

**MINUTES
VILLAGE of ARDSLEY
ZONING BOARD of APPEALS
REGULAR MEETING (VIA ZOOM)
WEDNESDAY, OCTOBER 28, 2020**

PRESENT: Michael Wiskind, Chair
Jacob Amir
Mort David
Craig Weitz

ALSO PRESENT: Larry Tomasso
June Archer

1) **Call to Order**

The Chair called the regular meeting to order at 8:12 pm. The Chair stated that the meeting was being held remotely via the web-based conferencing platform, Zoom, and that Larry Tomasso, Village Building Inspector, would be moderating and recording the meeting. The Chair introduced the Board members, and introduced Ms. Archer, who will become a member of the Zoning Board of Appeals in December.

2) **Announcements and Approval of Minutes**

Announcements

The Chair, after confirming Board members' availability, announced that the next meeting of the Zoning Board of Appeals is scheduled for Wednesday, November 25, 2020 at 8:00 pm, and that the meeting thereafter would take place on Wednesday, December 23, 2020.

Approval of Minutes

Mr. David moved, and Mr. Weitz seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of July 27, 2020, as amended.

Vote: 4 in favor, none opposed, none abstaining, as follows:

Michael Wiskind, Chair –	Aye
Jacob Amir –	Aye
Mort David –	Aye
Craig Weitz -	Aye

Mr. Amir moved, and Mr. David seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of September 23, 2020, as amended.

Vote: 4 in favor, none opposed, none abstaining, as follows:

Michael Wiskind, Chair –	Aye
Jacob Amir –	Aye
Mort David –	Aye
Craig Weitz -	Aye

3) **Continuation of Public Hearing**

Application for Variance

Robert & Stephanie Goodman

131 Heatherdell Road, Ardsley, New York.

Section 6.60, Block 38, Lot 73, in an R-1 One Family Residential District.

For proposed in-ground swimming pool, with a 15.1 Foot West Side Yard Setback, where Thirty Feet is the Minimum Required (Code § 200-12B); and with 6,234 Square Feet Gross Land Coverage, where 5,752 Square Feet is the Maximum Permitted Subject to Planning Board Special Permit approval (Code § 200-83C).

Present:	Michael Wiskind, Chair
	Jacob Amir
	Mort David
	Craig Weitz

Also Present:	Robert and Stephanie Goodman, applicants
	Larry Tomasso, Building Inspector

The Chair reminded everyone that this matter involves requests for two variances, one for gross land coverage and one for a side yard setback.

The Chair noted that the Board had just received revised plans, and asked applicant to explain the changes reflected in the revised plan. Mr. Goodman reported that, as requested, they had their architect take a stab at moving the pool diagonal from the house to use less of the setback. The Chair asked if the architect was at the meeting, and Mr. Goodman replied that he was not.

The Chair pointed out that in the revised plan it looks like the pool takes up more of the setback. Mr. Goodman stated that the pool had to be ten feet from the sewer line, and acknowledged that he had been thinking in terms of a fifteen-foot setback when they did this. The Chair stated that his suggestion was to have the pool on a diagonal parallel to the sewer line, not perpendicular to it. Mr. Goodman asked if in that orientation it would still fall within the setback. The Chair replied that that would depend upon the shape of the pool and how the ten-foot distance worked out, but that if it were 180 degrees from the way it is oriented now, it would lie parallel to the sewer line. Mr. Goodman stated that this is how the architect drew it up. The Chair stated that that was one of the reasons the Board had hoped the architect would be at the meeting, to review alternative choices together.

The Chair stated that applicants had initially applied to the Planning Board [for a special permit for lot coverage of 5,752 square feet¹] with a proposal that reduced the size of the driveway to bring the lot coverage down to that amount and eliminate the need for a variance. The Chair continued that applicants subsequently applied to this Board for a variance on lot coverage with the driveway back in place, and that this required applicants to be referred back to the Planning Board for the land coverage issue. The Chair concluded that the Planning Board has reviewed this matter² and has provided comments to the Zoning Board as follows:

"The Planning Board has certain discretion in connection with land coverage, and has rarely if ever granted the maximum allowed. The applicant was before our Board in connection with the pool and had agreed to remove enough driveway to offset its installation. We would not have recommended additional impervious surface. With the need for the setback variance, the applicant has applied for the lot coverage variance. We respect the Zoning Board's own discretion to grant the variance, and it may take into account possible lack of the visibility of the driveway that would remain if the variance were granted."

