

**MINUTES
VILLAGE of ARDSLEY
ZONING BOARD of APPEALS
REGULAR MEETING (VIA ZOOM)
WEDNESDAY, JANUARY 27, 2021**

PRESENT: Michael Wiskind, Chair
Jacob Amir, Esq.
Dr. June Archer
Mort David
Serge Del Grosso

ALSO PRESENT: Larry Tomasso

1) Call to Order

The Chair called the regular meeting to order at 8:04 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.

2) Announcements and Approval of Minutes

Announcements

The Chair announced that the next meeting of the Zoning Board of Appeals is scheduled for Wednesday, Feb 24, 2020 at 8:00 pm.

Approval of Minutes

Mr. Amir moved, and Mr. Del Grosso seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of December 23, 2020, as amended to reflect Mr. David's absence and Dr. Archer's presence in item #3.

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

Michael Wiskind, Chair –	Aye
Jacob Amir –	Aye
Dr. June Archer –	Aye
Mort David –	Abstain
Serge Del Grosso -	Aye

3) Public Hearing

Application for Variances from Village Code Requirements

Ravpreet K. Kohli

29 Plainview Avenue, Ardsley, New York.

Section 6.60, Block 64, Lot 10, in an R-1 One Family Residential District.

For proposed second story addition, with less than Fifteen Feet East and West Side Yard Setbacks (Code § 200-26B).

Present: Michael Wiskind, Chair
Jacob Amir
Mort David
Serge Del Grosso

Also Present: Ravpreet Kohli, applicant
Dipti Shah, architect
Emily Weisenbach, 2 Wilmoth Road, Ardsley, NY
Larry Tomasso, Building Inspector

The Chair read the Legal Notice.

The Chair noted that in mailing the Legal Notices, applicant had mailed to a 250-foot radius instead of a 200-foot radius, which inherently is fine, but that applicant was going to check the names against the 200-foot list. Ms. Shah reported that she had checked the names, that the list that she had submitted is correct, that 42 Legal Notices were mailed although the required list was 30. The Chair asked how many return receipts were received, and Ms. Shah advised that she had provided the list to the building department. The Chair asked Mr. Tomasso if he could confirm the number of return receipts that had been submitted, and Mr. Tomasso advised that, due to Covid requirements, the office is not handling paper immediately upon its arrival, but that he will be able to check the receipts.¹

¹ Subsequent to the meeting, the Village Office confirmed that of the 29 properties located within 200 feet of subject property, Notices were confirmed as delivered to 28 of these, 27 by return receipt and 1 by USPS tracking, and 1 was returned to sender as “Vacant, Unable to Forward”; and that of the 12 properties located between 201 and 250 feet of subject property, Notices were confirmed as delivered to 11 of these, 8 by return receipt and 3 by USPS tracking, and 1 was returned to sender as “Not Deliverable as Addressed, Unable to Forward.” The Village Office also noted that the Notice was not mailed to the 24 co-owners of properties located within 200 feet of subject property, and that the

The Chair asked Ms. Shah to describe the proposal. Ms. Shah shared her screen to show drawings of the proposal. Ms. Shah explained that the existing house is a 1960s ranch and that the West side of the house is ten feet from the property line, where the setback is fifteen feet and that they propose adding a second story that maintains the existing non-conformity on the West side. Ms. Shah continued that the East side of the existing house protrudes one foot into the setback in the front and ten inches into the setback at the back and that they propose adding a second story that maintains the existing non-conformity on that side as well. The Chair pointed out that there is an existing rear addition on the East side of the house that is slightly stepped back such that it does not protrude into the setback, and that the proposed second-story addition continues the line from the East side of the house and therefore does extend the non-conformity. Ms. Shah conceded that the portion of the second story that is above the existing addition overhangs the existing addition and that while it does not expand the footprint, it does extend the non-conformity [of the original house over part of the conforming earlier addition].

Ms. Shah explained the that applicants desire this addition because the existing house has 3 bedrooms, two of which are quite small, and that two adult daughters are at home during the pandemic, and that their parents stay with them for long periods. Ms. Shah described that the second floor would consist of a new master suite and two bedrooms, that the existing master will serve double duty as an office and guest bedroom, that the existing two small bedrooms would become the new living room, and that the existing living room will become a family room. Ms. Shah opined that the new exterior would enhance the neighborhood, and she showed proposed elevations.

The Chair noted that the Village had determined that there were calculations that were inconsistent on various documents, some of which had been revised within a few hours of the meeting. The Chair stated that anything resolved tonight would be dependent on updated calculations being submitted to and reviewed by the Village and all reconciled numbers being consistent on all documents. Ms. Shah stated that she had informed applicants about this, and Mrs. Kohli confirmed that the applicants had been advised of and understood the situation.

