

Town of Ulster  
Zoning Board of Appeals  
September 11, 2019

The monthly meeting of the Town of Ulster Zoning Board of Appeals was held at the Town of Ulster Town Hall on September 11, 2019, at 7:00 P.M.

**Present:**

Brian Ilgner  
Lois Smith – Vice Chairman

Robert Porter  
Geoffrey Ring – Chairman

**Absent:**

Renato DiBella

Roll call.

A motion to approve the minutes from the August 28, 2019 was made by Mr. Ilgner with a second from Mr. Porter; all in favor.

**PUBLIC HEARING**

**Catskill Mountain Railroad – Area Variance**

**Route 28**

**SBL: 48.13-2-7.100**

**Zone: R-60**

**Z-374**

Matt Gillis, Catskill Mountain Railroad (CMRR), appeared on behalf of an application to place a section house in a County right-of-way approximately five feet (5') from a neighboring property line. Mr. Gillis stated that the section house is an old historic structure. The structure would be sitting in a sixty-six foot (66') County ROW and they would not be able to meet the forty foot (40') setback requirement. CMRR is looking for thirty-five feet (35') of relief to have a five foot (5') setback. The project would require a building permit from the County.

Chairman Ring opened the public hearing. There was no public comment. A motion to close the public hearing was made by Chairman Ring with a second from Mr. Ilgner.

**Action:** A motion to approve the variance was made by Mr. Ilgner, with a second from Mr. Porter; all in favor.

**Ulster Hospitality**

**1581 Ulster Avenue**

**SBL: 39.82-2-7.117**

**Zone: OM**

**Z-371**

Alec Barnes, of Chazen Companies, 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').

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Chairman Ring opened the public hearing. There was no public comment. A motion to close the public hearing was made by Mr. Ilgner, with a second from Chairman Ring; all in favor.

Mr. Barned explained that the variance requested was minor in comparison to the building frontage and that the applicant had drawn in sidewalk striping. Ms. Smith thanked the applicant for the sidewalk striping.

The project had been referred to the UCPB and they came back with no County impact.

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

**WHEREAS**, the applicant seeks an Area Variance to allow for relief from Section 190-69 of the Ulster Town Code which provides for forty foot (40') front setbacks; and

**WHEREAS**, notice of Public Hearing was published in the Kingston (N.Y.) Daily Freeman on August 13, 2019, and pursuant to Zoning Board procedures, the owner(s) of the adjacent properties we 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 scheduled for September 11, 2019 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 subject property is located at 1581 Ulster Avenue in the OM Zoning District.
2. The applicant is the property owner.
3. The applicant seeks an Area Variance for relief from the requirements of Section 190-69 of the Ulster Town Code which provides for forty foot (40') front setbacks;
4. The applicant is proposing approximately a seventeen and a half foot (17.5') front setback from the interior road in the Ulster Commons plaza (variance of approximately twenty two and a half feet (22.5')).
5. The applicant presented detailed information and history on the property, reviewed any feasible alternative considerations, and actively participated in discussion of any alternative and which would mitigate impacts.
6. No one appeared in opposition to the requested Variance.

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7. The property is lot 2 and is a part of a master site plan that was approved in 2012.
8. The proposed Variance does not alter the character of the neighborhood, but rather are consistent with small properties with residence and numerous accessory structures.

**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 Smith, Ilgner and Porter voting aye; 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 11th Wednesday of September 2019.

**PRELIMINARY HEARING**

**Callanan Industries – Area Variance  
701 Flatbush Road  
SBL: 48.16-3-5  
Zone: OM  
Z-376**

Dan Broomhall, Vice President of Callanan, introduced his team: John Romeo (InSite Northeast, Engineer), Adam Schultz (Counsel), CJ Wayman (Quarry Manager), Tim Algren (Aggregate GM) and Sean Mooney (Geologist).

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Mr. Romeo stated that this project is for the Callanan East Mine site located at 677 Flatbush Road, but the proposed area is located at 701 Flatbush Road along Main Street in East Kingston, called the Mainstreet Highway Stabilization project. The property is 61.7 acres and is zoned Office & Manufacturing (OM). Mr. Romeo stated he is before the Board today to speak about a safety fence and request a variance for both the height and placement of the fence.

