

Town of Ulster
Zoning Board of Appeals
August 12, 2020

The monthly meeting of the Town of Ulster Zoning Board of Appeals was held remotely via the Zoom application on August 12, 2020, at 7:00 P.M.

Present:

Andi Turco-Levin
Robert Porter
Geoffrey Ring – Chairman

Lois Smith
Kevin Reginato

Roll call.

A motion to approve the minutes from June’s meeting was made by Mr. Ring, with a second by Mr. Porter; all in favor with a roll call vote. A motion to approve the minutes from July’s meeting was made by Mrs. Turco-Levin, with a second from Mr. Porter; all in favor with a roll call vote.

PUBLIC HEARING

Christopher Shultis – Z-385
137 Esopus Avenue
SBL: 48.49-3-2
Zone: R10
Area Variance

Christopher Shultis appeared on behalf of his application to install a five and a half foot (5.5’) fence within his front setback.

Mr. Shultis explained that he had an issue with his dog jumping the originally approved four-foot (4’) fence and has installed a five and a half foot (5.5’) fence. Mr. Shultis does not have any issues with his dog jumping the fence, anymore, but he is bringing his fence into compliance with the Town Zoning Code.

Chairman Ring opened the public hearing. There was no public comment. Chairman Ring made a motion to close the public hearing, with a second from Mr. Porter; all in favor with a roll call vote.

Action: A motion to approve the variance to allow a five-and-a-half-foot (5.5’) fence within the front setback was made by Mr. Reginato, with a second from Chairman Ring; all in favor with a roll call vote.

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PRELIMINARY HEARING

Alecia DeCicco & Kyle Hassett – Z-387

30 Country Lane

Lake Katrine, NY 12449

SBL: 39.81-2-26

Zone: R10

Area Variance to allow a 6' fence within a front setback.

Sal DeCicco appeared on behalf of the application to apply for a six foot (6') privacy/security fence in a front yard setback at 30 Country Lane.

Mr. DeCicco stated that they would like to install the fence from the neighbors existing fence to the bushes which is adjacent to Mr. Troy Ashdown's residence, who also has a six-foot (6') fence.

Mr. DeCicco stated that Mr. Hassett is an Ulster County Sheriff and they would like privacy in the backyard as Neighborhood Road is very busy. Mr. DeCicco stated that they have people walking through their yard all the time.

Chairman Ring asked what the height of the neighbor's fence is. Mr. DeCicco stated that it is a four foot (4') chain-link fence and the proposed fence would join into that fence. Chairman Ring asked if the bushes on the diagram signified the property line or if there was a fence within the bushes. Mr. DeCicco stated that the bushes are approximately ten feet (10') tall and the property line is dead center to the bushes. Mr. DeCicco stated that the bushes go from the back of the house to the front of the house.

Mr. DeCicco stated that the applicant is proposing to put the six-foot (6') fence six feet (6') off of Neighborhood Road, but if they have to go back to eight feet (8') off of the road, they are willing to do so; they just want a privacy/security fence.

Mr. Warren Tutt, Building Inspector, stated that a neighbor, Troy Ashdown, came before the ZBA a couple of years ago and received a six foot (6') fence approximately the same distance as being proposed from Neighborhood Road and the fences are similar in design.

Mrs. Turco-Levin asked if the four-foot (4') fence in comparison to the six-foot (6') fence would make a difference if foot traffic is the issue. Mr. DeCicco stated that the six-foot (6') fence would give the applicant more privacy since Neighborhood Road is technically the applicant's backyard. Mr. DeCicco stated that there is a change in grade from the house to the Road, so a four-foot fence would not give the applicant's the privacy/security that they want.

Mr. DeCicco stated that if the Board is more comfortable with the fence being eight feet (8') from the Road the applicant is willing to do that.

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Mr. Tutt stated that Frank Petramale, the Highway Superintendent, weighed in on Mr. Ashdown's fence when he went before the Board and he had no issues as long as the applicant's are aware that should any damage come from snow plowing/removal, the responsibility would not fall on the Town. Mr. DeCicco stated that he understands and agrees to that stipulation. Chairman Ring stated that if approved, that will be put in writing on the Notice of Decision.

Ms. Smith stated that this fence would be bordering a road next to a school where kids that live in the area must walk on that road if they cannot walk in the neighbor's yard. Ms. Smith stated that there is also a bus stop in front of the property which leaves the kids with nowhere to stand waiting for a school bus and/or walking. Ms. Smith stated that once the snow is plowed, there is nowhere for kids to go if there is a six-foot (6') fence there. Mr. DeCicco asked if the Board would be more comfortable to ten feet (10') back from the road.

Chairman Ring asked where exactly the bus stop is. Mr. DeCicco stated that it is about fifteen feet from the bushes on his diagram.

