

Town of Ulster  
Zoning Board of Appeals  
July 10, 2019

The monthly meeting of the Town of Ulster Zoning Board of Appeals was held at the Town of Ulster Town Hall on July 10, 2019, at 7:00 P.M.

**Present:**

Renato DiBella  
Lois Smith – Vice Chairman

Robert Porter  
Geoffrey Ring – Chairman

**Absent:**

Brian Ilgner

Roll call.

A motion to approve the minutes from June 12, 2019 was made by Ms. Smith with a second from Mr. DiBella; all in favor.

**PRELIMINARY HEARING**

**Ulster Hospitality**  
**1581 Ulster Avenue**  
**SBL: 39.82-2-7.117**  
**Zone: OM**  
**Z-371**

Dave Young, of Chazen Companies, substituting for Larry Bordeau, appeared on behalf of an application for an area variance to place a porte cochere within the front interior setback; requesting a relief of twenty-two and a half feet (22.5'). Mr. Young stated that he had been before the Planning Board for the hotel for a couple hearings.

Mr. Young explained that the Ulster Hotel is within a 14.6 acre over-all site plan that was approved in 2012. Mr. Young stated that the hotel is located on lot two (2), which is a 1.8 acre parcel. Mr. Young explained that the hotel has four (4) stories and one-hundred (100) rooms, which is what was originally approved. This is the last lot of the complex to be developed.

Mr. Young stated that he is before the Board because the proposed porte cochere is seventeen and a half feet (17.5') from the interior front setback and it requires a variance from the required forty foot (40') setback. The front property line is within the development. Mr. Young stated that the porte cochere is an overhang so the customers can park their cars, go into the hotel and check in.

Mr. Young stated that since the initial plan to the Town was submitted, the applicant has added a bypass lane so that there wouldn't be any traffic backup. The project is currently being seen before the Planning Board and the variance is a requirement. There was a brief discussion regarding the ingress and egress to the neighboring two-way lanes within the development.

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**Action:** A motion to forward the project to a Public Hearing in August was made by Mr. Porter, with a second from Mr. DiBella; all in favor.

**PUBLIC HEARING**

**Michael Murphy – Area Variance**  
**243 Riseley Street**  
**SBL: 48.58-8-84**  
**Zone: R-10**  
**Z-370**

Michael Murphy, owner of the property located at 243 Riseley Street, appeared before the Board for an area variance to allow for a six foot (6') fence within his front setback. Mr. Murphy stated that he understood that the possible issue was visibility and explained that the fence is over one-hundred feet (100') back from the roadway so there are no visibility issues. Mr. Murphy stated that, although he understands that it has been grandfathered in, the fence across from him is closer to the roadway and does not see his proposed fence causing an issue.

Chairman Ring asked Kathryn Moniz, Town of Ulster Building Inspector, if she had been to the property and thought there would be any issues, to which she stated no, it is setback far in. Mr. DiBella questioned if the proposal had been reviewed by the Town's Highway Superintendent, Frank Petramale, which it had been; Mr. Petramale had no issues with the fence.

**Action:** A motion to approve the area variance was made by Mr. DiBella, with a second from Ms. Smith; all in favor.

**WHEREAS**, the applicant seeks an Area Variance 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 (6) foot high fence; and;

**WHEREAS**, notice of Public Hearing was published in the Kingston (N.Y.) Daily Freeman on June 20, 2019, 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 July 10, 2019, and said hearing was closed on said date; now therefore

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

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Findings of Facts and Conclusions of Law in this matter:

**Findings of Fact**

1. The subject property is located at 243 Riseley Street in the R10 (Municipal water and sewer) zoning district.
2. The applicant is the property owner.
3. The applicant seeks an Area Variance 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) foot high fence.
4. 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.
5. The property is in a residential neighborhood with a property diameter of 50' x 140'.
6. The proposed Variance 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.

Finally, this Board concludes and voted 4-0; Chairman Ring, Members DiBella, Porter and Smith voting aye and one member absent; 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 July 2019.