The Chair expressed his understanding that although the Planning Board was not definitive, it declined to approve or recommend the additional lot coverage.

The Chair stated that he does not regard the visibility as being critical to the issue of lot coverage. Mr. David asked what the Planning Board was referring to by "lack of visibility." Mr. Tomasso stated that it meant that a driveway is a flat surface, not a structure that is visible from the street. Mr. Tomasso noted that the Planning Board did not opine on the pool location, as that is not within their purview.

Mr. Amir asked if this revised plan has the same lot coverage, and Mr. Goodman replied that in this plan, none of the driveway is removed. Mr. Amir asked applicant if it is possible

¹ The maximum within the Planning Board's discretion.

² At the Planning Board meeting of October 13, 2020.

to remove part of the driveway, and Mr. Goodman stated that Mr. Tomasso had mentioned [replacing] part of the driveway with pervious asphalt. Mr. Amir asked applicant if it is feasible for them to remove part of their driveway, and Mr. Goodman stated that the kids play on the driveway because the house is on a busy street, their part of which is downhill.

The Chair asked Mr. Tomasso if it would still be considered lot coverage if part of the driveway were replaced with a permeable surface. Mr. Tomasso mentioned that one Planning Board member had suggested this type of replacement, though it had not been specified in the Chair's comments. Mr. Tomasso stated that a permeable surface would still count toward lot coverage but might alleviate drainage concerns.

Mr. Amir asked if there are distance requirements between the pool and the house, and Mr. Tomasso advised that if the pool were ten feet from the sewer line and outside the setback, there would be no distance issues. Mr. Weitz asked if rotating the pool created issues for the air conditioning unit, and Mr. Tomasso advised that there were none that could not easily be addressed, and added that the electrician should be able to address any bonding issues and that, while not ideal, they could always move the condenser if needed. Mr. Weitz suggested that moving the condenser created another impediment for applicants. Mr. Amir opined that this is not a zoning concern, and Mr. Tomasso concurred that it is a building department issue.

The Chair stated that the Board had asked for the sewer line to be removed from the plans, and that has been corrected, but pointed out that the new drawings reference a new sewer connection, even though the new proposed pool location does not involve relocating the sewer line. Mr. Goodman suggested that the architect must have neglected to remove it, and the Chair pointed out that the reference to a new sewer connection had not appeared on the original submission.

Mr. Weitz asked applicant to explain their preferences regarding the two locations proposed to date. Mr. Goodman stated that they preferred the initial proposal where the pool was closer to the house, because that would leave more of the backyard in which the kids could play. Mr. Goodman added that the architect had suggesting that fencing on the diagonal versus hugging the house might look odd.

Mr. Goodman mentioned that the architect had pointed out that the neighbors on that side are in an R-3 zone with a fifteen-foot setback, which is why he had thought [the pool] was close at 14.97 feet [to the property line], but then realized that he had forgotten that they have a thirty-foot setback. Mr. Goodman stated that the line in the middle of pool is setback line. Mr. Weitz asked if [the part of the pool over the setback line] was the only encroachment into the setback, and asked if it changes things dramatically if the pool were oriented parallel to the sewer line and the condenser were relocated. The Chair pointed out that the pool is not symmetrical [relative to the setback line] and that therefore the orientation may impact the amount of the encroachment. The Chair stated that this was

why the Zoning Board had wanted the architect to be present, to be apprised of the square feet of the encroachment, the aesthetic issues of the fencing, and to see how the architect could position the pool both ten feet from the sewer line and so as to minimize the encroachment into the setback.

