

PUBLIC HEARING
TOWN OF OSSINING ZONING BOARD OF APPEALS
Edwardo Mendez
25 Hawkes Avenue
SECTION 89.08 BLOCK 1 LOT 20

In person & Zoom Meeting

September 18, 2023

7:30 p.m.

PRESENT:	SALVATORE CARRERA	- Chairman
	DAVID KRIEGER	- Member
	DAVID O'NEIL	- Member
	TOM WILLS	- Member
	LYNN FARRELL	- Member
	BILL BOYD	- Alternate Member
ALSO PRESENT:	CHRISTIE ADDONA	- Town Attorney
	JON TURNQUIST	- Building Inspector
	SANDY ANELLI	- Recording Secretary
	MARGARET CONN	- Zoom Secretary

Sal Carrera, Chairman: Good evening, ladies and gentlemen, this is the September 18 2023 meeting of the Zoning Board of Appeals for the Town of Ossining. My name is Sal Carrera, Chairman, and joining me this evening are members of the Zoning Board of Appeals, Town Attorney, Building inspector and Secretary. Please introduce yourself.

Lynn Farrell: Lynn Farrell, Member.

David Krieger: David Krieger, Member.

David O'Neil: Dave O'Neil, Member.

Tom Wills: Tom Wills, Member.

Sandy Anelli: Sandy Anelli, Secretary.

Jon Turnquist: Jon Turnquist, Building Inspector.

Christie Addona: Christie Addona, Town Attorney.

Chairman: I'll read the public notice and ask the applicant or the applicant's representative to give a brief explanation of the relief sought. If anyone has a comment, here or on Zoom, you can raise your hand and state your name and address for the record. After comments are received, the Board will try to render a decision this evening:

Notice is hereby given that a Public Hearing of the Town of Ossining Zoning Board of Appeals will be held on **Monday, September 18, 2023** at 7:30 pm **in person and via Zoom Video Conferencing** on the application of Eduardo Mendez, 25 Hawkes Avenue, Ossining, NY in accordance with the Zoning Code of Town of Ossining, Chapter 200-25 Paragraph D. (1) Supplementary regulations applying to all residence districts, exceptions to yard requirements. The applicant is seeking variance to install pavers in the front yard that will project within 15 feet of the street line and 4 feet of the lot line. Members of the Public are able to attend in person, or join the meeting via computer or mobile app as follows:

<https://us02web.zoom.us/j/85255047766?pwd=MENGefDVTdlazmx3ZWtXU2RvQlFpUT09>

Passcode: 058916

Or One tap mobile:

+1-309-205-3325

Webinar ID: 852 5504 7766

Passcode: 058916

International numbers available: <https://us02web.zoom.us/j/kAKYyDyDx>

The property is located at 25 Hawkes Avenue in the unincorporated area of The Town of Ossining, NY, owned by Eduardo and Cindy Mendez, 25 Hawkes Avenue, Ossining, NY and is identified on the Tax Map of the Town of Ossining as Section 89.08 Block 1, Lot 20, in the R-10 One-Family Residence District.

Application materials and survey plan are on file at the Town of Ossining Building Department, 101 Route 9A, Ossining, NY 10562 and on our website at:

<https://www.townofossining.com/cms/publications/all-documents/zoning-board/zoning-board-projects/zproj-under-review>

All interested persons are invited to attend the Public Hearing and/or send comments by email to: www.bldgdept@townofossining.com or regular mail to Town of Ossining Zoning Board of Appeals, P.O. Box 1166, Ossining, NY 10562. BY ORDER OF THE ZONING BOARD OF APPEALS, Sal Carrera, Chairman, DATED: September 8, 2023

Chairman: If you could give a brief explanation of the application and we'll take questions from the Public and our Board Members. Okay, Mr. Mendez, if you just give us a little background and what your intent is with regard to these pavers in the small area in front of your home that's now currently a lawn.

Eduardo Mendez: The only way we were trying to use the pavers is for a turn around. When we are trying to get out of the driveway, sometimes it's so hard because there is traffic coming down at like 60 miles per hour and we were trying to use it as a turn around that way we can go forward and not backwards into Hawkes Avenue. That's what the intention of having pavers instead, so we can use it to turn around and go north or south to Hawkes Avenue. That was it.

Chairman: What type of pavers are you going to use or are you going to use blacktop?

Eduardo Mendez: No blacktop, just pavers because with blacktop the water won't drain. It's pavers, that way when it rains the water will go down into the ground.

Chairman: On a couple of occasions, I went by, and I understand what you are trying to do from a safety standpoint, so I could agree 100%. I did see neighbors' cars including your own home, parking basically on Hawkes and a little off of Hawkes onto the private property which I think is a bigger deterrent than your turn-around but that's been there. So, I fully understand what you're trying to do and if this Board agrees to allowing it, I would make it a requirement that you use a pervious pavers system that will basically have the opportunity for the rain to go through and grass will grow in between the joints.

Chairman: It will make it much safer for yourself also, but I think that's a necessity that if it's approved, I would make sure the Building Inspector understands that, that's the type of system I would want to see in there.

Eduardo Mendez: Okay, thank you.

Chairman: Board Members, any questions?

Lynn Farrell: Nothing.

David O'Neil: I had a couple concerns and visited the site a couple of times just to look at the conditions more than once. I definitely have concerns of whether its impervious or pervious surface, it's across the front. It's paving the whole width of the site. The second concern I have is the off-street parking regulation, it's allowed for one commercial vehicle to be parked on the site and in a residential neighborhood is my understanding and I see multiple vehicles parked there that are commercial use, so my concern is that as well as once the paving gets increased the next step is that it is used for additional parking and there are no limits on residential parking it just seems it's the next logical step. Once you see the paving, there's more and more cars. I have major reservations about paving the full width and concerns about the number of commercial vehicles parked there.

