



Town of New Paltz Zoning Board of Appeals
 Regular Meeting of Wednesday, January 13, 2021
 Live-streamed/Recorded Remotely at 7:00 PM
 Available on YouTube: <https://youtu.be/0bx64s1W-w>
APPROVED MINUTES

Present: Leonard Loza, Chair
 Steven Esposito
 John Gotto
 Amy Donnelly

Absent: Katherine Fuller
 David Brownstein, Town Board Liaison

Also Present: Joe Moriello, Zoning Board Attorney
 Ingrid Haeckel, ENCB Chair
 Stacy Delarede, Building Inspector
 George Litcho, Building Inspector Attorney
 Alana Sawchuk, Planning and Zoning Secretary

Welcome

7:00

Mr. Esposito moves to open the regularly scheduled January 13, 2021 meeting of the Zoning Board of Appeals. Chair Loza seconds. 4 ayes. Motion carries.

Administrative Business

- *Approval of December 9, 2020 Minutes*

Chair Loza and Mr. Gotto note minor corrections that need to be made in the December 9, 2020 Minutes. Ms. Donnelly moves to approve the December 9, 2020 Minutes as amended. Mr. Esposito seconds. 4 ayes. Motion carries.

- *Quorum Check for Wednesday, February 10, 2021 at 7 PM*

All members present intend to attend the February 2021 meeting.

Public Comment(s)

7:05-7:17

Ms. Kitty Brown (resident of the Town of New Paltz) is in attendance to speak on ZB20-307 in support of the ENCB appeal of the Building Inspector's interpretation of the buffer.

Mr. Daniel Schniedewind (resident of the Town of New Paltz) is in attendance to speak on ZB20-307 in support of the ENCB appeal of the Building Inspector's interpretation of the buffer.

Mr. Ary Freilich/Trans-Hudson (resident of Clinton Corners) is in attendance to speak on ZB20-307 in support of the Building Inspector's interpretation.

Chair Loza moves to close the Public Comment. Mr. Esposito seconds. 4 ayes. Motion carries.

Public Hearing(s)

1. Area Variance

ZB20-00347: 16 Cedar Ridge Road

Applicant: Maryana Kushnir

Zoning District: R-1

SBL: 86.4-1-23

7:17-7:34

Ms. Kushnir is in attendance and explains why she is before the Zoning Board. The applicant seeks a 10 ft. height variance in order to construct a fence that will obstruct the view of her neighbor's property.

The Sloans of 12 Cedar Ridge Road are in attendance to speak in support of the applicant and her complaints.

Mr. Segall of 21 Cedar Ridge Road is in attendance to speak in support of the height variance as well as her complaints about her neighbor.

Ms. Kushnir refers to an e-mail in support of her application that was submitted after the 12 PM deadline.

Mr. Tom Kacandes is in attendance to speak on this application, as he is the neighbor that the applicant has referred to in her application. Mr. Kacandes is in support of the applicant's request for a height variance.

Ms. Kushnir responds to Mr. Kacandes' comments in order to clarify her position.

Mr. Esposito moves to close the Public Hearing for ZB20-00347, 16 Cedar Ridge Road, Kushnir. Chair Loza seconds. 4 ayes. Motion carries.

2. Special Use Permit

ZB19-280: 139 State Route 208

Applicant: Angelo Ruotolo

Zoning District: R-1

SBL: 86.4-1-34

7:34-7:57

Mr. Ruotolo is in attendance. However, no affidavit has been submitted attesting to the posting and mailing of signs, therefore the Public Hearing cannot be opened or closed. Mr. Ruotolo

confirms that he has not completed the necessary paperwork as he believes the application has exceeded “the statute of limitations.”

Mr. Ruotolo refers to previous communications with the Building Inspector that he feels allows him to operate his multi-family residences. Mr. Ruotolo also disagreed with the language provided for in the Public Hearing notice.

Ms. Donnelly speaks about a lack of information for this application and asks a procedural question.

Attorney Moriello clarifies that the Board can decide on the application within 62 days of the Public Hearing being closed.

The applicant requests to read a line of code into the record from New York State (274(b)(6)).

Attorney Moriello clarifies the nature of what the applicant is seeking from the Zoning Board of Appeals. It is not an Area Variance or Use Variance, but rather a Special Use Permit. However, there is no allowance for the requested use in the R-1 district by the granting of an SUP by the Zoning or Planning Board.

Chair Loza moves to reschedule the Public Hearing for the February 10, 2021 meeting. Mr. Esposito recuses himself. Mr. Gotto seconds. 3 ayes. Motion carries.

Application Review

1. Building Inspector Appeal

ZB20-307: Rt. 299 and N. Putt Corners Rd./Trans-Hudson

Applicant: TONP Environmental Conservation Board

Zoning District: B-2

SBL: 86.12-4-5.1

7:58-8:37

Chair Loza mentions that members of the public have come forward to speak on this application. The Board has received a supplemental letter from the Building Inspector clarifying her position, as well as a follow-up letter from the ENCB. The Chair asks if Board members have any questions following the Building Inspector’s letter.

Mr. Gotto asks a clarifying question of the Building Inspector.

Chair Loza speaks on his position regarding this application. Mr. Gotto responds to Chair Loza’s comments and does not see a need for further discussion regarding the differences between the words “buffer” and “buffer strip.”