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**Wilfredo Monroy / Willy's Landscaping – Use Variance**  
**51 Sawkill Road**  
**SBL: 48.14-3-37.100**  
**Zone: R-30**  
**Z-369**

Mr. Ring opened the Public Hearing. Mr. Ring explained that Mr. Monroy's had a two part request; the part before this Board is the landscaping business in a residential area, and the second request is for the soccer field for a special use permit which may be granted by the Town Board.

Wilfredo Monroy appeared on behalf of his application to allow a landscaping business within a residential zone. Mr. Monroy stated that he rented the property from Cheryl Scott, also present, and he would like to salvage his business and keep it located at 51 Sawkill Road. Mr. Monroy sells landscaping and construction products.

Mr. Monroy stated that he brought some people who are friends, neighbors and also work for him. Mr. Monroy stated that he spoke with many of his neighbors and they seem to be okay with his business being located there. Mr. Monroy feels that if any neighbors have any concerns, he would like them to give him the opportunity to keep his business there.

Chairman Ring asked if he processes logs on the property or if he buys and stores mulch. Mr. Monroy stated that he buys and stores the mulch. Mr. Ring asked if this had been an ongoing business for several years there to which Mr. Monroy replies yes.

Ms. Smith asked the days and times of the business. Mr. Monroy responded Monday through Saturday from 8am to 6pm. Ms. Smith asked if this was a retail business to which Mr. Monroy responded yes.

Mr. Porter asked if Mr. Monroy could clarify the definition of "construction products". Mr. Monroy stated he was thinking gravel, stone and bluestone. Mr. Porter asked if he will be selling blocks in his business plan and Mr. Monroy stated perhaps in the future. Mr. Porter asked if there will be any heavy equipment on-site that will be used. Mr. Monroy stated he will have a skid steer that will be utilized and a wood chipper that will not be used much.

Ms. Smith asked if Mr. Monroy was aware that the location was a residential area when he leased the property, to which Mr. Monroy stated no as he saw it surrounded by businesses such as QuickChek. Ms. Smith asked if the landscaping business was his initial plan for this property and Mr. Monroy stated that it was, but that he does his business elsewhere; he comes with a truck, gets the materials and goes to the customer. Ms. Smith asked if Mr. Monroy will be storing his vehicles at this location to which he stated yes.

Mr. Porter asked if Mr. Monroy had somewhere on-site that he stored fuel to gas-up before he left the site and Mr. Monroy stated no, not right now. Mr. Monroy stated that

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he does have a tank, but it is not in use. Mr. Monroy stated that in the future he would love to have a tank to store gasoline, but not right now. Mr. Porter asked how big the tank is and Mr. Monroy stated he is not sure, but he thinks one-thousand (1,000) gallons.

Chairman asked how often there will be truck deliveries of material. Mr. Monroy stated that he hasn't sold much recently so the only product he buys is for current customers and so far he has had two (2) deliveries all year; one for black mulch and one for red mulch.

Mr. DiBella asked if any of the work effort and expectations that was required of Mr. Monroy from the Building Department (BD) had been completed. Mr. Monroy stated that he had removed all the stumps. Mr. DiBella stated that Mr. Monroy had already stated that last month to the Board and is asking if anything else had been completed that the BD required. Mr. Monroy replied 'like what?' Mr. Monroy stated that if the Board told him specifically what to do he will do it. Chairman Ring stated that Code Enforcement has been involved with this project for a while and asked what the state of the compliance is. Mrs. Moniz stated that Mr. Monroy has removed the stumps and the business sign, but the rest of the materials are still present. Mrs. Moniz stated that there are some small sheds on the property that did not require a building permit, but that would be addressed with the Planning aspect of the review. Mr. Monroy stated that the logs that are present he will be making firewood out of.

Mr. Porter asked Mr. Monroy if he was going to use chainsaws to cut the wood and then a splitter to which Mr. Monroy stated yes. Mr. Porter stated that he has used chainsaws and they are pretty loud for a residential neighborhood. Mr. Monroy stated that, usually, the logs that he gets he would cut the wood on the customers' property and brings the logs that are already cut back to then split on his property. Chairman Ring stated that there are ten to twelve foot logs on the property which will then need to be cut to which Mr. Monroy stated no since they are not good for fire wood, they would need to be removed.