Chairman: My understanding as we just discussed is it definitely can't be blacktop. It has to be pavers that are pervious which circumvents any type of flooding. I understand this turn-around, you really can't turn around and I tried it while I was there, you would be pulling in and then backing out to Hawkes Avenue. Is someone going to park there? Absolutely, who's going to monitor that, I don't. The Building Department or the Police, the Highway Department is another story. It is a state road and it is very dangerous to back out, you can't back out to Hawkes Avenue at all. With this application, I can understand with the use of the pervious paver system and, yes, you have to go by an honor system and the number of times that I was there, cars for all four houses were parked on Hawkes and off to the side. I don't know what happens in the winter time. I don't think with snow removal you're allowed and it would be very dangerous to go do something like that. The guy next door, number 23, you can't park, they have a beautiful area in the front there, a little farther up you have construction going on, a driveway and I don't even think there's enough room to put a parking area there. I understand your concerns, whether or not they are going to park the car there, I believe someone will, but when I was there, I just saw personal cars there. I just have to go by what's on the application at this stage of the game.

Chairman: Any comments, Mr. Mendez, on what our Board Member had stated to you, do you intend to park cars there?

Eduardo Mendez: No, we are going to use it to turn around. I mean I don't say that there may not be a car there because you turn around and if you need to get something from inside, it's safer to be inside than to leave the car out on Hawkes Avenue, cars are coming at 50, 60, even 75 miles per hour, if we're making a little u-turn, I don't want to say never is going to be a car in there, if you're just coming in to grab something from the house, the place to leave it is going to be there but you know, we just have to follow the rules, that's it.

Chairman: Any other board member have a question?

Tom Wills: Well, the only question I had when I went looked at it was the turnaround issue. There's plenty of space on the lot to drive in the back and turnaround, I mean we see that a lot.

Chairman: I was there, there's a big fence and it's all lawn area and decking in the back. I can understand that if you want to go, take all the grassy area out, which I think it'd be a bigger detriment than taking, you know, a smaller area in the front of the house and putting in the pervious pavers other than going into the backyard, where, opening up the gate and taking out, you know, a huge amount of lawn area that would be able to accommodate a turnaround. I understand what you're saying. Is there anyone on the Zoom meeting that has a comment?

Christie Addona: Mr. Chairman, can I just make comment? With respect to Mr. O'Neil's comment, with regards to the number of commercial vehicles that can be parked on the site, I just want to make sure that the applicant heard and understood what was said, that only one commercial vehicle can be parked on the property and now this issue, the issue of commercial vehicles being parked on the property has been brought to the building inspectors attention so that's something that if in the future there is a changing circumstance, I think one of the other things that might be helpful for the applicant to just affirm in conjunction with affirming that generally there won't be cars parks in that area, although he cannot confirm that there will never be a situation where it's necessary for a short period of time, his understanding that only one commercial vehicle can be parked on the site.

Chairman: When you say commercial vehicles, that's commercial plates?

Christie Addona: Yes.

Chairman: It could be a panel truck without being a commercial.

Christie Addona: Should they have commercial plates then? I mean, I guess that's that. I understand. I understand what you're saying but really, I think it's incumbent on the applicant to understand the code and we can look into that further and try to provide some guidance if he wants it, but, that restriction does exist so if that's a concern of certain members of the Board, then maybe just Acknowledging that would be helpful.

Chairman: Mr. Mendez. You understand that only one commercial vehicle is allowed to be parked in your driveway?

Eduardo Mendez: Yes, that truck is used for plumbing, we do plumbing, so that truck is for emergency service calls. I know that I'm not going to have more than one car of commercial. That truck is being used to help people from Ossining because we don't go to other Towns, if it is not Ossining, for emergency plumbing calls, that's pretty much it, we are not going to have 3 and 4 cars, I know the rules. We do have a yard in Croton-On-Hudson, that we have all the trucks. We just keep this one for overnight emergency service calls and it's been helping all over the place in Ossining, flooding basements when it rains a lot, emergency calls, most of the calls are people of Ossining that really needs our service and that's why we keep one truck. I understand the rules and I am a type of person that would like to follow the rules. I understand when it's no, it's no and when it's yes, it's yes. I agree with everything that you guys said and we have to follow the rules.

Christie Addona: Just for the record I will point out the definition of commercial vehicle in the zoning code and it is defined as a vehicle bearing commercial, livery or taxi license plate and which exceeds 14,000 pounds in gross weight, so that is the guidance for that.

Chairman: Are there any further questions from Board Members? [None]

Is there any questions on the Zoom Meeting? [None].

May we have a motion to close the public hearing?

David Krieger: Motion to close the public hearing.

Lynn Farrell: Second.

David Krieger made a motion, seconded by Lynn Farrell and unanimously passed by the Board to Close the Public Hearing.

Chairman: I'd like to take a vote with regard to granting this variance?

Lynn Farrell: Yes.

David Krieger: Yes.

Chairman: Yes.

David O'Neil: No.

Tom Wills: Yes.

Chairman: Let the record show that the majority of the Board agreed to grant the variance, the criteria for the area variance is;

- Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance;
- Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance;
- Whether the requested area variance is substantial;
- Whether the proposed variance will have an adverse effect on the physical or environmental conditions in the neighborhood or district;
- Whether the alleged difficulty was self-created - this factor is relevant to the decision, but the fact that the difficulty was self-created does not preclude granting the area variance.

And for the record and for the Building Inspector is that a pervious paver system has to be used there, not black top.

Okay Mr. Mendez.

Thank you everybody for your time.