

**Zoning Board of Appeals
Meeting Minutes
One Court Plaza
May 23, 2022**

Present: J. Wright, B. Natoli, A. Coates, C. Birch, Jr., K. Kucinski, M. Hepfer

Staff: A. Donnison

I. Call to Order

Chairperson J. Wright called the meeting to order at 7:00 PM. Chairperson J. Wright stated that the Zoning Board of Appeals is made up of volunteer members. In order to approve a request, 4 yes votes are required. (If the County 239 committee denies the request, the ZBA must have a majority plus 1, or 5 votes in order to approve.) The ZBA has up to 62 days to make a decision. All evidence must be presented during the hearing, don't assume the board knows anything. The ZBA does not write, nor can it change the Zoning or Sign Ordinance. The Common Council has the authority to change the Zoning and Sign Ordinance. In the granting or denying of variances and special permits, the ZBA must substantiate the reasons for such granting or denial. A decision by the ZBA may be appealed to the court by filing an Article 78 appeal. There is 1 case before the Zoning Board this evening: an Area Variance request.

II. Public Hearing: A. DeMun – 1 Hillview Drive.

The public hearing was opened at 7:05 PM. The following exhibits were entered into evidence:

1. Application from A. DeMun dated 4/8/22
2. Community Development report dated 5/16/22
3. Photographs of property
4. Copy of tax map of property - current
5. No phone calls received in opposition or support.
6. No letters received in opposition or support.
7. Public Hearing Notice (mailed by the City to all property owners within 500 feet of the applicant).

A. Donnison read the Community Development report and noted that there had been no phone calls or letters received in opposition nor in support to the

proposal.

A. DeMun noted that he had cut a tree down and then many of the limbs ended up being frozen to the yard and he was aware that there were complaints from some in the neighborhood that the look of this was ruining the neighborhood. A. DeMun also stated that he plans to install a pool in the backyard which will take up additional space and that the pool requires a minimum fence height of 4 feet so he is asking now for a variance to allow a 6 foot high fence, which is permitted by right up to the building line, but wishes to extend it approximately 24 inches in front of the building line so that he can keep a consistent height and also so his dogs and kids can play in whole yard without fear of the dogs jumping over a lower fence. There will be a jog in the fence so that this extended height will not connect to the house which is to leave room for utilities to be read. There is a drawing provided that shows this jog in the fence. B. Natoli asked why he wanted to fence in so much of the yard. A. DeMun stated he wanted to maximize the use of his property, and the fence would go up to an existing guidewire on the front east side line. He does not plan to enclose the guidewire into his yard space as it would create a trip hazard. A. DeMun stated other properties have 6-foot-high fences that run along the sidewalk such as you can see on Columbia Street.

A. Coates asked where the fence would start and why does he need that additional yard area fenced. A. DeMun stated that the current fence is in poor condition and the side yard being discussed has shade where the backyard does not. It would start behind the utility boxes on the east side of his house and would jog out around them and then moved forward to 24 inches in front of the building line and then go east to the property side lot line then to the rear of the property and will be connected to the existing stockade style fence already there. A. DeMun stated he is asking for these 2 extra feet to help keep his children safe as he was formerly US Military and understands the dangers out there to kids. A. DeMun also stated that he will install a gate in this fence area so that he can put his 12-foot trailer inside of the fence, so it is protected and not out front.

K. Kucinski asks why will 3 feet not work? A. DeMun stated a pool per code requires 4-foot-high fencing. A. Coates noted that this is a nice neighborhood and most don't have fences. K. Kucinski then asks why ask for 6 feet in height when 4 feet will serve the pool code requirements? A. DeMun again states it is for the containment of his dogs and to provide a safer play area for his children.

A. Coates inquired about the fence height at the rear and western side lot line. A. DeMun stated they are all 6 feet in height and were installed by the former owner, Steve Alger. C. Birch noted that visually a 2-foot drop in height at this location will likely be an eyesore and it is still easy to climb over a 4-foot-high fence. A 6-foot-high fence is common for a pool. A concern is for utility access – would NYSEG be allowed to have a key to the locked gate if a jog is not constructed. A. DeMun stated he plans on installing 3 locks on the gate and there will be no access without permission, nor any keys handed out to utility personnel.

A. Coates stated he is not in love with the idea. A. DeMun stated he will install motion lights around the area if that would help. A. Coates stated he felt it was more aesthetics in general than lighting. J. Wright noted that she can understand the additional protection for children with the increased traffic in the area after the hospital had completed the large expansion project and that now nearly all employees have to access the parking area from across the street from Mr. DeMun's home. A. DeMun stated that in addition to the increased hospital traffic there is also the helipad at the hospital and the teachers going to and from the school. A. Coates stated he doesn't see the helipad being used much. M. Hepfer stated that he understands the difficulty with corner lots but feels that by enclosing it all it will be turning it into a fortress, and it was purchased knowing it was a corner lot. A. Donnison reminded the board that Mr. DeMun can by right install a 6-foot-high stockade fence from the rear existing stockade fence all the way up to being flush with the building line and then can run it from there to the building itself. The request is to allow him to run the fence on the eastern side lot line an additional 2 feet forward of the building line and then create a jog for utilities. This request in no way impedes the visibility from cars pulling up to this intersection as is would still be 28 feet from the street to the fence. A. DeMun stated he will call Dig Safe before starting any digging project.

Chairman A. Coates asked if anyone present had any further questions or comments. There were none. The public hearing was closed at 7:40 pm.

III. Findings & Determinations for A. DeMun re: 1 Hillview Drive

- Applicant purchased the property in June 2021.
- This parcel is in a R-1 zone
- Maximum allowable fence height in front of a building line is 3 feet 6 inches.
- No opposition nor support to the proposal was received.
- Surrounding neighborhood is a combination of business and residential as it is on an adjacent corner where several businesses are located.
- An undesirable change to the neighborhood could be created, and could be a detriment or change the character of the neighborhood.
- The variance is not determined to be substantial.
- The proposal will not have an adverse effect on the environmental conditions in the neighborhood.
- The hardship was self-created.

Discussion followed with K. Kucinski noting that condition "C." is that in the granting of any variance the board of appeals shall grant the minimum that is shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health safety and welfare of the community.

K. Kucinski stated that a maximum height of 4 feet would allow a pool to be installed. A. Coates agreed but thought that the other side of that is aesthetics by keeping it uniform and all one height. A. Coates stated his opinion is to keep it all one height – he isn't in love with the idea but prefers the look of one consistent height. B. Natoli agrees that 2 heights would look off. A. Donnison asked what style of fencing and material for same would be used. A. DeMun stated it would be stockade style and all wood.

Motion made by C. Birch, Jr., to approve the request with the condition that the height of the fencing matches and is uniform all around the entire property in both material and style. Seconded by J. Wright. Ayes All.

Motion Approved: 6 ayes; 0 nay.

Ayes – J. Wright, B. Natoli, C. Birch, Jr., A. Coates, K. Kucinski, M. Hepfer

IV Adjournment:

There being no further discussion, the meeting was adjourned at 8:15 pm on a motion made by A. Coates. Seconded by B. Natoli. Ayes All. Carried.