Ms. Smith asked if the owner of the property was present. Cheryl Scott stood and stated that she was the owner of the property and the property has been in the family for over one-hundred and twenty (120) years. Ms. Smith asked if the property was a commercial atmosphere prior to the landscaping business. Mrs. Scott stated that in 1937 the property became the original airport for Kingston and it has been a commercial piece of property ever since. Mrs. Scott stated that she grew up in the house right next to the airport and her grandfather's farm was all the way around the property. Mrs. Scott stated that only two houses had been there then and more came in but it has always been commercial property. Mrs. Scott stated that when zoning came into effect she was grandfathered in as a distribution center and it has always been a distribution center until two (2) months ago when it was taken away and that's why she has Willy there is because it was legal.

Chairman Ring asked Jason Kovacs, Town Attorney, if he understood what Mrs. Scott was saying, since Chairman Ring understood it that when zoning came into play, that property was zoned R30. Mr. Kovacs stated that his understanding was that should've been zoned commercial but that some members of the Scotts' family did not agree at the

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time. Until 1991, it had been commercial property but once zoning started it was zoned residential.

Chairman Ring stated that he is not aware of any variance on the property for a use variance aside from the one Mr. Monroy applied for three years ago and then was revoked last year. Mrs. Scott stated that then perhaps since 1991 they had been using the property against the Towns rules. Mrs. Moniz tried to clarify by saying that the use of the distribution center was before zoning so the use was allowed since it had already been there. Once the distribution center ceased to operate for two years, the property lost its use. Mrs. Scott stated that she was unaware that it ceased to exist as she had rented part of the property to Mr. Monroy and had also had tractor trailers still parking there. Ms. Smith asked if this was prior to the landscaping business and Mrs. Scott responded prior to and continuing to. Mrs. Scott stated that her brother had used the property until 2012 for his business and for tractor trailer rental parking before Willy's Landscaping came in. Mrs. Scott stated that when her brother passed away the distribution ended, but the trucks still were coming and parking so she did not see a change in the use. Ms. Smith asked if Mrs. Scott's brother ever sold anything from the property, to which Mrs. Scott stated no.

Chairman Ring explained that the use variance before the Board is a different use than a distribution center, so it would still need variance approval.

Chairman Ring asked Mr. Monroy if he had installed poles with lighting on the property, to which Mr. Monroy stated that he does not have any poles. Chairman Ring asked if Mr. Monroy's intention was to install additional electric and lighting for the property. Mr. Monroy responded that he would like to for the soccer fields. The soccer fields will be reviewed by the Planning Board. The issue before the ZBA is the use of the landscaping business in a residential zone.

Chairman Ring opened the meeting for public comment, requesting that everyone keep their comments to three minutes.

Brad Hill, 21 Old Sawkill Road – Questioned the two parts to the project. Chairman Ring explained that there are two parts to this proposal; one being the use variance for the landscaping business which the ZBA has authority to approve or deny and the second being the soccer fields, which is an allowed use with approval for a special use permit from the Town Board and site plan approval from the Planning Board. There was a brief discussion on the process.

Mr. Hill read from a letter he prepared. Mr. Hill stated that he does not think that the use variance should be granted. Mr. Hill stated that the applicant has already proven himself untrustworthy to meet and maintain the standard of upkeep that was requested of him. Mr. Hill stated that the applicant had been given many chances and ample amount of time to comply with the previous variance's conditions and completely dismissed them. The applicant continues to work from the property and building even though there are stop work orders. The applicant continues to permanently modify the land on which the business is located. Mr. Hill stated he has pictures of six (6) truckloads of stone that was

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dropped onto the property and spread out onto property for parking for the soccer field. The applicant shows that there is no doubt in his mind that he will keep occupying the land no matter what happens at this meeting tonight. Mr. Hill stated that his neighbor told him that they are dealing with rats in their yard, of which they never had an issue with before; this could be attributed to or exacerbated by the piles of debris that have haphazardly been dumped around the property. Mr. Hill asked why anyone would give someone permission to do something when that person has already shown that he does not care to follow through with what he was asked to do and shows such disregard for the Board's authority.

