

Town of Stuyvesant
Zoning Board of Appeals Meeting
October 28, 2025

Members in Attendance:

M. Pino, Chair
K. Handy
A. Abbati arrival 7:04pm
S. Taylor
C. Sweningsen
S. Montie
R. Samuels
T. Rappleyea, Town Attorney

Applicants/Residents in attendance:

C. Waits

Members not in Attendance

Chairwoman M. Pino opens with the roll call, the Pledge of Allegiance and calls the meeting to order.

Call to Order: 7:00 pm

M. Pino reads the new business as a proposal to install a fence along the property line in line with an existing garage on property located at 12 Clow Lane, Stuyvesant, New York, tax map parcel 52.1-1-36. She calls on C. Waits.

C. Waits introduces himself, refers to the survey maps and photos provided and explains the project stating the garage was built on the property line and the fence would just stay in keeping with that versus two feet off and coming out of the back of the garage. He voices that the neighbor is fine with it. He refers back to the photos and states that the neighbor's yard and the property line, he has a shed, he has a fence, and then there's about 12 feet of dead space between his fence and the actual property line, so he feels there would be no impact to his space or to the look or feel of his neighbor's yard, so it just very much seems like an intuitive place to put the fence.

M. Pino responds for a fence over four feet there is a two-foot setback, and the reason for the law is for maintenance of the fence. She notes, people may be wanting to put a fence up on their property because there's a warring faction with the neighbor making it hard to maintain the other side of the fence. She observes he has stated in all his paperwork that the desire is to put up a hemlock fence and stain it, if it's wood and it needs to be stained, it's going to need to be maintained. She adds she knows the applicant stated in his paperwork as well as tonight that the neighbor has no objection, but that neighbor has no objection, but if they move and sell to someone else, and it comes time to stain the fence, that person might say to get off their property, then the applicant is stuck with a fence that

needs maintenance and not be allowed to maintain it, to stain it. She voices that's probably one of the major reasons for a setback requirement, and in all the years she's been on this board they have never allowed a fence to be put on the boundary line.

C. Waits asks if he can change his plan to only staining one side of the fence, if that would make a difference.

M. Pino observes it is still a wooden fence, and would require maintenance in some way, shape, or form, as even pressure-treated lumber will deteriorate over a period of time

M. Pino asks how long the hot tub has been there.

C. Waits answers about a year.

M. Pino states she was asking to determine if it was already there when the house was purchased, because it might have been advantageous to have moved it a little farther over so that the fence could have been moved in and asks what is the objection to putting it one foot in from the back corner of the garage if the Board agreed to a variance of one foot, since the homeowner would be the only one to see it on the backside of the garage.

C. Waits answers from their perspective, the fence not being in line with the garage is what's really throwing them off as it just looks really weird to them.

M. Pino observes that when the garage was erected it most likely predates zoning laws which came into effect in 1972, and that lawfully, the homeowner can still maintain the garage because that's something that they did not create. She asks the applicant if he has considered fencing that does not need maintenance, i.e. PVC that does not require painting or staining.

C. Waits states he is open to consider whatever.

M. Pino suggests shrubbery, as there is no zoning law in this town that says they can't put shrubbery on the boundary line. She continues, there are some types of shrubbery, arborvitae, cedar trees that grow rapidly, she understands their goal is to have privacy and would he consider putting some type of fencing around the immediate hot tub if that is what they're trying to have privacy for.

C. Waits refers to the hot tub on the survey, and explains there's a space there where they're going to put table, and a fire pit to sit around to roast marshmallows, that kind of stuff, so they want the privacy for that whole section between the back of the garage, the side of the house, porch, and then the other corner would be an entertaining area.

C. Sweningsen observes he doesn't recall any time that they've ever given a variance because something would look weird from somebody's point of view.

S. Taylor asks to explore this for just a minute, as he is very familiar with the property and adds he was shocked because he told his wife before he left they're probably doing it because they want to make sure they have space for the hot tub, he didn't know anything about the aesthetics of it, and states he guesses the question is he just wants to know is, when the applicant has a builder, when the applicant has the person getting a building permit for all that, don't they tell them if you're going to put a fence up, you've got to have a variance, you've got to have a setback?

C. Waits confirms they said somewhere, it was in the configuration of the yards, it would probably be a straightforward variance because it made a lot of sense.

