

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

1.21.2021

The Village of Cold Spring Zoning Board of Appeals met via video conference pursuant to Executive Order 202.1 on January 21 at 7:30 pm. Attending were chair Eric Wirth and board members Laura Bozzi, John Martin and Heath Salit.

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

The Board discussed draft resolutions 01-2021 and 02-2021 recording the decisions made at the previous meeting.

Resolution 01-2021

IN THE MATTER OF THE APPLICATION OF Richard Krupp, 33 Market Street, for construction of a six-foot fence:

Whereas Richard Krupp is the owner of real property located at 33 Market Street, Cold Spring (B-1 zoning district), also identified as tax map parcel no. 48.12-1-46;

Whereas Richard Krupp applied to the Village of Cold Spring Building Department for a permit to construct a six-foot fence at 33 Market Street as shown on the Reed Hilderbrand Plan, dated June 18, 2020, page 4;

Whereas the Historic District Review Board, pursuant to chapter 64 of the Village of Cold Spring code, reviewed the proposal and approved the proposed fence on August 12, 2020, by issuing a Certificate of Appropriateness;

Whereas the Village of Cold Spring Code Enforcement Officer issued a referral (no. 2020-06-023) directing Richard Krupp to seek from the Zoning Board of Appeals (ZBA) a variance to §134-9.C(1) and §134-17.D(1) in the Village Zoning Code;

Whereas Richard Krupp has asked the ZBA for an interpretation overturning the Code Enforcement Officer's referral and finding that the fence-height restriction (of four (4) feet) in §134-17.D(1) does not apply to the B-1 district;

Whereas an interpretation is a Type II action under 6 NYCRR Part 617 and therefore requires no further review under the State Environmental Quality Review Act and no referral to the County Planning Department under GML §239-M;

Whereas the ZBA held a workshop (on Nov. 19, 2020) and a public hearing (on Dec. 3, 2020; Dec. 17, 2020; and Jan. 7, 2021) on the request by video conference pursuant to the Governor's Executive Orders and suspension of the New York State Open Meeting Laws during the COVID-19 pandemic;

Whereas the ZBA finds that §134-9.G(3) in the “Regulations for B-1 General Business District” (§134-9) includes a cross-reference incorporating “applicable requirements” of §134-17;

Whereas the ZBA finds that §134-17.D(1) includes a four (4) foot restriction on fence height that is applicable to the B-1 district, a district where business and residential uses are both permitted and where fences are routinely constructed; now, therefore, be it

RESOLVED, that §134-9.G(3) and §134-17.D(1), read together, justify the action of the Code Enforcement Officer in referring Richard Krupp’s permit application to the ZBA for a variance.

A motion to adopt Resolution 01-2021 was made by Laura Bozzi, seconded by John Martin, and approved unanimously by the ZBA members on January 21, 2021.

Resolution 02-2021

IN THE MATTER OF THE APPLICATION OF Richard Krupp, 33 Market Street, for construction of a six-foot fence:

Whereas Richard Krupp is the owner of real property located at 33 Market Street, Cold Spring (B-1 zoning district), also identified as tax map parcel no. 48.12-1-46;

Whereas §134-9.G(3) and §134-17.D(1) in the Village Zoning Code allow fences in side yards to be no higher than four (4) feet in the B-1 district;

Whereas Richard Krupp proposes to construct a fence six (6) feet high and fifty (50) feet long in a specific location in his side yard at 33 Market Street as shown on the Reed Hilderbrand Plan, dated June 18, 2020, page 4, and has applied to the Village of Cold Spring Zoning Board of Appeals (ZBA) for a variance for this purpose;

Whereas the proposal is a Type II action under 6 NYCRR Part 617 since it is an accessory to a residential use and therefore requires no further review under the State Environmental Quality Review Act;

Whereas the Historic District Review Board, pursuant to chapter 64 of the Village of Cold Spring code, reviewed the proposal and approved the proposed fence on August 12, 2020, by issuing a Certificate of Appropriateness;