Mr. DiBella asked how long Mr. Hill has lived at 21 Old Sawkill, to which Mr. Hill stated around five (5) years, going on six (6) this year. Mr. DiBella asked if the property was in this condition when he bought the property and Mr. Hill responded it was in a different state of disrepair; there were trucks and semi-truck items everywhere and then that was cleaned up so it was just a field. Mr. DiBella asked if this has been an ongoing concern for Mr. Hill and asked if he's made complaints to the Town over the years. Mr. Hill stated that it has been a growing concern and that he was going to be present at the public hearing three (3) years ago, but got his dates mixed up and missed the meeting.

Mr. Porter asked Mr. Hill how the landscaping business being present affects his quality of life. Mr. Hill stated that he walks his dog with his one and a half (1.5) year old daughter down the road and the speeding has gotten a bit better, but there's still one and a half (1.5) ton trucks driving in and out and the dirt and debris gets brought out into the road. Mr. Porter tried to clarify by asking how Mr. Hill believes this will affect him if the landscaping retail business is approved in a residential area. Mr. Hill stated it would have a negative effect on his quality of life.

Ms. Smith asked if this request was granted if it would change the characteristics of the neighborhood from what it had been previously. Mr. Hill stated yes, it would become a higher volume area than when he bought his house and have a business where he did not expect a business to be when he bought the home; that may have deterred him from buying that home.

Brandon Riftenburg, 60 Old Sawkill Road – Mr. Riftenburg stated that he has lived at this location going on three (3) years and he feels that the business should move forward. Mr. Riftenburg stated that he does not know about past compliances but believes the project should move forward. Mr. Riftenburg stated that from the time he moved into date there has been work done to the property to clean it up and make it look better. Mr. Riftenburg stated that the applicant has tried to keep debris being brought on the road to a minimum. As for traffic, there are trucks but there is not much traffic the trucks come in, grab equipment, and leave until the end of the day. There is a fitness center at the end of the road which Mr. Riftenburg believes brings more traffic than the landscaping business. Mr. Riftenburg believes it would be nice for the applicant to keep his business and try to grow with it and come into compliance.

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Richard Riftenburg, 60 Old Sawkill – Mr. Riftenburg stated he has been at his location about three (3) years. Mr. Riftenburg stated he has lived in the area a long time and remembers the Kingston Airport being at this location. Mr. Riftenburg agrees with his son, Brandon Riftenburg, and states that the traffic is limited to morning trucks leaving a night trucks coming back. Mr. Riftenburg agreed that the eighteen (18) wheelers that come in to make deliveries have been kept to two deliveries this year. Mr. Riftenburg stated that the property cleanup has made progress. Mr. Riftenburg stated that as for the traffic, he has a two (2) year old granddaughter that plays in the yard and an eight (8) year old grandson who rides his bike and most of the people driving are very gracious going up and down the road. Mr. Riftenburg stated that the applicant does have a thriving business and has a couple employees which helps the economy in this area, as there are not a lot of jobs in this County.

Mark Zuvich, 28 Old Sawkill – Mr. Zuvich stated that he lives in the property right next to the gym and moved into his property in 2002. Mr. Zuvich stated that he had several concerns. One issue is the compliance issue. If the applicant has been asked to do something and hasn't, that needs to be addressed. Another concern is the impact on the land itself, with the logs and fill being brought in. Mr. Zuvich stated that is property is very different. The property used to be a field with tractor trailers and box trucks on it, which Mrs. Scott's brother did remove before he passed away, but some still remain. Mr. Zuvich stated that it's hard to separate the soccer field from the landscaping business because they go hand-in-hand since they're right against each other. Mr. Zuvich stated that the people who come and play soccer fly up and down the road and bring debris out from the parking area into the road. Mr. Zuvich stated there is a dirt road and a port-potty tucked away into the woods a bit. Mr. Zuvich is concerned on the impact of the land from having crushed stone present; will this impact the land in a negative way? During the summertime the field and parking area flood. Mr. Zuvich believes that the water table has risen in the area just from living there as long as he has.

Mr. Zuvich asked if the applicant, in the future, does renovations or building modifications or additions, does he have to come back to the ZBA for approval? Chairman Ring stated that the applicant would have to be seen before the Planning Board for any more amendments to both the landscaping business and the soccer fields. Chairman Ring explained that the ZBA decides on whether the applicant can do it and the Planning Board decides how the applicant must do it.

