

Town of Ulster
Zoning Board of Appeals
March 10, 2021

The monthly meeting of the Town of Ulster Zoning Board of Appeals was held remotely via the Zoom application on March 10, 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 February 2021 meeting was made by Mrs. Turco-Levin, with a second from Ms. Smith; all in favor.

PUBLIC HEARING

Bussani Mobility – Z-396

32-42 Old Sawkill Road

Kingston, NY 12401

SBL: 48.14-1-12.100

Zone: R60

Use Variance to allow sales and service of accessible vehicles.

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

Daniel Bussani, Dan Walsh, & Steve Wilmer, Bussani Mobility, appeared before the Board for a use variance to allow a vehicle service and repair center in an R30 Zone.

Gabrielle Perea, Secretary, stated that she received a phone call from a neighbor concerned with traffic and people speeding down the road. This neighbor stated that the road did not have the speed limit posted and that she would be reaching out to the Town Board about posting the road and/or speed bumps. There were no other comments received.

Mr. Bussani assured the Board that they are considerate neighbors and that they will become a good member of the community.

The Board thanked Mr. Bussani and the business for bringing the business to the Town of Ulster and stated that they appreciate what they do for the community.

Warren Tutt, Building Inspector, asked if the project was sent to the County and if it did if we received comments from the County. Ms. Perea stated that the project did not have to go to the County.

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A motion to close the public hearing was made by Mrs. Turco-Levin, with a second from Mr. Reginato; all in favor.

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

PRELIMINARY HEARING

Ruby Post Office/Tom Sutton – Z-397

1165 Main Street

Ruby, NY 12475

SBL: 39.6-3-12

Zone: R30

Use Variance to allow a mixed-use building in an R30 Zone.

Tom Sutton, owner, appeared before the Board to allow a mixed-use building within an R30 Zone. The proposed use would include the existing post office and a new apartment above the post office.

Mr. Sutton explained that the building is currently a post office and that the second story used to be an apartment approximately twenty (20) years ago and he would like to renovate the space to reuse it as an apartment. The second floor is about six-hundred and forty square feet (640 sf.)

The applicant is before the Board because the apartment had pre-dated the Zoning Code. Once the Code was adopted, if the apartment discontinued for a period of two (2) years, it would have to conform to the Zone it is in. Since it has been about twenty (20) years since it was used as an apartment, it needs a use variance to be allowed in this Zone. Mr. Tutt stated that there are three (3) properties that are Local Commercial surrounded by residential zones right next to this location.

Ms. Smith stated that there was an accident near this parking lot years ago where a child was run over and she wanted to make the Board aware that this is a used parking lot. Mr. Sutton stated that he does not believe there is a bus stop by his parking lot. Mr. Sutton stated that there is a blacktop parking lot right in front of the post office.

Mr. Reginato asked how busy the post office was. Mr. Sutton responded that the most he has ever seen in the parking lot was three (3) cars at one time. Mr. Sutton explained that the post office is only open half days during the week and a couple of hours on Saturdays.

There was a brief discussion about other business in the area.

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Mr. Shultis asked what is behind the post office and asked if there was a road or parking behind the building. Mr. Sutton stated that it used to be an old gas station so you could drive around the building, but it is full of brush now.

The apartment would be a one bedroom. Mr. Sutton stated that he has a prospective tenant and that there would be one vehicle unless she has company.

Action: A motion to forward this project to a public hearing was made by Mrs. Turco-Levin, with a second from Mr. Reginato; all in favor with a roll call vote.

KOSCO Heritage – Z-399

625 Sawkill Road

Kingston, NY 12401

SBL: 39.18-1-18

Zone: OM

Area Variance to allow a six-foot (6') fence within the front setback.

Jim Stoothoff appeared before the Board to allow a six-foot (6') fence within a front setback. Mr. Stoothoff stated that he was asked by the management of the company to put up two fences, one of which was off Sawkill Road. Mr. Stoothoff stated that he was not aware that he could only install a four-foot (4') fence within the front setback. Mr. Stoothoff would like to bring the fence into compliance by receiving an area variance to allow it.

Mr. Stoothoff explained that they are required to follow mandates under federal regulation under 40CFR112 which has to do with spill prevention, control & counter measure plans. Mr. Stoothoff explained that they have four (4) facilities in the Hudson Valley and each one has six foot (6') fencing for the purpose of preventing anyone from getting on the property and causing a spill issue by messing with vehicles on the property.

Chairman Porter stated that should there be a spill the contaminants would probably get to the Sawkill Creek within a half an hour. This is an Environmental Protection Agency (EPA) federal mandate. Mr. Stoothoff agreed.

Mr. Stoothoff stated that they put a seventy-five-foot gate at an angle across the front of the property and that gate is open from 3 am until 11 pm. There is a twenty-four foot (24') opening on the gate. Mr. Stoothoff stated that there is an interior gate, also, which blocks off access to the vehicles. This option was chosen by the management of the company because instead of spending countless dollars to enclose the entire facility, they chose to close off the area the vehicles are stored.

Mr. Reginato asked if the fences are mechanical. Mr. Stoothoff stated that the fence will open electronically at 3 am and close at 11 pm and the interior fence is push/pull

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operated. Mr. Stoothoff explained that the mechanical fence will be operated by a remote or a button that's under lock and key.

Mr. Shultis asked if they planned on putting a fence parallel to Sawkill and the Esopus to close in the area. Mr. Stoothoff stated that they do not have any intention of installing any more fencing. They plan on using the natural terrain (ditches) to prevent installation of further fencing. Mr. Shultis stated that people could still get there on foot and Mr. Stoothoff agreed that was true.

