

**CITY OF NORTHVILLE**  
Board of Zoning Appeals  
Sept. 5, 2018 – 7:00 PM  
City of Northville – Lower Level Meeting Room  
215 W. Main Street

**I. CALL TO ORDER:**

Chair Silvestri called the meeting to order at 7:02 p.m.

**II. ROLL CALL:**

Commissioners: Present: Michelle Aniol  
John Callahan  
David Marold  
Dominic Silvestri  
Donna Tinberg  
Lou Ronayne (alternate)

Absent: Ryan McKindles (excused)  
Patti Mullen (excused)

Also present: Sally Elmiger, Planning Consultant

**III. APPROVAL OF THE AGENDA:**

**Motion Callahan, support by Marold to approve the agenda as published.**

*Voice vote: Ayes: All. Nays: None. Motion unanimously carried.*

**IV. MINUTES OF PREVIOUS MEETING: June 6, 2018**

**Motion Aniol, support by Callahan, to approve the June 6, 2018 meeting minutes as published.**

*Voice vote: Ayes: All. Nays: None. Motion unanimously carried.*

**V. CASES TO BE HEARD – BY CASE:**

- A. Case is called.
- B. Appellant presents case.
- C. Board questions & comments.
- D. Public comments on the case.
- E. A motion (usually to grant the variance) is made and seconded; discussed then voted upon; the results are announced by the Chair.

**VI. CASE #18-07**

**NICK KALLAS  
43797 DORISA  
48-22-34-476-001**

**To consider a variance request on premises zoned R-1B, First Density Residential District, located at 43797 Dorisa Ct., Northville, Michigan, 48167, parcel number 48-22-34-476-001. The applicant is seeking a variance to replace an existing privacy fence along Novi Avenue, which is located ahead of the front building line. The variance needed is to permit 104 lineal feet of privacy fence ahead of the front building line from the requirements in Section 18.09.**

Member Callahan called Case #18-07

A petition with 17 signatures had been given to the Board. The petition read:

*We, the residents of the Northville petition the applicant Nick Kallas (43797 Dorisa Ct, Northville MI 48167) to install 104 lineal feet of privacy fence ahead of the front building line from the requirements in Section 18.09.*

Signatures listed were:

1. James E. Lovier, 43797 Dorisa Ct.
2. Ian O'Reilly, 43774 Dorisa Ct.
3. Matt Cooper, 43762 Dorisa Ct.
4. Courtney Bugar, 43749 Dorisa Ct.
5. Shanna Mitchell, 43738 Dorisa Ct.
6. James Daniel, 43726 Dorisa Ct.
7. Kevin Dunbar, 43725 Dorisa Ct.
8. Nate Griffith, 705 Novi St.
9. Adam Anderson, 43798 Dorisa Ct.
10. Jonathan Line, 43786 Dorisa Ct.
11. Ryan C. Cooper, 43785 Dorisa Ct.
12. Barbara Benton, 43750 Dorisa Ct.
13. Danielle Boutin, 43714 Dorisa Ct.
14. Kari Katragadda, 769 Novi St.
15. Mark Kassa, 765 Novi St.
16. David Reese, 43761 Dorisa Ct.
17. Kathleen Whelan, 43715 Dorisa Ct.

***Note: At the October 3, 2018 BZA meeting, the Board made the following motion: MOTION by Tinberg, support by Marold, that the September 5, 2018 meeting minutes reflect that the Board's understanding of the petition presented by the neighbors for Case #18-07 was in favor of the variance request. Motion carried 5-1 (Aniol opposed).***

Nick Kallas, 43797 Dorisa, Northville, was present on behalf of this application. He wanted to replace the old existing rotted wood fence with low-maintenance modern new fencing. He would not be expanding the fence, nor would it be taller than it was currently. The existing fence was there when he purchased the home a few months ago.

Chair Silvestri explained that the ordinance required that corner lots maintain front yard setbacks on each street frontage. In this case there were 3 street frontages: Dorisa Ct., Novi Avenue, and 8 Mile Road.

Chair Silvestri further explained that certain requirements had to be met in order for the Board to grant a variance. Among other things, the applicant needed to show that the situation had not been self-created, and that there was a practical difficulty involved.

Chair Silvestri asked Mr. Kallas that if the variance were not granted, would he still have the same deteriorated fence? Mr. Kallas said the fence would likely have to be replaced in sections; it was falling down and the gates didn't work well.

Chair Silvestri asked if maintaining aesthetic appeal was one of the reasons Mr. Kallas was requesting a variance. Mr. Kallas said that was one of the reasons.

Member Aniol said that it appeared the property had not received a variance for this fence previously, and the fence was probably 30 years old. The existing fence was nonconforming, and was the only fence of its type on the street. Because it was a privacy fence it had a stockade-type appearance. Would the applicant consider a shorter fence along Novi Avenue?

Mr. Kallas said that one reason that house was the only one in the neighborhood that had that type and configuration of fence was because it fronted 3 streets, including Novi Avenue and 8 Mile Road. There was a significant amount of traffic there, especially along 8 Mile Road. He had 3 small children, and when he purchased the home he didn't know he would need a variance to replace the fence.

Member Aniol said she was not asking the applicant to reduce the size of the fence along 8 Mile Road, or the part of the fence located on the Dorisa Ct. frontage. She was just talking about the portion on Novi Avenue.

Mr. Kallas was opposed to having a 6-foot-high fence along Dorisa Ct. and 8 Mile Road, and then having a 4-foot-high section along Novi Road. Replacing the privacy fence had been a selling point for him when he purchased the home.

