Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

73-623 - Reduction or modification of Mandatory Inclusionary Housing requirements

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LAST AMENDED
12/5/2024

For a #development#, #enlargement# or #conversion# subject to the provisions of paragraph (a)(3), inclusive, of Section 27-131 (Mandatory Inclusionary Housing), the Board of Standards and Appeals may, upon determining that a hardship that is specifically created by the requirements of such Section exists, modify the income levels specified for #qualifying households#, reduce the amount of #affordable floor area# required or reduce the amount of a payment into the #affordable housing fund#, provided the Board finds that:

(a) the applicant has applied for any appropriate relief for which such #development#, #enlargement# or #conversion# is eligible for any financial hardship or practical difficulty not specifically created by the requirements of Section 27-131, paragraphs (a)(3)(i) through (a)(3)(v) and (a)(5);

(b) such requirements for #affordable housing# or a contribution to an #affordable housing fund# create an unnecessary hardship, with no reasonable possibility that a #development#, #enlargement# or #conversion# on the #zoning lot# in strict compliance with the provisions of Section 27-131, paragraphs (a)(3)(i) through (a)(3)(v) and (a)(5), and Section 27-10 (ADMINISTRATION OF AFFORDABLE HOUSING), inclusive, will bring a reasonable return, and that a modification or reduction of these requirements is therefore necessary to enable the owner to realize a reasonable return from such #zoning lot#; and

(c) the unnecessary hardship claimed as a basis for such modification or reduction has not been created by the owner or by a predecessor in title.

In determining whether a hardship exists, the Board shall consider whether alternative permitted #uses#, or alternative forms of housing tenure would bring a reasonable return from the #zoning lot#.

The Board may modify #affordable housing# requirements set forth in Section 27-131, paragraphs (a)(3)(i) through (a)(3)(iv) and (a)(5), to permit appropriate relief as follows.

First, the Board shall determine whether compliance with the requirements of Option 1, Option 2 or Option 3, as set forth in Section 27-131, paragraphs (a)(3)(i), (a)(3)(ii) and (a)(3)(iii), respectively, where not otherwise permitted, provides sufficient relief.

If the Board does not so find, the Board shall next determine whether compliance with the requirements of Option 4, as set forth in Section 27-131, paragraph (a)(3)(iv), where not otherwise permitted, provides sufficient relief.

If the Board does not so find, the Board, in consultation with the Department of Housing Preservation and Development, shall determine a modification or reduction of the requirements of Section 27-131, paragraph (a)(3)(i) through (a)(3)(iv) and (a)(5), that represents the minimum necessary modification or reduction to afford relief.

In addition, the Board, in consultation with the Department of Housing Preservation and Development, may permit a modification or reduction of the requirements of Section 27-131, paragraph (a)(3)(v) that represents the minimum necessary modification or reduction to afford relief.

A copy of each application to the Board for a special permit under the provisions of this Section shall be provided by the applicant to the Department of Housing Preservation and Development concurrently with its submission to the Board. Before the Board issues a final determination on any application made pursuant to this Section, #HPD# shall submit comment or appear before the Board regarding such application.

A special permit pursuant to this Section shall lapse after a term of four years, pursuant to Section 73-70 (LAPSE OF PERMIT). When considering an application for renewal of a special permit pursuant to paragraph (f) of Section 73-03 (General Findings Required for All Special Permit Uses and

Modifications), the Board shall consult with #HPD# in determining whether the circumstances warranting the original grant of such permit still obtain, and may renew, modify, or deny the application for renewal, as appropriate.

The Board may prescribe such conditions and safeguards as it deems necessary to minimize adverse effects upon the surrounding area and the community at large.