

Town of Ulster
Zoning Board of Appeals
September 9, 2020

The monthly meeting of the Town of Ulster Zoning Board of Appeals was held remotely via the Zoom application on September 9, 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 August 2020 meeting was made by Mr. Reginato, with a second by Chairman Ring; all in favor with a roll call vote.

PUBLIC 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.

Chairman Ring opened the public hearing.

Kenneth Hassett, Kyle Hassett's father, appeared on behalf of his application to install a six-foot (6') fence within his front setback.

Mr. Hassett stated that his son has two front setbacks and that he is proposing a six-foot (6') fence for privacy. A four-foot (4') fence would not give them the privacy they are looking for. A six foot fence had been given to a neighbor in the vicinity and a precedence has been set there. Mr. Hassett stated that there is no line of sight issues.

Thomas Mayone, 618 Neighborhood Road, directly across the street from the applicant, has watched the applicant work on their home for some time and they have beautified the property. To allow them the six-foot (6') fence is not a detriment to the neighborhood and would allow the applicants to enjoy the fruits of their labor. As the neighbor directly across the street, if anyone would say it would be an eyesore, it would be him and that is not the case. A neighbor to their right, when looking at the house, already has a six-foot (6') white vinyl fence.

Troy Ashdown, 36 Country Lane, next door to the applicant, was granted a variance about two years ago to put up a six-foot (6') fence for the same reasons. If the applicant is putting up a white vinyl fence, it would be uniform and wouldn't cause a problem. Mr. Ashdown stated that he put his fence further back (set back twelve feet (12') from the road) due to plowing during the winter months, but if the applicant is comfortable with it closer to the road, that is up to them.

Mr. Sal DeCicco stated that the applicant had originally applied for a six-foot (6') setback, but they are willing to go back to an eight-foot (8') setback. Mr. DeCicco stated that if they went twelve feet (12') back, they lose most of their backyard as it is not a deep lot. The applicant is willing to take the chance with any issues that they may have with plowing.

Town of Ulster
Zoning Board of Appeals
September 9, 2020

Chairman Ring explained that the law allows for a four-foot (4') fence on the road, the variance is for the height, not the location. They can put in stipulations for how far the fence is allowed from the road.

Ms. Smith stated that they had an issue with the height of the fence the previous month due to a bus stop. There was a lengthy discussion regarding the location of the bus stop, topography and walkers.

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

Action: A motion to approve the six-foot (6') fence at least eight feet (8') back from Neighborhood Road was made by Mrs. Turco-Levin, with a second from Mr. Porter; four (4) in favor, one (1) against.

WHEREAS, the applicant seeks an Area Variance(s) to allow for relief from Section 190-18(E) of the Ulster Town Code which provides that fences may not be higher than four (4) feet in the front setback; applicant is proposing a six foot (6') high fence which will be installed at least eight feet (8') from the edge of Neighborhood Road; and

WHEREAS, notice of Public Hearing was published in the Kingston (N.Y.) Daily Freeman on September 3, 2020, and pursuant to Zoning Board procedures, the owner(s) of the adjacent properties were notified and had the opportunity to be heard; and

WHEREAS, under General Municipal Law § 239-m, the Ulster County Planning Board has no jurisdiction over the instant request for an Area Variance, and

WHEREAS, a public hearing was opened on September 9, 2020, and said hearing was closed on said date; now therefore

BE IT RESOLVED, that the Zoning Board of Appeals makes the following

Findings of Facts and Conclusions of Law in this matter:

Findings of Fact

1. The property owner is Alecia DeCicco & Kyle Hassett.
2. The subject property is located at in the R10
(municipal water and sewer) zoning district.

Town of Ulster
Zoning Board of Appeals
September 9, 2020

3. The applicant is the property owner.
4. The applicant seeks an Area Variance(s) for relief from Section 190-18(E) of the Ulster Town Code which provides that fences may not be higher than four (4) feet; applicant is proposing a six (6) feet high fence to be installed at least eight feet (8') from Neighborhood Road.
5. The applicant presented detailed information and history on the property, reviewed any feasible alternative considerations, and actively participate in discussion of any alternative and which would mitigate impacts.
6. The property is in a residential neighborhood with a property dimension of 99.7' x 98'.
7. The proposed Variance(s) does not alter the character of the Neighborhood.

