

**NARRATIVE SUMMARY
ZONING BOARD OF APPEALS**

**Abe Kohn
17 Sterling Forest Lane
Tax Lot 48.11-1-13**

This supplemental narrative summary is submitted in support of the application to the Zoning Board Appeals for variances, to allow the construction of an addition to a single-family dwelling and a swimming pool. The property is located at 17 Sterling Forest Lane and is in the RR-50 Zoning District. The property has a gross lot area of 35,229 square feet. The property is burdened by NYSDEC wetlands which consists of 8,234 square feet. The net lot area is 26,995 square feet.

The project consists of the construction of 2,917 SF addition off the rear of the dwelling and the installation of an 18' x 36' swimming pool. The addition and pool fall within Wetlands, Waterbodies and Streams Environmental Protection Overlay District (W-EPOD) and within 100' feet of the wetlands and a permit is required from the Planning Board pursuant to Chapter 191 to disturb the regulated area. The applicant has appeared before the Planning Board and the Planning Board is in favor of the current proposed pool location.

NYSDEC APPROVAL

The proposed location of the addition and the pool are regulated by the New York State Department of Environmental Conservation (NYSDEC). The NYSDEC issued a permit to allow disturbance in the adjacent area of the wetlands. A copy of the NYSCED approval letter is attached. We have also submitted a copy of the full DEC permit application and the materials supporting the application.

SEQRA

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) and (12) (construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density). No environmental review is required for Type II action.

GML

The property is within 500' of the Mahwah River. Referral is required to the Rockland County Department of Planning.

VARIANCES

The existing lot is substandard for the RR-50 Zoning District. However, based on the interpretation and determination of Building Inspector Adam Gordon, the provisions of Section 195-89(A) of the Zoning Code pertaining to nonconforming structures and lots apply to the subject property. As a result, the property is permitted to comply with the bulk requirements of the "q" Use Group for the R-35 Zone with regard to only the yard and setback requirements. The bulk

requirements of the “h” Use Group for the RR-50 Zone apply regarding development coverage and FAR. As a result, the Building Inspector has determined that the following variances will be needed:

| | <u>Required</u> | <u>Proposed</u> |
|------------------------------|------------------|--------------------|
| Front Setback (for addition) | 50’ | 30’ |
| Front Yard (for addition) | 50’ | 30’ |
| Side Yard (for pool) | 30’ ¹ | 24.9’ |
| FAR | .15 | .203 |
| Development Coverage | 20% | 22.2% ² |

INTERPRETATION

We seek an interpretation regarding the calculation of development coverage. Based on the determination of Adam Gordon in his most recent determination (see Exhibit A), the development coverage is to be calculated by dividing the amount of impervious surfaces by the net lot area of the lot of 26,995 square feet instead of the gross lot area of 35,229 square feet. We believe that is in error and the gross lot area should be used for the calculation. The Village has historically calculated the development coverage based on gross lot area and not the net lot area.

We submit that the deductions of Section 195-14A are only used to calculate lot area.

§ 195-14(A) provides,

*“As part of any **minimum lot area requirement** of this chapter, no land under water, subject to or within the one-hundred-year-frequency floodplain, freshwater wetlands, within easements or rights-of-way for any utilities, with slopes of over 25% or within a designated street line of any road shall be counted. Furthermore, only 75% of land area of land with a slope exceeding 15% but no more than a slope of 20% shall be credited, and only 50% of land area of land with a slope exceeding 20% but with no more than a slope of 25% shall be credited. The application of this section to any particular lot or site shall be the responsibility of the Village Planning Board at the time of subdivision or site development plan approval.*

This provision, by its very nature, is only used to determine the minimum lot area requirement and not for any other requirements.

Further, we direct the Board’s attention to the following definitions as set forth in the code:

“COVERAGE, DEVELOPMENT- The percentage of the area of a lot covered by buildings,

¹ The side yard for the “q” use group is only 20’ and the pool would be in compliance because it is 24.9’ from the side lot line. However, pursuant to Section 195-57(D), the distance to the lot line is to be measured from a point beginning 10 feet from the edge of the pool. Adding 10’ to the side yard requirement of 20’ results in a “required” side yard of 30’. Or to put in another way, the pool would only be considered 14.9’ from the side yard of 20’ if it was measured from a point 10’ from the edge of the pool.

