

Town of Ulster  
Zoning Board of Appeals  
October 21, 2020

The monthly meeting of the Town of Ulster Zoning Board of Appeals was held remotely via the Zoom application on October 21, 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 the September 2020 meeting was made by Mrs. Turco-Levin, with a second by Mr. Porter; all in favor with a roll call vote.

**PUBLIC HEARING**

**John Peterson – Z-389**

**16 Dirk Lake**

**Kingston, NY 12401**

**SBL: 56.30-5-7**

**Zone: R30**

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

Christina & John Peterson want to install a six foot (6') wooden fence fifteen feet (15') from the road.

There was a brief discussion regarding the property setbacks and the variance request.

Chairman Ring read an objection letter than was received believing that the fence would be considered a "wall."

Christina stated that she spoke to the neighbor(s), Clay & Cathleen Harshberger III, who had submitted the objection letter and tried to remedy their concerns. Mrs. Andi Turco-Levin read the Petersons' objection response letter.

Chairman Ring asked where the neighbor lives and Mrs. Peterson stated that she sent in pictures showing their yard and her yard. They are direct neighbors.

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

Mrs. Turco-Levin asked how the conversation with the neighbor went. Mrs. Peterson stated that it was a civil conversation and Mr. Harshberger's concern was that it was an obstruction to his view. Mrs. Peterson explained that she was trying to keep peace with her dogs and the neighborhood. Mrs. Peterson offered to let the Harshbergers pick the color of the stain for the fence and she did not receive a response to that, but she would like to follow up with the Harshberger's.

Chairman Ring asked if Warren Tutt, Building Inspector, had any input on the proposal. Mr. Tutt stated that it was pretty straight forward.

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Mr. Jason Kovacs alerted the Board that there is a deed in place from the properties previous owners, which runs with the land, that does not allow for boundary line fences greater than four feet (4') in the neighborhood, but that the Town does not enforce covenant's, as those are a civil matter.

Chairman Ring asked if there were other six-foot (6') fences in Hillside Acres. Mr. Tutt stated there is an eight-foot (8') fence eight feet (8') from the road on Lainey Lane and he is not sure how it was installed legally.

Mrs. Peterson stated that there is a six-foot (6') vinyl fence across the street from them.

Mrs. Turco-Levin asked if the Peterson's had thought about other options than a six-foot (6') wooden fence. Mrs. Peterson stated that they thought about the bar fencing that they have around their pool, but it is significantly more costly, and they also thought about a chain-link fence, but some would say they are not as attractive. After weighing their options, they thought a privacy fence would be the best option to maintain peace and tranquility in the neighborhood.

Chairman Ring stated that the Board needs to take all items into consideration; the neighbors opinion, the applicant's request and, in this particular case, the covenants that are in place as there is a level of expectation when purchasing a home where covenants are in place and adhered to. Chairman Ring stated that he realizes the covenant's were probably written fifty (50) years ago when Hillside Acres was built, but wants to point it out because in his neighborhood he is required to store his garbage in a metal garbage can, but no one in his neighborhood has a metal garbage can as times have evolved. Due to this, the Board must take all things into consideration.

Mr. Reginato asked if the Peterson's spoke to more neighbors, and she said she spoke with two (2) other neighbors who do not have an issue with the fence, but the Harshberger's are the ones who would no longer have the open view.

There was a discussion as to how much land would be fenced in to need the fifteen-foot (15') variance.

**Action:** A motion to approve the six-foot (6') fence at least fifteen feet (15') back from Sherry Lane was made by Mr. Porter, with a second from Mr. Reginato; Members Smith, Turco-Levin, Porter and Reginato in favor, Chairman Ring against (4-1).

**Ian McGrew – Z-390**  
**55 Southfield Street**  
**Kingston, NY 12401**  
**SBL: 48.65-10-12**  
**Zone: R10**

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

Ian McGrew, owner, appeared before the Board to allow a six-foot fence within his front setback, eleven feet (11') from Plainfield Street.

Chairman Ring opened the public hearing.

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Mr. McGrew stated that he would like to expand their four-hundred square foot (400 sf) paver patio. Mr. McGrew stated that they had a six-foot (6') fence around their previous patio and would like to enclose their larger patio with another six-foot (6') fence. The proposed fence would be thirty-seven feet (37') from Southfield Street and eleven feet (11') from Plainfield Street. Mr. McGrew explained that the existing fence is already eleven feet (11') from Plainfield Street, but he would like to continue along the same plane and extend the fence to thirty-seven feet (37') from Southfield Street. The extension would be approximately eighteen feet (18') further toward Southfield Street.

Bruce Engholm, – stated that the Peterson's are good neighbors and that Mr. McGrew builds great fences and he is in favor of the variance request.

Mr. Reginato asked if there would be a line-of-sight issue and Mr. McGrew explained that he had Mr. Tutt out to the house to review it and there were no issues.

