

KIER B. LEVESQUE ARCHITECT

49 Third Avenue Nyack, New York 10960 845-358-2359

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

April 26, 2021

Re: Peter & Mia Marsh
661 N. Broadway

Job #1998

Dear Mr. Chairman,

This application has been revised to reflect the directions given to the applicant during the April 20th zoning board hearing. Specifically, that the application should be for an “accessory structure” that contains a garage and pool cabana. The revised plans indicate the pool cabana uses and that this accessory structure cannot be used as a dwelling unit.

The history of this building is partially documented below. The current owners have remediated a mold problem and made structural repairs caused by the previous owner’s failure to maintain the heat during a winter and causing the piping to freeze and burst. On January 13, 2021 the Building Inspector denied a building permit application is for the interior renovation of the dwelling unit. An updated survey to show the location of the stone wall noted as an open building permit, and will legalize the swimming pool with a permit application is attached. The pool first appears on a map dated Nov. 4, 1993.

Historical information for reference:

- 1) 1962 Original subdivision called Rivers Edge Estates indicates 4 lots with lot #1 now know as 661 N. Broadway. Copy attached.
- 2) Zoning board minutes of February 21, 1962 granted “necessary variances” and gave approval to the petition as item #3 for a side yard variance conditioned as “provided said barn is utilized only as a tool house and/or garage as stated in petition.” Copy attached.
- 3) Zoning board minutes of June 19, 1980 granted a two car garage addition with a minimum of 2’ side setback distance to the boundary line bordering the Palisades Park. Copy attached.
- 4) Certificate of Occupancy and or Use dated 9/24/87 per approved plans Application Permit No. 232A. Permitted use One-Family Resid. – Garage. Copy attached.
- 5) Planning Board minutes of December 15, 1993 approved the subdivision application of Rasso, Mann, Besso & Englemohr dated Nov. 4, 1993 Rev. #1 11/23/93. Copy attached.
- 6) Subdivision Plat dated October 7, 1993 and filed 4/15/94 with the Rockland County Clerk. This map shows Lot1 as having a 2 story stone & frame dwelling with attached garage, swimming pool, accessory 2car garage and one story block & frame building. Copy of map attached.
- 7) Letter from neighbors dated April 6, 2017. Copy attached.
- 8) Violation Notice dated May 4, 2017 for open building permits to Arle Pierro property owner and for Section 10:2 and 10:3 Allowable Uses in the R-1 Residential District and No Accessory Structure to be used as a dwelling unit. Copy attached.
- 9) Letter to Arle Pierro listing violations on the property for In-ground pool without a permit, additional bathrooms, and second kitchen. Copy attached.

As any additional information or documents become available, they will be submitted as soon as possible.

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

Practical difficulty:

The existing accessory structure contains a 2 car garage and pool cabana, and has been in use for many years without any detriment to the community or adjacent neighbors. The structure has been made sound and habitable after it was rendered uninhabitable by mold and structural deficiencies. Due to its location on the property it is considered to be in a required front yard where 35' is required. The building location buffers the property from the heavily used entrance to the Nyack Beach and Hook Mountain Park.

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. This building and its location on the property predate the 1962 zoning code, and previously variances were granted for side yard setback. The requested variances for the dwelling unit will not produce and undesirable change or be a detriment to the neighborhood.
2. There is no other feasible alternatives to the applicant for the requested variances. This application is intended to legalize the non-conforming structures that have been in place for many years and violations that have been ignored by the previous owners. A variance is required for front yard as opposed to removing part of the structure.
3. The requested area variances are not substantial in that the structure has been in its current location for many years and the side setback adjoins a state park.
4. Will the proposed variance have an adverse effect on the physical or environmental conditions of the neighborhood or district? No. The existing structure has been in use for decades and will not require any changes to the physical building or environmental conditions of the neighborhood or district if allowed to continue.
5. Is the alleged difficulty self-created? No, because the previous and current uses as well as the interior configuration of the building predates this property owner.
6. Is the requested variance the minimum necessary to relieve the practical difficulty? Yes, the variances for the continued use of the dwelling unit are all that is requested, No other area variances are needed.
7. Would a significant economic hardship result if this variance were not granted? Yes, if the variances are not granted the structure could not be used which is impractical, and given the location of the building and it's position adjacent to the swimming pool and a buffer to the park entrance. Removal would be detrimental to the properties value. The Marshes have already spent substantial funds to repair and rescue the structure (based on its existing configuration).

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 varied history of the property and the improvements the current owner's have undertaken, they will only continue to improve the property, and the granting of the variances will not be a detriment to property values or the neighborhood and will bring this property in to conformance with the zoning code.

Thank you for your consideration.

Kier B. Levesque R.A.

Page 3 of 3