

UNION VALE ZONING BOARD OF APPEALS

Minutes of the Regular Meeting

7:30 pm

November 1st 2022

Members Present: Chairperson Jane Smith and Board members Dennis Dunning, John Hughes, and Michael McPartland

Members Absent: Ilana Nilsen

CALL TO ORDER / DETERMINATION OF QUORUM

Chairperson Jane Smith determined that there was a quorum for the Zoning Board of Appeals (“the Board”) to conduct business and called the meeting to order.

CORRESPONDENCE

None

BUSINESS SESSION

Board unanimously approved minutes from September 6th meeting.

PUBLIC HEARING

None

REGULAR SESSION / NEW BUSINESS

PROJECT NAME

Applicant: Erik Wilson
Owner: Joseph & Jacqueline Kile
Address: 19 Patrick Dr,
Lagrangeville NY 12540
Parcel #: 6761-00-027072
Meeting # 1

Kile Area Variance 1
Kile Area Variance 2
Kile Use Variance

PROJECT DETAILS

Application for three variances for the construction of an accessory apartment.

- Lot size area variance of .68 acres
- Side line area variance of 7’6”
- Use Variance 210-56(b)(2)

Chairperson Smith explained the difference between a use variance and an area variance and emphasized that a use variance is much harder to obtain; by statute, the applicant must demonstrate that the zoning regulations cause the applicant unnecessary hardship and, to prove that, applicant must satisfy four tests set forth in the statute; these tests are designed to insure that the plight of the owner is due to unique circumstances of the property, not the personal circumstances of the applicant.

The applicant (along with the owners of the property at 19 Patrick Drive) stated the purpose for the accessory apartment is to house Jacqueline Kile’s mother. The applicant explained the accessory apartment would add approximately 897 sq. ft. to the existing home and be attached by an external breezeway.

Chairperson Smith noted that the initial the determination letter from the Code Enforcement Officer (CEO) did not state that a use variance would be required but that the applicants requested one. The applicants explained that after the CEO's initial determination, they appeared before the Planning Board and were told by Town counsel that a use variance would be required, notwithstanding the fact that a similar project on the same street had been approved without a use variance, because: 1) the Town code does not allow for adding an accessory apartment to an existing dwelling through construction of a separate structure, 2) the Town code only allows adding an accessory apartment through conversion of space within an existing structure or through the conversion of an already existing non-dwelling structure, and 3) an external breezeway connecting an accessory apartment to an existing home does not constitute "conversion of space".

Chairperson Smith also noted that no accessory apartment is permitted on a substandard lot, which is why an area variance for lot size is needed in addition to the use variance and a side yard area variance.

Mr. Wilson, architect for the owners, explained that the particular use being requested in not necessarily excluded from the code, just the avenue that is being taken to obtain the use.

After further discussion about the personal circumstances of the applicants and the costs already borne by them, the challenges facing the applicants in obtaining a use variance, and identification of other options by the Board, Chairperson Smith recommended that the applicants consider meeting with the CEO to review their options, and, at the same time, that the Board should schedule a public hearing based on the current (re-submitted) application.

With no more questions or comments Chairperson Smith offered the following motion which passed unanimously by The Board:

"The Town of Union Vale Zoning Board of Appeals hereby acts as follows on the Application of Erik Wilson on behalf of Joseph & Jacqueline Kile, located at 19 Patrick Dr, Lagrangeville NY 12540 Parcel #: 6761-00-027072"

Accepted the Application for an area variance for

- 1 Lot size area variance of .68 acres,**
- 2 Side line area variance of 7'6"**
- 3 Use Variance 210-56(b)(2)**

for the construction of an accessory apartment within the RA-3 Zone.

- 1. Classifies the application as "TYPE 2" under NYCRR Part 617.5 and as such, is precluded from environmental review under SEQRA.*
- 2. Schedules a Public Hearing on the Application for Tuesday, December 6th at 7:35 pm and directs the secretary to provide timely notice thereof.*
- 3. Advises the Applicant that all costs involved in notifying the Public shall be reimbursed to the Town of Union Vale.*
- 4. Advises the Applicant that a visit to the premises may -or- may not be scheduled.*

OTHER BUSINESS

None

ADJOURNMENT

As there was no further business, a motion was made by the Chairperson Smith and unanimously accepted by the Board, to adjourn the meeting at 9:32 PM.

The next regular/public meeting of the Zoning Board of Appeals is scheduled for **Tuesday December 6th 2022, at 7:30 PM.**

The agenda will close on **November 22nd at 12:00 Noon.** Items for consideration at the **December** meeting must be received by that date.