

Town of Ulster  
Zoning Board of Appeals  
June 9, 2021

The monthly meeting of the Town of Ulster Zoning Board of Appeals was held remotely via the Zoom application on June 9, 2021, at 7:00 P.M.

**Present:**

Lois Smith  
Kevin Reginato  
Robert Porter – Chairman

Andi Turco-Levin  
Steve Shultis

Roll call.

A motion to approve the minutes from the May 2021 meeting was made by Ms. Smith, with a second from Chairman Porter; all in favor with a roll call vote.

**PUBLIC HEARING**

**Diane Donnelly – Z-401**  
**135 Van Keuren Highway**  
**Kingston, NY 12401**  
**SBL: 48.41-1-4.200**  
**Zone: R10**

*Use Variance to allow a manufactured home outside of a manufactured home park.*

A motion to reopen the public hearing was made by Chairman Porter, with a second from Ms. Turco-Levin; all in favor with a roll call vote.

No one appeared on behalf of the variance request and there were no new communications with the applicant.

Mrs. Turco-Levin mentioned that the applicant had mentioned HUD guidelines at the preliminary hearing and how she did not have to apply for a variance to construct a manufactured home on the lot. Mr. Kovacs stated that he spoke to the applicant most recently before the May hearing and advised that Ms. Donnelly attend the Zoom meeting and Ms. Donnelly said she would be at the meeting.

A motion to close the public hearing was made by Mrs. Turco-Levin, with a second from Chairman Porter; all in favor with a roll call vote.

Mr. Reginato stated that he believes that the applicant lost interest, or she would have been present at the two meetings. Mr. Kovacs recommended the Board denies the application with no prejudice so that Ms. Donnelly could reapply in the future if she chooses to.

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There was a brief discussion on if the applicant is going to move forward without the proper approvals.

**Action:** A motion to deny the variance without prejudice was made by Chairman Porter, with a second from Mrs. Turco-Levin; all in favor with a roll call vote.

**Candy Coon/Christian Artist – Z-405**

**247 City View Terrace**

**Kingston, NY 12401**

**SBL: 48.10-1-23**

**Zone: R30**

*Area Variance to allow a shed 6' from the side property line.*

A motion to open the public hearing was made by Chairman Porter, with a second from Ms. Smith; all in favor with a roll call vote.

Christian Artist, property owner, appeared before the Board on behalf of an application to place a shed within the side setback.

Mr. Artist explained that there is an existing 8' x 14' shed that is approximately six feet (6') from the property line which is along a right-of-way to undeveloped land and has trees lining it. No neighbors have any issues with it as far as he knows.

A phone call was received from the neighbor on that side, and they had no issues with the shed being placed there.

A motion to close the public hearing was made by Chairman Porter, with a second from Mr. Shultis; all in favor with a roll call vote.

**Action:** A motion to approve the area variance was made by Chairman Porter, with a second from Mr. Reginato; all in favor with a roll call vote.

**Jason Halwick – Z-406**

**118 John Street**

**Kingston, NY 12401**

**SBL: 48.52-5-5**

**Zone: R10**

*Area Variance to allow a 6' fence within the front setback (10' from Addis Street.)*

A motion to open the public hearing was made by Chairman Porter, with a second from Mrs. Turco-Levin; all in favor with a roll call vote.

Jason Halwick, property owner, appeared before the Board on behalf of his application to install a six-foot (6') fence ten feet (10') from Addis Street.

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Chairman Porter asked if the applicant purchased the sliver of land that he spoke of at the preliminary hearing and Mr. Halwick stated that he is still in the process of purchasing the piece of land and that it has been delayed.