S. Taylor, M. Pino and C. Waits discuss the process further.

S. Taylor voices his thought that it's odd that a builder or somebody would convey this whole idea that they know so much about it that they could just say, no problem, they are going to get a variance.

S. Montie observes from his perspective the hot tub really is irrelevant in that they just want some privacy in their backyard.

M. Pino voices she sees what S. Taylor is talking about, though if the hot tub had been moved a little further over, they'd still want privacy however it wouldn't take granting a variance of one foot in order to maintain the fence.

C. Waits voices from an aesthetic standpoint, he would likely not put a fence in without the variance because of the way it would come off the back of the garage; if not off the corner, it would just look wrong to them which is why they are seeking the variance.

S. Montie understands the idea of wanting to keep everything in a straight line, and he is getting the whole gist of the thing, that if the garage was a foot off the boundary line the homeowner would still want to put the fence in line with the garage, that it's not the hot tub that's driving it, and as the chairman mentioned about shrubbery, his neighbor put in the hedgerow about a foot off the boundary line, and once they grow out full, there's going to be a lot of privacy in it, and he is welcome to stop by his house to take a look at them as an option to think about.

M. Pino, C. Waits and S. Montie discuss further.

R. Samuels makes a couple of points about the fence and the survey, that this survey is dated a year ago now and she doesn't know if it was surveyed before, how they get a garage on the property line, probably there was no survey at the time, which happens. She continues, at the far end, from where they'd like the fence, it's a tenth of a foot off the property line at the end where you want to begin the fence, that's more than six inches apart, so the line, if it's followed, doesn't follow the property line, instead it goes at an angle away from the property line and by the time you get to 48 feet, it's no longer at six inches away, it's further away and angling away from the line.

C. Waits refers to the photos and answers, there's a natural line where some plants and other stuff are, and the idea was to just follow that line off the corner of the garage, go down that line. He adds the boundaries on the tax plat are relevant to the point of this conversation in the sense of if it's on the line or near the line, then there's a need for the variance, but the plan wasn't to follow the line on the survey, the plan was to follow the line on the ground.

M. Pino points out there is no deed in the application, but that a deed usually gives the property dimensions.

T. Rappleyea advises it depends on how old the description is, if it's something that's more modern, where there's been a survey, then yes, it'll have that meets and bound, but if it's older it might be something that's not quite so exact.

M. Pino asks if C. Waits knows how recent your deed is and if he had a survey when he purchased the home.

C. Waits responds he did not have the survey when purchased, but had the survey done when discussing the plans.

S. Taylor asks how high the fence is.

C. Waits responds 6 foot.

S. Taylor exclaims he gets it about the maintenance, but it doesn't happen too often and refers to the church down on Church Street that's on the property line, that Mario owns the land, and he gets along with John and they work it out.

M. Pino responds that she doesn't know if that is on the property line because that is not something that came before this board, so she is assuming that they were granted a permit for that because they met the setback requirement, that she does not know for certain and so cannot speak on that.

S. Taylor voices that the church that was built, the old Methodist church was built on, they never had any land, or they may have sold it at some point, but they get along and states he guesses he is asking the question, if the board were to grant the variance and put it right on the line, and things are go for now, are they just creating a situation for 30 or 40 years from now, and would anybody really be that upset?

S. Montie observes they would be setting a precedent.

M. Pino explains the reason and the situation with neighbors again and granting that variance would mean they don't have a setback requirement.

C. Sweningsen voices he feels the same way, unless there's a really substantive reason and they've granted variances when there were substantive reasons, but he doesn't see a substantive reason here.

M. Pino conveys that she truly believes they can work with C. Waits and give him other options, like shrubbery can go on the boundary line and doesn't need a permit for that, but that the applicant are the people that are going to see if the fence is moved in on the back of the garage and if that's not to their liking because it's not symmetrical, that's certainly their prerogative but she is very reluctant to grant a variance to put something on the boundary line because she feels that's asking the Board to ignore the fact that there are setback requirements and setbacks were instituted in the zoning for just the reason she explained, for maintenance purposes. She continues, the neighbors now get along, but she has seen situations over the many years where it started out very amicable and it ended up being a different situation. She asks the other board members how they feel about it.

T. Rappleyea advises the Board to go through their five balancing standards.

M. Pino reads the questions, the first being whether the benefit can be achieved by other means feasible to the applicant. She states she did give another means and there may be more solutions than what she stated.

