

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
OCTOBER 26, 2016**

MEMBERS PRESENT: James R. Stevenson, Chair
Albert Gionet, Vice Chair
Robert Haley, Secretary
Edward Slegeski
Armando Darna

ALTERNATES PRESENT: Sandra DeCampos
John Topping
Matthew Peak

ALSO PRESENT: Renata Bertotti, Senior Planner
James Davis, Zoning Enforcement Officer
Gary Anderson, Director of Planning
Katie Williford, Administrative Secretary

The Chair opened the Public Hearing at 7:00 p.m. The Secretary read the legal notice for the application when the call was made.

CATALINA GRIFFIN – application #2016-121 – Request a variance of Art. II Sec. 1.03.05(a) to allow a fence that is 9 feet tall at its highest point (6 feet maximum allowed) at 19 Grove Street, Residence B zone.

Ms. Catalina Griffin presented her application. She stated that her house was on a hill and her lot had unique topography. Her reason for requesting the variance was to allow her to have a nice fence that would look normal, she said.

Ms. Griffin displayed photos and discussed the height of various portions of the fence. She said the fence is higher when viewed from one side than from the other side, because of the hill. The fence varies in height in different locations in order to keep it straight, she said.

Mr. Stevenson noted that Ms. Griffin's request was for a 9 foot high fence, and asked if she really just wanted it to be 6 feet 8 inches. Ms. Griffin clarified that she had only described one section of the fence so far.

Mr. Stevenson asked Ms. Griffin to explain her hardship and the reason she was requesting the variance. One reason was the unique topography of the lot, she said. In the back of the house, there were two hills so the fence had to go up and down. Part of the fence was 8.2 feet tall but she requested 9 feet to be safe, she said. The only part of the fence that was 8.2 feet tall was a door in the fence, which needed to be that tall to allow machinery, such as an excavator, to pass through, Ms. Griffin said.

Mr. Stevenson asked for clarification of the hardship, and particularly the statements in Ms. Griffin's application relating to the nearby fire stations. Ms. Griffin replied that she lived close to Main Street, so there was a lot of noise. She said other reasons for the higher fence were that

she had two dogs and a pool, and that there was a lot of debris next to her property that she wanted to screen.

Ms. Griffin submitted a letter from a neighbor, Sean Connors of 99 Main Street. Mr. Stevenson read into record the letter, dated October 26, 2016, which stated that Mr. Connors did not have any problem with the fence.

In response to questions from Mr. Haley, Ms. Griffin confirmed that she was told that the fence could not be higher than 6 feet when she took out the permit to build the fence. She said she was also told that she could apply for a variance to have a taller fence. Mr. Haley asked if she had built the fence taller than permitted before deciding to apply for a variance, and Ms. Griffin confirmed that was correct.

Mr. Gionet asked what type of equipment Ms. Griffin was bringing through the gate in the fence and she replied that it was a mini excavator. Mr. Gionet asked if Ms. Griffin was operating a business out of her home. She said she was not. Their back yard was in poor condition and she and her husband had been fixing it for the past two years, she said.

Mr. Darna asked for an explanation of the statements in Ms. Griffin's application relating to break-ins and police presence in the area. Ms. Griffin stated that one of her neighbors had two bikes stolen from his house this year. The fence would make it less easy to get to her house, Ms. Griffin said. Mr. Darna said he contacted the Police Department and was told that the only call on Grove Street so far in the last quarter was for harassment, and there were three minor collisions on Main and Grove Street. Ms. Griffin replied that the harassment call was about her next door neighbors. She said she had 4 to 5 cameras pointing to her house because of the neighbors. About ten times so far this year, when Ms. Griffin was sunbathing with a friend, one of her neighbors had stood on the back of a truck, looked over at her house, and laughed for 15-20 minutes at a time, she said. The fence was partly for privacy, Ms. Griffin said. She confirmed that she reported the incident to the police. Mr. Darna noted that the Police Department told him they had only one record of harassment, and Ms. Griffin replied that she was told she needed video evidence, and she was only able to get a video once.

Mr. Topping stated that the idea of the fence being tall for privacy reasons is contrary to proper policing, because a taller fence makes it easier to hide from law enforcement. Ms. Griffin noted that the fence would not actually be 9 feet high; the door was the only part that was above 7 feet tall.

Mr. Topping asked if the excavator could be used to level off an area for the fence so it could be a 6 foot fence. Ms. Griffin replied that she had purchased \$6,000 worth of fill material to flatten a lot of the property, but it was still not enough.

Mr. Haley asked why the fence needed to be 8 feet tall to allow equipment through, since the width of the opening was what mattered. Ms. Griffin explained that there is a post over the top of the opening, to prevent the wind from blowing the fence over. Mr. Peak asked how wide the gate was and she replied that the doors were 3 feet wide each, for a total of a 6 foot wide opening.

Mr. Stevenson asked if any member of the public wished to comment in favor of this application.

Mr. Brendan Griffin, the applicant's husband who also lives at 19 Grove Street, came forward. The topography of the property makes it difficult to appeal to people in terms of resale value, he said. He said he had tried to level the property as much as possible in the back, to allow a vehicle such as an SUV or truck, to be stored in the rear of the property. He said that he and Ms. Griffin were trying to make the best possible use of the property, which had been a distressed property. Mr. Griffin said the fence by the pool was 7 feet high and there was a retaining wall on one side of the pool. The fence is constructed of 2x6 pressure treated timbers and 4x4 timbers. He reiterated that the lot topography was unique, adding that Grove Street was initially a nursery or farm area so there were a lot of stumps. There were some arborvitaes that were growing in that would soon be taller than the fence, he said. The house is very close to its neighbors to the left, he said. Regarding the fence being built before a variance was requested, Mr. Griffin said that they had cut the 4x4 timbers down to finish it, but some had not been finished yet. He said they had a larger parking area at the top of the house where a vehicle could be brought to the back of the lot. They built the wall directly to the garage in such a way that you could drive into the garage, close it, and it would be completely secure. Mr. Griffin clarified that each door of the gate is 4 feet, so the gate was a total of 8 feet wide, with a 4x4 on the top running across the opening.