**Action:** A motion to approve the area variance to allow a six-foot (6') fence at least eleven feet (11') from Plainfield Street was made by Mr. Reginato, with a second from Mr. Porter; all in favor with a roll call vote.

**Albany 7, LLC / Dino Ritchie – Z-388 & Z-391**

**721-723 Ulster Avenue**

**Kingston, NY 12401**

**SBL: 48.58-5-37 & 48.58-5-21.120**

**Zone: HC**

***Area and Use Variance to allow construction of a new mixed-use building within a front setback; variance of 6' requested.***

Nardino Ritchie, property owner, and Ciro Interrante, Architect, appeared before the Board to allow a building within the front yard setback and to allow for a mixed-use building; a laundromat with an accessible apartment on the first floor and eight (8), one-bedroom apartments on the second floor.

Mr. Tutt stated that the use variance is for having four (4) or more units in this zone. Dwelling units above a non-residence are allowed in this zone, but it is the number of the proposed units that is not permitted without the variance.

Chairman Ring stated that the applicant had been before the Zoning Board the previous month and they had wanted the applicant to go before the Planning Board for their review. The applicant attended a Planning Board Workshop, and is now back before the Zoning Board for a Use Variance and an Area Variance.

The original area variance request was to have a seven-foot (7') front setback, and the applicant is now proposing a twenty-four-foot (24') setback. The building will stay within the same plane along Ulster Avenue at twenty-four feet (24').

Mr. Tutt stated that he was at the Planning Workshop and the applicant has reconfigured the building, moving it back and expanding towards the rear of the property, and is working on parking to meet Town Code criteria.

Mrs. Turco-Levin stated that she had not seen a new plan.

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Mr. Interrante stated that there are two parcels and the intent is to delete the property line so they become one parcel. Mr. Interrante stated that they are trying to maintain the front right corner of the new building in the same location as the existing building.

Mr. Interrante explained that there is also a building in the rear which will be maintained and the roadway in between the buildings that will be maintained.

Mr. Interrante explained that there are sixty (60) parking spaces on the property which he believes is the required amount. There will be parking on the right, left and rear property lines.

Mr. Interrante stated that the existing building has had several additions built onto it over the years and the owner has tried to rent it out as restaurant space, but with the existing floorplan it did not work. Once the virus hit, it hindered restaurants. The existing floor plan is not conducive for a modern time restaurant.

Mr. Interrante stated that the owner did some research and found that there is a demand for a laundromat in the area, as well as apartments.

Mr. Interrante stated that they would have to bring in a larger water service for the laundromat and provide for a sprinkler system for the apartments. In order to justify the cost to do so, the apartments would help pay for the cost while the profits from the laundromat would take time to build.

Chairman Ring asked what type of advice the Planning Board Workshop gave, and Mr. Interrante stated that he attended one meeting and they had input on the setbacks and the parking.

Chairman Ring stated that he felt it was premature to be before the Zoning Board and asked Mr. Kovacs for his input. Mr. Kovacs stated that typically projects like this would be seen simultaneously before both Boards for approval. Mr. Tutt explained why would they go through the costs for site plan to not receive their variance, which is why they approached the Zoning Board first. The applicant did not want to go through the site plan process to get approved and then have their variance denied.

Chairman Ring stated that the issue he sees is the area and not the use. Once the building is removed, since they are expanding the footprint, the setbacks are no longer grandfathered in.

Mr. Tutt stated that the twenty-four feet is closer to compliance with existing buildings on that side of Ulster Avenue and it would help to increase sightlines. The proposed location will be a better sightline when driving northbound.

Chairman Ring asked Mr. Kovacs what he would recommend moving forward. Mr. Kovacs stated that he suggests that the applicant apply for site plan approval. The Board agreed that the project will stay tabled until there is input from the Planning Board after the project is reviewed by them.

Chairman Ring stated that he does not see the request as an absolute no, today, but he would like his Board to see a final pictorial view on where the building will sit. Chairman Ring stated that he does not want to discourage the applicant and he sees the project as valuable to both the landowner and the Town, but it just needs to have the details worked out first.

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Ms. Smith asked if there was a reason why he could not move the building back. Mr. Interrante stated that they did move it back, but there needs to be vehicle circulation and he does not want to restrict that circulation. Chairman Ring stated that at the first meeting the applicant explained that they are required to have handicapped parking spot for the first-floor apartment and that is where the parking space is. Mr. Tutt stated that there is also an issue with fire apparatus access, so if you push the main building back, you will restrict access for the fire apparatus for buildings on more than one side.

Mr. Interrante stated that they will address the comments and go before the Planning Board and then will be back before this Board once complete.

**Action:** A motion to table the application until a future date was made by Chairman Ring, with a second from Mr. Porter; all in favor with a roll call vote.

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

Respectfully Submitted,  
Gabrielle Perea  
Zoning Board Secretary