M. Pino reads the second, undesirable change in the neighborhood character or to nearby properties. She states she doesn't think it would be undesirable since the neighbors don't seem concerned, but that's this neighbor, not future neighbors.

A. Abbati points out a new neighbor would be buying the property with the fence already on the property line, that they already know when they purchase.

M. Pino observes that the new neighbor might not let him on the other side of his fence to maintain it.

C. Sweningsen voices that is a preexisting condition and that is an entirely different situation.

C. Waits echoes that the board is saying It's a different situation for the current neighbor, not for the future neighbor, that the future neighbor would be a preexisting condition.

M. Pino voices she feels the request is substantial to ask the board to throw out setbacks and just put the fence on the boundary line, and reiterates that she only one person on the board

M. Pino continues with the next standard. She reads, whether the request will have adverse physical or environmental effects, and whether the alleged difficulty is self-created.

M. Pino expresses it is kind of self-created if the board can give other options that would enable the applicant to have their privacy but not ask the board to ignore setback requirements.

M. Pino, A. Abbati discuss further.

C. Sweningsen voices his thought that there is no substantive reason for the fence to be continuing the line of the garage, and it's not a reason for denying or not denying, but the fact that it might look different to some individual is not the substantive kind of reason that the board gives variances for.

M. Pino adds that was why she had asked if it was just for the privacy of the hot tub, which would be way in from the boundary line.

S. Taylor points out that then you wouldn't even notice the difference with it being off from the garage, adding in other words, the further the fence is from the garage, you don't see how close to the corner it is.

C. Waits observes this is a good point and adds that the bigger the gap, the less visual impact it has.

S. Taylor continues that he wants to make sure the applicant has privacy around use the use of the hot tub and feels like that could be achieved by making it go off a little bit more from the garage.

S. Montie asks how wide the garage is.

C. Waits explains it is a small one car garage.

S. Montie asks with the fence coming even with the garage, is that more for when they're sitting out back looking at it, so it's straight, or is it more for what somebody else may see?

C. Waits explains it is to follow the natural line that one would instinctively think to see a fence, it follows that line.

C. Sweningsen points out that it would be from the outside, because on the inside it would not be seen.

S. Montie observes, the applicant would know it, he's somewhat familiar with the property, but if he's looking at the garage from the front, if the fence was in a little bit and it didn't line up, it looks like there's already a bush at the corner of the garage so they might not even notice that and won't notice it from Clow Lane.

C. Waits, S. Montie, and M. Pino discuss the fence and the metal object on the line further.

R. Samuels tries to estimate the scaling and the distance from the property line is 48 feet, so it goes from a foot and a half to a half a foot off the line if you go to the corner.

T. Rappleyea asks the board procedurally if they want to have a public hearing, or if they waive it, they can make their decision tonight.

M. Pino echoes to the board if they want to have a public hearing or shall they just waive having a public hearing and vote and make a decision tonight.

R. Samuels asks if the neighbors were notified of the meeting tonight, as was just curious procedurally.

M. Pino answers they would have to be notified by certified return receipt mail if the board conducts a public hearing.

R. Samuels voices that if the board is disinclined to grant it, then they could hear from neighbors coming to support it.

S. Montie suggests if the applicant left like a two foot gap between the beginning of the fence and the garage, that would allow access to the other side in case the neighbor down the road is not ok with it, at least they can still access the other side behind the garage, and always put a bush or something there. He adds it's not a continuous flow, but they'll have a little bit of a gap, and then, it would look like it was done that way on purpose, not because they had to.

C. Waits observes that it would help for access.

S. Taylor points out it might be helpful to have a little bit of a gap there.

C. Sweningsen asks how far the hot tub is from the property line.

C. Waits answers, it's about 4 feet off the line.

C. Waits, S. Montie, and M. Pino reference the drawing and discuss the gap and the setback requirements further.

S. Montie also suggests a lot line adjustment, and that he thought the applicant's property went to the chain link fence.

