

UNION VALE ZONING BOARD OF APPEALS

Minutes of the Regular Meeting

7:30 pm

September 5th 2023

Members Present: Chairperson Jane Smith and Board members Dennis Dunning, Michael McPartland, & John Hughes
Member Absent: Ilana Nilsen

CALL TO ORDER / DETERMINATION OF QUORUM

Chairperson Jane Smith determined that there was a quorum for the Zoning Board of Appeals (“the Board”) to conduct business and called the meeting to order.

CORRESPONDENCE

Email dated 9/5/2023 from Town Engineer Thomas Harvey in regards to Camaj application.

BUSINESS SESSION

Reviewed the agenda & unanimously approved meeting minutes from August 1st 2023.

PUBLIC HEARING

PROJECT

Camaj Garage Area Variance

Applicant/Owner: Prentas & Saq Camaj
Address: 686 Waterbury Hill Road Lagrangeville NY 12540
Parcel #: 6762-00-150194
Meeting # 3

PROJECT DETAILS

Application for side yard area variance of 10’6” for proposed 22’ x 27’6” attached garage.

Mr. Prentas Camaj, owner of the property was present at the meeting. He indicated his son, whom he had given permission to submit and represent the application was out of the country and unable to attend the meeting. Mr. Camaj indicated he would like to hold over the application until next month so that his son could be present and help present the application with more thorough details of the project they are proposing.

Chairperson Smith read an email correspondence received from Town Engineer Thomas Harvey which addressed Member Hughes drainage and water run off concerns from the previous meeting. The matter was adjourned until the next meeting.

PROJECT

Tharu Fence Area Variance

Applicant/Owner: Khim Tharu
Address: 85 O’Brien Hill Road Verbank NY 12585
Parcel #: 6662-01-389886
Meeting # 3

PROJECT DETAILS

Application for an area variance for an 88’L x ‘6 H stockade fencing in the front yard, maximum front height allowance is 4’. A 2’ height variance is requested.

Chairperson Smith welcomed the applicant Mr. & Mrs. Tharu. There was a discussion about a property line pin marker that was found at the adjoining, 3152 Route 82. Mrs. Rosemary Allen, whom owns that property was present at the meeting. She indicated that she had no objections to the proposed fence and that the Tharu’s stated they would paint or stain the fence for beautification.

The Board reviewed the photos provided of the located pin and the distance between the installed portion of the fence, which is 3’6”. Mr. Tharu indicated there was 72’ of fence from that point, along the front of the property to where it ends. The Board indicated that according to the documents, the front property line is only 75’ therefore it was suggested that the applicant remove 6” of fencing from the end located near O’Brien Hill road, so that the fence does not encroach onto the right of way of that road. The applicant agreed. The Board verified that the 6’ fence would be 71’6” along route 82 property line starting 3’6” from the stake marking the boundary

between the Tharu property and Mrs. Allen's property, plus an additional 16' along the front of O'Brien Hill road, making a total of 87.5' of 6' fencing that requires a 2' variance.

With no more questions or comments, Chairperson Smith read and the Board considered, the following standards for accepting/denying this area variance application, and the Board made the following findings:

In making its determination, the ZBA shall take into consideration the benefit to the applicant if the Area Variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider:

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the Area Variance. Comments?***

Facts and Findings: No, there will be no detriment to nearby properties.

- 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. Comments?***

Facts and Finding: There is no other feasible alternative that would shield the sight of parked vehicles from the road.

- 3. Whether the requested variance is substantial. Comments?***

Facts and Finding: No, due to the location of the property on a busy road.

- 4. Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Comments?***

Facts and Finding: No, it will make the property look cleaner.

- 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. Comments?***

Facts and Findings: Yes, it is self-created, but does not preclude the granting of the variance.

After considering the five factors and weighing the benefit to the Applicant as against the detriment to the health, safety and welfare of the neighborhood or community, Chairperson Smith offered the following motion to grant:

The application of Kim Tharu, located at 85 O'Brien Hill Road Verbank NY 12585 Parcel #: 6662-01-389886 for an area variance of an 87'6" L x '6 H stockade fencing in the front yard, maximum front height allowance is 4'. A 2' height variance is granted as per chapter 210-27 B.

Seconded Member Dunning

The Town of Union Vale Zoning Board of Appeals **GRANTS** the Tharu Area Variance

Conditions: No

Roll Call Vote:

	<i>Aye</i>	<i>Nay</i>
<i>Jane Smith, Chairperson</i>	✓ _____	_____
<i>Dennis Dunning</i>	✓ _____	_____
<i>John Hughes</i>	Absent _____	_____
<i>Michael McPartland</i>	✓ _____	_____
<i>Ilana Nilsen</i>	✓ _____	_____

Signed,



Emily Cole, Secretary
Zoning Board of Appeals

cc: Applicant, Town Clerk, Planning Board Chair & Clerk
Building Department & File

PROJECT

Miller Fence Area Variance

Applicant/Owner: Nicole & Charles Miller
Address: 270 Camby Road Verbank NY 12585
Parcel #: 6763-00-558237
Meeting # 2

PROJECT DETAILS

Application for an area variance of a 100'L x '6 H stockade fencing in the front yard, maximum front height allowance is 4'. A 2' height variance is requested.