Commissioner Marold said he had driven around Cabbagetown, paying close attention to the north/south streets, and he thought Mr. Kallas' home was the only house that had a privacy fence along a north/south street. While this property was also the only one he saw with a 3<sup>rd</sup> street frontage, other homes had 2 front yards, and none had a fence on the east or west side of their property.

Alternate Ronayne acknowledged the petition received by the Board, which seemed to include most if not all the surrounding neighbors. Mr. Kallas said the neighbors had circulated the petition on their own; he had not asked them to do it.

Member Aniol said the wording of the petition was not clear. Were they asking to have the fence replaced? Member Ronayne agreed the wording was confusing.

Chair Silvestri brought the matter back to the Board.

Member Aniol said it was difficult to find that the request offered substantial justice to the neighbors, and that the request was not self-created, as it pertained to the height along Novi Avenue.

Alternate Ronayne asked if Mr. Kallas wanted to keep the fence the same height because of the patio located on the side of the home. Mr. Kallas said that reason was low on his priority totem pole. More important was uniformity of appearance, and privacy from 8 Mile Road.

In response to a question from Commissioner Tinberg, Mr. Kallas said the traffic lights from cars eastbound on 8 Mile would be a problem without the fence.

Member Aniol could support a 4-foot privacy fence from the portion next to the driveway coming around Novi Avenue and then working its way around to the front of the house. At 4 feet tall the fence would no longer have a stockade look. She could else find substantial justice because 2 blocks away there was a home in a similar situation with a 4-foot high wood fence. She wondered if the applicant would be open to that solution.

Member Marold agreed that the current fence did look like a stockade fence, especially as it was right next to the sidewalk.

Mr. Kallas said a 4-foot high fence along Novi Avenue would not be a privacy fence. He was not open to spending the money required to replace or repair the fence and then having car lights shining into his house when the project was complete.

Member Aniol did not think traffic lights would shine over a 4-foot fence. Mr. Kallas said the 2-foot reduction would also make a difference because the backyard sloped to the sidewalk, and the grade was a foot higher on the residential side of the fence than on the sidewalk side. A 4-foot high fence would be a 3-foot fence on the residential side.

Chair Silvestri indicated he supported the request, and was ready to offer a motion.

Motion Silvestri, support by Tinberg, to grant request #18-07, submitted by Nick Kallas, for a variance from Section 18.09, in order to replace 104 lineal feet of existing privacy fence on Novi Avenue ahead of the front building line on the property located at 43797 Dorisa Ct., based on the following findings of fact:

1. Practical difficulty: Because the property has 3 front yards, the practical difficulty requirement is met.
2. Substantial justice: Granting the variance would not expand or enlarge the current nonconformity.
3. Not self-created: The existing nonconforming fence was not created by the applicant, but rather appears to have been installed approximately 30 years ago.
4. This was the minimum variance necessary.
5. The request would not have an impact on public safety or create a public nuisance.

Chair Silvestri called the vote.

Aniol	no
Callahan	no
Marold	no
Silvestri	yes

Tinberg                    yes  
Ronayne                    no

Motion failed 2-4 (Aniol, Callahan, Marold, Ronayne opposed.)

Chair Silvestri asked Mr. Kallas if he was willing to revise his request, so that the request would be for a 4-foot high fence along Novi Avenue and Dorisa Ct. from the southwest corner south of the driveway.

Based on his own experience as a real estate professional, Alternate Ronayne commented that the real estate professionals involved in the sale of this property should have notified the buyer that this problem with the fence existed. Mr. Kallas said he had not been notified.

Mr. Kallas asked about repairing the existing fence. Planning Consultant Elmiger said the Building Official would be able to answer questions about fence repair.

After discussion, Mr. Kallas said that while he felt he would never put a 4-foot-high fence along Novi Avenue, he would change his request for that height in order to give himself that option. He had purchased the home in part for the privacy provided, and expressed disappointment at the failure of the previous motion.

**Motion Aniol, support by Callahan, to grant a modification of request #18-07, submitted by Nick Kallas, for a variance from Section 18.09 for the property located at 43797 Dorisa Ct., in order to replace 104 lineal feet of privacy fence along Novi Avenue, with the following condition:**

- **The fence along both Novi Avenue and Dorisa Ct. does not exceed 4 feet in height as measured from grade.**

**And based on the following findings of fact:**

- 1. Practical difficulty: Because the property has 3 front yards, the practical difficulty requirement is met.**
- 2. Substantial justice: by reducing the request to a 4-foot height, substantial justice is met because that condition does already exist elsewhere in the neighborhood.**
- 3. Granting the variance would not expand or enlarge the current nonconformity.**
- 4. Not self-created: The existing nonconforming fence was not created by the applicant, but rather appears to have been installed approximately 30 years ago.**
- 5. This was the minimum variance necessary.**
- 6. The request would not have an impact on public safety or create a public nuisance.**

Chair Silvestri called the vote.

**Aniol                    yes**  
**Callahan                yes**  
**Marold                  yes**  
**Silvestri                yes**  
**Tinberg                 yes**  
**Ronayne                yes**

**Motion carried unanimously.**

**VII. PUBLIC COMMENT:** None.

**VIII. DISCUSSION:**

Member Aniol asked for an updated list of everyone on the Board.

**IX. ADJOURNMENT**

**MOTION Callahan, support by Aniol, to adjourn the meeting at 7:34 p.m.**

*Voice vote: Ayes: All. Nays: None. Motion unanimously carried.*

Respectfully submitted,  
Cheryl McGuire, Recording Secretary

Approved as amended 10/03/2018