C. Waits states he thought that as well, and when they learned it didn't, they wanted to follow the law and sought the variance to make it look the way they wanted it to look. He continues, he feels from an impact of the neighborhood, the look and feel, they hit all those options and states from a self-inflicted point, he views it as not self-inflicted because he's trying to stay in line with the existing garage. He acknowledges that it is his choice to put it there, and that was why he was looking at it from that perspective. He continues, he understands there are alternatives, possibly shrubbery, but then he worries about the shrubbery imposing maintenance on the neighbor's side to take care of. He adds, he would want something substantial to provide that kind of separation, and he is already going to be over to maintain the side of the garage, so in that regard, he doesn't feel like it's that much of a difference as he is already mowing that side next to the garage, he would just mow and weed whack all the way down, as opposed to just to the end of the garage, so all of those things just fit in with the property very well. He continues, he recognizes the power of a precedent and recognizes what he's asking for, while it seems very straightforward to him in his situation, that they must consider more than his situation, and consider a broader picture.

He voices, he recognizes the role and the responsibility that the board has, and didn't know if by seeking the variance the board is explicitly saying this is a one-off and because of the unique circumstances in this case it's less impactful, it has less weight since it's a one-off issue, adding that's why he is asking for the variance but recognizes that the board will make the deliberation and decision.

S. Taylor asks for clarification, since the board just had a discussion and came up with possible solutions, do they want to go with that solution, or are they going back to asking for the variance?

C. Waits states he is asking for the variance, because that's his preferred option but if the board says no, then of course, he will go and will look at options to include shrubbery, or

building the fence in a different place, he will go back and re-examine their options, but his first choice would be to put the fence on the boundary line, as designed.

S. Taylor declares that if he was asked to vote tonight, right now, he would deny the variance because in fact there are the solutions, but if the board wants to go ahead and have hearings, God bless it, but he is ready to vote.

M. Pino refers to T. Rappleyea and asks if the sentiment from what the board discussed tonight, she sees no need for a public hearing because they've had a lot of public hearings where the board votes and it goes against what the public said, because the board are the ones that have to make the decision. She continues, while they do take into consideration what people think, if the board feels it's not going to fit the zoning law, and that's their job, to interpret the zoning law and follow it to the best of their ability. She adds she thinks the board has come up with some viable solutions, but assures C. Waits he is well within his right to say, he'd still like to ask for the variance, that the board can vote tonight, and if the vote is no, then he'll have to come back.

C. Waits states he'll go back and examine his options, since he assumes the reason for this process is to say that what he's asking for is against the zoning laws, and thus ask for a variance or an exception.

M. Pino reiterates her hope that for a lot of reasons they hopefully explained setting a precedent and asking to ignore the fact that there are setback requirements.

C. Waits affirms he wants to be clear that he is not asking anybody to ignore anything, that he recognizes that this is a variance to the law, that he is asking for an exception, and he understands that what the board is saying is, this isn't worthy of an exception. He continues, they may disagree on that, because he thinks it's a very small thing, but the board has much more experience in it, and so the board would say, in fact, it's not a small thing but requires a much greater need. He maintains he would defer to the authority of the board, would be disappointed in the decision if they say no, but will go on, will find and explore these other opportunities, but does want to ask for what he knows is an exception from what is the law.

R. Samuels observes that T. Rappleyea was going to say something before.

T. Rappleyea states he was going to say, the board can waive the public hearing as it's not a requirement under town law and it's not a requirement under state law so, if the board chooses to waive it, just simply do that but they have to have a rationale for it.

C. Waits asks to ask one more question, explaining how his property is currently split into 3 tax parcels and if he were to legally obtain property from his neighbor, if he got the extra two feet, then he won't need a variance, but he would then need to go through the process of merging the two-foot strip of land and the existing parcel.

T. Rappleyea explains what the applicant would do is get a survey; the survey would show that parcel A, the skinny strip, is coming to the applicant, so then on both the survey and the resultant's deed, it would merge them all together. He adds in that case, if he's going to do that, he may want to consider merging all of them and explains property taxes.

C. Waits and the board discuss further.

Motion: to waive the public hearing, made by C. Sweningsen; seconded by S. Montie;. All in favor.

The board discusses the option to waive the public hearing at length.

Motion: to deny the variance, made by C. Sweningsen; seconded by S. Montie;. All in favor.

Motion: to approve the minutes from the September meeting with corrections; made by S. Montie; seconded by R. Samuels. All in favor.

Motion: to adjourn made by S. Montie; seconded by R. Samuels. All in favor.

Adjournment: 7:49 pm

Respectfully submitted.

Patricia DeLong

Patricia DeLong
Zoning Board of Appeals Secretary