



TOWN OF HURLEY ZONING BOARD of APPEALS
PO BOX 569/10 WAMSLEY PLACE
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474. 6

Determination of Area Variance Request by Kevin and Victoria Madonna File 2024-#03-Madonna-SBL-55_4-6-12_1-AV

In the matter of Area variance request by:

Kevin and Victoria Madonna

46 Dewitt Mills Rd

Hurley, NY 12443

For a side-yard setback variance of ten feet (10' four inches (4")) to construct a new two-car garage/addition

WHEREAS, the Applicants, Kevin and Victoria Madonna (hereafter "Applicants"), applied to the Town of Hurley Building Department to construct a XXXX foot () by XXX-foot (') XXXX square-foot (XXX sq. ft.) structure to be used as a two-car garage and addition on their property located at 46 Dewitt Mills Road, tax map number 55.4-6-12.100 on February 2, 2024. The subject property is located in the R-1 zoning district and consists of 1.1 acres; and

I. Process

- Upon receipt of a building permit to construct a XXX by XXXX foot by XXX high totaling XXX sq. ft., the Zoning Enforcement Officer, Paul Economos (hereafter "ZEO") completed a Determination on 2024-02-02 that in order to construct the two-car garage/addition as proposed, a side-setback area variance of ten feet (10') four inches (4")) would be required. A copy of the ZEO's Determination is annexed to this Determination as exhibit A; and
- The Determination stated that the lot is conforming for the Density of the R-1 zoning district, as identified in §210 Attachment 2: Density Control Schedule in the Town of Hurley Code; and
- The Determination stated that the proposed use: "accessory and permitted by right" per Attachment 2: Density Control Schedule in §210 of the Town of Hurley Code
- Since the Applicant's proposal did not comply with the side setback requirements in §210-Attachment 2: Density Control Schedule of twenty-five feet (25') in the R-1 Zoning District by being proposed to have a final setback of fifteen feet, eight inches (15'8"), the ZEO notified the Applicant on 2022-02-02 that they would need to either move the proposed structure or apply to the Hurley Zoning Board of Appeals (hereafter "ZBA") for an Area Variance.

II. ZBA Process

- The Applicant upon receiving the ZEO's Determination submitted an Application requesting an Area Variance to the Clerk for the ZBA on 2024-02-05 with the appropriate associated fees; and
- With the Application requirements being submitted by the deadline for the 2024-02-08 ZBA meeting, the Clerk placed the Application on the 2024-02-08 ZBA Agenda as New Business; and
- At the 2024-02-08 meeting, the ZBA made a Determination that under §617.5(16) granting of individual setback and lot line variances and adjustments of the State Environmental Quality Review Act (hereafter "SEQRA"), the Application met the Type II criteria and by motion, second and an affirmative vote of four (4) AYES; Zero (0) Nays, One (1) Absent, Member Orin



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- Shands; and 0 Abstention, the motion passed and, as such, thereby requiring no further action under SEQRA and no Environmental Impact Statement will be necessary; and
- At the 2024-02-08 meeting, the ZBA reviewed the material in the Application requesting an Area Variance and determined the Application was complete and by motion, second and an affirmative vote four (4) AYES; Zero (0) Nays, One (1) Absent, Member Orin Shands; and 0 Abstention a public hearing was to be held at the 2024-03-14 meeting at 7:11PM and the Clerk was directed to run the appropriate legal notice and notify the neighbors within two-hundred and fifty feet (250') from the perimeter of the property by certified mail; and
- At the regular meeting on 2024-03-14, the Public Hearing was opened at XXXPM and the ZBA members present reviewed the materials presented by the Applicant; and
- The ZBA reviewed a site plan presented and prepared by Warren Temple Architects dated 2024-02-02; and
- During the public hearing, the Board **heard/did not hear any comments** from any member of the public and the Clerk had received no emails for or against the request; and
- Having held a duly noticed Public Hearing at which no members of the public were present or sent written or electronic correspondence, **the Board felt they could close the public hearing; and**
- The Board informed the Applicant that the Board has sixty-two (62) days from the close of the public hearing on XXX to make their determination regarding the Variance requests to be allowed to construct an accessory XXX by XX structure to be used as a two-car garage and addition. That made the Determination due by **2024-05-15 (if closed on 2024-03-14)**; and

III. Zoning Board review of the request against the criteria for an Area Variance:

In making its determination regarding a request for an area variance, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

[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.

Board Discussion:

Determination:

[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.

Board Discussion:

Determination:



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[3] Whether the requested area variance is substantial.

Board Discussion:

Determination:.

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

Board Discussion:

Determination:

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance. (b) The Board, when granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate to alleviate the difficulty shown by the applicant and that also will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Board Discussion:

Determination:

Determination: Having weighed all the factors in the Variances request against the laws in the Town of Hurley Code and the possible positive and potentially negative physical and environmental factors, Member XXXX motioned to approve/deny the variance request of ten-feet-four-inches (10' 4") thereby allowing the proposed structure to have a final setback of fifteen feet eight inches (15' 8") to the side property line instead of the required twenty-five feet (25'; Member XXX seconded the motion. With the motion having been made and seconded, there was a call for a vote.

The Clerk conducted the following is a Roll Call of the members present:

Member	Vote
Joshua Vogt, Chairman	
Alex Marra	
Andrew Shapiro	
Orin Shands	
Kara Snyder	
Liston Freeman	



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Motion was carried/failed by a vote of XXX Ayes, XXX nays, XXX Absent; and Zero (0) Abstentions and the Variance request was approved/denied with/without conditions.

Conditions: XXXXX

Dated this XX day of XXXXXX

Maggie Colan, Clerk

Filed with the Town Clerk on the XXXXX

Tracy Kellogg Town Clerk
