adjacent property 2216 Old York Road as referenced in the Board Planner's review letter was previously removed;
- i. The fence will not cross the driveway located on the Property.

8. Two (2) neighboring property owners testified that they supported the Application as the owners nicely maintain their Property.

9. The Applicant is requesting variance approval to allow her to construct the post and rail fence with welded wire within the 50 foot front yard setback area, as proposed, for better utilization of the Property and to enhance the visual experience of the Property and neighborhood.

10. Without variance approval, the Applicant would be unable to install the fence as proposed, which is otherwise in conformance with the Land Use Ordinance of the Township of Mansfield.

AND WHEREAS, based upon the above factual findings, the Zoning Board of Adjustment has come to the following conclusions:

1. This application relates to a specific piece of property and the purposes of the zoning laws of the State of New Jersey and the Township of Mansfield would be advanced by the deviation from the ordinance requirement as specified herein for the location of a fence within the required front yard setback, as requested by the Applicant.

2. The benefits of the deviation from the ordinance requirement specified herein would substantially outweigh any detriment to the public good by the deviation from such requirement, as variance approval would allow for the development of the Property as proposed by the Applicant, and otherwise promote the safety, health and general welfare of the Community.

3. Relief as requested by the Applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance of the Township of Mansfield.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Mansfield, on the 4th day of January, 2017, that this Board hereby grants to the Applicant a variance to permit the installation of a post and rail fence with welded wire within

the front yard setback of the Property, in accordance with the Application, plans, survey and testimony submitted by the Applicant and subject to the following conditions:

1. Proof that the Applicant has applied for the necessary approval(s) from all other agencies having jurisdiction over the Applicant's use of the Property shall be filed with the Township's Land Use Coordinator.

2. The fulfillment of all other conditions precedent shall forthwith be reported in writing to the Township, which may cause such reports to be verified in an appropriate manner. Only upon the fulfillment of all of the conditions shall the required building permit, certificate of occupancy or zoning permit be issued.

3. Subject to the comments of the Board Engineer as contained in the January 3, 2017 review letter of Stout & Caldwell Engineers, LLC, by Mark E. Malinowski, PE, except as may be modified herein.

4. Subject to the comments of the Board Planner as contained in the December 28, 2016 review letter of Environmental Resolutions, Inc., by Barbara J. Fegley, AICP, PP, except as may be modified herein

5. Subject to the sworn testimony provided by the Applicant at the January 4, 2017 Public Hearing.

6. Subject to this approval not guaranteeing the issuance of permits for the construction of the fence. The Applicant is required to comply with all requirements for the issuance of any required permit.

7. Subject to the fence not exceeding a height of 4.5 feet, and installed within all property lines with the finished side facing out.

8. Subject to the fence being setback at least 35 feet from Old York Road and located as shown on Exhibit A-1.

9. Subject to the existing chain link fence located between the right side of the dwelling and adjacent Lot 4.02 being removed.

ROLL CALL VOTE

Those in Favor: 7
Those Opposed: 0
Those Abstaining: 0

CERTIFICATION

I hereby certify that this foregoing Resolution is a true memorializing resolution, as adopted by the Zoning Board of Adjustment of the Township of Mansfield in accordance with its decision at its regular meeting on January 4, 2017.

**THE ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF MANSFIELD**

Attested:

WILLIAM TAHIRAK, CHAIRMAN

**ASHLEY JOLLY
SECRETARY**

Dated: 1/27/2017
Date of Approval: 1/4/2017
Date of Memorialization: _____