Chairman Porter asked how the approval process would be held up if the slice of land, ten by one-hundred-foot (10' x 100'), was still owned by Cliff Cole. Mr. Halwick stated that Mr. Cole has a lawyer that is supposed to be drawing up the paperwork to transfer the land, but it has not been done yet. Mr. Kovacs asked if it can be done by next month and Mr. Halwick stated that he would hope so as he was hoping it would be done by tonight. Mr. Kovacs stated that he can adjourn the public hearing until July and have the documentation to add that piece of land to the variance. Mr. Halwick would rather not wait another thirty days to get the approval so he would like to move forward without that piece of land. The Board agreed it was up to the applicant as to whether he would like to move forward without that piece of land being included. Mr. Kovacs stated that he can amend the application to not include the ten by one-hundred-foot (10' x 100') piece of land.

Tami Schiavone, representing Joseph Schiavone (neighbor), stated that Mr. Schiavone had concerns that their property line stake that is in the driveway was moved and would like to get a survey done prior to the variance approval. Mr. Halwick said he had never moved the stake.

Mr. Porter asked if Mr. Halwick had a survey of the property. Mr. Halwick stated that he did have a survey done. Mr. Kovacs recommended that the Board review the survey prior to taking any action on the variance request.

Mr. Halwick would like to add the piece of land that he is trying to purchase back to the proposal if the Board is adjourning another month.

**Action:** A motion to adjourn the public hearing until the July meeting was made by Chairman Porter, with a second from Ms. Smith; all in favor with a roll call vote.

Chairman Porter asked that Mr. Reginato take over his Chairmanship for the remainder of the meeting for educational purposes.

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**PRELIMINARY HEARING**

**Richard Longenyke – Z-407**

**37 Catskill Avenue**

**Kingston, NY 12401**

**SBL: 56.22-3-7**

**Zone: R30**

***Area Variance to allow a 6' fence within the front setback (24' from Merilina Avenue)***

Richard Longendyke, property owner, appeared on behalf of his application to allow a six-foot (6') fence within the front setback.

Mr. Longendyke explained that he had applied for a fence permit in order to build this fence and had been approved so he thought he had done the right thing, until he received a stop work order. The property is a corner lot, so it has two (2) front setbacks. Mr. Longendyke explained that the fence is in line with the house and runs to the rear property line and it does not block any line-of-sight in regard to traffic. There is a fence that Mr. Longendyke installed that goes along the rear property line around to down by the driveway.

Mr. Tutt stated that the permit had been issued in error as a six-foot (6') fence less than thirty feet from the road would require a variance.

Mr. Longendyke explained that every house around him has six-foot (6') fences around him and some are closer to the road. Mr. Longendyke explained that they purchased the house in December and he didn't place the order for the fence until he knew he was allowed to put the fence up. Mr. Longendyke explained that he put up two (2) sections of the fence along Merilina and then received the stop work order, not knowing that he couldn't do it since he received the permit. Mr. Longendyke explained that he would like to receive his variance so he can move forward with finishing the fence and landscaping so their dog can run around the yard freely with no issues.

Longendyke stated that he hasn't heard any issues from the neighbors regarding the fence.

Ms. Smith asked if there were fences similar to this fence in the neighborhood and Mr. Longendyke explained numerous fences in the neighborhood that are close to the road and five to six feet (5'-6') in height.

Mr. Longendyke stated that if he realized that this would require a public hearing he would have started the process in April and been done in May.

Chairman Porter explained that you have to prove a hardship in order to receive a variance and asked Mr. Longendyke if he had somewhere else to place the fence. If Mr. Longendyke followed the Code, the fence would go through his landscaping.

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Mr. Tutt stated that he does not have a problem with the applicant installing the rest of the fence that is code complaint in order to move the project forward. The stop work order is in place on the section of the fence that is parallel to Merilina that requires the variance.

**Action:** A motion to forward the project to a public hearing was made by Chairman Porter, with a second from Mr. Shultis; all in favor with a roll call vote.

**Moonburger – Z-408**  
**5 Powell Lane**  
**Kingston, NY 12401**  
**SBL: 48.14-3-34.100**  
**Zone: HC**

*Area Variance to allow a 99.75 sf wall sign (155% variance request)*

Jeremy Robinson-Leon, owner, appeared before the Board on behalf of an application to allow a sign larger than the square footage allowed in that zone.