Whereas the ZBA held a workshop (on Nov. 19, 2020) and a public hearing (on Dec. 3, 2020; Dec. 17, 2020; and Jan. 7, 2021) on the application by video conference pursuant to the Governor’s Executive Orders and suspension of the New York State Open Meeting Laws during the COVID-19 pandemic;

Whereas the ZBA finds that the proposed fence would create no significant undesirable change in the character of the neighborhood or detriment to nearby properties, because the fence would be nearly invisible from the public way since it would be set back approximately seventy (70) feet from Market Street and partially screened from the road by existing structures and vegetation; in addition, the

bordering neighbor at 25 Market Street supports the proposal, writing to the board that he welcomed the screening it would provide for both homes along only a portion of the shared property line;

Whereas the ZBA finds that the applicant cannot obtain the desired screening by any other feasible means, because the rocky terrain prohibits plantings and because the uneven topography would diminish the effect of a shorter fence;

Whereas the ZBA finds that the requested variance is substantial numerically (a 50% increase over the permitted maximum) but is not substantial in its practical effect, because the applicant has limited the length of the fence to the minimum extent necessary to provide screening and because the exceptionally large sizes of the two parcels bordering the fence (relative to the sizes of most lots in the village) prevent the “fortress” effect that a tall fence can create among small parcels and clustered homes;

Whereas the ZBA finds that the proposed fence would have no significant adverse effect on the physical or environmental conditions in the neighborhood, because any reductions in light, air flow, drainage, public views, etc., would be minimal;

Whereas the ZBA finds that the applicant’s difficulty was self-created, but this factor is not determinative by itself;

Whereas the ZBA received no comments from the public opposing the application;

Whereas the application was referred to the Putnam County Planning Department under New York GML §239-M, and the Planning Department responded that the project was not subject to the referral requirement; now, therefore be it

RESOLVED, that the ZBA, after balancing the five statutory factors, approves Richard Krupp’s application under two conditions: (1) that the fence shall in perpetuity be stained or painted a gray or earth-tone color similar to what appears in the photos submitted with the application as shown on the Reed Hilderbrand Plan, dated June 18, 2020, page 3, and (2) that if the fence is ever reconstructed, it shall be rebuilt with substantially the same design as the example depicted in the application materials.

A motion to adopt Resolution 02-2021 was made by John Martin, seconded by Heath Salit, and approved unanimously by the ZBA members on January 21, 2021.

212 Main Street. Workshop on an application to add a second story to an accessory building and consideration about whether to hold a public hearing. Tania Drinnon is the property owner.

Drinnon described the project, noting that:

- The garage is an 1800s structure in need of repair.
- Addition of a second floor will provide additional storage.

- Reuse of building materials (to repair the existing portion of the building) is desirable wherever possible.
- HDRB has deferred consideration until ZBA acts.

Board Discussion

During the Board's discussion it was noted that:

- Prior to the public hearing, the drawings should clarify the extent of the reconstruction and new construction.
- Applicant's architect should attend the public hearing.
- Should an existing, non-conforming building being partially rebuilt inherit any grandfathered exemptions? ZBA will seek advice of counsel on this matter.
- Will the increased height require a variance due to the change in bulk? Possibility of other necessary variances will need to be evaluated.
- Additional properties were added to the list of neighbors to be notified of the public hearing.
- Additional drawings, not currently submitted, must be submitted for public and ZBA review in advance of the public hearing.

E. Wirth made a motion to hold a public hearing on the application on 2-4-2021. L. Bozzi seconded. and the motion passed unanimously

MINUTES

J. Martin made a motion to adopt the 1-7-2021 minutes as amended. L. Bozzi seconded, and the motion passed unanimously.

ADJOURNMENT

J. Martin made a motion to adjourn. E. Wirth seconded, and the motion passed unanimously at 8:54 pm.

Submitted by M. Mell



Eric Wirth, Zoning Board of Appeals Chair
Dated: February 4, 2021