Mr. Romeo showed the proposed location of the fence to the Board. Mr. Romeo explained that the applicant is also being seen before the Planning Board for a lot line adjustment to convey a portion of land that contains a bus stop to the Town. The plan is to beautify that area and make it safer than it is.

Mr. Romeo explained the location that the safety fence will be constructed, which is on Callanan's side of the street along Main Street from Railroad Avenue to the East Kingston Firehouse. Mr. Romeo showed the Board a conceptual plan. They plan on installing the fence behind the tree line to their best extent possible. The applicant plans to move fast and is working on the plans diligently on a daily basis.

The fence will be approximately eleven hundred (1,100) linear foot safety fence and the plans will be developed as the applicant moves along with their Engineers. Mr. Romeo explained that they had been granted an emergency contract for expedited construction of two to three hundred (300) linear feet of the safety fence that will be located across from the church by the existing shrine which is the area of greatest concern. Mr. Romeo stated that schematically they are proposing the fence being forty feet (40') from the right-of-way (ROW) and ten feet (10') from the property line. Mr. Romeo stated that they would like to, potentially be, right on the property line and twenty-five feet (25') from the Town ROW by the Firehouse. Mr. Romeo stated that the reason for this request is all driven by safety. Mr. Romeo stated that GeoStabilization International (GSI) are the engineers that will be designing the fence and all the geotechnical information that goes into this project. Mr. Romeo stated that there is safety equipment currently, actively monitoring the area and when the fence is installed they will have a better understanding of what the material looks like and how close to the property line the fence will be.

Mr. Romeo stated the reason the variance is being requested is because some of the areas it will be installed in are sloped. Mr. Romeo explained that the ridge extends down towards the firehouse and they will install as close as they can to the property line with the engineers determination. Mr. Romeo reiterated that everything is driven by safety.

Mr. Ilgner asked what type of fence it will be. Mr. Romeo responded that the fence will be what's called a GCS system – geosynthetically reinforced block, stone and aggregate with a gabion basket face. Ms. Smith asked if the rocks let loose, how much weight can these fences support. Mr. Romeo stated that he was told by GSI to safely protect and stabilize the roadway and the fence will act as a single unit.

Mr. Romeo went through existing conditions and the preliminary proposed conditions and views with the Board. Chairman Ring asked if the concrete barriers would be

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removed once the fence was up and Mr. Romeo stated they would be removed during construction as they need to access the site. Mr. Romeo stated that the applicant wants to maintain as much of the existing vegetation and trees as possible, but some of the smaller vegetation in front will be disturbed but they are confident that much of it will regrow and if there's concern, they can provide some additional screening. Mr. Romeo stated that the height of the fence is all based upon the slope and soil testing that will be done.

There was a brief discussion on the number of variances requested. The applicant only needs one variance for the height of the fence being within the front setback. A fence is allowed to be on the property line. Mr. Romeo stated that the fence will be located exactly where the GSI engineer tells them to install it, which is why they are requesting the variance in case it is needed.

Ms. Smith asked if it will be aesthetically pleasing as it is across from a church that many people attend. There was a brief discussion regarding vegetation. The applicant plans on making the area at least as beautiful as it originally was. The main concern is safety to the public and once that is met they will address the beautification.

Mr. Porter asked if Callanan will continue with the mining operation after the fence is up and Mr. Romeo stated that the mining will continue. Mr. Porter stated that he is familiar with the area and he is aware that neighbors have been complaining about foundations being cracked over the years. Mr. Porter asked if there's any guarantee that the ten foot (10') fence will be sufficient for the means it is needed for because he remembers sitting in Town Hall for meetings years ago being told that none of these issues would ever happen and now they are happening. Mr. Porter asked if they can guarantee that this particular fence will preserve and protect the integrity of the neighborhood, the road and the safety of people. Mr. Broomhall responded that their experts and geotech firm has told them that the fence is being engineered and constructed to protect the community. The applicant does not have all the details today, but they will be providing them as they are done.

Mr. Romeo stated that he had spoken with GSI at length and they've been doing many calculations and based on the soil sampling and testing being done the calculations will be updated to ensure the size of the fence is adequate and many of the tests being calculated are based on the ten foot (10') height.

