



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 Clinton & Michele McClure File 2024-#04-McClure-SBL-38_6-5-62-AV

In the matter of Area variance request by:

Clinton & Michele McClure

37 Brittany DR

West Hurley, NY 12491

For a side-yard setback variance of five feet (5') to construct an addition on an already existing deck

WHEREAS, the Applicants, Clinton & Michele McClure (hereafter "Applicants"), applied to the Town of Hurley Building Department to construct a one-hundred-twenty-five square foot (125) addition to an existing four-hundred-ninety square foot (490) deck on their property located at 37 Brittany Drive, tax map number 38_6-5-62 on 2024-01-22. The subject property is located in the R-1 zoning district and consists of 0.28 acres; and

I. Process

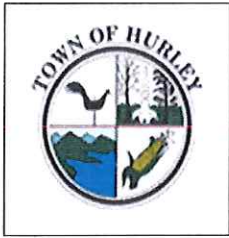
Upon receipt of a building permit to construct a one-hundred-twenty-five square foot (125) addition to an existing four-hundred-ninety square foot (490) deck, the Zoning Enforcement Officer, Paul Economos (hereafter "ZEO") completed a Determination on 2024-01-25 that in order to construct the proposed deck addition, a side-setback area variance of five-feet (5') would be required because of the following reasons: "the lot is 0.28 acres; -as an undersized lot, it is subject to the setbacks in the next least restrictive district which is B-1; -the side yard setback for the B-1 district is 15';

your proposed side yard setback is 10'" A copy of the ZEO's Determination is annexed to this Determination as exhibit A; and

- The Determination stated that the lot is pre-existing non-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, the ZEO went to the next restrictive setback, which is the B-1 and requires fifteen feet (15'), the ZEO notified the Applicant on 2024-01-25 that they would need to 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 2024-02-29 with the appropriate associated fees; and
- With the Application requirements being submitted by the deadline for the 2024-03-14 ZBA meeting, the Clerk placed the Application on the 2024-03-14 ZBA Agenda as New Business; and
- At the 2024-03-14 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, Two (2) Absent, Members Andy Shapiro and Member Liston Freeman; 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, Two (2) Absent, Members Andy Shapiro and Member Liston Freeman; and 0 Abstention a public hearing was to be held at the 2024-04-11 meeting at 7:11PM and the Clerk was directed to run the appropriate



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Determination of Area Variance Request by Clinton & Michele McClure File 2024-#04-McClure-SBL-38_6-5-62-AV legal notice and notify the neighbors within two-hundred and fifty feet (250') from the perimeter of the property by certified mail, which totaled thirteen (13) properties; and

- Each of the letters were tracked via the USPS.com website and ten (10) were delivered, three (3) were not; and
- At the regular meeting on 2024-04-11 the Public Hearing was opened by motion and second with a XXXXX vote at XXXXPM and the ZBA members present reviewed the materials presented by the Applicant; and
- The ZBA reviewed a site plan presented and prepared by the Applicant; and Prior to receiving public comment, the Board reviewed the Applicant's reasons for needing a Variance: "The attached plot plan details a 125-sf triangular shaped deck addition we are proposing for our existing deck. As proposed it has the following dimensions: deck surface 4'6" above the lawn, 9' out from the pool, 6' parallel to the house right wall and 18' return to the existing deck, adding 6' of addition wrap around the pool edge (all approximate). The existing deck serves 3 purposes, (1) egress from the dining room, (2) exterior dining & grill, (3) access to the above ground swimming pool. The deck space at the pool level is very limited, providing just access to one side of the oval pool. The deck addition will provide a small sitting area at the pool level."
- *During the public hearing, the Board did not hear any comments from any member of the public and the Clerk had received no emails for or against the **request (TBD)**; 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; **(TBD)and***
- At XXXXPM, it was motioned by XXXXXX and seconded by XXXXX to close the Public Hearing. Said motion XXXXX; and
- The Board informed the Applicant that the Board has sixty-two (62) days from the close of the public hearing on 2024-04-11 to make their determination regarding the Variance request to be allowed to construct a one-hundred-twenty-five square-foot (125) addition to his existing four-hundred-ninety square-foot (490) deck. That made the Determination due by 2024-06-10.

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:

[3] Whether the requested area variance is substantial.