Mr. Zuvich explained that there has been a past issue of "jumping ahead of the Planning Board" to which Chairman Ring stated he knows it has been an issue for three (3) years.

Mr. Hill stated that he would like to second Mr. Zuvich's concerns about the water table. Mr. Hill has seen countless truckloads of material being brought in and is concerned that he will keep doing it until the applicant has raised the property so high that all the water will run-off onto the neighboring properties.

Listening to the concerns, Mr. Porter asked if there was an elevation change on the property to which Mr. Hill stated not yet and Mr. Zuvich stated he is not sure as he is not



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a person that deals with water tables, but it does seem like it has been rising. Mr. DiBella asked how long his house has been there and Mr. Zuvich stated that the house is approximately seventy (70) years old. Ms. Smith stated that Mr. Zuvich was present when the area flooded out due to the dam being opened and asked if that was what Mr. Zuvich was referring to regarding the water table rising. Mr. Zuvich responded that it seems like it is rising as the ground is mushier. Mr. DiBella asked if there was anyone on that street that has been there before the area was zoned R30. Mr. Zuvich stated that his neighbor and her mother have lived there a long time. Mr. DiBella asked if they had given Mr. Zuvich any insight on how they felt on the property. Mr. Hill verified the neighbor being spoken of and stated that he has spoken with her and she is not happy with what has been going on.

Chairman Ring asked if the traffic is more or less than when the lot was used only for tractor trailer storage. Mr. Zuvich stated that to the best of his recollection there were not a lot of tractor trailers going up and down the road. Mr. Zuvich remembers a water truck every day in the morning and afternoon.

Ms. Smith asked the two gentlemen who spoke before the Board, the Riftenburgs', who worked for Mr. Monroy; one or both. The gentleman stated that they both worked for Mr. Monroy's landscaping business and live directly opposite of the business.

Gerald Secor, 28 Old Sawkill Road - Mr. Secor stated that he has lived there a couple of years. Mr. Secor stated that his only concern is the traffic, which has increased tremendously. Mr. Secor stated that he has been in and out the past twenty (20) years helping with the house. Mr. Secor stated he is a contractor in Ulster County and three (3) years ago they built an addition on the back of the house. Mr. Secor stated that they had to go through all the paperwork and get the proper permits to move forward and comply. Mr. Secor doesn't see the landscaping business complying. Mr. Secor stated that there have been improvements to the property, but only to the soccer fields. Mr. Secor stated that the business is more run-down than it had been before.

Mr. Secor stated that the neighborhood has children living there with the tractor-trailers, skid steers, and trucks with trailers behind them coming through. Mr. Secor stated that he wouldn't have any issues if this area was zoned for that, but it is a residential, quiet dead-end street.

Mr. Secor stated that he is all for entrepreneurs and doesn't want to put anything against the applicant in that respect, but it seems like he is doing what he wants without respect to the neighborhood, town and land.

Mr. Secor stated that he has played sports for twelve (12) years and he is all for the soccer fields, but when he plays it is at designated parks, not in someone's yard. Mr. Secor stated that every Sunday from 8am to 8pm there are one-hundred and fifty (150) cars coming in and put using the manmade road that was made connecting Sawkill to Old Sawkill. Mr. Secor stated that he almost witnessed an accident this past Sunday.

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Mr. Secor stated there must be some sort of resolution, but does not know what it could be.

Mr. DiBella asked Mr. Kovacs if the property is not deemed to be a commercial use, is the owner able to develop the property into residential homes or subdivide the property to maintain the stability of her life. Mr. Kovacs stated that those are options. Mr. DiBella stated that the property is a source of income for the owner and the hardship would be for the owner and the neighboring residences. Mr. DiBella stated that moving into that property, the potential neighbors saw a large piece of property and should have questioned the future of that site. Mr. Secor stated that it was tractor trailer storage. Mr. DiBella stated that he was trying to see both sides, the owners' rights and the neighbors' right.

