

APPEAL #10620 – JOHN AND SUSANNE GEIGER, 34 W. BERGER ST., EMMAUS, PA 18049. Applicant proposes to keep a rear yard fence in the public right of way. Applicant requests a 9-foot encroachment variance to Z.O. 403.4.D(3), which prohibits fences in the public right of way. The property is located in the R-L Zoning District.

The applicant, Susanne Geiger, stated that she and her husband, John, purchased the property located at 34 W. Berger Street, Emmaus, PA in June 2006. She stated the property is located in the R-L Zoning District. She stated that she received a Notice of Violation because they erected a fence in the right of way and is requesting a variance for the fence to remain in the right of way. Zoning Officer Hammond testified that he issued the Notice of Violation, dated July 6, 2022. He stated that upon inspection, he observed that a 6' high fence had been erected 3' off of the curb, which encroached 9' into the public right of way. He stated that this violates Zoning Ordinance 403.4.D(3), which requires that a fence must not be constructed in the public right of way. Mrs. Geiger stated that 32' of fencing was placed on N. 1st Street. Solicitor Corkery explained that approximately 50' of fence is located in the public right of way. Mrs. Geiger stated that she believed that the Zoning Officer permitted the fence to be placed 1' in from the curb. She stated that they have an above ground pool on the property and the pump for the above ground pool is located 6' from the fence. Solicitor Corkery stated that the fence was not placed in accordance with the site plan that was submitted and explained that the applicant would have no vested right if the variance were granted. Zoning Officer Hammond stated that the fence is not in violation of the clear sight triangle and that a 6' high fence is allowed in the back yard of the property. Zoning Hearing Board member Nickerson asked how the site plan was generated without the applicants understanding. Zoning Officer Hammond responded that the Zoning Officer sometimes helps the applicant prepare the application and site plan and the site plan is explained to the applicant prior to the issuance of a permit.

Comments:

1. Scott Peters, 16 W. Berger Street – stated that he lives 4 doors down from the applicant and does not object to the fence being in the public right of way.
2. David Bocchino, 28 W. Berger Street – stated that he lives next door to the applicant and does not object to the fence being in the public right of way.

The Zoning Hearing Board voted 3-0 to grant the variance with standard conditions.

Steinmayr yes Schmidt yes Nickerson yes