Mr. Gionet said it appeared in the photos that the finished side of the fence faced inwards, toward the applicant's property. Mr. Griffin said the fence was not complete but he didn't want to do any more work until he received approval. He said his intent was to finish the fence to have both sides look the same.

In response to a question from Mr. Topping, Mr. Griffin said the retaining wall comes up just below the side of the pool, which is 3.5 feet tall.

Mr. Kevin Cunningham of 17 Grove Street came forward. He said he had thought the fence looked tall at first, but because the applicant's house is a lot higher than his back yard, he could look out his windows and see into the applicant's house. A 6 foot fence would provide no privacy, he said. He said the work the applicant was doing on their house was coming out beautiful, and the fence was giving him the privacy he wanted. If the fence were shorter, the applicants would not be able to enjoy their yard with the neighbor they have on the other side of their property, Mr. Cunningham said.

Ms. Susie Snow of 18 Grove Street, who lives across the street from the applicant, came forward. She said the applicants built a fence between their house and Mr. Cunningham's house, and the neighbors on the other side built a fence, and both fences looked nice. There was no reason anyone should argue or ask for variances, she said. She noted that Mr. Cunningham had small children, and without the fence it had been possible to see people undressing in the applicant's house from Mr. Cunningham's house.

Mr. Stevenson asked if any member of the public wished to comment in opposition to this application.

Ms. Jacqueline M. Rivera, 27 Grove Street, came forward. She noted that her husband had also sent in a letter, but she came to the meeting because the applicant was out measuring Ms. Rivera's stockade fence prior to the meeting. Ms. Rivera said she had several police reports for harassment because Ms. Griffin had taken photos of Ms. Rivera's grandchildren.

Police had been to her property several times, Ms. Rivera said. Ms. Rivera said the applicant's claim that Ms. Rivera's son was taking pictures and smiling at Ms. Griffin had been addressed by police officers who came to the house.

Ms. Rivera said she had a fence down her driveway because the Griffins took ripped up their driveway without having their property surveyed, while Ms. Rivera had to pay \$1,000 for a surveyor. Mr. Griffin uses his excavator until 9:59:59 every night and the police are not able to do anything, Ms. Rivera said. She added that there was a report because the police caught the Griffins using an excavator at 10:15 p.m.

Ms. Rivera said she had lived on Grove Street for 17 years and it used to be a quiet neighborhood, but it was not anymore. She said the harassment incidents were ongoing with the Griffins. She could not sit on her back porch and had to have mini blinds because the Griffins were constantly watching them, she said.

Ms. Bertotti said the Planning Department had received several letters from neighbors. The first, from Mr. and Mrs. Rivera on October 24, 2016, had been emailed to the Board members previously. Ms. Bertotti read into record an email received from Kathi Yost on the day of the meeting, which discussed concerns about the Griffins not abiding by Town ordinances, in particular not getting permits for electrical work and their pool, and running loud machinery late at night. Ms. Bertotti then read a letter from Paul Noel, the owner of 20-24 Pine Hill Street, who said he had no objection to a variance being granted. Ms. Bertotti noted that she had also received an email from one of the board members regarding taxes for 19 Grove Street.

Mr. Stevenson asked if there were any staff comments. Ms. Bertotti said the map submitted with the application did not indicate the length of the sections of fence that were taller than 6 feet and she had asked the applicant to submit a better map. According to applicant, the email got stuck in her spam filter and she did not see it until last week, Ms. Bertotti said. Ms. Bertotti followed up with a phone call last week and the applicant said she would provide a better map, but Ms. Bertotti still had not received one. Ms. Bertotti said she thought that would be helpful for the Board to have, but it was up to the Board if they felt it was necessary for the applicant to provide.

Mr. Haley asked Mr. Davis if the height of a fence was measured to the top rail, or to the post. Mr. Davis replied that fence height is measured to the top rail, so the post can be a little higher within reason.

Mr. Topping noted that the retaining wall was testified to be 3.5 feet high and asked Mr. Davis what the height limit was for that. Mr. Davis said he usually would check with the Building Department, but he thought it was 30 inches or 3 feet. He said he did not know if the applicant built the retaining wall or if it was already there. In response to a question from Mr. Haley, Mr. Davis said that when there is a retaining wall, the fence is measured from ground level, as opposed to from the top of the retaining wall.

Ms. Griffin said there was only one person opposed to her fence. She said she and her husband work late because they both have full time jobs, but the excavator stopped a long time ago. When they did their driveway, it was almost 7 feet from the other property, she said. Ms. Griffin said that she has 30 to 50 permits with the Town because every time she wants to do something to her property she asks the Town how they want it done. This is the only variance she ever requested, she said, and she requested it because otherwise the fence would not look nice.

The public hearing on this application was closed and the public hearing portion of the meeting was closed at 7:43 p.m.

I certify these minutes were adopted on the following date:

November 30, 2016 _____

Date

_____ James Stevenson, Chair

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN
BE HEARD IN THE PLANNING DEPARTMENT.**

kmw