Mrs. Turco-Levin agreed with Ms. Smith in that there are kids walking and there aren't many sidewalks in the Town of Ulster. If the kids need to walk on a busy day with cars and vans driving by, there is nowhere for them to walk. Mrs. Turco-Levin does not mind the height of the fence, but she is concerned about the setback.

Chairman Ring pointed out that currently as the Code stands, the DeCicco/Hassett's can have a four-foot (4') fence right on the property line without a variance. Mrs. Turco-Levin stated that she is concerned about the children, as is Mrs. Smith.

There was a brief discussion about setbacks. Mr. Tutt explained that the fence setback is from the property lines. Mr. Tutt stated that the typical sidewalk regulation is three feet (3') and the applicant is proposing six feet (6'). Mr. Tutt stated that if the plows come through and push the snow to the side of the road, no matter how tall the fence is, the snow will be to the side of the road so you would still not be able to walk around or behind the snow but walk in the road. Mr. Tutt also agreed with the Chairman in that if the applicant applied for a four-foot (4') fence six-feet (6') from the road, there would not be a discussion right now.

Mr. DeCicco stated that when walkers get to the four-foot chain link fence the neighbor has, the land turns into a hill so they walk on grass until that point and then are in the road because there is nowhere to walk.

Ms. Smith stated that she believes a four-foot (4') fence gives the possibility of being able to jump over it and out of the way quickly should someone have to get out of the way of vehicles. Mr. DeCicco stated that the applicant is willing to move it back to ten feet (10') from the road to make everyone happy.

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Chairman Ring suggests that the Board moves it to a public hearing and allow the neighbors who have children who walk in that area a chance to speak. Chairman Ring would like written clarity from Mr. Tutt with what the applicant can and cannot do by right.

Mr. DeCicco stated that Mr. Ashdown has a six-foot (6') fence, so what happens there. Chairman Ring stated that he was granted a variance for the same reasons listed here. Mr. DeCicco stated that Mr. Ashdown's fence is approximately ten feet (10') from the road, but the applicant would like to line their fence up with the existing bushes, but if they have to bring it back to ten feet (10') from the road, they will. Mr. DeCicco explained that he would rather bring it back to ten feet (10') himself because of the snow plowing as he does not want to see the applicant spend a couple grand on the fence to have it destroyed.

Mr. DeCicco clarified where the home was located. The home has two front setbacks, one on Neighborhood Road and one on Country Lane.

Mr. DeCicco stated that the applicant's sit in a breezeway between the house and the garage and they have no privacy since it is wide open.

Mr. Porter believes sending it to a public hearing would give the Board time to do a little more research as he was not aware that there was a bus stop.

Action: A motion to send this proposal to a public hearing in September was made by Mr. Porter, with a second from Chairman Ring; all in favor.

DISCUSSION

Chairman Ring state that he had witnessed a Town meeting that was held in-person and on Zoom and he was not in favor of making that attempt. Chairman Ring stated that as much as he would like to meet in person again, he wants everyone to be comfortable and maintain social distancing. Chairman Ring stated that the Board will continue with all Zoom or all in person. Chairman Ring wanted the Boards feedback.

Mr. Tutt stated that for the Planning Board meetings he has set the room up for social distancing, limits the number of people allowed in, administering temperature checks upon entrance and so far, it has worked well. Mr. Tutt stated that everyone is required to wear masks indoors, which presents some problems trying to hear via Zoom. The meetings cannot be held at Town Hall due to their safety measures set up and have been being held in the Senior Center which has a slightly different configuration, which means no microphones nor speakers. Mr. Tutt agrees that the mix of in-person and Zoom is impractical.

Chairman Ring asked if they are limiting the number of people in the building, would they be required by law to have the meeting held remotely in some way. Mr. Jason Kovacs, Town Attorney, thinks it is similar to the Fire Code. With these meetings he does

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not believe there will be enough neighbors coming in to create an issue with that aspect. Mr. Kovacs stated it has been working as well as it could. If there is a controversial project, then it would have to be revisited.

Ms. Smith stated that the requirements of a face mask should be mandatory and is concerned about the sanitation of the Senior Center; will it be cleaned prior to the Board holding their meeting. Mr. Porter stated that he is a part of the target group and if he attends an in-person meeting and someone walks in without a mask he will not hesitate to walk out. Mr. Tutt stated that he has had no one refuse to wear a mask to the meetings. Mr. Tutt stated that the attendees understood it was mandatory to wear a mask and have their temperature taken. There was a brief discussion regarding the Executive Orders regarding masks, social distancing and sanitization at the Senior Center.

Chairman Ring asked the Board to let him know if anyone felt uncomfortable and if so the meeting would continue to be held remotely via Zoom.

A motion to adjourn was made by Chairman Ring, with a second from Mrs. Turco-Levin; all in favor.

Respectfully Submitted,
Gabrielle Perea
Zoning Board Secretary