² We question the need for a variance from the development coverage. We believe that the Building Inspector incorrectly determined that the development coverage is calculated by using the net lot area of the lot of 26,995 square feet instead of the gross lot area of 35,229 square feet. We believe that gross lot area is to be used to calculate the development coverage which would result in a development coverage of 17% instead of 22.2% which would then comply with the 20% development coverage and that no variance should be necessary. We therefore request an interpretation from the Zoning Board.

parking areas, accessory structures and any impervious materials, including natural impervious areas.” The definition does not state to use the net lot area to determine the development coverage but instead states to calculate the coverage by using the area of the lot covered by impervious materials. The area of the lot is 35,229 square feet.

“LOT- A designated parcel, tract or area of land established by plot, subdivision or as otherwise permitted by this chapter to be used, developed or built upon as a unit.”

*“LOT AREA- The total horizontal area included within the property lines of a lot, except that for any minimum lot area specified in this chapter, the area shall be adjusted as set forth in Article IV, §195-14A.” The limitations of §195-14A only pertain to calculation of the **minimum lot area** and not for any other bulk requirements.*

We therefore request that the ZBA render an interpretation regarding the calculation of development coverage and find that no variance is required. In the event the Board determines that a variance is required, then we seek the variance in the alternative.

ALTERNATIVE LOCATIONS FOR THE POOL

We have provided additional plans showing other possible alternative layouts for the pool that would be out of the wetlands area and eliminate the need for a side yard variance. Each alternative will still require variances as follows:

Alternate 1:

| | <u>Required</u> | <u>Proposed</u> |
|-----------------------------------|-----------------|-----------------|
| Front Setback (for addition) | 50' | 30' |
| Front Yard (for addition) | 50' | 30' |
| Front Yard to Sterling (for pool) | 50' | 5' |
| FAR | .15 | .203 |

Alternate 2:

| | <u>Required</u> | <u>Proposed</u> |
|-----------------------------------|-----------------|-----------------|
| Front Setback (for addition) | 50' | 30' |
| Front Yard (for addition) | 50' | 30' |
| Front Yard to Highgate (for pool) | 50' | 30.9 |
| FAR | .15 | .203 |

Placing the pool in the current location is in accordance with the reviews conducted by the NYSDEC as part of the permit review process to disturb the regulated area within 100' feet of the edge of the wetlands. The DEC has issued a permit to allow the pool and the addition to encroach the 100' buffer. As discussed below, relocating the pool to another portion of the property will bring the pool closer to the wetlands or in the front yard of the home along Sterling Forest Lane or Highgate Court.

We have provided 2 alternate locations for the pool. Alternate 1 relocates the pool out of the 100' buffer but the pool will now be in the front yard of the premises adjacent to Sterling Forest Lane and within 15' of the front lot line. Because a pool is measured from a point 10' from the edge of the pool, the front yard would be reduced to 5' and would require a variance. Further, a swimming pool in that location in the front yard of a home is not very desirable and would be

out of place and out of character with the area.

Alternate 2 relocates the pool behind the house. However, because the property is located on a corner lot and has 2 front yards, the pool would still be located within the front yard of Highgate Court requiring a variance from the 50' front requirement to 20.9'. Further, due to the grade of the rear yard, a retaining wall would have to be installed and the disturbance for the pool would be 38.1' from the wetlands resulting in a greater encroachment of the wetlands buffer. The current proposed location is 52.9' from the wetlands. The current location was also chosen and preferred because it is relatively flat and does not require excessive grading and construction of a retaining wall.

Locating the pool in the current spot maximizes the distance from the wetlands and respects a 50' buffer. Further the current location eliminates the need for a 6' high retaining wall that would encroach into the 50' buffer.

BALANCING OF THE EQUITIES

The benefit to the applicant if the variance is granted is outweighed by any potential detriment to the health, safety and welfare of the neighborhood. The proposed improvements to the home will not create an undesirable change in the character of the neighborhood and will not cause a detriment to any nearby properties. The variances are the only feasible method for the applicant to pursue. The property is unique. It is a corner lot with two front yards. It is located next to the Mahwah River and is burdened by wetlands. The property also has existing non-conforming conditions. The requested area variances are not substantial and will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. The proposed improvements will not detract from the community.

CONCLUSION

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 the granting of the variances.

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

Dated: May 20, 2025

Respectfully submitted,

SARAHAN & BAUM PLLC



Paul S. Baum