



Zoning Board of Appeals

2919 Delaware Avenue, RM 14
Kenmore, NY 14217
(716) 877-8800
www.tonawanda.ny.us

**Regular
~ Minutes ~**

**Marguerite Greco
Town Clerk**

Wednesday, January 18, 2017

6:30 PM

Council Chambers - Municipal Building

I. CALL TO ORDER

CHAIRMAN: The January 18th, 2017, 6:30 PM Zoning Board of Appeals Meeting is called to order in the Council Chambers, Municipal Building, 2919 Delaware Avenue, Kenmore, New York.

Attendee Name	Organization	Title	Status	Arrived
John Joseph	Town of Tonawanda	Chairman	Present	
James Louis	Town of Tonawanda	Member	Present	
Florine Luhr	Town of Tonawanda	Member	Present	6:00 PM
Brian C. Mahoney	Town of Tonawanda	Member	Absent	
Karen Ginnane	Town of Tonawanda	Member	Present	
James McGee	Town of Tonawanda	Alternate	Present	

II. APPROVAL OF MINUTES

A. Approve Minutes of Zoning Board Meeting held January 16th, 2017.

CHAIRMAN: The Clerk presented MINUTES of the Zoning Board of Appeals meeting held on December 21, 2016.

CHAIRMAN: Motion approve these minutes as typed and presented.

RESULT:	APPROVE MINUTES OF DECEMBER 21, 2016 GRANTED [UNANIMOUS]
MOVER:	Karen Ginnane, Member
SECONDER:	James McGee, Alternate
AYES:	John Joseph, James Louis, Florine Luhr, Karen Ginnane, James McGee

III. HEARINGS ON APPEALS - (1)

CHAIRMAN: Decisions from tonight's hearings will be rendered after the hearings, if possible, or at the next Zoning Board of Appeals meeting to be held on February 15th, 2017 at 6:30 PM.

#1 Applicant Name: Paul Morad Motyka
Owner Name: Paul Morad Motyka
317 Maildiner Avenue
Town of Tonawanda, NY

Area Variance:

Proposed fence would encroach into the unobstructed vision clearance area.

Zoning Classification: A - First Residential
Section of Code: Article IV; Section 215-8:

"...Clear unobstructed view...from private driveways...and that the view shall not be obstructed by...fences...greater than (3) feet in height. This unobstructed vision clearance

shall apply to the area bounded by the first (15) feet from...the intersection of public or private right-of-way in both directions and a line connecting the same."

No written communications have been received.

THERE APPEARED: Building Dept. Official: Mr. Michael Oliver
Applicant: Ms. Pamela Morad Motyka
Mr. Paul Joseph Motyka
In Support: Ms. Mary Gedeon
Mr. Jerry Gedeon

RESULT: CLOSE HEARING ZBA APPEAL 2017-1 GRANTED [UNANIMOUS]
MOVER: James Louis, Member
SECONDER: Florine Luhr, Member
AYES: Joseph, Louis, Luhr, Ginnane, McGee

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
TOWN OF TONAWANDA)

I, Marguerite Greco, Town Clerk of the Town of Tonawanda, Erie County, New York, do hereby certify that at a meeting of the Zoning Board of Appeals of the aforesaid town, on the 18th day of January, 2017, at the Municipal Building, Kenmore, New York, the following resolution was adopted, to wit, -

James Louis, offered the following resolution and moved its adoption:

WHEREAS, the applicant, Paul Morad Motyka and Pamela Morad Motyka, owners of premises located on the east side of Maldiner Avenue, between Newell Avenue and the City of Tonawanda Line, commonly known as 317 Maldiner Avenue, Tonawanda, New York, have applied to the Zoning Board of Appeals for a permit for a rear fence; which permit was refused by the Supervising Code Enforcement Officer on the grounds that the proposed fence would be in violation of the provisions of Chapter 215, Zoning, §215-8, of the Code of the Town of Tonawanda for the reason that the fence encroaches into the unobstructed vision clearance area; and

WHEREAS, this Board finds that the premises in question is zoned A First Residential and that applicant seeks an area variance, and

WHEREAS, the applicant's application stated that the variance was being sought to replace a deteriorated stockade fence and improve the angle of vision over the original fence; it further stated that the fence will benefit the aesthetics and privacy of the community due to the small yard size and that several neighbors had expressed their approval; and

WHEREAS, this Board must consider the testimony and evidence submitted by the applicant and the following factors detailed in §267-b(3)(b) of the Town Law:

-) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance,
) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance
) whether the requested area variance is substantial,
) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district
) whether the alleged difficulty was self-created; and

WHEREAS, this Board has reviewed the evidence, testimony and the above-recited factors which are set forth in §267-b(3)(b) of the Town Law of the State of New York pertaining to area variances; and

WHEREAS, based upon the evidence presented, this Board finds that the variance is not substantial, that it will not have an adverse impact on the physical or environmental conditions of the neighborhood and that it will not create any undesirable change in the character of the neighborhood; and

WHEREAS, this Board finds that the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant based upon a balancing of the factors contained in §267-b(3)(b) of the Town Law; and

WHEREAS, this Board believes that the variance requested is the minimum variance that this Board deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community; and

WHEREAS, a record having been made by electronic means and preserved in digital format is available in the Town Clerk's Office;

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby **GRANT** an area variance from the above-mentioned provisions of the Code of the Town of Tonawanda and directs the Supervising Code Enforcement Officer to issue the appropriate permit on the condition that the applicants obtain a Land Use License from the Town Board of the Town of Tonawanda for that portion of the fence which crosses the Right-of-Way.

RESULT:	ZBA APPEAL 2017-1 GRANTED [UNANIMOUS]
MOVER:	James Louis, Member
SECONDER:	Florine Luhr, Member
AYES:	Joseph, Louis, Luhr, Ginnane, McGee

This decision may be reviewed by the Supreme Court within thirty (30) days after filing of the same in the Town Clerk's Office. Although building permits and certificates of occupancy will be issued before the expiration of thirty (30) days, any person acting on this decision or permits or certificates issue as a result thereof, does so at their own risk.

I do further certify that I have compared the foregoing with the original minutes of the meeting of the Zoning Board of Appeals of the said Town held on January 18, 2017 and that the foregoing is a true and correct transcript from said original minutes and the whole thereof, and that the resolutions duly adopted by the said Board are on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the said Town of Tonawanda, Erie County, New York, this 23rd day of January, 2017.



Marguerite Greco

Marguerite Greco, Town Clerk
Town of Tonawanda, New York

IV. ADJOURN TO THE NEXT ZONING BOARD OF APPEALS MEETING

CHAIRMAN: Motion to adjourn to the next Zoning board of Appeals meeting scheduled, Wednesday, February 15th, 2017, at 6:30 PM.

RESULT:	ADJOURN TO ZBA MEETING FEBRUARY 15TH, 2017 GRANTED [UNANIMOUS]
MOVER:	James Louis, Member
SECONDER:	Karen Ginnane, Member
AYES:	Joseph, Louis, Luhr, Ginnane, McGee

Meeting Adjourned at 7:16 PM.