Mr. Broomhall stated that they have been granted the three hundred foot (300') emergency fencing and are working with GSI. GSI will tell them their greatest exposure and they will build that emergency fencing in that area. The remainder of the fence will continue on the emergency fence. Mr. Porter asked if the fence will be able to take the vibration of the blasting that will happen by being able to move and shift to maintain its integrity. Mr. Broomhall stated that they have experts stating that their blasting doesn't have to do with the cave in's that are happening.

Chairman Ring stated that the prior mining from the 1800's created voids in the hill and the voids become unstable and collapsed which changed the topography of the hill so this

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fence is a preventative measure. The choice is to do something or do nothing and Callanan is choosing to take the preventative measure to protect the neighborhood.

Mr. Broomhall stated that there are four (4) seismographs on the hill monitoring twenty-four (24) hours a day and receive emails if it triggers anything and they now have a radar device that senses any movement on the hill which, theoretically, is a predictor. Mr. Schultz stated that the applicant is confident the fence will work and that's based on GSI confidence. GSI has done these types of projects with similar issues in other areas. The company didn't say build a ten foot (10') fence; they gave them the issue and the instability and safety concern and Callanan asked for a fence that would protect the public and that is what GSI based the height off of. There was a brief discussion.

The blasting is over two-thousand feet away from the problem area and the cause of the caves collapsing comes from water erosion over the years and that causes the instability. The applicant stated that his is the worst case scenario and it can only get better from here. GSI is calculating based on the worst case scenario. The height is based on the ridge height and will not get any taller than ten foot (10').

Ms. Smith stated that like a helmet, once it takes a hit, it needs to be replaced. Ms. Smith asked if the fence will be able to withstand a hit and maintain its integrity. Mr. Broomhall stated that if the fence gets hit the GSI engineers will come back to evaluate the integrity of the fence. Mr. Romeo stated that the fence is being designed to be maintained and GSI can come in to talk directly to the Board if they wish. Mr. Porter stated that he just wants to make sure everyone "crosses their T's and dots their I's."

Mr. Romeo stated they were before the Board so that they may place the fence wherever it will be required to be placed for maximum security. Mr. Ilgner asked if the bus stop is safe to which Mr. Romeo stated that it is outside of the area of concern. The applicant wants to install the fence as soon as possible. Mr. Broomhall stated that they are hoping to start on the emergency part of the fence on Tuesday after a pre-construction meeting that will be held on Monday.

The applicant wants to donate the bus stop to the Town and also beautify it and make it better for the kids.

**Action:** A motion to send the project to a public hearing was made by Mr. Ilgner, with a second from Mr. Ring; all in favor.

**Joseph & June Hanss – Area Variance**  
**110 Rockwell Lane**  
**SBL: 56.10-1-18.100**  
**Zone: R60**  
**Z-377**

Walter Eckert, Brinnier & Larios, appeared on behalf of the Hanss application to subdivide a parcel into two lots. Mr. Eckert stated that in this situation there is a shortage

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of square footage for their subdivision which requires a variance. Mr. Eckert stated that on the original deed, Rockwell Lane did not exist and the Hanss's has nothing that states that he gave the Town rights to even put the road in. Mr. Eckert stated that Hanss's neighbor had a thirty-three (33') right-of-way (ROW) that they did give to the Town. The Hanss's have a fifty foot (50') ROW to the Town, but if they were to make changes they would not need a variance, but they would like to make sure the Town maintains their fifty foot (50') ROW, which is why the variance is needed.

Mr. Kovacs, Town of Ulster Counsel, stated that he was present at last night's Planning Board meeting and that the parcel in question has Rockwell Lane going through it causing a natural divide which the Hanss's would like to keep as the natural divide for their subdivision. Mr. Kovacs explained that because it is a R60 zoning district, the minimum lot size requirement is sixty-thousand (60,000) square feet and the proposed parcel on the north side of Rockwell will be approximately fifty-eight thousand (58,000) square feet. The applicant would need a variance of approximately twenty-five hundred (2,500) square feet, which is approximately a five percent (5%) variance, which is minor. There was a brief discussion amongst the Board.

**Action:** A motion to refer this matter to a public hearing was made by Mr. Ilgner, with a second from Mr. Porter; all in favor.

There was a brief discussion regarding Callanan.

A motion to adjourn was made by Mr. Ilgner, will a second from Ms. Smith; all in favor.

Respectfully Submitted,  
Gabrielle Perea  
Zoning Board Secretary