

ZONING BOARD OF APPEALS
Town of Lewiston 1375 Ridge Road
Lewiston, New York 14092
Thursday – October 13, 2022

Present: Conti, Heuck, Machelor, Maggard, Roemer

Presiding: Norman Machelor, Chairman

Pledge of Allegiance

A motion to approve the minutes of September 2022, was made by Heuck, seconded by Conti and carried.

Machelor: If you have not attended a Zoning Board of Appeals meeting before, the task of the Board is to deny or grant requests to vary the Town of Lewiston Code, hence a variance request to allow or disallow a project brought to us because it cannot be built or performed as presented without a hearing to determine whether upon presentation of the details of the request the Board will grant a variance to continue the project or denial to prohibit a project as presented.

Machelor: I am going to open a Public Hearing on Mr. Kuun application. Why don't you tell us what you want to do and how you want to do it and why you have to get a variance.

Mr. Kuun: Sure, the building I own the 5.4 acres on Upper Mt. and Moyer ½ acre almost an acre there. We are building kind of a guest house on the one side and the house on the right side it's in process right now.

Conti: Which lot?

Kunn: Both lots

Conti: ok

Kuun: With the project going we have a lot of equipment down there. At first when I started a year ago, I had put a chain up there and no trespassing and I still had people come up on the property because I had the road put in and you know people are nosy and there's a liability. When people come on the property ect. And earlier this year we started to renew the permits and started with foundations and putting things in place and obviously with the construction the chains went array so I got a hold of gates and put gates up. Just because being that I am a firefighter and busy with a chain saw there and guy taps me on the shoulder and I have a headset on with a helmet and you can't have people come on the property while you're working there. Just asking if you're selling a container or and that's why I put the gates up.

ZB 2022-10A

Now what I didn't know is that number 1 I needed a permit which when the town co enforcers called/ emailed me I came down and paid my permit. The second thing I applied for the permit for the fence and for the front and side of the property. The reason is number 1 I thought was it was a big project so if you pass it you will see what I mean. The vision and the reusable containers that we will build the home with. For prostatic I went with high gate because of the driveways and the scope of the project. Safety is another factor my wife's there and I wanted thing to be safe and I know there's a lot of police presence and a lot of fire and ambulance present because I am on the fire department there as well. So, I don't foresee any problems but you know like I said people always come up when I'm working inside the property and they drive in or walk in and it's just that I ask them the person that's there "What are you doing here?" there like well are you selling something I am like no its private property there's a sign there. It's basically why I put the gates up before.

Conti: How tall is it?

Kuun: 5 ½ at the low end 6 to the top

Conti: 6 foot? Cause it says 7.6 ft

Kuun: It is 7.6 one the top on the big one on Moyer Road the one on the left is smaller

Heuck/Conti: They're both on Moyer?

Kuun: One is Upper Mountain address

Conti: Well right but there both on Moyer south

Kuun: Yes

Member: They're are not on the Upper Mountain

Kuun: Right, one is an Upper Mountain address

Conti: One property all together

Kuun: Its two properties

Conti: two tax

Kuun: yes

Conti: where you want to put it is on the R1 piece

ZB 2022-10B

Kunn: they are on Both

Members: They are on both pieces

Kuun: those are the photos

Maggard: I do have to say they are beautiful they really are nice

Machelor: The point is I am hearing what you're saying and a lot of what I hear about what your saying is anyone could say about a fence or gate however the rules call for lower gates in the front and lower fences in the front and it's were not trying to say to people you can't climb a 4' fence to go onto someone's property you can if you want to

Kuun: Sure sure

Machelor: it's the same as this a 4-foot gate would provide the same level as security as a 7 foot

Kuun: I think a 7 foot would deter you

Machelor: Well, I know not if you didn't want to be deterred your reason for doing that one not knowing the code but now, we are faced with you have considerable expenses for doing this

Kunn: Yes sir

Machelor: and you know we always have the same problem on the zoning board because we can't say is ok for Mr. Kuun but it's not ok for Mr. Brown who wants to do the same thing down the street

Kuun: Well, you know as coming here as a new owner in the area I have obviously I have looked at the area and said this is nice, nice houses on several properties in the Town of Lewiston right. One of our colleagues lives on Mt View, so several of the house on Mt. View has the same gates as I have exactly the same. Height wise 6 foot plus, see though fences 6 foot plus and not that I assume anything but when you look as stuff aesthetically. Well, those guys I literally passed by there today again, and there are at least 5 people with a fence and gate that's the same height

Conti: a lot of those homes we built before the codes we put into effect

Maggard: yeah, like grandfathered in

Kunn: I want to follow the law and code with what's here but also do what's right for the Town

Machelor: Ok questions from the board

Conti: you were talking about matching the gate are you putting a fence up as well

Kuun: I'm going to put a fence up on the front part of it and side

Conti: and that's going to be a 4-foot fence in the front

Kuun: to match its

Conti: No, the code is 4-foot

Kuun: we will probably do something like that

Maggard: In the front

Conti: when you go back how

Sandy: from the front of the house back you can go 6 feet

Conti: From the front of the actual house

Kuun: So, then where there's a residence there so there's probably like a privacy fence Between the two properties on Moyer.

