

NARRATIVE SUMMARY

91 Sook Rock Road

S/B/L 40.16-1-10.22

This narrative summary is submitted in support of the application by Jacob Fried for variances to add an accessory deck and landscape pavers to his property located at 91 Spook Rock Road. The application also seeks to correct some discrepancies between the as-built and approved plot plan. The premises are in the R-50 Zoning District and are presently improved with a single-family dwelling.

SEQRA

A short EAF Part I is submitted. The project should be classified as a Type II action pursuant to 6 NYCRR 617.5(c)(11) (construction or expansion of a single-family, a two-family or a three-family residence on an approved lot) or (17) (granting of an area variance for a single-family, two-family or three-family residence).

GML

The property is within 500' of Spook Rock Road (County Route 85) and referral is required to the Rockland County Department of Planning pursuant to General Municipal Law Section 239-m.

VARIANCES

The application requests that 3 variances be granted as follows:

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Front Yard	50'	47'	47'
Impervious Surface	0.20	0.25	0.29
Front Yard Impervious Surface	0.15	0.38	0.42

BALANCING OF THE EQUITIES

In making its determination to grant a variance, a zoning board of appeals must 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 zoning board of appeals is also required to consider the following factors:

a. An undesirable change will not be produced in the character of the neighborhood, nor a detriment created to nearby properties by the granting of the area variances.

The lot is flag lot that sits behind Lot No. 10.21. The lots were created in 2019 by the filing of Subdivision Map #8456. The encroachment into the front yard will not impact the neighborhood as it will not be visible or noticeable. The front yard variance is only required because there is small covered porch that encroaches into the yard. The porch itself does not require a variance but because a roof was built over the porch to cover it, the yard is now measured from the roof. The applicant seeks to add some additional decking to the rear of his house (the

“side” yard) and some pavers and stairs in the front of the house (the “side” yard). The additional decking and pavers as well as the existing driveway will increase the impervious surface of the lot to .29. Further, the driveway and pavers in the front yard were constructed bigger than shown on the approved plot plan. The project was granted a variance to permit .38 FYIS and the actual amount is .42 as shown on the as-built survey. The lot is unique in that it is a flag lot. The home is situated on the lot so that the front of the house faces the side yard and the side of the house faces the front yard. These variances will not alter or change the character of the neighborhood or create a detriment to nearby properties. Appropriate storm water management techniques will be used to prevent any increase of surface water runoff.

b. The benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue, other than an area variance.

The applicant desires to add a small deck to the rear of the property and a spa pool. Further, additional pavers will enhance the use and enjoyment of the property. Unless relief is given from the impervious surface ratio and the FYIS ratio, the applicant will be unable to make these improvements to the property and would have to reduce the size of his driveway and remove a roof from over the porch. The improvements will not infringe upon, or create a detriment to, any adjacent property owners.

c. That the requested area variances are not substantial.

The front yard variance is only 3’ and is negligible. While the impervious surface and FYIS are greater than the maximum provided for in the Code the location and uniqueness of the lot dictates the increases. The lot is a flag lot and has an extended driveway that increases the impervious surface and FYIS significantly. Even if a numerical deviation from a bulk requirement is deemed “substantial”, the weight to be given to that finding is dependent on, and cannot be separated from, the impact that the deviation will have on the community¹. The variance request should not be looked at in a vacuum free from any outside influences or information. Looking at just the numerical value is not an adequate indicator of substantiality, which must be judged by the totality of relevant circumstances and not just in the abstract.

d. That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. The project is considered a Type II action and is deemed not to have a significant impact on the environment and is otherwise precluded from environmental review.

f. That the alleged difficulty was not self-created.

¹ See, *Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals*, 21 Misc.3d 1120(A), (Sup Ct 2007), aff’d, 43 A.D.3d 1447 (4th Dep’t 2007) (“Looking at the variance request in such a vacuum is not an adequate indicator of the substantiality of Petitioner’s application. Substantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one.”) See also, *Aydelott v. Town of Bedford Zoning Board of Appeals*, 6/25/03 N.Y.L.J. 21 (col.4) (Supreme Court, Westchester Co., 2003) (When reviewing the application in the context of the overall impact it would have on the neighborhood, it is clear that the variance request is not substantial, especially when considering that the structure will have the outside appearance of a two-story building.)

The improvements will not detract from the community. Even if the Zoning Board finds the difficulty to be self-created, this factor is not dispositive of the applicant's variance requests. Instead, any perceived self-created harm is greatly outweighed by the fact that the area variances will not result in any adverse impacts, will not be a detriment to nearby properties, and will not create an undesirable change in the character of the neighborhood.

CONCLUSION

The property is unique in that it is a flag lot and has a long driveway of approximately 290'. The lot is far removed from the public street and any deviations will not be noticeable to the public. The proposed improvements are not significant but beautiful the property and make the property more appealing and desirable. The requested variances will not negatively impact any of the neighbors or create a detriment to the community. Under the particular circumstances of this case, the benefit to the applicant from the grant of the variances significantly outweighs any detriment to the health, safety and welfare of the neighborhood. The balance of equities lies in favor of granting the variances.

For all the foregoing reasons, it is respectfully requested that the Zoning Board of Appeals grant the applicant the requested variances.

Dated: March 12, 2025

Respectfully submitted,

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