

Town of Rockland
Zoning Board of Appeals
May 5, 2020
#1-20 Area Variance
Creamery Run LLC

At 7:00 pm a public hearing by remote video conference was called to order on an Area Variance application for Creamery Run LLC, 56 Creamery Rd., Livingston Manor, NY (SBL #38.-1-36.3).

Board members present were: Arthur Riegal, Chairman, Sarah Madison, Phil Vallone, Perry Kuehn and Sheila Shultz. Absent: Allen O'Keefe. Also present Glenn Gabbard, Code Enforcement Officer, Rose Mary Hankins, clerk to the board, the applicant and his representatives and members of the public.

Chairman Riegal noted that the board made the mandatory 62 day hearing limit from the March submission of the application. Mr. Sean Parks, acting as agent for Mr. Charles Vandercook and the Creamery Run LLC presented a brief summary of the application request.

This parcel is zoned R2 and is located along the Willowemoc River and new zoning requires a 50' waterfront set back for new construction. The request is a reduction to 32 feet, including an 8' deck. This would place the new construction essentially on the same foot print of the current mobile home with a four foot reduction from the current deck's 28' distance from the high water mark.

Board Inquiry:

Board member Perry Kuehn asked if the existing mobile home had any other support other than the concrete blocks. No, only the blocks were used to support the home. Mr. Gabbard stated that as a new construction it would have to meet the state uniform codes, requiring 4' concrete frost walls and flood vents. FEMA maps show that this parcel is out of the flood plain. The existing barn on the property is in the flood plan. Mr. Gabbard also noted that no basement could be utilized so near the stream and that all utilities had to be located above the floor to meet code. This is a conforming lot and the new home does not need to be elevated.

There was discussion on the hardship needs of this request. This parcel is not connected to the municipal sewer system and the only way it could be connected is by securing right-of-way through a neighboring property. This is not possible at this time. The septic system must be located in the front of the property. Moving the new home forward, towards the road, would lessen the front yard and be a concern for safety posed by vehicles traveling along Creamery Road.

Pubic Comment:

Lacy Dalrymple – a neighbor stated that she has dealt with flooding in the past and asked if the new construction would pose any impact to the flow of water downstream. No, the stream and stream bank would not be affected during or after the construction of the new home.

There was a motion by unanimous consent to close the public hearing.

**Town of Rockland
Zoning Board of Appeals
Regular Meeting, May 5, 2020**

At 7:19 pm Chairman Riegal called to order the regular meeting of the Town of Rockland Zoning Board of Appeals with the pledge of allegiance.

By unanimous consent the minutes of the previous meeting will be postponed until the board can physically meet.

There were no announcements to be made, or old business to attend to.

Case Discussion/Review:

Mr. Kuehn stated that clear hardship concerns were raised for this applicant. Mrs. Madison and Mr. Vallone concurred.

Mr. Glenn Sanders, engineer for the applicant, stated that upgrading the property with a new structure would certainly enhance the neighborhood and maintaining the road set backs allows for personal safety and adequate room to construct the necessary septic system.

Chairman Riegal stated that there was not a need for County 239 review of this case and moved the board to addressing the review questions. By unanimous consent the board will save the resolutions and roll call votes to the end of the full review.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance.

Discussion: No, a new structure will improve the property.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Discussion: No, moving the new structure forward would incur additional expenses for septic location and raise safety concerns.

3. Whether the requested area variance is substantial.

Discussion: The request is for an 18' variance, this is 36% of the 50' waterfront setback requirement. Sheila felt that this was substantial, the other board members did not.

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

Discussion: No adverse effects or impacts would be made on the neighborhood.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Discussion: Four members of the board felt that no, this was not a self-created hardship. The existing mobile home was installed years before the new codes were established. Phil Vallone felt that yes, the situation was self created by their desire to build on the existing foot print of the existing home.

On a motion by Phil Vallone seconded by Perry Kuehn, the Town of Rockland Zoning Board of Appeals approves the area variance for Creamery Run LLC for a water front a set-back from 50' to 40' for the residence and 32' for a planned deck.

Roll Call Vote: Arthur Riegel – Yes
Perry Kuehn – Yes
Phil Vallone – Yes
Sarah Madison – Yes
Sheila Shultz – abstained

Mrs. Shultz expressed her concerns that the stream bank not be cleared of the existing trees and therefore destabilize the bank. Mr. Vandercook assured the board that he had no intention of removing the trees (unless they were already dead). He fully embraces all conservation efforts.

With no further comments offered by those present, Chairman Riegel thanked the board members, applicant and members of the public for attending and adjourned the meeting.