Conclusions and Decision

Based upon the above Findings of Fact, the Board concludes that the Request for an Area Variance(s) be **GRANTED**.

This Board further concludes, based upon their same Findings of Fact and the entire record before the Board, that granting of the requested Area Variance will not create and undesirable change in the character of the neighborhood, and that the Variance, if granted, would not be a detriment to the general quality of the neighborhood.

Accordingly, this Board, as required by §8-0105 of the Environmental Law and Part 617 of Title 6 of the New York Codes, Rules and Regulations, SEQR, concludes that the activities proposed in this action constitute a "Type II Action," and as such requires no further SEQR action.

Town of Ulster
Zoning Board of Appeals
September 9, 2020

Finally, this Board concludes and voted 4-1; Chairman Ring, Members

Turco-Levin, Porter, and Reginato voting aye; Member Smith voting nay; that the

Applicant's appeal for relief in the form of an Area Variance is **GRANTED**.

**BY ORDER OF THE ZONING BOARD OF APPEALS
TOWN OF ULSTER**

I, Geoffrey Ring, Chairman of the Zoning Board of Appeals of the Town of Ulster, do hereby certify that the foregoing is the decision of the Zoning Board of Appeals made at a meeting thereof, duly called and held on the 2nd Wednesday of September 2020.

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.

John & Christina Peterson, owners, appeared before the Board to allow a six-foot (6') fence fifteen-feet (15') from Sherry Lane. Mr. Peterson stated that they have two front setbacks.

Mrs. Turco-Levin stated that it is technically their side yard, but since they have two front setbacks, it is considered their front yard.

Chairman Ring asked if the fence is security for the pool and Mr. Peterson stated that they currently have a fence for the pool. Mrs. Peterson stated that the fence would come off the garage and wrap around.

Mr. Tutt stated that there are no line of sight issues with this fence in the proposed location.

Chairman Ring requested pictures or drawings to better depict their proposal.

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

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.

Town of Ulster
Zoning Board of Appeals
September 9, 2020

Mr. McGrew stated that he wants to expand his existing patio and enclose it within a fence. There is currently a six-foot fence around the existing patio, but when they expand the patio, they want to push back the fence so it will be eleven feet (11') from Plainfield Street.

Mr. Tutt stated that there are no line of sight issues with this project.

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

Albany 7, LLC / Dino Ritchie – Z-388

721-723 Ulster Avenue

Kingston, NY 12401

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

Zone: HC

Area Variance to allow construction of a new mixed-use building within a front setback; variance of 15' requested.

Nardino Ritchie, property owner, appeared before the Board to allow a building within the front yard setback.

Mr. Ritchie stated that they plan on demolishing the existing building and constructing a new building, but the new building would be approximately fifteen feet (15') from Ulster Avenue (relief of fifteen feet (15')). Mr. Ritchie stated that they are moving the building forward so that they could have accessible parking, as well as accessibility for emergency vehicles ie: fire apparatus.

Chairman Ring asked if the building was constructed at thirty feet (30'), how many parking spaces would be lost and would access be lost. Mr. Ritchie stated that they would lose the accessible apartment and parking. Mr. Ritchie stated that he needed sixty-two (62) parking spaces for the nine (9) apartments he is proposing.

Mr. Tutt stated that if Mr. Ritchie is moving the building closer to the road, he will require two variances; one to be closer to the road, and the other to extend the side of the building forward to Ulster Avenue.

Mr. Tutt stated that he had a conversation with the Fire Chief, and he was agreeable to the two access points.

Chairman Ring asked if it complied with the 9W Corridor Enhancement Plan and Mr. Tutt stated that to his knowledge, it does.