Mr. Robinson-Leon stated that this property is where the old Ice Cream Castle on Washington Avenue is. Mr. Leon-Robinson drove by it many times and pondered about what it could possibly be and finally bought the property and had recently closed on it. Mr. Robinson-Leon is proposing a drive-thru restaurant that specializes in burgers, fries and shakes.

Mr. Robinson-Leon stated that he received site plan approval the night before and he is now looking for a variance on the size of the sign for the front façade. Mr. Robinson-Leon stated that the sign, although large in the presentation, is not as large as it appears as the building is quite small.

Mr. Robinson-Leon is asking for this variance because the building is very small, and it sits between two large green QuickChek's and is set back a couple hundred feet from Washington Avenue so he needs the sign for visibility.

Mr. Reginato stated that they had a recommendation from the Planning Board to approve the sign variance due to the location.

Mr. Tutt stated that the variance requested is a one-hundred percent (100%) increase. The variance being proposed includes both proposed signs.

The "Moonburger" lettering will be lit-channel letters with LED's. The Drive-thru sign above would be an aluminum sign that is not backlit.

The sign variance would need to be seen before the County for their review.

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Mr. Robinson-Leon stated that he hopes to be open by the end of August.

**Action:** A motion to forward the project to the County for review and schedule a public hearing in July was made by Chairman Porter, with a second from Mrs. Turco-Levin; all in favor with a roll call vote.

**Kevin Flood – Z-409**  
**5 Arnold Drive**  
**Kingston, NY 12401**  
**SBL 56.9-2-1**  
**Zone: R30**

*Area Variance to allow a 6' fence within the front setback (5' from Hillside Terrace)*

Kevin Flood, owner, appeared before the Board on behalf of an application to allow a six foot (6') fence within the front setback, five feet (5') off of Hillside Terrace.

Mr. Flood explained that he has twenty feet (20') high spruce trees and the deer have eaten the bottom of all the trees. Mr. Flood stated that they feel like they are right on the road when they are swimming in the pool, so he is applying for this variance for privacy.

Mr. Flood stated that numerous neighbors have six-foot (6') vinyl fences on the road.

Mr. Flood stated that he met with Jimmy Bruno, Building Inspector, a couple of weeks ago and they had walked the property. If the fence met the setbacks, the fence would land in the middle of the pool, which is the hardship he is facing as the pool has been there since the eighties.

Mr. Flood has a mature pear tree, spruce trees and blueberry trees that he would rather not cut down, so he needs the variance to install this fence in a location as to not impact the landscaping and maintain privacy for the use of their pool.

There was a brief discussion regarding the deer and how they are eating the trees in the area.

Mr. Flood explained that he has a green wire fence with a gate that automatically closes that was installed with the fence around the pool. Since the fence is green and situated within the spruce trees, it is unnoticeable. Mr. Flood does not want a six-foot fence all around his property, but he would like the privacy for his kids when they go swimming in the pool.

Mr. Tutt asked why he chose to go five feet from the road and Mr. Flood replied that one of his neighbors placed their fence five feet (5') off of the spruce trees and their trees look healthy, so he wants to install the fence there, so he has room to maintain the trees.

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**Action:** A motion to forward the project to a public hearing in July was made by Chairman Porter, with a second from Mrs. Turco-Levin; all in favor with a roll call vote.

**DISCUSSION**

**Physical Meetings** – Chairman Porter stated that he had been in contact with the Town Supervisor and they had decided that the Board will start meeting in-person starting in July. The Board will meet in the Russell Brott Senior Center since the courtroom at Town Hall can not support the amount of people due to the layout because of Covid.

There was a brief discussion on whether the meetings will still be available via the Zoom application. The Board stated that they will investigate their options of making it available to the public via Zoom or YouTube. There was a brief discussion on the possible platforms and whether it is required. The Board agreed they will look into their options moving forward.

A motion to adjourn was made by Chairman Porter, with a second from Ms. Smith; all in favor.

Respectfully Submitted,  
Gabrielle Perea  
Zoning Board Secretary