Board Discussion:

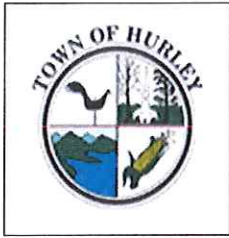
Determination:

[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



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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, XXXX motioned to approve/deny the side-setback variance request of five-feet (5') thereby allowing the proposed deck addition to have a final setback of ten-feet (10') from the side lot-line instead of the required fifteen-feet (15'); XXXX 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	

Motion was carried/failed by a vote of XXXX Ayes, XXXX Nays, XXX Absent; and XXX Abstentions and the Variance request was **approved/denied with/without** conditions.

Conditions:

1. Screening????

Dated this XX day of XXX

 Samantha Mort, Secretary

Filed with the Town Clerk on the XXX day of XXXX

 Tracy Kellogg Town Clerk

EXHIBIT A

Town of Hurley
P.O. Box 569
Hurley, New York 12443
Phone: 845-331-7474
Fax: 845-331-5502



Paul Economos
Building Inspector
Code Enforcement Officer
buildinginspector@townofhurley.org

EXHIBIT
File 2024-04- McClure SBL-
38-6-5-62 -Av P1

1/25/2024

Clint McClure
37 Brittany Drive
West Hurley, NY 12491

 COPY

Re: Building permit application for a pool deck extension
SBL #38.6-5-62

Dear Clint,

Thank you for your application referenced above. Your submission is substantive and well prepared but the permit cannot be issued at this time due to the plot plan indicating that the proposed deck will not meet the applicable setbacks. To wit:

- 37 Brittany Drive is zoned R-1
- the lot is 0.28 acres
- as an undersized lot, it is subject to the setbacks in the next least restrictive district which is B-1
- the side yard setback for the B-1 district is 15'
- your proposed side yard setback is 10'

It is slightly unclear if the rear corner of the deck is proposed at 10', or at the location illustrated on the plot plan which would make it slightly closer to the boundary. Please contact Erin at the Building Department at your earliest convenience to schedule a site visit.

As we discussed, the option you have chosen is to pursue an area variance with the Zoning Board of Appeals. The variance request will be for a 5' side yard setback. I have copied Maggie Colan whom you will need to contact to begin the application process and to get on the agenda.

Regards,

A handwritten signature in black ink, appearing to read "Paul Economos", with a long, sweeping flourish extending to the right.

Paul Economos, Building Inspector
Town of Hurley
10 Wamsley Place
Hurley, NY 12443

Cc: Maggie Colan, Zoning Board of Appeals Secretary

Town of Hurley
P.O. Box 569
Hurley, NY 12443
845-331-7474, ext. 3 / Fax: 331-5502
building@townofhurley.org
Building Inspector: Paul Economos

RECEIVED

JAN 22 2024

TOWN OF HURLEY
APPLICATION FOR BUILDING PERMIT BUILDING DEPARTMENT

NO PAYMENT IS NEEDED UNTIL THE PERMIT IS APPROVED
ALL APPROPRIATE INSPECTIONS ARE REQUIRED FOR C.O. OR C.C. TO BE ISSUED.

Instructions:

- a. **Work covered by this application cannot begin until the building permit has been issued.** The standard turnaround time is 7-10 business days but could be longer depending on the work being done. Please plan accordingly.
- b. **Submit completed application with all supporting documentation.** We will not begin the review process until we have a complete application packet.
- c. When a plot plan is required, it must show the location of building(s) on premises, dimensions of plot, building(s) and/or addition(s), and dimensions from building(s) to lot lines (sides, rear and front). Plot plan must show all proposed and existing buildings on property and one complete set of floor and elevation plans.
- d. Two (2) sets of stamped building plans are required for ALL new construction, additions, or alterations.
- e. Upon completion of work covered by the permit issued, the Building Inspector must be notified and a final inspection must be conducted before the Certificate of Occupancy/Certificate of Compliance can be issued. **Use or occupancy is prohibited until such time as a Certificate of Occupancy or Compliance has been issued.**
- f. A third party electrical inspector must inspect all electrical work prior to our final inspection.
- g. When needed, all approvals from the Ulster County Health Dept. should be submitted. Homeowner or agent/builder should contact U.C. Health Dept to acquire forms.

1. Address of land on which proposed work will be done: _____

37 Brittany Dr. West Hurley

2. State existing use of premises: Single Family residence

3. State proposed use of premises: Single Family residence

4. Cost of construction: \$ 5,000

5. Nature of work: New building Addition to existing building
 Porch/Deck Remodeling/Alteration

6. Description of work to be performed: 125 SF DECK ADDITION TO
EXISTING 490 SF DECK