

# City of Port Jervis, New York



## ZONING BOARD OF APPEALS

November 5, 2013

The following Board members were present:

Tim Simmons, Chairman  
Allie Acoveno  
Earl Miller  
Lisa Randazzo  
Dan VanKleeck  
Robert Fink, Attorney

Members absent: Hermann Barth, Tom Sexton

Also present: Building Official Wayne Kidney and Planning Board Chairman Tom Vicchiariello

Public Hearing—  
24 Erie St  
SBL: 11-10-1

Donald Lee Cranston  
24 Erie Street  
SBL: 11-10-1  
6' fence in front yard setback

Mr. Simmons read the public hearing notice.

Mr. Cranston stated that he is requesting a variance for a six foot (6') fence off Grand Street where there had been a four foot (4') fence.

Mrs. Cranston stated that they wanted the increased height for privacy, to deter trespassers, and create an enclosed area for the family's pet. She added that the six foot (6') fence was installed prior to realizing the City code requirements. Mr. Cranston added that this portion of the fence was solid and not a picket style. Mr. Kidney asked if the height blocks a motorist's vision at the intersection. Mrs. Cranston stated that it did not interfere. According to Mr. Cranston, he had also spoken to their neighbor, who had no objections to the fence.

There was no public comment given.

Motion by Ms. Randazzo, seconded by Mr. Miller, to close the public hearing at 7:04 p.m.

AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED

Public Hearing—  
155 East Main St  
SBL: 14-4-6 and  
14-4-7

MILA of New York  
155 East Main Street  
SBL: 14-4-7.2  
Extension of application for a rear setback and parking  
variance granted November 6, 2013

Mr. Simmons read the public hearing notice.

The applicant was not present.

Mr. Fink clarified that the Board can entertain the application without the presence of the applicant.

Mr. Kidney stated that Dr. Horn had sent a letter, which was accepted by the Board as a pre-submission. He added that Dr. Horn had a valid reason for requesting the extension. Mr. Kidney noted that Dr. Horn has not submitted the proof of mailings but could be added as a condition for approval of the extension.

There was no public comment given.

Motion by Ms. Randazzo, seconded by Mr. VanKleeck, to close the public hearing at 7:09 p.m.

AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED

**Regular Meeting**

Chairman Simmons called the regular meeting of the Zoning Board of Appeals (ZBA) to order in the Council Chambers, 20 Hammond Street, Port Jervis, New York on Tuesday, November 5, 2013 at 7:09 p.m.

**Minutes of  
8/16/2013  
approved**

Motion by Mr. VanKleeck, seconded by Mr. Miller, to approve the minutes of the October 1, 2013 meeting.

AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED

**Discussion of  
Public Hearing—  
24 Erie St**

Mr. Simmons commented that he had viewed the property, noting a picket fence remained on Erie Street. He also reminded the Board that Mr. Cranston had contacted the neighbors to address any concerns they may have about the fence.

Mr. Kidney noted that this being a corner lot, and having two (2) front yards, creates a hardship and that two (2) other corner lots in West End have been granted similar variances.

The Board reviewed the criteria:

1. Will an undesirable change be produced in the character of the neighborhood and a detriment to nearby properties be created by the granting of the variance?
  - No
2. Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than the variance?
  - No
3. Is the requested variance substantial?
  - No
4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
  - No
5. Is the alleged difficulty self-created?
  - Yes.

Motion by Mr. VanKleeck, seconded by Mr. Miller, to declare the Port Jervis Zoning Board of Appeals lead agency and the application constitutes an unlisted action under SEQR with no adverse environmental impact.

AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0 CARRIED

Motion by Mr. Acoveno, seconded by Mr. VanKleeck, to accept the application as advertised. The variance will apply to the west side lot line and north front lot line running 48<sup>+/-</sup> feet to a point and running a 90 degree angle of that to the garage.

AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED

Discussion of  
Public Hearing—  
155 East Main St

Mr. Fink noted that the circumstances have not changed for the application for 155 East Main Street since the November 2012 approval.