Chair Haeckel makes further comments on the ENCB’s position. She clarifies that the question is whether putting the trail through the buffer diminishes the purpose of the buffer. Chair Haeckel provides some visual examples in order to better support her argument.

Ms. Donnelly speaks to some of the landscaping items that Chair Haeckel had mentioned.

Mr. Freilich/Trans-Hudson speaks on behalf of his application and in further support of the Building Inspector's determination.

Ms. Kitty Brown speaks in response to Mr. Freilich's comments. Mr. Freilich explains that in early stages of the planning process, the bike path was constructed through the parking lot. Various local officials felt it should be relocated.

Mr. Gotto notes that the discussion is becoming too close to Site Plan discussion. Mr. Gotto believes this determination to be so important because it will ultimately have an effect on the code for the entire Gateway District.

The Building Inspector closes her argument and explains that the zoning code does not have provisions for the Zoning Board of Appeals to interpret the zoning code. The Planning Board has the right to consider a waiver. There is nothing in the law that prohibits the trail in the required buffer. Regardless of the intent of the Gateway Committee, she must apply the law as it was adopted by the Town Board. The law could be revised to include the appropriate, clear language that the ENCB is looking for, but that would be a Town Board matter. She thanks the Zoning Board of Appeals for reading her comments.

Chair Loza moves to declare that **WHEREAS**, moving the Empire State Trail through the buffer is not inconsistent with the design standard per the Building Inspector's interpretation, and **WHEREAS**, zoning laws are in derogation of property rights should there be any ambiguity within a particular statute, that the Building Inspector's initial interpretation is correct, and the Environmental Conservation Board's appeal is denied. Mr. Esposito seconds.

Chair Loza: AYE;
Mr. Esposito: AYE;
Ms. Donnelly: AYE;
Mr. Gotto: NAY;
Ms. Fuller: ABSENT.

3 ayes. Motion carries.

2. Area Variance

ZB20-00347: 16 Cedar Ridge Road

Applicant: Maryana Kushnir

Zoning District: R-1

SBL: 86.4-1-23

8:37-9:09

A Public Hearing for this application has now been opened and closed.

Mr. Gotto asks the applicant if she's pursued any other alternatives such as a vegetative buffer which would not require a variance. Ms. Kushnir explains that it is not a large area and in order to provide a decent buffer with vegetation she would have to cut into her lawn.

Ms. Donnelly asks if the 10 ft. fence will effectively obscure the neighbor's property. Mr. Gotto asks if the neighbor has been found to be in violation of Town Code.

The Building Inspector explains that there is nothing in the Code that she can cite the neighbor for even though his yard is messy. The Building Inspector has no objection to this application.

Chair Loza asks about the stability of the fence should the variance be granted, as well as if the Building Inspector knows of any 10 ft. fences in town. The Building Inspector does not believe she's entertained a variance of that nature, however, there is an illegal one off the River to Ridge trail.

The Board proceeds through the balancing test used in determining whether to grant a variance.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Applicant does not believe so.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Applicant does not believe so.

3. Whether the requested area variance is substantial.

Applicant does not believe so.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Applicant does not believe so.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Applicant does not believe so.

Mr. Gotto expresses concern for maintaining the integrity of the zoning code. He is sympathetic to the applicant, and no neighbors came forward to speak against it. He does still think that vegetative screening could be an option.

Chair Loza expresses a concern that if it's granted, a precedent would be set that would establish a standard for constructing large fences and finds the request to be a substantial one.

Attorney Moriello clarifies that other applicants in other areas of the Town might not be able to fall within the same category regarding elevation and the need for this specific height.

Mr. Gotto moves to grant the requested variance. Ms. Donnelly seconds.

Chair Loza: NAY;

Mr. Esposito: NAY;
 Ms. Donnelly: AYE;
 Mr. Gotto: AYE;
 Ms. Fuller: ABSENT.

2 nays, 2 ayes. The variance is denied by virtue of a tied vote.

3. Area Variance

ZB20-376: 6 Oak Street
 Applicant: Mike Stepanovich
 Zoning District:
 SBL: 86.13-3-16
 9:09-9:15

Mr. Mike Stepanovich is in attendance and gives a brief a summary of the application. The applicant is trying to construct a 4-season sunroom off the back of his house. They haven't found many areas to put the sunroom given where the septic and well is. The requested variance is 5'10" into the rear yard setback facing a vacant lot/wooded area.

The Building Inspector has no objections to the application. The Building Inspector recommends that if the Board is inclined to approve this variance that he be granted a little more than the requested 5'10" to account for construction errors.

Chair Loza agrees with the Building Inspector's recommendation.

Chair Loza moves to set the Public Hearing for February 10, 2021 at 7 PM. Mr. Esposito seconds. 4 ayes. Motion carries.

~~4. Special Use Permit~~

~~ZB19-280: 139 State Route 208~~
~~Applicant: Angelo Ruotolo~~
~~Zoning District: R-1~~
~~SBL: 86.4-1-34~~
~~0:00-0:00~~

The application will not undergo further review until the Public Hearing is opened and closed.

Adjournment

Chair Loza moves to close the January 13, 2021 meeting. Mr. Gotto seconds. 4 ayes. The meeting adjourns at 9:19 PM.

Respectfully submitted by,

Alana Sawchuk
 Planning and Zoning Secretary

