

WALES TOWNSHIP ZONING BOARD OF APPEALS  
PUBLIC HEARING FOR VARIANCE FROM THE FENCE ORDINANCE  
FEBURARY 28, 2008

Hearing opened by Chairman John Minor at 7:00 P.M. Present: John Minor, Terry Maki, Ron Lepak, Larry Zalut, and Richard Hart. Also present: Twp. Planner Richard Smith, Rec. Sec. Marie Muller and 7 persons.


Chairman J. Minor noted that notices were mailed and a notice was published in local paper. J. Minor gave a brief explanation of procedures that would be followed in conducting hearing.

Applicant representative Cory Mabery, of Davis Land Survey, gave presentation, reading from the application by applicant Dennis Fetty, noting the requested variance from fencing entire property to being allowed to only fence portions as noted in application. Noting that Road Commission pit property borders a large portion of land that was never required to be fenced by them. Also border of property to south is dense with wood and brush. They will be making site improvements that exceed requirements, such as 1-5 foot slope on ponds. Applicant feels this will only be a 5-year project use of mining land. He feels site is unique since it borders county pit on North, 2/3 of land borders body of water, and isolation of site from West and South, also the short term of duration of mining project. Also provided board with aerial photos of property. Q.- J. Minor, "Will there be machinery left on site in enclosed area?" A. - C. Mabery, "Standard mining equipment will be centrally located in a building. There will be screening plant, conveyor that separates materials." Q. - J. Minor, "Will there be standing water?" A. - C. Mabery, "Only a pond." Q. - J. Minor, "Any other safety measures for machinery?" A. - C. Mabery, "No, none there will be no lights needed as they will run from 7 to 7 during season." Q. - J. Minor, "Will entire site be open?" A. - C. Mabery, "There will be fencing on East, woods and the isolation of site will create the necessary barriers, along with no trespassing signs every 50 feet." Q. - T. Maki, "Is woods accessible?" A. - C. Mabery, "No it is mostly swampy." J. Minor, "My concern is for people who would cross water and not know they are entering a hazardous area. Perhaps a double row of barbed wire fence could be used." A. - C. Mabery, "We are not asking for relief from sign requirement, which we hope would deter trespassers. A barbed fence would be much more expense. J. Minor, "Most people are not looking at signs so there has to be some type of barrier." R. Lepak, "My concern with barbed fencing is people may not see it." Bret Robinson, 10230 Smiths Creek Road, "I am the owner along the entire South line of property and feel it would devalue my property and may cause erosion if trees are taken down to erect fence line. There is bound to be some kind of environmental impact if you start taking down trees." A. - J. Minor, "Environmental and the wetlands are certainly important but not germane to this hearing. So you would have no problem with no fencing on the South?" A. - B. Robinson, "Yes, I would have no problem with using the natural vegetation as barrier. I do have some problem with County property line not having fencing, and with the hours of operation. I feel 7 is too early for most people to hear heavy equipment running." B. Robinson was asked to show ZBA his property on the site map, which he did. Larry Johns, 761 Wales Ridge Road, "I would like to see fencing of entire property, if that's what the ordinance requires." Q. - Richard Hart, "How many acres is the property?" A. - D. Fetty, "There are 28 acres." Arnold Lueth, 692 Wales Ridge Road, "I live directly across the road from site, and want to know how many feet from road will fence start?" A. - C. Mabery, "Thirty three to forty feet from center of road." J. Minor noted ordinance requires fencing 50 feet from pit as a minimum.

Larry Johns, " Now there is a lot of trespassing from the North side. There are now existing trails on South side. You can see the trails and signs don't stop people. Fences will stop trespassing." Bret Robinson, " None of the trails are on Fetty property there on mine." Richard Smith Twp. Planner gave presentation, (copy attached) noting that he did not see hardship, practical difficulty or uniqueness. Noting two concerns, one of children in the area and trespassers. J. Minor, I also have concerns about children. " Have there been any complaints about children trespassing?" A. - D. Fetty, " None have been told to me." Q. - C. Mabery, " Does the ZBA take into account economics or is that not considered? It was made clear at Planning Commission that only ZBA could wave fencing requirement. A. - J. Minor, " ZBA is the body who is able to allow a variance. The applicant's economics is never a viable reason. R Lepak asked clarification be shown to board on map. C. Mabery described area to board using map provided with application and aerial pictures provided tonight. Public hearing closed. Board began deliberation of variance. J. Minor asked if anyone could see practical difficulty or uniqueness by what was presented. R. Lepak questioned reasoning for fence on North since County had never been required to fence there area. Also West side is far from any road access. L. Zalut made observation that since Planning Commission had required fencing in requirements of granting permit, and that it is part of our ordinance for fencing that because of lack of any unique circumstances we are unable to give variance. R. Hart had concerns for people getting onto site and perhaps being injured. Richard Smith made suggestion to board that petitioner could possibly go back to Plan. Commission and ask to modify requirement of fencing. J. Minor reminded the board that Plan. Commission ruled on this as a requirement of quarries, and they have more latitude in regards to requirements. **Motion** by Larry Zalut to deny variance due to fact that there is no practical difficulty or uniqueness shown, support Terry Maki. Roll call vote: Larry Zalut, yes, Terry Maki, yes, Richard Hart, yes, Ron Lepak, yes, John Minor, yes. Motion carried, variance request is denied. Chairman directed secretary to send petitioner copy of minutes in a reasonable time. ZBA variance hearing closed 8:10 P.M.

ZBA continued with short business meeting. First order of business election of officers for 2008. **Motion** by Ron Lepak to elect J. Minor Chairman, support Richard Hart. No other nominations. Voice vote all ayes, motion carried. **Motion** by Ron Lepak to elect Larry Zalut Vice Chairman, support Terry Maki. No other nominations. Voice vote all ayes, motion carried. **Motion** by Terry Maki to elect Ron Lepak Secretary, support Larry Zalut. No other nominations. Voice vote all ayes, motion carried. Brief discussion followed in regards to ongoing Master Plan and upcoming Twp. Ordinance revisions being worked on by Plan. Comm. Board would like to be kept informed of upcoming changes. J. Minor directed Rec. Secretary to keep board informed. Meeting adjourned 8:30 P.M.

Respectfully submitted,

  
Marie J. Muller  
ZBA Recording Secretary

2-28-2008

ARNOLD LUETH  
JACK BRICKEL  
MARY LOU BRICKEL  
Brett Robinson  
LARRY JOHNS  
CORY MABERY  
JAMES FAYE

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