Mrs. Turco-Levin stated that the line of sight on this property is questionable as the location already has difficulty with sight. Mrs. Turco-Levin stated that it is hard enough to get in and out of there as it is and to put a solid building there would make it worse.

Mr. Porter asked if the rear building will remain. Mr. Ritchie stated that the rear building will stay existing and he plans on putting in Jane's Ice Cream manufacturing, which he now owns. Mr. Ritchie stated that a tree service guy is currently renting the rear building, but they will be leaving soon.

Town of Ulster
Zoning Board of Appeals
September 9, 2020

Mr. Porter stated that there is a car dealership right next door and the access is not the best. Mr. Porter stated that he has seen many accidents happen in that area. Mr. Ritchie stated that he owns eleven and a half feet (11.5') past the last car in that lot, so the cars are all on his property and the cars will be moved.

Mrs. Turco-Levin stated her concern is safety and the ingress/egress is not great. Mrs. Turco-Levin stated that she likes the project and she loves the ice cream, the current buildings are an eye sore, but if there is a way to do the project without needing the setback variance, that would be a better option. Mrs. Turco-Levin asked what is the limit if the number of apartments to not need a handicap accessible apartment. Mr. Tutt stated that he will look into that.

Mr. Tutt stated that if there is a line of sight issue with the cars, it does not fall onto this property owner.

Mr. Tutt stated that he will also go out and measure how close the other buildings are to the road. Mrs. Turco-Levin stated that those buildings have been there forever.

Chairman Ring stated that Ulster Avenue is cut-up and choppy and does not look great. There is a redevelopment plan in place, the 9W Corridor Enhancement Plan, and as the properties become redeveloped, the present issues need to be remedied. Mr. Jason Kovacs, Town Attorney, stated that the Town has had a long interest in redeveloping Ulster Avenue and making the Town more aesthetically pleasing. The plan has been adopted and it is the official policy of the Town. Mr. Kovacs stated that this project would have to be reviewed by the Town Board, as well as the Ulster County Planning Board for approvals.

There was a discussion of the need for an accessible apartment. Chairman Ring asked if there was not a need for the accessible apartment if the building would need to be pushed forward. Mr. Ritchie stated that he would have to ask his agent.

Mr. Ritchie stated that he does not require the accessible apartment, but he believes the Planning Board would require it.

Chairman Ring stated that there needs to be a relationship between the Planning Board and Zoning Board for this project. As Ulster Avenue is being redeveloped, the building should be moving further back, not closer. Chairman Ring stated that if doing so is not financially viable, the buildings will remain as an eye sore. It is in the Town's interest to develop the property and find a way to assist the applicant for redevelopment.

Ms. Smith stated that a couple of years ago the DeCesare property got approved for a use variance to allow apartments in a Commercial Zone.

There was a brief discussion regarding traffic flow and sight line issues.

Mr. Ritchie stated that in the front of the rear building, the patrons will have access to pints and dixie cups of random flavors of Jane's Ice Cream. The building itself will only be used for manufacturing of the ice cream. Mr. Ritchie explained that there are six (6) flavors for sale in multiple stores, but there are eighty-four (84) flavors that patrons will have access to at this location. Mr. Ritchie explained that the machine will be setup "laundromat style" where you put either a card or cash into a machine and can access the eighty-four flavors of ice cream 24/7.

Town of Ulster
Zoning Board of Appeals
September 9, 2020

Mr. Reginato asked if the entrance and exit access will stay the same with one way in and out.
Mr. Ritchie stated that it will stay the way it is set up on the proposed plan.

Mr. Tutt stated that if Chief Heppner, Ulster Hose Fire Department, had access to two sides of the building, he would sign off on the proposed project. Mr. Tutt stated that they are keeping an entrance and exit for channelized access that the County favors.

Chairman Ring stated that he would like the applicant to do more research and go to a Planning Board workshop and have the Planning Board refer it to the Zoning Board. Mr. Kovacs stated that the application should be held until the applicant gets more direction from the Planning Board.

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 Mrs. Turco-Levin; all in favor.

Respectfully Submitted,
Gabrielle Perea
Zoning Board Secretary