

Town of Ulster  
Zoning Board of Appeals  
May 2, 2012

The regular monthly meeting of the Town of Ulster Zoning Board of Appeals was held at the Town of Ulster Town Hall on May 2, 2012 at 7:30 P.M.

Present:

Robert Porter- Chairman  
John Crispell –  
Donald Genter  
Arnold Jacobsen

A motion to approve the minutes from the April meeting was made by Mr. Crispell and seconded from Mr. Genter. All were in favor.

**Robert Ferrara – 42 Greenbrook Lane**

A motion to open the Public Hearing was made by Mr. Crispell with a second from Mr. Jacobsen. Mr. Ferrara appeared on behalf of the application for a 6' fence that will be in the front setback. Mr. Ferrara stated he would like to replace an existing 4' fence with a 6' for privacy in his back yard and the safety of his daughter. It is a corner lot with 2 front setbacks. Mr. Ferrara shows pictures of his property to the Board. Ronald Lynn of 343 Cascade Drive appeared in opposition of the fence stating there is a lot of speeding cars on the street and the fence will affect his property value as his fence will not match the applicants. Mr. Lynn stated that he had to obey the laws and he feels the applicant should have to obey them. Julia Quagliano also of 343 Cascade Drive stated the white vinyl fence will bring down her property value as the fence will look horrific. Mr. Crispell and Mr. Genter reviewed the survey map provide by the applicant. Mr. Porter read a letter from the Highway Superintendent stating he had no issues with the proposed fence. A motion to close the Public Hearing was made by Mr. Crispell with a second from Mr. Genter; all were in favor. A motion to grant the variance was made by Mr. Crispell with a second from Mr. Genter; a roll call vote was taken.

Mr. Genter; yes, the applicant is improving his property and there is no safety issue.

Mr. Crispell; yes, it would be nice if the applicant tried to match the color scheme to the neighbor's fence.

Mr. Jacobsen; yes, there is no safety issues.

Mr. Porter; yes, the existing fence needs to be replaced; the fence is needed to provide safety for the applicants family. The traffic concerns should be addressed with the Police Department.

WHEREAS, the applicant seeks an Area Variance to allow for relief from Section 190-18(E) of the Ulster Town Code which prohibits a fence or freestanding wall of more than four (4) feet high on the property line within the front setback – applicant is proposing a six (6) feet high fence on the property line within the front setback ; and

WHEREAS, notice of a public hearing was published in the Kingston (N.Y.) Daily Freeman, and pursuant to Zoning Board procedures, the owner(s) of the adjacent properties were notified and had 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 May 3, 2012, 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 42 Greenbrook Lane in a R-10 zoning district.
2. The applicants are the property owners, and currently reside at the subject property.
3. The applicants seek an Area Variance for relief from the requirements of § 190-18(E) of the Code of the Town of Ulster, which prohibits a fence or freestanding wall of more than four (4) feet high on the property line within the front setback, to allow for the construction of a six (6) feet high fence on the property line in the front setback.
4. 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.
5. Inspection of the subject property was made by members of the Board and the Highway Superintendent of the Town of Ulster, who wrote a letter to the Zoning Board of Appeals dated March 27, 2012, indicating that he had no objection to a six (6) feet high fence on the property at issue.
6. Two persons from the public spoke at the public hearing: the adjacent neighbors, Ronald Lynn and Julia Quagliano, who reside at 343 Cascade Drive. Mr. Lynn and Ms. Quagliano opposed the applicant’s request for an area variance, citing potential obstruction of oncoming traffic, general safety hazards, and a possible negative effect on property values due to the fence’s appearance in the neighborhood and how it would affect the “look” of the their house.

**Conclusions and Decision**

Based upon the above Findings of Fact, this Board concludes that the applicant requires an Area Variance for the requested setback.

This Board further concludes, based upon these same Findings of Fact and the entire

record before the Board, that granting of the requested Area Variance will not create undesirable change in the character of the neighborhood, nor will any detriment to nearby properties be created in the general neighborhood; there is no other feasible or suitable option to consider to remedy the current conditions, the variance requested is not substantial; and the proposed six (6) feet high fence will produce no adverse impacts or effects either physical or environmental; and that the hardship is not self-created. The Board further concluded that the new fence will be an improvement over the existing fence on aesthetic grounds.

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 application constitute a “Type II Action”, and as such requires no further SEQR action.

Finally, this Board concludes and votes 4-0; Chairman Porter, Members Crispell, Jacobsen, and Genter voting aye; Member Kyriacou being absent; that the Applicant’s appeal for relief in the form of an Area Variance is GRANTED.

This decision of the Zoning Board of Appeals shall expire and shall become null and void one year after its issuance if the applicant has not exercised such authorized activity within such period. Issuance of a valid Building Permit in accordance with, and within one year of such decision shall be deemed prima facie evidence that such activity has been exercised.

A motion to adjourn was made by Mr. Crispell with a second from Mr. Genter; all were in favor.

Respectfully Submitted,

Mary O’Bryan-Secreto  
Zoning Board Secretary