Mr. Shultis asked if they planned on rerouting the traffic to the fueling station and make it two-way traffic and Mr. Stoothoff stated that they would when the gate is not open. Mr. Stoothoff stated that they made it that way so tractor trailers could back into certain spots.

Ms. Smith asked if this came about due to an issue that they have had before. Mr. Stoothoff stated that it is required by the EPA and it is also a preventative measure.

Mrs. Turco-Levin asked if these requirements were self-imposed or are they mandated to the management company. Mr. Stoothoff explained that the EPA mandates them to have fencing to protect the property that is regulated by the local DEC and this is what management from HOP Energy chose to do. It is also a HOP Energy policy to have the vehicles enclosed by fencing when possible. Mrs. Turco-Levin stated that a thirty-foot (30') variance is a significant request and questioned why the applicant did not look into the Town's guidelines prior to installing the fence. Mr. Stoothoff stated that he was not aware of the Codes and he did not realize he had to get a permit, let alone a variance. Mr. Stoothoff just went with the mandates put in place by the parent company and EPA guidelines.

Chairman Porter asked if he wasn't doing it for HOP Energy if he would be mandated to install it by the EPA. Mr. Stoothoff said yes, that is why they installed the fence. The regulation doesn't say that it necessarily needs to be a six-foot (6') fence, but they are under mandate to protect the vehicles in some way to prevent spills and this was the route that HOP Energy took to do so. Mr. Tutt clarified that it is a corporate mandate from HOP Energy who is adhering to the EPA's mandated regulations to protect the vehicles and had been handed to Mr. Stoothoff to install.

Mr. Stoothoff stated that at their other storage facilities they have six-foot (6') fences with barbed wire on the top and he realizes that it does not look good, and it is not something that they want to do at this location. Mr. Stoothoff stated that it is their responsibility to delay, at best, people tampering with the vehicles.

Mr. Shultis asked for clarification on what the variance was that was being requested. Mr. Stoothoff stated that he was asking for the six-foot (6') fence within the front setback. Mr. Shultis asked when the fence is opened on the front corner, how close is it to the

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County's Right-of-Way. Mr. Stoothoff stated that the post at the end of the fence is nineteen feet (19') from the road.

There was a discussion regarding the acknowledgment of needing a permit prior to installation for a commercial fence.

Ms. Smith asked if the project was still in motion if there would be a stop work order issued. Mr. Tutt stated that the fence was complete.

Action: A motion to forward the project to a public hearing was made by Ms. Smith, with a second from Mr. Reginato; all in favor with a roll call vote. A motion to forward the project to the County for review was made by Ms. Smith, with a second from Mrs. Turco-Levin; all in favor with a roll call vote.

Five Below – Z-400
1165 Ulster Avenue
Kingston, NY 12401
SBL: 48.42-3-1.100
Zone: RC

Area Variance to allow a 386.75 sf wall sign in an RC Zone (maximum allowed is 2 sf per 1 linear foot (as per approved in previous variance) or 100 sf max)

Bill Lockett & Julie LaPacka, CIMA, appeared on behalf of their application for an area variance to allow a 386.75 sf wall sign in an RC Zone.

Mr. Tutt stated that the sign itself has gone from 386 sf to 120 sf. The issue is that they are changing the color of the storefront which will go before the Planning Board. Mr. Tutt stated that the applicant is now requesting a ten percent (10%) increase in the signage. Mr. Lockett stated that as they were prepping for the meeting today and reading through the Zoning Code, there was nothing in the Code that governed the architectural EIFS who's color will be changed, and their team had overlooked that when they applied for a variance.

Mr. Lockett believes they were only asking for a one-hundred and thirteen square feet (113 sf) sign, which would bring them to three feet (3') above the allowed total square footage as approved through a previous variance. The previous variance allowed two square foot (2 sf) per one linear foot (1') of façade for that plaza for future tenants. Mr. Lockett stated that if that was the case, Five Below would be entitled to approximately one-hundred and ten square feet. Mr. Lockett stated that they can go back to the client and ask that they go to the allowed amount and there would be no need for this Board to review. The project would still have to be seen before the Planning Board for the façade change.

Ms. Smith stated that if they were to be approved for this, they would be the only business to no longer follow the continuity of the earth toned aesthetics of the plaza.

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Mr. Tutt explained the approved variances from 2003. Ms. Smith asked if this store was much smaller than the stores approved for those variances. Mr. Lockett explained that the store was not quite an anchor store, but that it was still quite large.

Mrs. Turco-Levin wanted to know if the approved variance ran with the property or the property owner. The tenant is different that in 2003 when the variance was first approved. Mr. Tutt stated that the variance allowed future tenants to be approved by this variance so if the store gets larger, the sign can get larger.

Jason Kovacs, Town Attorney, stated that the variance runs with the use, if the use expires, then the land would run with the current Zoning Code.

Mr. Lockett stated that he will withdraw the application and comply to the allowed square footage and comply with the Zoning.

There was a brief discussion about how the Town receives sign application sizing. The town looks at signs in a rectangular formation and calculates the square footage based on that calculation.

Action: Verbal consent was given to formally withdraw this application from the Zoning Board.

DISCUSSION

Chairman Porter stated that if the Board has any concerns on the way the Codes were written in 1991, the Board should ask that it is added to the agenda for discussion so the Code can be updated to 2021. There was a brief discussion amongst the Board.

There was a brief discussion about tiny houses.

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

Respectfully Submitted,
Gabrielle Perea
Zoning Board Secretary