Ms. Smith asked if the property has drastically changed since the business came in and Mr. Secor stated yes. Ms. Smith asked if it has changed the neighborhood in a negative way to which Mr. Secor stated yes. Ms. Smith asked how exactly it has changed the neighborhood in a negative way. Mr. Secor stated that the volume of traffic. Mr. Secor stated that there are at least three to four hundred(300-400) logs on site. Mr. Secor stated that when he tried to direct people to his house, the people say "that place by the overpass that looks like a dump?" There are huge piles of mulch, behind the green structure there are over one-hundred contractor bags full, tanks everywhere, and run down vehicles. Mr. Porter stated that he was under the impression that the stumps were gone, and Mr. Secor stated they are still there.

Anna Zuvich, 21 Old Sawkill Road – Ms. Zuvich stated that the family had moved into the home in 2002, she had moved out for a little while and came back approximately three (3) years ago. Ms. Zuvich stated that since the business has been there, there has been a dramatic impact on the street. Ms. Zuvich stated she had the same problem with the issue of compliance; she complied and had to follow rules and thinks everyone should be held to the same standards and follow the rules. Ms. Zuvich stated that she has two kids that were born in that house and they cannot play outside. Ms. Zuvich stated that she has concerns over the traffic on Monday through Saturday business and then soccer on Sunday through October.

Ms. Zuvich stated that there are other businesses on the road that have an actual paved parking lot with lines for parking spots and lighting. Ms. Zuvich stated that the fitness center has a maximum of twenty (20) cars going in and it's not usually all at the same time. Ms. Zuvich stated that she has never had any issues with any of the people from the fitness center. Ms. Zuvich stated that she has had interactions with the applicants employees who interacted with her children in a negative fashion. The employees would lay on the horn to get her children out of the road when the road is a child-friendly area on a dead-end street. Ms. Zuvich stated that the business should not be interrupting the family-life that is present on the road.

Ms. Zuvich stated that you cannot go out of your space due to the volume of cars and noise. The noise comes from bullhorns, and music and there is sometimes church on a PA

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system from sunup to sundown. Ms. Zuvich stated that this takes away from their quality of life and it's distressing to her.

Ms. Zuvich believe if the variance is granted, it will be "give and inch and take a mile." Ms. Zuvich stated that if it's granted if the road speed limit can be lowered. Ms. Zuvich stated that she spoke with Ulster Police Officers that she knows and even though the street has a 30 mph speed limit, people are supposed to drive a speed limit appropriate to the conditions around you.

Ms. Zuvich also stated that there are approximately twenty piles of materials on the landscaping part of the property.

Ms. Zuvich stated that this hasn't been a very positive experience. Ms. Smith asked what prevents her children from playing. Ms. Zuvich stated that there is a car on the road every three (3) seconds and the interaction with cars is greater. Ms. Zuvich stated that right after there was an incident, her sons basketball hoop was broken; her kids hang and play with it. Ms. Smith asked if the kids broke it and Ms. Zuvich stated that it was coincidentally broken after an incident that had happened. Ms. Zuvich stated that Monday through Saturday her children and herself have interactions with work trucks as they are getting ready for school and work and also come back in when residents are coming home, eating dinner and playing outside.

Bryan Hill, Brad Hill's father – Mr. Hill asked if farming, which Ms. Scott stated the property originally was, is different zoning than commercial. Chairman Ring stated that this property is zoned residential. Mr. Hill stated that he doesn't want to put anyone out of business, but asked if there's anyway to maintain the landscaping business, but have the entrance off of Sawkill Road by a petition to County? Perhaps make the dirt road the entrance instead of off of Old Sawkill Road. Chairman Ring stated that would be a planning issue. Mr. Hill stated that since it's a business, he does not see why there can't be an entrance off of Sawill Road.