Mr. Amir asked what is beyond the property line, and Mr. Goodman advised that it was the backyard of a neighbor on Hilltop. Mr. Amir asked about the fencing requirements. Mr. Goodman stated that they plan to have a four-foot metal fence attaching to the house and a six-foot wood privacy fence, and advised that they had already received approval from the Board of Architectural Review for these fences. The Chair asked if the six-foot fence was in addition to the four-foot fence around the pool, and Mr. Goodman explained that there will be a four-foot metal fence inside the backyard attached to the house, and that along the border there will be a six-foot wood privacy fence. Mr. Goodman added that they also plan to plant green giants [arborvitae] on their side of the privacy fence.

Mr. David stated that he would like to know the difference in square footage [of what is within the setback] between the original and revised plans. The Chair pointed out that it looks like more than half of the pool is within the setback in the revised plan, whereas it looked like less than half of the pool was within the setback in the original plan. Mr. Tomasso stated that he thinks that the Chair is correct.

The Chair advised applicants that it did not seem that the Zoning Board would be able to resolve anything tonight. The Chair stated that the Zoning Board would like to see a proposal with the pool oriented the other way [on the diagonal but parallel to the sewer line], and that the Board would like to know both the total square footage of the pool and the square footage of the encroachment into the setback, and noted that the architect would be the best source for these numbers. Mr. Amir asked applicants to provide the revised plan well in advance of the meeting.

Mr. Goodman asked if the Board wanted the architect to draw the pool with the shallow end closer to the house and parallel to the existing sewer line. The Chair advised that the shallow and deep end are not material, that the goal is to minimize the encroachment, and reiterated that it would be helpful if the architect were available. Mr. Goodman stated that the architect had pointed out that as drawn the pool encroaches on the side setback but that the other way it would have encroached on the rear setback as well. The Chair stated that the goal is to minimize the total square footage of encroachment on any setback, rear or side.

The Chair reminded applicant to have the architect remove the reference to the sewer connection from the drawing. Mr. Weitz stated that, without benefit of the architect or overhead visuals, the Board's evaluation was more difficult. Mr. Goodman stated that they had attempted to obtain visuals with drones but had been unsuccessful.

Mr. Tomasso asked if the Board could provide applicant any direction regarding the driveway at the same time. The Chair asked if the lot coverage would still need Planning Board approval. Mr. Tomasso advised that if the Zoning Board were to grant a variance, the Planning Board would be bound to issue a permit but would likely focus on drainage considerations. The Chair advised applicants to have the architect consider what could be done to reduce the amount of impermeable surface and to also address the drainage issues that the Planning Board will address. Mr. Weitz suggested the possible use of pavers that crisscross and allow dirt and grass in between [grass pavers]. Mr. Tomasso suggested that applicants could also consider pervious pavement, where the blacktop material has a drainage space under it and water can percolate through the blacktop. The Chair suggested that applicant might find these solutions more tolerable in the parking area of the driveway rather than in the play area.

The Chair noted that no member of the public was present to speak in support of or in opposition to the application.

Mr. David moved, and Mr. Weitz seconded, to continue the Public Hearing.

Vote: 4 in favor, none opposed, none abstaining, as follows:

Michael Wiskind, Chair –	Aye
Jacob Amir –	Aye
Mort David –	Aye
Craig Weitz -	Aye

4) Continuation of Public Hearing

Application for Variances

Musa & Asma Eljamal

9 Cross Road, Ardsley, New York

Section 6.120, Block 103, Lot 10, in an R-3 One-Family Residential District

For Proposed Additions to Existing Driveway and One-Story Building, with a Proposed Six Foot Five and a Half Inch North Side Yard Setback, where a Fifteen-Foot Setback is the Minimum Required (Code § 200-26B); and with 12,829 square feet of Proposed Gross Land Coverage, where 9,688 square feet is the Maximum Permitted Subject to Planning Board Special Permit Approval (Code § 200-83C).

This matter was adjourned.

5) Adjournment

There being no further business, the Zoning Board of Appeals adjourned the meeting at 8:47 pm.

Respectfully submitted,
Judith Calder,
Recording Secretary