Motion by Mr. VanKleeck, seconded by Ms. Randazzo, to declare the Port Jervis Zoning Board of Appeals lead agency and the application constitutes an unlisted action under SEQR with no adverse environmental impact.

AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED

Motion by Ms. Randazzo, seconded by Mr. VanKleeck, to grant the extension with the stipulation that Dr. Horn submits the proof of mailings to the Building Official's office.

AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED

Pre-  
Submission(s):  
100 Kingston  
Avenue  
SBL: 3-5-7

Joseph and Patricia Rennish  
100 Kingston Avenue  
SBL: 3-5-7  
Area Variance—Install six foot (6') high fence in the  
front setback of the property

Mr. Rennish explained that he has installed a 15' x 30' pool on the side of his house by the garage and noted there is a septic system in his back yard. He had installed an electric system and moved his fence to accommodate for the pool. The change enhances his property, does not interfere with any line of sight, and increases privacy.

Mr. Fink and Mr. Kidney discussed the right-of-way, and Mr. Simmons clarified the location of Mr. Rennish's property.

Mr. Kidney noted that, according to information he received from the Planning Board attorney, this application does not require the submission of a SEQR short form.

Motion by Mr. VanKleeck, seconded by Mr. Miller, to set a public hearing for this application for December 3, 2013 at 7:00 p.m.

AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED

**Pre-Submission(s):  
9-9½ West Main  
St  
SBL: 8-3-10**

**Laurie Cortes  
9 -9½ West Main Street  
SBL: 8-3-10  
Sign in front yard of building with zero foot  
(0') setback from property line**

Mr. Howard Vobis, representing the applicant, requested the Board approve Ms. Cortes' application for a new sign to be installed advertising the business. The sign will meet City code except for its location. Mr. Vobis distributed a photograph of the proposed sign. This is a commercial location, and the sign will be a monument type with a skirt.

Mr. Kidney commented that the sign will be four or five foot from the sidewalk.

Mr. Vobis clarified that the sign would be five foot (5') high and asked if the Board could take action to approve the application so that the installation could be done before inclement weather. Mr. Fink stated that the application must be advertised and a public hearing must be held.

Mr. Kidney asked if the insurance agency franchise holder was requiring the agent to have the sign installed. Mr. Vobis stated that the agent is not required to have the sign, but it is highly recommended that the business have the representation.

Motion by Mr. Miller, seconded by Mr. VanKleeck, to set the public hearing for December 3, 2013 immediately following the public hearing for 100 Kingston Avenue.

**AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED**

**Old Business**

No old business was discussed by the Board.

**New Business**

No new business was discussed by the Board.

**Planning Board  
Report given**

The application for Healy's Art School was set for public hearing on November 19, 2013.

Mr. Michael Weeks, of McGoey, Hauser, and Edsall Engineering Consultants gave a presentation on and had a discussion about the new SEQR forms.

**Code  
Enforcement's  
Report given**

Mr. Kidney stated that he will email the information concerning the requirements for submitting a SEQR form to Mr. Fink.

Mr. Simmons asked for an update on Rite-Aid. Mr. Kidney briefly spoke about unexpected buried debris that was found on site and had to be removed and results of soil bearing tests that the company is addressing. He noted that the building permit was issued October 21, 2013 and anticipates construction to be complete on the Rite-Aid building approximately April 2014.

There is a new store at 190 Pike Street named Metro PCS. This will be a cellular telephone store and is part of a franchise with an additional location in Middletown.

**Council Liaison  
report given**

No report was given.

**Adjournment**

**Motion by Mr. VanKleeck, seconded by Mr. Miller, to adjourn the meeting at 7:35 p.m.**

**AYE: 5 ABSENT: 2 (BARTH, SEXTON) ABSTAIN: 0 NAY: 0  
CARRIED**

*The next meeting is tentatively scheduled for Tuesday, December 3, 2013 at 7:00 p.m.*

*Respectfully submitted,  
Robyn Hendershot  
Secretary*