Greg Shaheen, resident of Kingston – Mr. Shaheen stated that he used to play soccer in school. Mr. Shaheen learned about this project because he plays for one of the leagues that utilizes Mr. Monroy's soccer field. Mr. Shaheen explained that he works for the Kingston Land Trust and they got involved in supporting Mr. Monroy. Mr. Shaheen saw the soccer field as a public good where residents are benefiting. Mr. DiBella clarified that this meeting was regarding the business and the use variance request. Mr. Shaheen is not a resident of the Town but wanted to share his thoughts. Mr. Shaheen stated that he does appreciate everyone who lives on the street who has experienced effects of the business and appreciates the considerations of living on the street and supporting a business. Mr. Shaheen stated that when he first came upon the project he thought it was a good example of a partnership between a business and a public open space that has made improvements on the property. Mr. Shaheen stated that for someone who is relatively new to the Country, starting a business is difficult.

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Mr. Shaheen stated that he understands that the issues in the past were over lack of understanding and he hopes the applicant can continue to work with the residents.

Mr. Shaheen asked if the residents would consider letting the kids play in the soccer field. Chairman Ring asked if there were any comments or questions regarding the landscaping business that this Board can address. Mr. Shaheen stated that he hopes the business is given the chance to continue to improve and in his experience in working with the applicant there is that intention there.

Mrs. Scott wanted to verify a couple of things. The property next to the soccer field is owned by her family as a buffer and the property goes from 587 to her property. Mrs. Scott stated that the complaining houses are north of her so there is no need for them to go down the road towards the soccer field. Mr. DiBella stated that the point of entry goes by their houses, which Mrs. Scott agreed. Mr. Hill stated that they also walk along their road.

Mr. Porter thanked the audience and had a question himself. Mr. Porter asked Mrs. Moniz if a one-thousand (1000) gallon gasoline storage tank was allowable. Mrs. Moniz stated that it would have to meet certain criteria for safety; it's doable but will require Planning Board approval, as well as Building Department approvals. Mr. Porter asked Mr. Kovacs if the Board granted the use variance to include retail, would it be a permanent change on the property. Mr. Kovacs stated that the zoning wouldn't be changed but the landscaping business would then be allowed there which is a use that will run with the land.

Chairman Ring made a motion to close the public hearing with a second from Mr. Porter; all in favor.

Ms. Smith stated that after listening to the public and the building inspector, she does not believe the applicant meets the five (5) requirements to grant a use variance. Ms. Smith asked specific questions and the granting of the use variance would change the nature of the neighborhood, was self-created and effects the quality of life for neighboring residents. Chairman Ring stated that his issue is that it is zoned residential, the fact that the property owners did not speak with the Town to maintain the commercial use on the property and having a yard where tractor trailers park is much different than opening up the neighborhood to truck in and out. Chairman Ring stated that there is a process. If someone wants a business, they should go through the process before the business is started. Chairman Ring stated that they had passed the use variance in the past and put conditions that within sixty (60) days the applicant would submit a site plan and clean up the land. Enforcement on this property had been submitted to Court to make it come into compliance. Chairman Ring stated that he does not see willingness on the part of the applicant to work with the Town to abide by the rules that are set in place. As such. Chairman Ring has a hard time thinking this is good for the Town even though he is pro-business.

Mr. DiBella stated that he concurred with Chairman Ring. Mr. DiBella explained that he played soccer for forty-five (45) years, is a business owner, a landlord and has property.

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Mr. DiBella sees everyone's side, but there are rules and regulations that have to be followed and fulfilled. Chairman Ring stated that the chance had been given and revoked due to lack of compliance. Chairman Ring stated that it has taken a lot of the Town Enforcement's time that could've been spent elsewhere. Ms. Smith stated that there are people in the audience that have followed the Town's rules and as much as she would like to say yes to any business, she can't. Mr. Porter stated that he cannot say yes because this is not a workable business plan for this neighborhood. Mr. Porter stated that there are too many things that disrupt the lifestyle of the residents of that neighborhood. The road is a dead-end road, which is not good for a business in a residential neighborhood. Mr. Porter believes that Mr. Monroy should've taken up counsel in this proceeding and was ill-advised otherwise. Mr. Porter stated that there was a power generating facility that hit the skids based on storing gasoline that was solar powered to generate electricity using a fossil fuel system. The idea of storing gasoline made that applicant have to re-think the plan and change it. If they can't have the gas storage in that neighbor's backyard, how can this project have gas storage in someone else's backyard. Mr. Porter does not believe this is a good area for business at all.

