

**MINUTES OF A MEETING OF THE
VILLAGE OF AVON ZONING BOARD OF APPEALS
TUESDAY, JUNE 29, 2010
7:00 PM; VILLAGE HALL, WHITNEY ROOM**

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| I. ATTENDANCE
Daniel Freeman, Chairman
James Gerace
Richard K. Hite
Kevin McCormick | ABSENT
Ernest Wiard |
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QUORUM, 4 Present, 1 Absent

Applicant Malcolm D. LaFever, his neighbor Donald McFadden of 53 Maple Street and Village Atty. Reid Whiting also attended.

**IV. NEW BUSINESS
Area & Height Variance Application**

Malcolm D. LaFever
59 Maple Street
Avon, NY 14414

14-foot X 40-foot, 2-story garage
19-feet tall
2-feet from the east/side property line
@ 59 Maple Street, zoned R-1 One Family Residential district

Freeman read the public hearing notice from the June 10, 2010 edition of the Livingston County News then opened the floor to the applicant.

LaFever said he'd like to build a 14-foot X 40-foot, 2-story garage in the backyard of his 59 Maple Street home. He had amended his plans to have the garage built 3-feet from the east/side property line; the code called for a minimum setback of 10-feet.

And, LaFever wanted the 2-story garage to be 19-feet tall while the code allowed a maximum of 17-feet.

Height

How did you come up with 19-feet? McCormick asked.

The builder had sketched-out the building with a *giver-or-take* height and, LaFever told Board members, he'd added a foot when he drew-up his building permit application - just to be on the safe side.

Area

LaFever told Board members he did want to amend the distance from the east/side property line from the 2-feet he'd originally requested to 3-feet. He'd considered putting seaweed mats down along the east side of the building to keep the grass from growing, but his wife wanted grass so, he decided to give himself an extra foot to get the lawnmower – and himself – through.

LaFever planned on siding the garage with painted metal with a 50-year guarantee.

It would be hard to get a ladder in there for maintenance, Gerace remarked.

It would be hard to get a ladder in there with four feet, LaFever responded.

Why the 28-foot setback on the west side of the building? Hite asked.

He wouldn't have any backyard without that, LaFever explained, adding he did have a small, 2-story building at the back of his lot, but planned on taking it down.

LaFever said he had no problems with his neighbors – McFadden had accompanied him to the meeting. The McFadden's had an inground swimming pool in their backyard and a 6-foot tall stockade fence around the yard.

His garage wouldn't have any windows and LaFever said he planned on moving the stairway inside the building.

Area Variance Test

Hite suggested Board members run over the five criteria they should be looking at for an area variance:

1. Will the granting of the variance result in an undesirable change to the character of the neighborhood or will it be detrimental to nearby properties?
2. Are there alternative solutions that would not require a variance?
3. Consider whether the requested area variance is substantial.
4. Consider whether the area variance will have an adverse effect on physical or environmental conditions in the neighborhood or district.
5. Is there self-created difficulty?

Easement Requirement

McFadden may not be living next door in 20 years, Whiting pointed out. Perhaps, LaFever and McFadden should put an easement in their deeds, giving LaFever - or subsequent property owners - the right to come on the neighbor's property for a few days for maintenance and repairs, say, no more than a week's time every two years.

LaFever noted he would be using 50-year siding and 30-year shingles.

How far was McFadden's pool from the garage LaFever wanted to build? Freeman asked.

Six to 8-feet from the fence (*then another 3-feet to his garage*), LaFever responded.

Would granting an area variance to LaFever result in an undesirable change to the character of the neighborhood or would it be detrimental to nearby properties? Whiting asked.

The only direction you'd see the garage from was the east (*McFadden's*), Freeman noted. Vivian Piampiano lived to the west at 63 Maple Street and she wouldn't see it.

Should the location of the garage be changed? Whiting asked.

If LaFever centered the building, it would destroy his backyard, Hite remarked.

Was the requested variance too giving? Whiting followed-up. Would the variance have an adverse effect on the physical or environmental conditions in the neighborhood?

Was the difficulty self-created? the attorney asked. How long had LaFever owned the property?

Since 1997 so, 13 years, LaFever responded. And, he'd thought about the garage since Day 1, it had just been a matter of getting the money together to do it.

Any other questions? Freeman asked, adding, did they have any need to go into executive session?

Variance Granted

MOTION: McCormick moved to grant the area and height variance LaFever had requested; seconded by Gerace.

Would they grant the area variance based on 3-feet from the east/side property line rather than the 2-feet originally requested? Hite asked.

And, would their granting the area variance also be contingent on LaFever returning a letter to the Village, between LaFever and McFadden, granting LaFever the easement they had discussed for maintenance and repairs to his building – by mid-July? Gerace asked.

Whiting suggested amending the motion to allow LaFever to build 3-feet from the side property line and conditioning the variance on the execution of an easement over the McFadden property sufficient for construction, repair and maintenance in proper recordable form by July 16.

McCormick and Gerace agreed to the modifications. Voting in favor were: Freeman, Gerace, Hite and McCormick. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

II. APPROVAL OF THE MINUTES

MOTION: Gerace moved for approval of the minutes of the August 25, 2009, and the April 19, 2010, meetings, seconded by Hite. Voting in favor were: Freeman, Gerace, Hite and McCormick. Voting against were: none.

CARRIED, 4 Ayes, 0 Nays

Freeman asked Board members if they wanted to designate the first, second or third Tuesday of the month as their meeting day.

Whiting suggested leaving it flexible for their own convenience, not pinning themselves down. Board members agreed.

V. ADJOURNMENT

The Board adjourned at 7:29 PM.

Gary Margiotta
Deputy Clerk