

TOWN OF WAPPINGER



PLANNING BOARD & ZONING BOARD OF APPEALS

20 MIDDLEBUSH ROAD
WAPPINGERS FALLS, NY 12590
PH: 845-297-6256
Fax: 845-297-0579

Application for an Area Variance

Appeal No.: 21-7718

Date: 1/14/21

TO THE ZONING BOARD OF APPEALS, TOWN OF WAPPINGER, NEW YORK:

I (We), Lydia Estrada residing at 28 Kendell Drive
Wappingers Falls NY 12590, (phone) 914-474-5636, hereby,
appeal to the Zoning Board of Appeals from the decision/action of the Zoning Administrator,
dated _____, and do hereby apply for an area variance(s).

Premises located at: 28 Kendell Drive, Wappingers Falls NY 12590
Tax Grid No.: 6257-01-331504
Zoning District: R40

1. Record Owner of Property:

Lydia Estrada
Address: 28 Kendell Drive, Wappingers Falls NY 12590
Phone Number: 914-474-5636
Owner Consent dated: 1/1/21

Signature: [Signature]
Print Name: Lydia Estrada

2. Variance(s) Request:

Variance No. 1

I (We) hereby apply to the Zoning Board of Appeals for a variance(s) of the following
requirements of the Zoning Code.

240.37
(Indicate Article, Section, Subsection and Paragraph)

Required: 50 ft to rear property line

Applicant(s) can provide: 14.3'

Thus requesting: 35.7 Variance

To allow: Existing Pool to remain and 7' wide new Deck.

Town of Wappinger Zoning Board of Appeals
Application for an Area Variance
Appeal No.: 21-7718

Variance No. 2

I (We) hereby apply to the Zoning Board of Appeals for a variance(s) of the following requirements of the Zoning Code.

240.37

(Indicate Article, Section, Subsection and Paragraph)

Required: _____
Applicant(s) can provide: 25 ft. to side property line
Thus requesting: 21 ft.
To allow: 4 ft.
Existing pool to remain

3. Reason for Appeal (Please substantiate the request by answering the following questions in detail. Use extra sheet, if necessary):

- A. If your variance(s) is (are) granted, how will the character of the neighborhood or nearby properties change? Will any of those changes be negative? Please explain your answer in detail.

There will be no changes as this change occurred several years ago but no permit was ever filed. This was done prior to us moving into our house 5 years ago. Change was already done several years ago.

- B. Please explain why you need the variance(s). Is there any way to reach the same result without a variance(s)? Please be specific in your answer.

We would like to put a new deck which extends to the pool. In order to do this, we now need to clear the pool variance which had not been done by previous owners. We cannot get new deck without having a variance on the pool done.

- C. How big is the change from the standards set out in the zoning law? Is the requested area variance(s) substantial? If not, please explain in detail why it is not substantial.

The change has already happened.

- D. If your variance(s) is (are) granted, will the physical environmental conditions in the neighborhood or district be impacted? Please explain in detail why or why not.

Seeing as how this change of pool has already happened several years ago, there will be changes that did not happen several years ago there will be no impact in today's variance. This pool/house already had been changed when we moved in 5 years ago. (See attached)

Town of Wappinger Zoning Board of Appeals
Application for an Area Variance
Appeal No.: 21-7718

E. How did your need for an area variance(s) come about? Is your difficulty self-created?
Please explain your answer in detail.

When we did the legal thing of applying for a deck permit, we were informed that our pool's current location was not in the description in the original survey map but had been moved. This was not something we did but this
(See attached)

F. Is your property unique in the neighborhood that it needs this type of variance? Please explain your answer in detail.

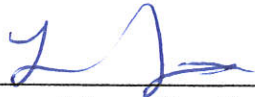
No there is not anything unique about our property. It only needs this variance because previous owners did not get this change in pool location approved.