Conti: Between your two properties

Kuun: Between the other house that's there

Conti: we are saying you can put a 4-foot fence up to the front of your house

Kuun: Ok

Conti: From the front of your back it can be a 6-foot fence

Kuun: Ok that's fine we will do that

Member: But that's not what you're asking for now

Kuun: I applied for a permit for the gates a variance for the gates and the fence the reason I didn't put the fence up was that I found I have to get a permit

ZB 2022-10D

Members: Good idea, Smart move

Maggard: Smart boy hahahaha

Conti: where the fence is you probably going to have shrubbery and brush around it so

Kuun: Yeah, Yeah

Maggard: So that's why you put the fence on there as well as the gate

Kuun: Yes ma'am

Conti: Is it going to automated

Kuun: It's going to be

Conti: Alright

Machelor: It doesn't say that on the notice, just the gate doesn't talk about the side yard

Conti: It's in here

Maggard: says fence height

Conti: It's in here somewhere I saw it

Kuun: between the one house there we will do a 6-foot fence there

Conti: you have to follow code

Sandy: Talk to Tim

Machelor: the guy that put this should have known the rules too

Kuun: Right

Machelor: you should have said wait a minute but you didn't. Probably expensive it's a nice looking

Maggard: It is very, very nice

Roemer: and it's see though

Member: Safety wise

Machelor: you're not going to produce undesirable change in the neighborhood character

Member: Not at all

Machelor: doesn't have physical or environmental effects. It is self- created

Maggard: So, you just assume something just from seeing Mt. View

Kuun: I have been in the area for a long time looking at properties and I kind of see the houses there and looked at that area first and then decided we were going to build. Obviously, the lot was available.

Machelor: Well, let's move on then and say "Thank you" is there anyone else this is an open public hearing so is there anyone else that wants to speak today

Anthony: had you explored any alternatives to putting up the 7-foot fence I know you had stated that you hadn't know there was a limitation considered any smaller size fences or anything that was in code?

Kuun: I will comply with whatever you guys say with the code fencing and so forth just for privacy perspective I know just with the town where we live. I have a 6-foot fence it's because the houses are right next to each other the property line is right on the driveway of the person that owned that property before. The house is kind of a mess they are fixing it up now, just from an investment perspective I look at things. Fences just make good neighbors 4-foot you can see over but if it's a wooden fence you can see though the top part of it but the lower part more privacy. The front will be what the code is.

Machelor: we will close the public hearing and ask the board if there are any more questions

Conti: Motion- based on the board's discussion and the following considerations that we approve the two gates that are already installed but the fences must meet town zoning codes.

ZBA- determines that the benefit of the variance that the applicant outweighs detriment to health safety and welfare of the community. The variance request is a minimum and the variance be granted. With those conditions.

Member: Second

Machelor: any further discussion none I will close the question
All those in favor say Aye

Members: Aye
Machelor: Opposed?

Joe Conti- Aye
Gary Heuck – Aye
Norman Machelor- Aye
Pat Roemer- Aye
Marge Maggard- Aye

Machelor- Good Luck
Kuun: Thank you
Maggard: Good Luck with everything

Building Department Clerk


Lisa Wisnieski

Chairman


Norman Machelor

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Public Hearing will be held by the Zoning Board of Appeals of the Town of Lewiston on October 13, 2022, at 6:30 P.M. in the Town Hall, 1375 Ridge Road, Lewiston, New York to act on the following applications:

Thomas Kuun, 830 Moyer, 118.05-1-26/ 826 Upper Mountain Road, 118.05-1-27, requests a variance from section 360-194 (2) fencing and walls, from the required 4ft to 7.6ft for a gate in the front yard. The property is presently zone R/1, one family residential.

Information concerning these requests are on file and available for inspection during normal business hours at the above-named office. All citizens and persons of interest will be given an opportunity to be heard.

Norman Machelor
Zoning Chairman
N#308734

10/8/2022