Chairperson Smith welcomed the applicant. Chairperson Smith asked the applicant about the previous fence that was along Camby Road. Mr. & Mrs. Miller explained that the original fence – which is 6” high stockade fence -- had been constructed sometime in the 1960’s; after such a long time, a portion of the fence in front of the house between the two driveways had been severely damaged. Mrs. Miller explained that the intention was to remove the damaged portion of the fence and install 100’ of new fencing closer to the home and farther from the road than the original fence.

There was a discussion about the Code section 210-69A and whether it “grandfathered” the fence. The Board unanimously agreed that (1) in terms of the height of the fence, there was no increase in the degree of non-conformity and, in fact, in terms of its placement relative to the road, the proposed fence would be even further from the road than the original. While noting that the portion of the fence the applicants sought to replace had been removed and thus had not been in continuous existence since its original construction, they unanimously interpreted section 210- 69A as allowing for this sort of alteration and reconstruction and determined, therefore, that the reconstruction of this portion of the fence is “grandfathered.”

In an abundance of caution, the Board also considered whether, despite the interpretation that the fence was grandfathered, a variance for the fence should be granted. In that connection, the Board noted the need of the applicants to obtain a separate permit for the fence from Dutchess County since Camby Road is a County Road. Mrs. Miller had provided an email correspondence to The Board with, and Chairperson Smith had spoken to, a representative at Dutchess County in regards to this application. Chairperson Smith shared the representative’s concerns about a large tree to the right of the driveway when facing the house, the lack of any area to turn a car

around in the driveway, and whether the fence might prevent a clear line of sight when backing up a car into the road. The applicants clarified that the new fencing would be installed 8' from the road only between the two driveways, and that no new fencing would be installed to the right of the driveway on the side of the big tree.

A neighbor Mr. Martell who has lived for many years on nearby Deep Pond Road, was present and expressed support for the application, noting that the prior fence was just as high, was closer to the road, and was not a detriment.

With no more questions or comments, Chairperson Smith read and the Board considered, the following standards for accepting/denying this area variance application, and the Board made the following findings:

In making its determination, the ZBA shall take into consideration the benefit to the applicant if the Area Variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider:

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the Area Variance. Comments?***

Facts and Findings: No, given the preexistence of the 6' fence, and the movement of the portion of the reconstructed fence closer to the house from the road, there will be no detriment to nearby properties.

- 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. Comments?***

Facts and Finding: Again, given how close the house is to the road, there is no other feasible alternative to create adequate privacy.

- 3. Whether the requested variance is substantial. Comments?***

Facts and Finding: No, due to the busy road, it is a safety issue for the family.

- 4. Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Comments?***

Facts and Finding: No, the original fence was deteriorating, and installing the new fence will make the property look better.

- 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. Comments?***

Facts and Findings: No, the existing fence had been there since the 1960's. The new owners are replacing the original damaged fence.

After considering the five factors and weighing the benefit to the Applicant as against the detriment to the health, safety and welfare of the neighborhood or community, Chairperson Smith offered the following motion on the application of Nicole & Charles Miller, located at 270 Camby Road Verbank NY 12585

Parcel # 6763-00-558237

1. Interpret Town Code chapter 210-69-A as allowing the reconstruction of the preexisting 6' fence in the front yard without requiring a variance.
2. And, in any event, grant a 2' area variance from the fence height allowance of 4' as per chapter 210-27B, and permit 100'L x 6' H stockade fencing in the front yard in the area between the two existing driveways, on condition that Dutchess County issues a permit for this fence.

Seconded Member McPartland

The Town of Union Vale Zoning Board of Appeals **GRANTS** the Miller Area Variance

Conditions: Yes

1. Obtain a permit from Dutchess County and submit with Town building permit application for building inspector's review.

Roll Call Vote:

	<i>Aye</i>	<i>Nay</i>
<i>Jane Smith, Chairperson</i>	✓ _____	_____
<i>Dennis Dunning</i>	✓ _____	_____
<i>John Hughes</i>	Absent _____	_____
<i>Michael McPartland</i>	✓ _____	_____
<i>Ilana Nilsen</i>	✓ _____	_____

Signed,



 Emily Cole, Secretary
 Zoning Board of Appeals
 cc: Applicant, Town Clerk, Planning Board Chair & Clerk
 Building Department & File

REGULAR SESSION / NEW BUSINESS

None

OTHER BUSINESS

None

ADJOURNMENT

As there was no further business, a motion was made by the Chairperson Smith, seconded by Member Hughes and unanimously accepted by the Board, to adjourn the meeting at 9:25 PM.

The next regular/public meeting of the Zoning Board of Appeals is scheduled for **Tuesday October 3rd 2023, at 7:30 PM.** The agenda will close on **September 19th 2023 at 12:00 Noon.** Items for consideration at the **October** meeting must be received by that date.