4. List of attachments (Check applicable information)

- (☒) Survey dated: 3/6/2017, Last revised _____ and
Prepared by: Robert L. Campbell.
(☒) Plot Plan dated: 3/6/2017.
(☒) Photos
() Drawings dated: 3/6/2017.
() Letter of Communication which resulted in application to the ZBA.
(e.g., recommendation from the Planning Board/Zoning Denial)
Letter from: _____ Dated: _____
(☒) Other (Please list): Homeowner Statement

5. Signature and Verification

Please be advised that no application can be deemed complete unless signed below. The applicant hereby states that all information given is accurate as of the date of application.

SIGNATURE: 
(Appellant)

DATED: 1/15/21

SIGNATURE: _____
(If more than one Appellant)

DATED: _____

FOR OFFICE USE ONLY

1. THE REQUESTED VARIANCE(S) (☐) **WILL** / (☐) **WILL NOT** PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD.
2. (☐) **YES** / (☐) **NO**, SUBSTANTIAL DETRIMENT WILL BE CREATED TO NEARBY PROPERTIES.
3. THERE (☐) **IS (ARE)** / (☐) **IS (ARE)** NO OTHER FEASIBLE METHODS AVAILABLE FOR YOU TO PURSUE TO ACHIEVE THE BENEFIT YOU SEEK OTHER THAN THE REQUESTED VARIANCE(S).
4. THE REQUESTED AREA VARIANCE(S) (☐) **IS** (☐) **ARE** NOT SUBSTANTIAL.
5. THE PROPOSED VARIANCE(S) (☐) **WILL** / (☐) **WILL NOT** HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT.
6. THE ALLEGED DIFFICULTY (☐) **IS** / (☐) **IS NOT** SELF-CREATED.

CONCLUSION: THEREFORE, IT WAS DETERMINED THE REQUESTED VARIANCE IS
(☐) **GRANTED** (☐) **DENIED**

CONDITIONS / STIPULATIONS: The following conditions and/or stipulations were adopted by the resolution of the Board as part of the action stated above:

(☐) **FINDINGS & FACTS ATTACHED.**

DATED: _____

ZONING BOARD OF APPEALS
TOWN OF WAPPINGER, NEW YORK

BY: _____
(Chairman)

PRINT: _____

TOWN OF WAPPINGER



PLANNING BOARD & ZONING BOARD OF APPEALS

20 MIDDLEBUSH ROAD
WAPPINGERS FALLS, NY 12590
PH: 845-297-6256
Fax: 845-297-0579

Owner Consent Form

Project No: 21-7718

Date: 1-26-21

Grid No.: 6257-01-331504

Zoning District: R40

Location of Project:

28 Kendell Drive, Wappingers Falls, NY 12590

Name of Applicant:

Lydia Estrada - 914-474-5636
Print name and phone number

Description of

Project: Variance for pool

I Lydia Estrada, owner of the above land/site/building hereby give permission for the Town of Wappinger to approve or deny the above application in accordance with local and state codes and ordinances.

Date

1/15/21

Owner's Signature

[Signature]

Owner's Telephone Number

914-474-5636

Print Name and Title ***

Lydia Estrada -

*** If this is a Corporation or LLC, please provide documentation of authority to sign.

If this is a subdivision application, please provide a copy of the deed.

