

**ZONING BOARD OF APPEALS
TOWN OF CHESTER
1786 Kings Hwy
Chester, New York 10918
May 18, 2023**

Members present: GREGG FEIGELSON, Chairman
TOM ATKIN, Member
JULIE BELL, Member
DAN DOELLINGER, Member
GIUSEPPE CASSARA, Alternate Member

Members absent: WALTER POPPAILO, Member

Also present: MELISSA FOOTE, Secretary
ROBERT DICKOVER, Counsel

CHAIRMAN FEIGELSON called the meeting to order at 7:02pm and opened with the Pledge of Allegiance

CHAIRMAN FEIGELSON: We have one item on the agenda this evening it's a continuation of the 38 Ayr Road Fence Variance. It wasn't particularly complicated. In short, the applicant bought a house with a fence that was not conforming to the code, half a foot to a foot too high in some places and has applied to the board for a variance so, we can take a moment now to ask if there are any further questions about this. Anything that occurred to you between the last meeting and now. I'm not seeing any concerns or questions. So tonight, the intent is to open the public hearing, but before we do, I don't believe we did a SEQR determination at the last meeting. We did address SEQR but we didn't have the minutes to refer to.

There was a 239-referral required for this because it was in 500ft feet of a state park and we promptly got a response from the County Planning Department, that was received on April 21st, 2023. They came back with a local determination. The County Park was also notified as part of the mailing list. So, in order to open the public hearing, we need to confirm that all of the mailings have gone out appropriately, and that the publication in the Times Herald Record was also carried out in a timely fashion.

Secretary FOOTE: Yes, everything was carried out.

CHAIRMAN FEIGELSON: Does someone want to make a motion to open the public hearing.

Motion to open the Public Hearing by: **Member BELL**

Second by: **Member POPPAILO**

Roll Call

Chairman FEIGELSON: Yes

Member ATKIN: Yes

Member BELL: Yes

Member DOELLINGER: Yes

Member POPPAILO: YES, who's voting but I guess uh I guess just

Chairman FEIGELSON: The public hearing is officially open. Looking around the room I do not see anybody here to speak for or against the application. Is there anybody online?

Michelle DRESCHLER: No.

Chairman FEIGELSON: Did we receive any Communications on this application by mail or any other means?

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Secretary FOOTE: No

Chairman FEIGELSON: All right, there's nobody here to speak for or against the application, so I will I will declare the public hearing officially closed. Before we can make a decision, I would like to make one suggestion for the board to consider, is that maybe a condition, if it's acceptable to the applicant be put on potential granting of this variance and that is that if the fences are ever rebuilt anytime in the future that if they be built to code at the time. All right then it is time for the Five Questions:

Five Factor Review

#1 Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties would be created?

Member ATKIN: NO

Member DOELLINGER: I'm going to say no. That fences existing, it's been existing for a number of years so there's no change. That it's going to take place at this time.

Chairman FEIGELSON: No

Member BELL: No

Member POPAILO: No

#2 Whether the applicant can achieve his goals by reasonable alternative which does not involve the necessity of an area variance.

Member POPAILO: Yes, he could.

Member ATKIN: No

Member DOELLINGER: Yes, he could remove the fence and not require a variance and adjust it to the right height.

Chairman FEIGELSON: Yes

Member BELL: Yes

3 Whether the variance is substantial

Member POPAILO: No

Member ATKIN: No

Member DOELLINGER: No, again it's an existing fence

Chairman FEIGELSON: No

Member BELL: No

4 Whether the variance will have an adverse impact on physical or environmental conditions in the neighborhood or district.

Member POPAILO: No

Chairman FEIGELSON: No

Member ATKIN: No

Member DOELLINGER: No

Member BELL: No

#5 Whether there has been any self-created difficulty

Member POPAILO: No

Member ATKIN: No

Member DOELLINGER: Yes, because the applicant was aware that the fence was out of compliance when he

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purchased the property

Member BELL: Yes

Chairman FEIGELSON: Yes

Chairman FEIGELSON: We have fulfilled our obligation and addressed the five questions so this leaves us then to make a motion. I would recommend that we make a motion to Grant the variance with the condition that I mentioned earlier which is that if the fence is ever reconstructed, rebuilt in the future then it be brought to code. Would someone like to make the motion to Grant the variance.

Motion to Grant by: **Member BELL**

Second by: **Chairman FEIGELSON**

Roll Call

Member POPAILO: Yes

Member DOELLINGER: Yes

Member ATKIN: Yes

Member BELL: Yes

Chairman FEIGELSON: Yes

Chairman FEIGELSON: The Variance is granted. Council has drafted the Decision to be signed. Is there any other business?

Board: No

Motion to adjourn the meeting by Member POPPAILO at 7:12PM

Second by: Chairman FEIGELSON

Roll Call

Member DOELLINGER: Yes

Member ATKIN: Yes

Member BELL: Yes

Member POPPAILO:

Chairman FEIGELSON: Yes