

**NARRATIVE SUMMARY  
ZONING BOARD OF APPEALS**

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

This 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 applicant has revised its plans to reduce the prior variance requests. The project consists of the construction of 1,866 SF (reduced from 2,917 SF) addition off the rear of the dwelling and the installation of an 18' x 36' swimming pool. Because the addition and pool fall within Wetlands, Waterbodies and Streams Environmental Protection Overlay District (W-EPOD) and within 100' feet of the wetlands, a permit is required from the Planning Board pursuant to Chapter 191 to disturb the regulated area and site plan approval is required pursuant to Section 195-63(C).

**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.

**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 for both the

**VARIANCES**

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 regarding yard and setback requirements. However, the "h" Use Group for the RR-50 Zone apply regarding development coverage and FAR. As a result, variances will be needed as follows:

	<u>Required</u>	<u>Proposed</u>
Front Setback (for addition)	50'	30'
Front Yard (for addition)	50'	30'
Side Yard (for pool)	30' <sup>1</sup>	24.9'
FAR	.15	.173
Development Coverage	20%	22.4%

### **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 variances are not substantial and will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district and will not detract from the community.

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 variances will not create an undesirable change to the character of the neighborhood or a detriment to adjacent properties. The addition of a swimming pool is a common accessory use in single family dwellings. The pool will not be visible to any neighbors and is tucked in the area adjacent to the wetlands and the Mahwah River. The small variance will not be discernible and will have no impact on the neighborhood. The addition will continue the existing nonconforming front setback and yard condition of the existing dwelling relative to Highgate Court and continue that condition an additional 17'.

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

There are no other alternatives for the applicant to pursue but to seek variances. The applicant has a large family and desires to provide for the future growth of the family as well as to have space for guests. Due to the uniqueness of the lot being a corner lot and adjacent to the wetlands, the proposed location for the addition is the only place it can be located. The applicant can only avoid the need for variances by reducing the size of the addition which will not meet its needs. The applicant has reduced the floor area of the addition by 1,051 SF thereby reducing the FAR from the previous proposed 26.5% to 17.3%.

c. That the requested area variances are not substantial.

The side yard variance for the pool is 17% and this only applies to a small bump out of the pool. The Zoning Code requires an additional 10' of yard for a pool that would not be required

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<sup>1</sup> The side yard for the "q" use group is 20' and any accessory structure other than the pool would be in compliance. However, pursuant to Section 195-57(D), the distance to the lot line for a pool is to be measured from a point beginning 10 feet from the edge of the pool.

for a structure. Any other accessory structure such a shed or a detached garage can be located 20' from the side lot line. The home or an addition to the home can be located 25' from the side lot line. However, for some reason, a pool requires 30'.

The front setback and front yard variances are 40%. This is an existing condition. The property has two front yards which imposes a greater burden on the applicant on complying with the Zoning Code. If the property were not a corner lot, no yard variances would be required.

The FAR variance is 15%. This property is an existing undersized non-conforming lot. The FAR in the RR-50 zone is 15%. The FAR for an R-35 Zone is 20%. Due to the unique application of Section 195-89 of the Zoning Code to this lot, the lot is required to comply with the FAR for an RR-50 even though certain bulk requirements of the R-35 apply to the property. The proposed structure is not greater than other structures permitted as of right in the RR-50 zone.

The development coverage is 12%. However, the 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. If the gross lot area is to be used to calculate the development coverage it would result in a development coverage of 17% instead of 22.4% and no variance would be necessary.

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 community. Substantiality cannot be judged in the abstract and the totality of relevant circumstances must be evaluated in determining whether the variance sought is substantial. The variance requests should not be looked at in a vacuum free from any outside influences or information.

Courts have held that even where a proposed variance is substantial, where there is no evidence that the granting of the variance would have an undesirable effect on the character of the neighborhood, or adversely impact the physical and environmental conditions of the area, or otherwise result in a detriment to the health, safety, and welfare of the neighborhood, the variance should be granted.<sup>2</sup> There must be proof that granting a variance will be detrimental to the character of the neighborhood in order to support the denial of the variance.

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 variances 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 pursuant to SEQRA and is deemed not to have any impact on the environment. The proposed disturbance to the site will not physically impact any other homes in the neighborhood.

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<sup>2</sup> See, *Wambold v. Vil. of Southampton Zoning Bd. of Appeals*, 140 A.D.3d 891, 893 (2d Dep’t 2016)(“While we agree with the petitioner that the proposed variance was substantial, there was no evidence that the granting of the variance would have an undesirable effect on the character of the neighborhood, adversely impact physical and environmental conditions, or otherwise result in a detriment to the health, safety, and welfare of the neighborhood or community.”); *L & M Graziose, LLP v. City of Glen Cove Zoning Bd. of Appeals*, 127 A.D.3d 863 (2d Dep’t 2015)(affirming the boards’ finding that the variance was substantial, but reversing the denial of the variance on that basis because the granting of the variance would not cause any undesirable impacts); *Quintana v. Bd. of Zoning Appeals of Inc. Vil. of Muttontown*, 120 A.D.3d 1248 (2d Dep’t 2014) (reversed denial; even though the variance was substantial, there was no proof that it was detrimental to the character of the neighborhood).

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

Even if the Zoning Board finds that the need for the variances is 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 adverse impacts, will not be a detriment to nearby properties, and will not create an undesirable change in the character of the neighborhood.

### **CONCLUSION**

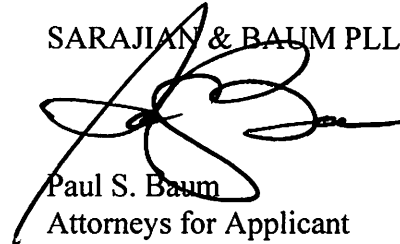
The requested variances will not negatively impact any of the neighbors or create a detriment to the community. Under the particular circumstances of this case, the benefit to the applicant from the grant of the variances significantly outweighs any detriment to the health, safety and welfare of the 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: October 30, 2025

Respectfully submitted,

SARAJIAN & BAUM PLLC

A handwritten signature in black ink, appearing to be 'Paul S. Baum', written over the printed name.

Paul S. Baum  
Attorneys for Applicant