Mr. David asked if the parking described in the proposal of two off-street parking places would be sufficient with two daughters living there. Ms. Shah stated that the daughters have always lived there. The Chair asked if there was a garage, and Mrs. Kohli stated that there is a one-car garage and that they can park three cars in the driveway.

Mr. David asked if they had considered expanding toward the back [instead of up], as there seemed to be sufficient room. Ms. Shah stated that they had considered that option, but

names of the co-owners of properties between 201-250 feet of subject property also were omitted. The Village Office pointed out that the architect had been advised that the Notice was to be mailed “to all individuals listed, including owners and co-owners,” and thus disagreed with architect’s assertion that “everyone on the abutters list was notified.”

found that it would result in an odd layout and that expanding with the proposed design allows for a sensible and contiguous layout. Ms. Shah added that it is easier and more economical to build on the existing foundation rather than to increase the footprint in the back. Mr. David asked if building back might not require a variance. Ms. Shah replied that building back can be done but does not create the right spaces.

Mr. David noted that home of applicant's neighbor at 31 Plainview is on the market for sale, and asked if applicant had received a return receipt from them. Ms. Shah stated her belief that she received more than thirty receipts in response to the Notices mailed, but that as she submitted the list of receipts to the building department, she no longer has the list to verify which neighbors responded. Ms. Shah added that she had spoken with the son of the owner, had asked him, as a contractor, for a price for the project, and he had given a price, so the son is aware of the proposal, and she can verify if a receipt was received from 31 Plainview.²

Mr. David stated that he thought the zoning code had become effective in the 1950s, so he asked how this house could have been built as non-conforming in the 1960s. Mr. Tomasso advised that Ardsley has had zoning codes since the 1930s, and that in 1959 the Village adopted a major overhaul of the zoning code. Mr. Tomasso explained that [side] setback requirements have increased, that prior to 1959 it had been five feet, that in 1959 it increased to eight feet, and that since then the setback requirements have incrementally increased up to the current fifteen feet. The Chair noted that Village records indicate that the house was built in 1956 [not the 1960s]. Mr. Tomasso stated that in 1956 the side yard setback would have been either eight feet or ten feet.

Mr. Amir asked if expanding to the back was possible in terms of land coverage requirements. Ms. Shah stated that with what is existing and proposed, they are slightly over on permitted land coverage. Mr. Amir asked how building back would affect land coverage. Ms. Shah stated that expanding back would increase land coverage. Ms. Shah added that going back would also require more foundation work and that going up is more environmentally friendly. Mr. Amir asked if it were certain that a variance would not be needed if the house went back. Mr. Tomasso stated that it was entirely possible, if they expanded back, that they would need a variance for land coverage instead of for setbacks. The Chair pointed out that the property currently is at twenty-five percent land coverage where twenty-eight percent is allowed, so there is not a lot of room with which to work. Mr. Amir asked if that meant that a variance would be needed either if the house was expanded up or back, and both Mr. Tomasso and Ms. Shah replied that that was correct.

Mr. Del Grosso sought clarification of precisely what was sought in the variance, as there seemed to be a discrepancy about the calculations and about whether or not the proposal extended the non-conformity. Ms. Shah stated that the calculations are correct, and that

² The Village Office subsequently informed the Board that the Notice to John Tacon, 31 Plainview, was returned to sender as "Vacant, Unable to Forward," and added that 31 Plainview was sold on January 25, 2021.

the discrepancy is because her letter stated that the proposal does not extend the non-conformity where there is a sliver of about six square feet that is beyond the existing non-conformity. The Chair suggested that the confusion might stem from the fact that the foundation is not moving, but pointed out that the proposal increases the volume of the building that extends into the setback, and specified that the visual mass is about six feet times the height of the addition. Mr. Tomasso pointed out that those six feet would also count into land coverage, and Ms. Shah stated that those six feet have been counted in land coverage.

The Chair pointed out that the existing rear addition juts in a bit from the house, likely to avoid it intruding into the setback. Ms. Shah said that it is the sliver [of six feet that overhangs the existing addition that will increase the non-conformity]. Ms. Shah acknowledged that the overhang would look a little weird, but pointed out that it [is less visible as it is in the back], and regardless is more an oddity for what is not on the first floor than for what is on the second floor.

The Chair stated that adding a second story to an existing non-conformity, depending on other circumstances, is generally regarded tolerantly, but here the addition increases the non-conformity, though admittedly not by a great deal of area. Ms. Shah opined that [the six square feet of overhang] is innocuous, that it is hardly noticeable from the side view, and not visible at all from anywhere else.