Mr. DiBella asked if the applicant applies for curb-cuts, can Mr. Monroy apply in the future. Mr. Kovacs stated yes, but he believes it will be difficult to get a curb-cut on Sawkill Road. There was a brief discussion amongst the Board.

**Action:** A motion to deny the use variance was made by Mr. Porter with a second from Ms. Smith; all in favor.

**WHEREAS**, an application has been filed by Wilfredo Monroy, tenant of the property located at 51 Sawkill Road, Kingston, NY 12401. Applicant proposes to use the property to sell landscaping and construction materials in an R-30 Zone. He stated that he has had his business going on twelve years and would like to sell products such as mulch, stone, shrubs, firewood, etc.; and;

**WHEREAS**, the applicant has filed an application requesting a Use Variance at the property located at 51 Sawkill Road, Kingston, NY 12401 (Tax Map No. 48.14-3-37.100) and notice of this application was published in the Daily Freeman on June 20, 2019; and

**WHEREAS**, notice of Public Hearing was sent Certified Mail to the owners of all property within 200 feet of the land involved in the application; and

**WHEREAS**, a Public Hearing was held by the Zoning Board of Appeals on Wednesday, July 10, 2019 in the Town Hall of the Town of Ulster to consider this appeal; and

**WHEREAS**, at this hearing(s), the applicant as well as any and all persons interested in this appeal were heard, their statements recorded, and various written material including exhibits were entered into the record; and

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**WHEREAS**, all statements, written material and exhibits submitted in connection with said appeal have been carefully considered; and

**WHEREAS**, this appeal has met all the requirements of SEQR; now, therefore, be it

**RESOLVED**, that the Zoning Board of Appeals makes the following findings of facts:

1. The owner of the property is SCD SISTERS, INC.
2. The subject property is located at 51 Sawkill Road in an R-30 Zoning District.
3. The applicant for the subject property is Wilfredo Monroy.
4. The subject property cannot be considered a pre-existing non-conforming use as a landscaping and construction materials business has not occupied the property continuously since prior to the date of adoption of the Town of Ulster Zoning Code in 1991.
5. The applicant proposes to use the property for the use of storage of materials for his retail and wholesale construction and landscaping business.
6. The applicant presented detailed information and history on the property, reviewed any feasible alternative considerations, and actively participated in discussion of any alternatives or conditions which would mitigate impacts.
7. Many neighbors spoke in opposition to the application and expressed concerns over potential traffic problems, dust, noise, and prior compliance issues by the same applicant, who was granted a use variance in 2017, and had same use variance revoked by the Zoning Board of Appeals in 2017 due to his non-compliance with the terms and conditions of the previously issued use variance.
8. The applicant produced zero financial documentation showing that his proposed use of the site was necessary for a reasonable rate of return.
9. Applicant is currently operating at the property without any town approvals, in contravention of the zoning law of the Town.
10. The grant of the use variance would alter the essential character of the neighborhood as the subject property and neighborhood has been historically used for residential purposes.
11. The alleged hardship has been self-created as the property was rented by the Applicant about three (3) years ago with full knowledge of the zoning law in effect at the time; and be it further

**RESOLVED**, accordingly that this Board, as required by § 8-0105 of the Environmental Conservation Law and Part 617 of Title 6 of the New York Codes, Rules and Regulations, SEQR, concludes that the activities proposed in this application constitute an “Type II Action”, and as such requires no further SEQR action.

**RESOLVED**, that the application for a Use Variance for a retail landscaping and construction materials business is **DENIED**.

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This Board further concludes, based upon these same Findings of Fact and the entire record before the Board, that granting of the requested Use Variance will create an undesirable change in the character of the neighborhood, and that the variance if granted would be a detriment to the general quality of the neighborhood.

Finally, this Board concludes and votes 4-0; Chairman Ring, Members Smith, DiBella, and Porter voting to **DENY** the request for a variance; Member Ilgner being absent; that the Applicant's appeal for relief in the form of an Use Variance is **DENIED**.

**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 10th day of July, 2019.

A motion to adjourn was made by Mr. Ring, will a second from Mr. DiBella; all in favor.

Respectfully Submitted,  
Gabrielle Perea  
Zoning Board Secretary