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| | | | |
|--|-------------------------|---|---|
| Part 1 - Project and Sponsor Information | | | |
| Name of Action or Project: <div style="font-family: cursive; font-size: 1.2em;">Expansion of deck</div> | | | |
| Project Location (describe, and attach a location map): <div style="font-family: cursive; font-size: 1.2em;">28 Kendell Drive, Wappingers Falls, NY 12590</div> | | | |
| Brief Description of Proposed Action: <div style="font-family: cursive; font-size: 1.2em;">Re-do deck and expand it to pool area</div> | | | |
| Name of Applicant or Sponsor: <div style="font-family: cursive; font-size: 1.2em;">Lydia Estrada</div> | | Telephone: 914-474-5636 E-Mail: estrada-lydia@yahoo.com | |
| Address: <div style="font-family: cursive; font-size: 1.2em;">28 Kendell Drive</div> | | | |
| City/PO: <div style="font-family: cursive; font-size: 1.2em;">Wappingers Falls</div> | | State: <div style="font-family: cursive; font-size: 1.2em;">NY</div> | Zip Code: <div style="font-family: cursive; font-size: 1.2em;">12590</div> |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? | | NO | YES |
| If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2. | | | X |
| 2. Does the proposed action require a permit, approval or funding from any other governmental Agency? | | NO | YES |
| If Yes, list agency(s) name and permit or approval: | | X | |
| 3.a. Total acreage of the site of the proposed action? | | <div style="font-family: cursive; font-size: 1.2em;">.25</div> acres | |
| b. Total acreage to be physically disturbed? | | <div style="font-family: cursive; font-size: 1.2em;">.10</div> acres | |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? | | <div style="font-family: cursive; font-size: 1.2em;">.25</div> acres | |
| 4. Check all land uses that occur on, adjoining and near the proposed action. | | | |
| Urban | Rural (non-agriculture) | Industrial | Commercial |
| | | <div style="border: 1px solid black; border-radius: 15px; padding: 2px 10px; display: inline-block;">Residential (suburban)</div> | |
| Forest Agriculture Parkland | | Aquatic | Other (specify): _____ |

The proposed action consists of replacing an already existing structure (backyard deck) and expanding it to our already established pool in the backyard of our home at 28 Kendell Drive, Wappingers, Falls, NY 12590. This will not impact any environmental resources as these were structures that were already in place.

This will all be done on our own property without affecting our neighbors or their property.

| | | | |
|---|----|-----|-----|
| 5. Is the proposed action, a. A permitted use under the zoning regulations? | NO | YES | N/A |
| b. Consistent with the adopted comprehensive plan? | | X | |
| 6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? | NO | YES | |
| 7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____ | NO | YES | |
| 8. a. Will the proposed action result in a substantial increase in traffic above present levels? | NO | YES | |
| b. Are public transportation service(s) available at or near the site of the proposed action? | X | | |
| c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action? | X | | |
| 9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ | NO | YES | |
| 10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ | NO | YES | |
| 11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ | NO | YES | |
| 12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area? | NO | YES | |
| 13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? | NO | YES | |
| b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ | NO | YES | |
| 14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: Shoreline Forest Agricultural/grassland Early mid-successional Wetland | | | |
| 15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? | NO | YES | |
| 16. Is the project site located in the 100 year flood plain? | NO | YES | |
| 17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems off and storm drains)? If Yes, briefly describe: <u>Gutters,</u> | NO | YES | |

| | | |
|---|------------------------|-----|
| 18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ | NO | YES |
| _____ | X | |
| 19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ | NO | YES |
| _____ | X | |
| 20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ | NO | YES |
| _____ | X | |
| I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE | | |
| Applicant/sponsor name: <u>Lydia Estrada</u> | Date: <u>1/26/2021</u> | |
| Signature: <u>[Signature]</u> | | |

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

| | No, or small impact may occur | Moderate to large impact may occur |
|---|-------------------------------|------------------------------------|
| 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? | | |
| 2. Will the proposed action result in a change in the use or intensity of use of land? | | |
| 3. Will the proposed action impair the character or quality of the existing community? | | |
| 4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? | | |
| 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? | | |
| 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? | | |
| 7. Will the proposed action impact existing: <ul style="list-style-type: none"> a. public / private water supplies? b. public / private wastewater treatment utilities? | | |
| 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? | | |
| 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? | | |

| | No, or small impact may occur | Moderate to large impact may occur |
|---|---|--|
| 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? | | |
| 11. Will the proposed action create a hazard to environmental resources or human health? | | |

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. **Part 3** should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