Dr. Archer stated that his issues about building back and other variances had been addressed by Messrs. David and Amir.

Chair asked if any member of the public wished to ask any questions or to speak in support of or in opposition to the application.

Ms. Weisenbach stated that she had no objection to the addition to the home. Ms. Weisenbach stated that she lives at the end of the street, and expressed concern about construction impeding traffic on the narrow street. Ms. Shah stated that the project should take between four and five months and that she did not expect it to create more traffic.

Dr. Archer moved, and Mr. David seconded, to close the Public Hearing.

Vote: 5 in favor, none opposed, none abstaining, as follows:

Michael Wiskind, Chair –	Aye
Jacob Amir –	Aye
Dr. June Archer –	Aye
Mort David –	Aye
Serge Del Grosso –	Aye

Close Public Hearing

Mr. Amir proposed, and Mr. David seconded, the following Resolution:

WHEREAS, Ravpreet K. Kohli, of 29 Plainview Avenue, Ardsley, New York, 10502, has applied to this Board for a variance from strict application of the requirements of Section 200-26 Subdivision B of the Zoning Ordinance of the Village of Ardsley, which requires a minimum side yard setback of Fifteen Feet, for permission to construct a proposed second story addition to the legal non-conforming one-family dwelling; and

WHEREAS, this application is made under the authority of Section 200-97 Subdivision B of the Zoning Ordinance of the Village of Ardsley, affecting premises known as 29 Plainview Avenue, Ardsley, New York, and designated on local tax maps as Section 6.60, Block 64, Lot 10, in an R-1 One-Family Residential District; and

WHEREAS, a Public Hearing on this application was held by the Zoning Board of Appeals via Zoom on January 27, 2021, after due notice by publication; and

WHEREAS, at the Hearing, applicant Ravpreet Kohli and architect Dipti Shah appeared in support of this application, and neighbor Emily Weisenbach appeared without objection to this application, and no one appeared in opposition to this application, and all those who desired to be heard were heard and their testimony recorded; and

WHEREAS, this Board, after carefully considering all testimony and the application, finds the following:

WHEREAS, this Board, in weighing both the potential benefit to the applicant and the potential detriment to the health, safety and welfare of the neighborhood if the variance is granted, has determined that:

- (1) neither an undesirable change in the character of the neighborhood nor a detriment to nearby properties will be created by the granting of the variance, as this house's encroachment into the setback only arose due to changes in the Village Code after the house was built, and as approval of the variance will extend the existing legal non-conformity vertically on the West side of the house where the existing house is ten feet from the property line and the proposed second story addition will be ten feet from the property line, and as it will extend the existing legal non-conformity vertically on the front portion of the East side of the house where the house is currently fourteen feet from the property line and the proposed addition will be fourteen feet from the property line and will extend the existing encroachment on the East side of the addition to create a flush wall for an additional encroachment of approximately one foot deep by six feet wide;
- (2) the benefits sought by the applicant cannot be feasibly achieved other than by the requested variance, as an extension behind the house was considered and

rejected because it would not have permitted a desirable interior layout, would have been too costly, and would have created excess land coverage to an unacceptable degree;

(3) the requested variance is not substantial because the addition will not change the footprint of the house and will only extend the existing legal non-conforming setback vertically and thus will not change the width of the encroachments into the side yards, and because the rear six feet of the second story will newly encroach only one foot into the East side setback to continue the line of the front of the house and thus will increase the area of the encroachment into the setback by only approximately six square feet, which is small relative to the size of the house and the property;

(4) the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district in that by maintaining the existing footprint it will not change the topography and will not add substantially or at all to the impervious surface, and in that the construction of the proposed addition will not involve excavation and will be of a duration and in a location on the block as to be least disruptive to neighbors; and

(5) the circumstance requiring the variance was not self-created in that the house was purchased in its current configuration and in that the house was built prior to the code requirement of a fifteen foot side yard setback.

NOW THEREFORE, be it resolved that the application of Ravpreet K. Kohli is granted, subject to the application paperwork, including plans, specifications and corrected calculations, being updated, reviewed by and determined to be satisfactory by the Building Inspector and the Building Department.

PROPOSED BY: Mr. Jacob Amir

SECONDED BY: Mr. Mort David

VOTE: 5 in favor, 0 opposed, 0 abstentions, as follows:

Michael Wiskind, Chair –	AYE
Jacob Amir –	AYE
Dr. June Archer –	AYE
Mort David –	AYE
Serge Del Grosso –	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 8:45 pm.

June and Mort as amended. 4-0-0.

Respectfully submitted,
Judith Calder,
Recording Secretary

Can go to BAR and prepare final construction drawings.