

KIER B. LEVESQUE ARCHITECT

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Village of Upper Nyack
Chairman Village Zoning Board
328 N. Broadway
Upper Nyack, NY 10960

May 13, 2021

Re: Place deck & spa
323 Front St.

Job #202142

Dear Mr. Chairman,

This application is for a variance from VoUN zoning code Article IV, section 13 Residence R-4 District, subsection 13:3 (required side yard) in order to construct a two level deck and add a swim spa.

The following statements address the requirements of the application stated on pages 5 & 6 of the application.

Practical difficulty:

The existing dwelling sits to the west of this irregular shaped property that has a “right of way” easement for ingress and utilities on the east side. In part due to the dwellings location on the property and the side and rear topography, the deck is extending to the west so the minimal flat yard area to the north can be maintained while using the grade change to accommodate the above ground swim spa. The upper deck is shifted away from the property line while the lower deck requires a side setback variance. This lower deck is being expanded to create an eating area and an outdoor kitchen.

Statements pertaining to Page 5 & 6 questions 1-10

1. This project will not be a detriment to and will not change or alter the overall character of the neighborhood. The requested side variances for the deck will not produce an undesirable change or be a detriment to the neighborhood. The adjacent property has its driveway access along the western boundary of the subject property.
2. There are no other feasible alternatives to the applicant for the requested variances. The alternative to shorten or reposition the deck will adversely affect the remaining flat yard space to the northeast of the proposed deck thereby reducing the useable yard space. Additionally, the proposed deck location does not impact the adjacent property and its driveway.
3. The requested area variance is substantial in that the requested side setback is 28% reduction in the required setback. 18.083' is requested where 25' is required.
4. Will the proposed variance have an adverse effect on the physical or environmental conditions of the neighborhood or district? No. The proposed decks, swim spa will not require any storm water mitigation or impact the environmental conditions of the neighborhood or district if granted.

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5. Is the alleged difficulty self-created? Yes, because of the desire to maintain the existing flat area of the rear yard.
6. Is the requested variance the minimum necessary to relieve the practical difficulty? Yes, the variances for the side yard is the minimum necessary. Both the lower deck and upper deck are the minimum size needed to accommodate the intended use. Their positions are being dictated by the existing grades. No other area variances are needed.
7. Would a significant economic hardship result if this variance were not granted? Yes, if the variance is not granted then the applicant would be denied reasonable use of the existing yard space that is available given the rising topography at the side and rear of the property. The current design takes advantage of the rising topography. Locating the decks and swim spa further to the rear may require the added expense of additional retaining walls to accommodate the elevation change necessary to incorporate the swim spa with the decks.
8. Will granting the variances effect the health, safety, and welfare of the neighborhood or district? No, the variances if granted will not change fire equipment access to the property or require any new or special governmental services that are not already in use.
9. Will there be an increase in population density produced on governmental facilities, services and schools if the variance is granted? No, existing services will not need to be extended from what is already in place and available to this property.
10. Other factors: given the irregular shape of the lot and the topography, this application has taken advantage an area on the property that is unable to accommodate any other use. The proposed decks will improve the value and usability of the property. The granting of the variance will not be a detriment to property values or the neighborhood.

Thank you for your consideration.