Town of Wappinger
20 Middlebush Rd.
Wappingers Falls, NY 12590
(845) 297-6256

To: Estrada, Lydia
6 Hoose Blvd
Fishkill NY

SBL: 6257-01-331504
Date of This Notice: 1/22/2021
Zone: R40
Application #: 39950

For Property Located at: 28 Kendell Dr

Your application to:

LEGALIZE EXISTING AG POOL REPLACEMENT - 24' ROUND
102 SF POOL DECK EXTENSION

****NEED ELECTRICAL INSPECTION BY TOWN APPROVED ELECTRICAL INSPECTOR****

****POOL ALARM MUST MEET ASTM F 2208 REQUIREMENTS****

is denied for the following deficiency under Section 240.37 of the Zoning Laws of the Town of Wappinger

****NEED FINAL INSPECTION BY TOWN BUILDING INSPECTOR****

****POOL NOT TO BE USED WITHOUT CERTIFICATE OF COMPLIANCE****

Where 50 feet to the rear property line is required, the applicant can provide 21.3 feet to the rear property line for an existing above ground pool and 14.3 ft to the rear property line for a new proposed deck.

Where 25 ft to the side property line is required, the applicant can provide 21 ft to the side for an pre-existing above ground pool.

- "Accessory Structures must comply with all minimum yard setback requirements for buildings, but in no case shall they be permitted in the front yard."
- Does NOT MEET dimensional requirement for Zone.
- "This zoning district has a front yard requirement of seventy-five feet (75') from a state or County road."

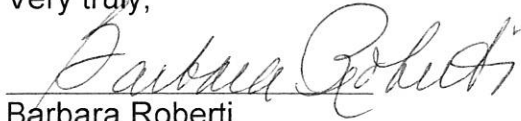
As per code Section 240-26, which states: " The use of tents, trailers and mobile homes for

- permanent dwelling purposes shall not be permitted in any district except as permitted and regulated in Section 240-51, Mobile home park, of this chapter..."

| | REQU I R E D: | WHAT YOU CAN PROVIDE: |
|--------------------|---------------|------------------------|
| REAR YARD: | <u>50</u> ft. | <u>14.3</u> ft. - Deck |
| SIDE YARD (LEFT): | <u>25</u> ft. | <u>21</u> ft. Pool |
| SIDE YARD (RIGHT): | _____ ft. | _____ ft. |
| FRONT YARD: | _____ ft. | _____ ft. |
| SIDE YARD (LEFT): | _____ ft. | _____ ft. |
| SIDE YARD (RIGHT): | _____ ft. | _____ ft. |

You have the right to appeal this decision to the Zoning Board of Appeals within 60 days of the date of this letter. The Zoning Board of Appeals meets the second and fourth Tuesday of the month. The area variance appeal will require at least two meetings, one for discussion and one for a Public Hearing. The required forms can be obtained at this office.

Very truly,



Barbara Roberti
Zoning Administrator
Town of Wappinger

RECEIVED

NOV 18 2020

BUILDING DEPARTMENT
TOWN OF WAPPINGER

TOWN OF WAPPINGER BUILDING DEPARTMENT

20 Middlebush Road, Wappingers Falls, N.Y. 12590

telephone: 845-297-6256 fax: 845-297-0579

APPLICATION FOR BUILDING PERMIT

APPLICATION TYPE: ☒ Residential ZONE: B40 DATE: 11/24/2020
☐ New Construction ☐ Commercial APPL #: 39950 PERMIT # _____
☐ Renovation/Alteration ☐ Multiple Dwelling GRID: 6257-01-331504

APPLICANT NAME: Lydia Estrada
ADDRESS: 28 Kendell Drive Wappingers Falls
TEL #: _____ CELL: 914 474 5636 FAX #: _____ E-MAIL: _____
Cesar - 845-224-8733

NAME OWNER OF BUILDING/LAND: _____
PROJECT SITE ADDRESS: 28 Kendell drive
MAILING ADDRESS: 28 Ken
TEL #: _____ CELL: _____ FAX #: _____ E-MAIL: _____

