

**Village of Cold Spring Zoning Board of Appeals
85 Main Street, Cold Spring New York 10516**

**Public Hearing
1.7.2021**

The Village of Cold Spring Zoning Board of Appeals held a public hearing via video conference pursuant to Executive Order 202.1 on January 7, 2021, at 7:30 pm. Attending were: Chair Eric Wirth and board members: Laura Bozzi, John Martin and Heath Salit. Village attorney John Furst was also in attendance.

WORKSHOP

29-31 Rock Street: request that the ZBA review the building inspector's decision to revoke a previously issued building permit and refer the project to the HDRB. The workshop will consider the holding of a public hearing on the matter at a future meeting.

Applicant has asked to adjourn this matter as they navigate through the HDRB process.

PUBLIC HEARING

33 Market St. Application for an interpretation of the code that led the building inspector to issue the referral for a 6' fence in the B-1 district and for a variance if necessary.

Anthony Merando, appearing on behalf of applicant, summarized their position noting that:

- The HDRB has issued a Certificate of Appropriateness
- The code doesn't contain a fence height limitation in the B-1 district
- Fence is 70' from the public right-of-way
- Fence is 50' long
- Owner has no intention to extend the fence further
- There are similar fences in the B-1 district in the Village; however, the record doesn't show any instances of similar variances requested in the past

Board Comment

Board members commented on applicant's presentation, noting that the exposed rock ledge along the property line precludes plantings.

Public Comment

None

J. Martin made a motion to close the public hearing. H. Salit seconded and the motion passed unanimously.

Board Discussion

The ZBA discussed applicant's request for an interpretation of the code requirements regarding 6' fences in the B-1 district. It was noted that:

- The ZBA decision on this matter will be binding for the future (unlike variances which are considered on a case-by-case basis)
- Code must be viewed holistically rather than parsing selected sections
- ZBA should issue a narrow interpretation, covering only the issue raised by the applicant

E. Wirth made a motion to support the building inspector's referral to the ZBA for a variance to erect a 6' fence in the B-1 district. J. Martin seconded and the motion passed unanimously.

33 Market St. Application for an area variance to construct a 6' fence in the B-1 district

During the discussion it was noted that:

- The near invisibility of the fence from the public way is a favorable aspect in consideration of the application
- The inability for plantings, in lieu of a fence, due to the rocky terrain is a favorable aspect in consideration of the application
- The fact that the fence will be a vented design and painted to blend in, in accordance with the approval that the HDRB has granted, is a favorable aspect in consideration of the application
- The large sizes of the two lots bordering the proposed fence are another unusual factor in favor of the application

The ZBA discussed the five area variance criteria.

E. Wirth made a motion to grant the variance subject to the following two conditions: (1) the fence will in perpetuity be stained or painted a grey or earth tone similar to the color shown in the photos in the application, and (2) if the fence is rebuilt, it will retain the same design shown in the application. L. Bozzi seconded and the motion passed unanimously.

MINUTES

H. Salit made a motion to adopt the 12-17-2020 minutes as submitted. L. Bozzi seconded and the motion passed unanimously.

ADJOURNMENT

E. Wirth made a motion to adjourn. H. Salit seconded and the motion passed unanimously at 9:02 pm.

Submitted by M. Mell



Eric Wirth, Zoning Board of Appeals Chair
Dated: January 21, 2021