Town of Rockland Zoning board of appeals August 16th, 2023 #23-01 Area Variance Hunter Lake - Ieradi

Members present: Chairman Arthur Reigal, Perry Keuhn, Shelia Schultz

Public Hearing Convened at 7pm by zoom & in person

Christine & Jessie Ierardi are seeking Area variance for a reduction of the Municipal R2 zoning side yard setback 25ft to 21ft to construct an addition on their existing single family dwelling at 660 Hunter lake Rd. Parksville, NY

Christine Ierardi: introduced herself and Husband Jesse Ieradi whom plan construct a14ft x 28ft addition which would include a bedroom and an expansion of the living room in their existing single-family dwelling at 660 Hunter Lake Rd. The current Municipal zoning requirements for R2 district side yard set backs are 25ft from the property line. The purpose addition would only allow for a 21ft setback requiring a 4ft variance.

Member Keuhn inquired about the pervious case law in regard to area variance and that the request must be diminutions less than 20%. Questions of location and proximity to neighbors, well and septic were raised. Applicants have exhausted all other options in location of the addition due to the location of the two car garage, well and septic .

Member Shultz asked about the existing Water usage and septic with the addition of a bathroom.

Code enforcement Officer Glenn Gabbard: Water usage and Septic tank size is based on the number of bedrooms, not bathrooms. NYS Sanitary Code. A letter submitted from Tom Ward P.E stating the current septic system would sufficient capacity with the additional bedroom.

One neighbors submitted letter, three text messages and several local members of the community spoke positively and were receptive to the addition.

Jesse Ierardi spoke out with positive views of the addition as it would accommodate the young couples desire to start a family in the future and would grant them more room and be in compliance of the 2020 Residential Code of NYS with a 10'x 10' ft bedroom with a closet.

Member Reigal main concern is the mitigating circumstances as previous area variances have been denied in the past. The majority of lots in the Hunter lake community are pre-existing non-conforming lots, with the majority of the side yard setbacks being 5ft or less than the current Municipal set back requirement of 25ft in the R2 district.

A motion to close the meeting was made by Member Schultz and seconded by Member Keuhn.

Public hearing was closed at 7:24pm

Town of Rockland Zoning Board of Appeals Regular Meeting: August 16, 2023, at 7:25 pm

Chairman Riegal opened the regular meeting with the pledge to the flag.

Approval of Previous Minutes

Previous minutes of the December 2022 Catskill Brewery Annex were tabled until the next meeting.

No old business to discuss.

Case Review discussion

Continued discussion regarding the Town's need to revisit zoning regulations and setback requirements in the R2 districts and make recommendations for review for lake front properties . After a vigorous discussion regarding the 2020 Residential Code of NYS bedroom square footage requirements of a minimum of 70sq ft vs the planned 100sqft bedroom and the 400sqft livings room vs a 392 sq ft livings room. The Board members took into account the majority of non-conforming lots in the Hunter community and the scale of the rest of the homes in comparison. The Ierardi property is 1.69 acres, with only .69acres being land . The Board members considered the property to be non-confirming which would allow for a reduction of the set backs based on the Town of Rockland Municipal code Chapter 185-34

Chairman Riegal stated that all decisions of the ZBA need to be defendable in a court of law and if an applicant were to approach the board in the future, they would have to be approved if the met the same criteria as code must be applied equitably:

With no further discussion the Board moved into the **Standard of Review process.**

ZBA: Standard of Review: Area Variance

Zoning Board of Appeals must balance the benefit to the applicant versus detriment to the health, safety and welfare of the neighborhood. The burden of proof lies with the applicant. Factors to be assessed:

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

Discussion: will not create an undesirable change of character in the neighborhood and community as well.

Resolution: There will be an undesirable change produced by granting this variance

By _____S. Shultz_____ Seconded ____P. Kuehn_____

Roll Call Vote: Perry Kuehn – Yes Sheila Shultz – Yes Arthur Riegal – Yes 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: All other options including location of addition and reduction of the size of the addition

Resolution: Can not be achieved by other methods

By _____P. Kuehn _____ Seconded _____A.Reigal _____

Roll Call Vote: Perry Kuehn – Yes Sheila Shultz – Yes Arthur Riegal – Yes

3. Whether the requested area variance is substantial.

Discussion: The addition creates a 4ft reduction in the Municipal setback requirement.

Resolution: The area variance is diminutions.

By ____S. Shultz______ Seconded ___P. Kuehn______

Roll Call Vote: Perry Kuehn – Yes Sheila Shultz – Yes Arthur Riegal – Yes

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 impact on the neighborhood

Resolution: Will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

By ____P. Kuehn _____ Seconded ____S. Shultz____

Roll Call Vote: Perry Kuehn – Yes Sheila Shultz – Yes Arthur Riegal – Yes

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: Any new construction is self-created

 Resolution: The difficulty is self-created

 By _____A. Riegal_____Seconded ___P. Kuehn______

 Roll Call Vote: Perry Kuehn – Yes
 Sheila Shultz – Yes

 Arthur Riegal – Yes

 Zoning Board Action

 Approve __X___ Deny _____ Approve with conditions (below) _____

 The area variance as requested by the applicant is hereby approved, the project does meet the requirements of the Town of Rockland Zoning code re: Non-conforming lot with setback reductions.

 Resolution by ____P. Kuehn______ Seconded __S. Shultz_____

 Roll Call Vote

 Perry Kuehn – yes
 Sheila Shultz – yes

 Arthur Riegal – yes

 Motion to adjourn made and passed by common consent at 7:46 pm