BUILDER/CONTRACTOR DOING WORK:

* COMPANY NAME: Eavens Home Improvement inc
ADDRESS: 129 N Brewster Rd Brewster NY 10509
TEL #: Tim CELL: 914 362 9052 FAX #: _____ E-MAIL: Eavens Home Improvements inc@yahoo.com
DESIGN PROFESSIONAL NAME: *
TEL #: _____ CELL: _____ FAX #: _____ E-MAIL: _____

APPLICATION FOR: Deck 102 SF NEW

24' RD AG Pool
LG. 11/24/20

SETBACKS: FRONT: _____ REAR: _____ L-SIDEYARD: _____ R-SIDEYARD: _____

SIZE OF STRUCTURE: _____

ESTIMATED COST: 17,300 TYPE OF USE: _____

NON-REFUNDABLE APPL. FEE: 150 PAID ON: 11/24/2020 CHECK # CASH RECEIPT #: 20-22475
legalization BALANCE DUE: 250 PAID ON: 11/24/2020 CHECK # CC RECEIPT #: 20-22476

APPROVALS:

ZONING ADMINISTRATOR:

☐ Approved ☒ Denied Date: 11.30.20

Signature of Applicant

FIRE INSPECTOR:

☐ Approved ☐ Denied Date: _____

Signature of Building Inspector

To Whom it May Concern,

We are writing this letter to explain our situation in getting our deck approved. During this summer, because of the pandemic, the money we had saved for a family vacation was not going to be used. Instead, we decided to put it towards improving our home by getting a new deck. We hired a contractor who explained the process of how to get this done, starting with getting a permit. Being new home owners, we wanted to make sure we did everything through legal means.

We were very much surprised to be denied with the reason being given that our pool's location was incorrect according to what was on file for the Town. We were told that we had moved the pool illegally and would not be approved for a deck until this was sorted.

The problem is we did **not** move the pool. We bought this property as is and had the land surveyed- all above board. This survey was submitted to the Town, which went through without a hitch.

We were told to pay a 275.00 fine (for something we did not do- which was moving the pool) and we complied. When we paid that fine, we were under the impression that someone from the town would come out to our house to inspect the pool and take measurements. But nobody has come out to our home to look at the pool or take any measurements.

Now, five months later we are being told we will have to apply for a variance to be presented at the Town Zoning Meeting. All told, this process will cost us an additional 1500 dollars money that we saved despite being in a pandemic and having money issues. We do not understand why we are paying for previous' owners actions.

L. Estrada
28 Kendell Drive
Wappinger Falls, NY 12590

My husband and I both work for government agencies- My husband works for Child Protective Services and I am a social worker who works at the VA hospital- we understand the need to follow the rules and regulations of whatever institution we are working in. Also, we are proud of our home and want to do everything correctly, we will do what we have to but please understand our frustrations over having to extend our financial situation when we did everything the legal route and somehow are being penalized for this.

Thank you,



Lydia Estrada

L. Estrada
28 Kendall Drive
Wappingers Falls, NY 12590

Question D (continued).

It also should be noted that we have asked our neighbors and according to those that have lived here for several years, they seem to believe pool was always in current location. There is no memory of pool being moved.

Question E continued

was how house was sold to us. We had our property surveyed (map included) and this was never brought to our attention. We were cleared and bought ~~the~~ house. We have been living here for five years when we decided to extend our deck. It was only when our permit was rejected were we told about the pool. This was definitely not self created but rather something we inherited from previous owners much to our dismay.

Back side of pool. Measurements 21.3 feet from pool.



28 Kendell Dr.
Wappingers Falls, NY 12590

Right side of pool. Measurements 36 feet from pool.



28 Kendall Dr.
Wappingers Falls, NY 12590

Left side of pool. Measurements 21.6 feet from pool.



28 Kendall Dr.
Wappingers Falls, NY 12590